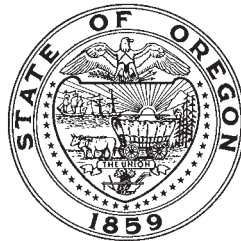


OREGON BULLETIN

Supplements the 2016 *Oregon Administrative Rules Compilation*

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Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

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

Background on Oregon Administrative Rules

ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (up to 180 days), using the procedures outlined in the *Oregon Attorney General’s Administrative Law Manual*. The Administrative Rules Unit assists agencies with the notification, filing and publication requirements of the administrative rulemaking process.

OAR Citations

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

Understanding an Administrative Rule’s “History”

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

Locating Current Versions of Administrative Rules

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

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

Locating Administrative Rule Publications

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

Filing Administrative Rules and Notices

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

Administrative Rules Coordinators and Delegation of Signing Authority

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

Publication Authority

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

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

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TABLE OF CONTENTS

	<i>Page</i>
Information About Administrative Rules	2
Table of Contents	3
Executive Orders	4–6
Other Notices	7
Notices of Proposed Rulemaking Hearings/Notices	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Chiropractic Examiners, Chapter 811	8
Board of Massage Therapists, Chapter 334	8
Board of Pharmacy, Chapter 855	8, 9
Bureau of Labor and Industries, Chapter 839	9
Citizens’ Initiative Review Commission, Chapter 710	9
Department of Agriculture, Chapter 603.....	9, 10
Department of Consumer and Business Services, Health Insurance Marketplace, Chapter 945	10
Insurance Regulation, Chapter 836	10
Department of Energy, Chapter 330.....	10
Department of Environmental Quality, Chapter 340	11
Department of Fish and Wildlife, Chapter 635	11–13
Department of Human Services, Administrative Services Division and Director’s Office, Chapter 407	13
Aging and People with Disabilities and Developmental Disabilities, Chapter 411	13–19
Child Welfare Programs, Chapter 413.....	19
Home Care Commission, Chapter 418.....	19, 20
Self-Sufficiency Programs, Chapter 461	20
Department of Revenue, Chapter 150	20, 21
Department of State Lands, Chapter 141	21, 22
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	22
Highway Division, Chapter 734	22
Higher Education Coordinating Commission, Chapter 715.....	23
Oregon Business Development Department, Chapter 123.....	23
Oregon Department of Education, Chapter 581	23, 24
Oregon Health Authority, Health Licensing Office, Chapter 331	24
Health Systems Division: Addiction Services, Chapter 415	24
Medical Assistance Programs, Chapter 410	24, 25
Public Health Division, Chapter 333	25–27
Oregon Housing and Community Services Department, Chapter 813.....	27
Oregon Liquor Control Commission, Chapter 845.....	27
Oregon Medical Board, Chapter 847	27, 28
Oregon Racing Commission, Chapter 462.....	28
Oregon State Library, Chapter 543	28, 29
Oregon State Lottery, Chapter 177.....	29
Oregon State Marine Board, Chapter 250.....	29
Oregon State Treasury, Chapter 170	29
Oregon Tourism Commission, Chapter 976.....	29, 30
Parks and Recreation Department, Chapter 736	30
Teacher Standards and Practices Commission, Chapter 584.....	30
Administrative Rules	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Chiropractic Examiners, Chapter 811	31
Board of Licensed Professional Counselors and Therapists, Chapter 833.....	31, 32
Board of Optometry, Chapter 852	32, 33
Board of Tax Practitioners, Chapter 800	33
Bureau of Labor and Industries, Chapter 839	33–39
Department of Agriculture, Chapter 603.....	39, 40
Department of Consumer and Business Services, Building Codes Division, Chapter 918.....	40–48
Finance and Securities Regulation, Chapter 441	48, 49
Health Insurance Marketplace, Chapter 945	49, 50
Insurance Regulation, Chapter 836	50–55
Department of Corrections, Chapter 291	56–59
Department of Fish and Wildlife, Chapter 635	59–86
Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, Chapter 411	86–93
Child Welfare Programs, Chapter 413.....	93–95
Self-Sufficiency Programs, Chapter 461	95–126
Department of Justice, Chapter 137	126, 127
Department of Public Safety Standards and Training, Chapter 259.....	127–141
Department of Transportation, Chapter 731	141–148
Land Conservation and Development Department, Chapter 660.....	148–150
Landscape Contractors Board, Chapter 808.....	150–152
Oregon Business Development Department, Chapter 123.....	152–158
Oregon Department of Education, Chapter 581	158–169
Oregon Health Authority, Health Licensing Office, Board of Cosmetology, Chapter 817	169, 170
Health Policy and Analytics, Chapter 409	171–173
Health Systems Division: Medical Assistance Programs, Chapter 410	173, 174
Mental Health Services, Chapter 309	174, 175
Public Health Division, Chapter 333.....	175–181
Oregon Housing and Community Services Department, Chapter 813.....	181, 182
Oregon Liquor Control Commission, Chapter 845.....	182, 183
Oregon Medical Board, Chapter 847	183–187
Oregon State Lottery, Chapter 177.....	187, 188
Oregon State Marine Board, Chapter 250.....	188, 189
Oregon Youth Authority, Chapter 416.....	189
Parks and Recreation Department, Chapter 736	189, 190
Psychiatric Security Review Board, Chapter 859	190–200
Public Utility Commission, Board of Maritime Pilots, Chapter 856.....	200, 201
Teacher Standards and Practices Commission, Chapter 584.....	201, 202
Water Resources Department, Chapter 690	202, 203
OAR Revision Cumulative Index	204–231

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 16-07

GOVERNOR'S DISASTER MANAGEMENT FRAMEWORK

Events of the past decade have proven that successful emergency response and recovery actions are the result of a proactive state posture. The destruction left behind by natural or human-caused disasters creates ongoing hardships and economic challenges for the whole community. While the federal government is an invaluable partner in resolving crises, local cities, counties, tribes and the State of Oregon bears initial responsibility for saving lives and protecting property and the environment.

Accordingly, this Executive Order establishes a Disaster Management Framework to facilitate Oregon's response and recovery actions and provides a flexible instrument for making recommendations to the Governor for the provision of policy direction and coordination of response resources and recovery efforts. This Disaster Management Framework outlines a proactive approach that serves people before process.

Existing law, Oregon Revised Statutes Chapter 401, grants the Governor broad authority to protect the public by declaring a State of Emergency for the state or for a portion of the state. These powers enable the Governor to respond to all emergencies, regardless of cause. Pursuant to the Disaster Management Framework outlined in this Executive Order, in the event an emergency has occurred or is imminent, the Governor may choose to activate statewide response and recovery functions including the launch of the Governor's Disaster Cabinet and Economic Recovery Council. Upon a declaration of emergency, the Governor may designate Economic Recovery Zones and associated Economic Recovery Councils to focus recovery efforts in areas requiring extraordinary assistance.

In the event the Governor is not available immediately following an emergency, the emergency powers bestowed to the Governor as described in OAR 401.165 are delegated to the Secretary of State, then to the State Treasurer, including the activation of the Governor's Disaster Management Framework.

The Disaster Management Framework is a necessary tool to respond to the exigencies of large scale incidents. Reactive strategies are not sufficient. Under current protocols, the Federal Emergency Management Agency (FEMA) may not reimburse state and local governments for expenditures for legitimate, tailored response and recovery actions. The Disaster Management Framework will enable state agencies to make key investments in our response and recovery system, execute sound emergency policies, and ensure an effective and efficient response and recovery program during significant emergencies.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Governor's Disaster Cabinet (GDC) is hereby established and may provide recommendations to the Governor regarding statewide priorities, allocation of limited state emergency resources, and use of monies and appropriations of funds as described in OAR 401.168 (3) to help Oregon effectively respond to and recover from disasters. While immediate state response to emergencies will proceed under the coordination of the Oregon Military Department, Oregon Office of Emergency Management (OEM), the Governor may activate the GDC at any time during the response to an emergency.

a. The GDC shall be directed by the Director of Department of Administrative Services or other Governor designee and membership will be comprised of agency heads or their designee from agencies identified in ORS 401.054, supplemented by other agency representatives as needed depending on the situation. The

Office of the Secretary of State and the State Treasurer may appoint a staff member to reside on the Governor's Disaster Cabinet to ensure continuity.

b. Once activated, the GDC, shall provide overall leadership and policy direction to the State Emergency Coordination Center in coordinating emergency response and recovery efforts. The GDC shall meet as needed, and receive regular briefings from OEM on situational status and ongoing areas of concern.

c. The GDC shall coordinate with legislative leadership as needed to assess risk factors and facilitate solutions to ensure effective response and recovery capabilities and mitigate economic losses throughout Oregon.

d. The GDC shall remain activated until the Governor is satisfied the crisis has passed.

2. Upon finding that circumstances require extraordinary levels of assistance for emergency recovery, the Governor may establish an Economic Recovery Council (ERC) to advise and make recommendations on identifying needs by geographic zones and economic priorities.

a. The ERC will mirror the collaborative framework used on a day-to-day basis by Oregon's Regional Solutions and Business Oregon, and serve as the state's primary mechanism to address economic recovery priorities and promote and sustain healthy communities as described in the State's Recovery Plan for State Recovery Function (SRF) 2 – Economic Recovery.

b. If the impacts are significant and widespread, the ERC may establish separate Councils for each Economic Recovery Region, comprised of private, public and local government representatives.

c. The ERC shall be directed by the Governor's Regional Solutions Director or other Governor designee and shall exist until the Governor is satisfied that state has recovered from the emergency.

3. Designated agency participants shall gather periodically at the Governor's request to conduct pre-event emergency planning, training, and to participate in exercises. Prior to the declaration of an emergency, response and recovery agencies shall work with OEM and DAS to establish effective measures to limit loss of life and property in the event of an emergency. Proactive planning for response and recovery efforts is necessary to clarify agency responsibilities and enhance essential agency functions.

4. This order rescinds and supersedes Executive Order 08-20.

5. In the event of a conflict between any provision of state or federal law and this Executive Order, state or federal law will prevail and the remaining terms of this Executive Order shall remain in force and effect.

6. This Executive Order shall remain in effect until it is otherwise modified, amended or terminated.

Done at Salem, Oregon, this 29th day of March, 2016.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

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

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 16-08

GOVERNOR'S COUNCIL ON EDUCATOR ADVANCEMENT

Every Oregon student deserves a caring, competent, and culturally responsive educator in the classroom. A diverse, well-supported educator workforce is critical to ensuring that every Oregon student graduates high school with a plan for his or her future.

High-quality preparation and ongoing, effective professional development and supports for teachers and school leaders translates into better student learning and higher achievement.

Educators want and deserve specialized professional learning and ongoing support, more than current levels of federal, state, and local systems are designed to deliver. And building an effective system of professional development and support requires us to empower, connect, and tap into the expertise of current classroom teachers and leaders across the state.

New, higher standards were established in 2011 to guide and evaluate the practices of effective teachers and school leaders in public schools throughout Oregon. In 2013, the Legislature redoubled our State's commitment to advance the education profession by actively investing in and supporting excellence in teaching and learning.

A dedicated appropriation was established by the Legislature to foster a statewide umbrella of support across professional development for teachers and school leaders, known as the *Network for Quality Teaching and Learning* ("Network"). Now in its third year of implementation, a re-examination of the Network structure, funding, metrics of success, and leverage of resources has become necessary to address these demands:

- Greater alignment across preparation, induction, and ongoing professional development.
- A more equitable and sustainable funding mechanism to distribute funds across both rural and urban school districts sensitive to local contexts and priorities.
- Leveraging of expertise of teachers and administrators — and resources of local, regional, non-profit, and philanthropic organizations — to maximize on-the-ground supports for Oregon educators.
- Centralized coordination and quality assurance with partner input across all *Network* projects and supports such as the *Oregon Educator Network*, *TELL Oregon Survey*, and *TeachInOregon* website.
- A systemic approach to continuously assess needs and coordinate future priorities for resources to support Oregon educators.
- A research consortium across education agencies and institutions to analyze and identify promising practices that explain improved teacher quality and student outcomes over time.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Governor's Council on Educator Advancement ("Council") is hereby established.
2. The Council shall consist of no fewer than fifteen (15) members appointed by the Governor including:
 - a. Six or more licensed/certified educators currently practicing in Oregon public schools;
 - b. Representatives from education institutions, non-profits, professional and philanthropic organizations with expertise in the

direct provision and support of high-quality preparation and professional learning for teachers and administrators, including equity and cultural competency.

- c. Representatives of the public at-large.

3. Additional members of the Council shall include:

- a. One member of the Oregon State Senate designated by the Senate President;
- b. One member of the Oregon House of Representatives designated by the Speaker of the House;
- c. The Chief Education Officer;
- d. The Deputy Superintendent of Public Instruction;
- e. The Executive Director of the Teachers Standards and Practices Commission;
- f. The Early Learning System Director.

4. The Governor shall appoint the chair of the Council, who shall provide leadership and direction of the Council. The chair shall establish an agenda, work plan, and timeline for the Council. The chair may appoint and approve the creation of subcommittees of the Council. The chair may, on behalf of the Governor, convene additional advisory committees for purposes of informing Council findings and recommendations.

5. The charge of the Council is to coordinate comprehensive support to deliver excellence in teaching and learning, and enhance Oregon's ability to elevate the educator profession and advance teacher and school leadership, including:

- a. Enhancing a culture of leadership and collaborative responsibility for learning and advancing the profession of teaching;
- b. Strengthening and enhancing existing evidence-based practices that improve student achievement;
- c. Attracting and retaining capable and promising new teachers by offering sustained professional mentoring;
- d. Retaining effective teachers by providing enhanced leadership opportunities;
- e. Promoting collaboration by developing and supporting professional development opportunities for teachers in schools and districts to learn from each other;
- f. Building a more diverse educator workforce that mirrors Oregon's student demographics and supporting the development of culturally responsive educators; and
- g. Using data on teaching and learning conditions to determine the impact of *Network* and identify where changes, resources, and supports are most needed.

6. The Council shall develop recommendations for ensuring the open access and efficient delivery of professional learning to all Oregon educators by 1) leveraging the expertise of exemplary teachers and school leaders; and 2) streamlining resources, assistance, and support from federal, state, and non-profit partners.

7. Based on these goals, the Council shall develop a coherent, transparent, and accountable governance model for programs and practices outlined in ORS 342.950 (the *Network*) and the associated fund outlined in ORS 342.953 (the *Network for Quality Teaching and Learning Fund* ("Network Fund")), with a focus on fostering:

EXECUTIVE ORDERS

- a. An integrated system of supports that spans the career of an educator;
 - b. A connected educator network that maximizes teacher voice and engagement and diminishes the impact of isolated programs;
 - c. A mechanism for analyzing and sharing of practices that improve student outcomes and improve teaching and learning conditions;
 - d. Sustainable funding for *Network* priorities that adapts to districts' local priorities for educator support, assures adherence to state benchmarks of best practice, minimizes disparities between rural and urban areas, and reduces reliance on competitive grant funding;
 - e. Common outcomes and coordination of reporting on impact across the *Network*; and
 - f. Innovation and responsiveness to the changing needs of educators.
8. A quorum for Council meetings shall consist of a majority of the appointed members.
9. The Council shall report written findings and recommendations to the Governor on or before September 1, 2016.
10. The Chief Education Office and Oregon Department of Education shall provide staff support to the Council. All other state agencies shall provide assistance to the Council upon request.
11. Council members are not entitled to reimbursement of expenses or per diem provided in ORS 292.495.
12. This Order shall rescind and supersede Executive Order No. 16-03.
13. This Order shall remain in effect until recommendations of the Council are considered and acted upon by the Oregon Legislature, unless the Governor requests that the Council's work continue beyond that time.

Done at Salem, Oregon, this 29th day of March, 2016.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

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

OTHER NOTICES

REQUEST FOR COMMENTS THROUGH JUNE 1 OREGON HEALTH AUTHORITY (OHA) PROPOSAL TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS) TO RENEW OREGON'S 1115 MEDICAID DEMONSTRATION WAIVER, THE OREGON HEALTH PLAN (OHP)

COMMENTS DUE: June 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 extend the Oregon Health Plan (OHP) Demonstration under Section 1115(a) of the Social Security Act for an additional five years, and to amend the OHP, as appropriate, in order to incorporate specific measures that will further transform and improve the health system delivery system for low-income Oregonians. The State will request approval of a five-year extension of the 1115 Demonstration (Waiver) beginning July 1, 2017 and continuing through June 30, 2022.

BACKGROUND: During the current OHP approval period of July 5, 2012 through June 30, 2017 the Demonstration has helped transform Oregon's health care delivery system to one of coordinated care, with 16 coordinated care organizations (CCOs) now delivering the vast majority (90%) of physical, oral and behavioral health services to OHP members. This new system of health care delivery has led to better health, better care and lower per capita costs, saving the federal and state government over \$1.7 billion by the end of the current waiver in 2017. Due to the success to date, Oregon is in a position to take health system transformation to the next level.

THE REQUEST: Oregon will request approval from the federal government of all the State's existing waiver authorities in order to continue to implement and deliver coordinated care system services while slowing growth in costs, and will ask for new flexibilities to continue to build on the state's history of providing the most vulnerable residents with effective, efficient, evidence-based health care, and to meet the following key goals:

I. Build on the transformation of Oregon's Medicaid delivery system with a stronger, expanded focus on integration of physical, behavioral, and oral health care through a performance driven system with the goal of improving health outcomes and continuing to bend the cost curve;

II. Focus on the social determinants of health and health equity across all low-income, vulnerable Oregonians with the goal of improving population health outcomes;

III. Commit to continuing to hold down costs through an integrated budget that grows at a sustainable rate and promotes improved value and outcomes, with a federal investment that is at risk for not meeting the target.

IV. Establish supportive partnerships with CMS to expand the coordinated care model including innovative strategies for ensuring better outcomes for Medicaid and Medicare dual eligible members.

Copies of the draft request and additional information on the 1115 Demonstration waiver can be found at: www.oregon.gov/oha/OHPB/Pages/health-reform/cms-waiver.aspx.

EFFECTIVE DATE: July 1, 2017

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

OR DEPARTMENT OF ENVIRONMENTAL QUALITY REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DETERMINATION REGARDING SALEM-KEIZER SCHOOL DISTRICT, (NEW) EAST ELEMENTARY SCHOOL (AKA. CHAVEZ ELEMENTARY SCHOOL) SALEM, MARION COUNTY

COMMENTS DUE: May 31, 2016

LOCATION OF CONTAMINATION: The site is located at 2400 Walker Road NE, Salem, Oregon.

HIGHLIGHTS: The site has historically been used for agriculture purposes to grow crops, including grass seed. As a standard practice in growing agriculture crops, herbicides and pesticides are used. Soil testing was done at various depths to determine if these constituents were present at unacceptable concentrations. The insecticide Dieldrin was identified in soil at levels exceeding the DEQ's Risk-Based Concentration (RBCs) for a residential scenario. The residential scenario is the most protective scenario. Dieldrin was not detected at unacceptable concentrations in groundwater. Dieldrin contaminated soil at the site poses an unacceptable risk to site occupants by direct exposure. The Salem Keizer School District (SKSD) capped the contamination by covering the areas not covered by asphalt, concrete, or the school building(s) with a 1-foot thick layer of compacted clean soil. This cap eliminates the risk posed by the underlying contaminated soil on this site. However, in order to be an effective remedy, the cap will require regular inspection/maintenance and limit who is authorized to penetrate the cap with proper handling/disposal of contaminated soil under a deed restriction.

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) considers the cap as an acceptable way to protect school occupants or nearby residents from contaminated soils beneath the site. DEQ prepared a deed restriction requiring the SKSD or other future owners to maintain the cap indefinitely. The deed restriction will also require the SKSD to maintain control in order to prevent unauthorized penetration through the soil cap. DEQ considers the cap to be a final remedy measure. DEQ has prepared a "conditional no further action" determination for the site, requiring long-term maintenance of the cap and recording of the deed restriction with Marion County. From May 1 through May 31, 2016, DEQ is accepting comments from the public on the proposed closure.

HOW TO COMMENT: A staff report describing the proposed determination is available at DEQ's Western Region Office, 4026 Fairview Industrial Drive SE, Salem, Oregon 97302, or electronically by request to scherzinger.bruce@deq.state.or.us. To review files at DEQ's office, please contact Ginny Deck, DEQ's file review coordinator at (503) 378-5046 to make an appointment or at deck.ginny@deq.state.or.us. Written comments may be submitted to Bruce Scherzinger, DEQ Cleanup Project Manager, by email at scherzinger.bruce@deq.state.or.us; by mail at DEQ, 4026 Fairview Industrial Dr SE Salem, Oregon 97302; or by fax at 503-373-7944. Comments must be submitted in writing not later than May 31, 2016. Upon written request by 10 or more persons or by a group having 10 or more members submitted by May 31, 2016, DEQ will conduct a public meeting for the purpose of receiving verbal comments regarding the proposed closure.

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. After considering public comments, DEQ will accept, modify, or reject the proposed remedy for the site. If DEQ accepts the remedy, the next step will be to issue a letter of No Further Action for the site.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

Board of Chiropractic Examiners Chapter 811

Rule Caption: Amends current rule to add fingerprint and background check requirement for Chiropractic Assistants

Date:	Time:	Location:
5-19-16	9:30 a.m.	The Mill 3201 Tremont Ave. North Bend, OR 97459

Hearing Officer: Board Chair

Stat. Auth.: ORS 684.054, 684 100 & 684.155

Other Auth.: ORS 183

Stats. Implemented: ORS 684.054, 684 100 & 684.155

Proposed Amendments: 811-010-0110

Last Date for Comment: 5-19-16, 5 p.m.

Summary: Amend current rule to add fingerprint and background check requirement for Chiropractic Assistants

Rules Coordinator: Kelly J. Beringer

Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302

Telephone: (503) 373-1573

Board of Massage Therapists Chapter 334

Rule Caption: Increase inactive fees from \$50 to \$75. Clarify requirements for licensure and criminal background check.

Date:	Time:	Location:
5-18-16	9 a.m.	728 Hawthorne Ave. NE Salem, OR 97301

Hearing Officer: Kate Coffey

Stat. Auth.: ORS 687.001, 687.041, 687.051, 687.121 & 687.071

Other Auth.: ORS 183 & 182.456-182.472

Stats. Implemented: ORS 687.011, 687.121, 687.031, 687.041, 687.051 & 687.071

Proposed Amendments: 334-010-0015, 334-010-0017, 334-010-0018, 334-010-0033

Last Date for Comment: 5-18-16, Close of Hearing

Summary: Fees: Increase inactive renewal fees from \$50 to \$75. Licensure: Clarify requirements for lapsed and inactive license renewal. Criminal background check, fitness determinations: Clarify verbiage to align with the requirements of ORS 181.516 for electronic fingerprint capture.

334-010-0015 — Licensure — Clarify requirements for lapsed and inactive license renewal.

334-010-0017 — Lapsed License — delineate the Requirements for renewing a lapsed license.

334-010-0018 — Criminal Background Checks, Fitness Determinations — Clarify verbiage to align with the requirements of ORS 181.516 for electronic fingerprint capture.

334-010-0033 — Fees — Increase inactive renewal fees from \$50 to \$75.

Rules Coordinator: Ekaette Udosenata

Address: Board of Massage Therapists, 728 Hawthorne Ave. NE, Salem, OR 97301

Telephone: (503) 365-8657

**Board of Pharmacy
Chapter 855**

Rule Caption: Adopt, amend and repeal various rules in Divisions 006, 025, 041, 043 and 110.

Date:	Time:	Location:
5-24-16	9:30 a.m.	800 NE Oregon St. Conference Rm. 1A Portland, OR 97232

Hearing Officer: Staff

Stat. Auth.: ORS 689.205, 291.055 & 183.705

Stats. Implemented: ORS 689.005, 689.151, 689.155, 689.135, 689.225, 689.305, 689.405, 689.455, 689.505, 689.645, 689.486, 689.774, 433.825, 431.972 & 676.410

Proposed Adoptions: 855-006-0020, 855-043-0700, 855-043-0705, 855-043-0710, 855-043-0715, 855-043-0720, 855-043-0725, 855-043-0730, 855-043-0735, 855-043-0740, 855-043-0745, 855-043-0750

Proposed Amendments: 855-006-0005, 855-006-0015, 855-025-0001, 855-025-0005, 855-025-0010, 855-025-0012, 855-025-0015, 855-025-0060, 855-041-2320, 855-041-4200, 855-110-0003, 855-110-0005, 855-110-0007, 855-110-0010

Proposed Repeals: 855-043-0110, 855-043-0130, 855-043-0300, 855-043-0310

Last Date for Comment: 5-24-16, 4:30 p.m.

Summary: Amendments to division 6 — Definitions rules add a definition for Quality Assurance Plan and move the definition of Unprofessional Conduct to its own rule number for agency recordkeeping purposes.

Amendments to division 25 — Pharmacy Technicians rules are updated bring additional clarification and update requirements. The rules also propose that a Certified Oregon Pharmacy Technician (CPT) license will be valid for up to two years and will be renewed biennially; rules also reflect a change in the date of expiration to June 30th in even numbered years. Amendments require CPTs to complete 20 continuing education (CE) hours during the period from July 1 through June 30 of each biennial license renewal cycle as defined. This means that upon renewal in 2016, a CPT licensed before 7/1/16 will renew, complete CE and the license will expire June 30, 2018 in order to make this shift to biennial licensure. All CPT licenses issued beginning on 7/1/16 will expire 6/30/18. Rules also update requirements for CPT reinstatement.

Amendments to division 41 — Operation of Pharmacies update rules related to the distribution of emergency medication to allow an entity to acquire and possess epinephrine; and housekeeping corrections to the Remote Distribution Facilities rules.

Amendments to division 43 — Practitioner Dispensing repeal the existing County Health Clinic and Family Planning Clinic rules and establish a new section of rules to combine these two licenses into one category that will be called a Community Health Clinic Drug

NOTICES OF PROPOSED RULEMAKING

Outlet. A facility must register when medication dispensing is performed by a Registered Nurse (RN). The new rules provide minimum requirements of operation and define requirements for personnel, policies and procedures, security, drug acquisition, storage of drugs, labeling, dispensing and drug delivery, disposal of drugs and recordkeeping.

Amendments to division 110 — Fee rules reflect the fee structure for Certified Oregon Pharmacy Technician licensure; note that the current fee of \$50.00 remains the same. The CPT license will be valid for up to two years. A reduction in fees is also included for initial CPT licenses issued within 180 days of expiration. The Workforce Data Collection fee has been reduced for pharmacists and CPTs. The name has been changed to reflect the new Community Health Clinic license. The name of the Remote Distribution Facility fee in rule -0010 was corrected.

The intention is for all of the proposed rules to be effective on July 1, 2016.

Complete text of the proposed rules is available 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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Bureau of Labor and Industries
Chapter 839

Rule Caption: Update of minimum wage rules
Stat. Auth.: ORS 653.040, OL Ch. 012, 2016
Stats. Implemented: OL Ch. 012, 2016
Proposed Amendments: Rules in 839-020, 839-020-0004, 839-020-0010, 839-020-0080
Last Date for Comment: 5-23-16, 5 p.m.
Summary: Update minimum wage rules and implement new minimum wage law.
Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

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Citizens' Initiative Review Commission
Chapter 710

Rule Caption: Independent Expert Panelists for Citizens' Initiative Reviews
Date: 6-7-16
Time: 8:30 a.m.
Location: Portland State University, Urban Center, Rm. 710, 506 SW Mill St. Portland, OR 97207

Hearing Officer: Sarah Giles
Stat. Auth.: ORS 250.139(6)(d) & (e), 2014 OL Ch. 72, Sec. 2
Stats. Implemented: ORS 250.139(6)(d) & (e), 2014 OL Ch. 72, Sec. 2
Proposed Adoptions: 710-015-0000
Last Date for Comment: 6-7-16, 10 a.m.
Summary: According to the duties defined in ORS 250.139(6)(e), the Commission shall establish a panel of experts independent of campaigns supporting or campaigns opposing the measure to provide testimony or other information to the citizen panel.
Rules Coordinator: Sarah Giles
Address: Citizens' Initiative Review Commission, Policy Consensus Initiative, PO Box 1762, Portland, OR 97207
Telephone: (503) 725-5248

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Department of Agriculture
Chapter 603

Rule Caption: Amends rules regarding the Grade A Pasteurized Milk Ordinance, sediment testing, drug residues, and storage.

Date: 5-25-16
Time: 1 p.m.
Location: Oregon Dept. of Agriculture, 3rd Floor Conference Rm., 635 Capitol St. NE, Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 561 & 621
Stats. Implemented: ORS 621.058, 621.060 & 621.261
Proposed Amendments: 603-024-0041, 603-024-0211, 603-024-0594, 603-024-0641
Last Date for Comment: 5-27-16, 5 p.m.

Summary: This rule proposal updates Oregon Administrative Rules (OAR) to reference the 2015 Grade A Pasteurized Milk Ordinance (PMO) and its accompanying documents. The PMO outlines the federally mandated minimum requirements for Grade A milk production and processing. It is released on a biennial basis after amendments and standards are recommended through the National Conference on Interstate Milk Shipments (NCIMS). State and local regulatory officials make the recommendations and vote. Nonvoting representatives from industry, academia, and U.S. Food and Drug Administration (FDA) also participate in the NCIMS. After the NCIMS, the FDA accepts or rejects the proposed changes before releasing a new PMO. States then have the opportunity to adopt the PMO. In order for Oregon's dairy industry to participate in the interstate commerce of Grade A dairy products, the PMO must be adopted as a minimum. This rule will help to ensure that Oregon's dairy industry will be able to continue interstate activities.

This rule proposes revisions to several other rules within Oregon's dairy product rules. First, is the removal of the No. 2 sediment test for Grade A Raw Goat Milk. This test is no longer used in a regulatory manner in Oregon. Second, the procedures and enforcement of drug residue tests need to be clarified to promote consistency with the PMO and Oregon rules. Previously, when a positive drug residue test was found, all milk production was stopped for 48 hours or four milkings. However, with modern scientific analysis, it is possible to continually test the milk for drug residues, and safe to allow milk production and sale to continue as soon as the milk tests negative for drug residues. This rule proposes to make that change, and also proposes clarifying language regarding when a suspension of grade designation can occur. Finally, the rule proposes to allow Grade A raw milk to be picked up at a minimum of once each 72 hours, and require a farm bulk tank to be completely emptied once each 72 hours. Both of the 72 hour time requirements was 48 hours previously.

Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

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Rule Caption: Rule requires aerial application licensing certification of persons that want to aerially apply pesticides.
Date: 5-24-16
Time: 1 p.m.
Location: Oregon Dept. of Agriculture, Hearing Rm., 635 Capitol St. NE, Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 634.106, 634.112, 634.116, 634.122 & 634.126
Other Auth.: ORS 634
Stats. Implemented: ORS 634; HB 3549 (2015)
Proposed Adoptions: 603-057-0108
Last Date for Comment: 5-27-16, 5 p.m.

Summary: As a result of Oregon HB3549 (2015), beginning January 1, 2016, individuals may not spray or otherwise apply a pesticide by aircraft unless the individual holds a valid aerial pesticide applicator certificate issued by the Oregon Department of Agriculture (ODA). A certificate is a type of license, and specific conditions must be met in order to qualify for a certificate. Conditions include, but are not limited to, that an applicant must have at least 50 hours

NOTICES OF PROPOSED RULEMAKING

of experience on flights conducted for the purpose of carrying out, or training to carry out, spraying or otherwise applying pesticides by aircraft.

In addition, beginning January 1, 2017, HB3549 requires for all aerial pesticide applicators to take and pass an examination approved by ODA, testing the knowledge of the individual regarding proper spraying and other application of pesticides. The statute also requires for the aerial applicator certificate holder to successfully complete at least 10 credit hours in ODA approved instruction or educational courses related to the spraying or other application of pesticides by aircraft during the 5 year certification period.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

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

Rule Caption: Calculation and application of a fund balance credit

Date:	Time:	Location:
5-26-16	2 p.m.	350 Winter St. NE, Rm. F Salem, OR 97301

Hearing Officer: Victor Garcia

Stat. Auth.: ORS 741.002 & 741.005

Stats. Implemented: ORS 741.005

Proposed Amendments: Rules in 945-030

Last Date for Comment: 5-31-16, 5 p.m.

Summary: The amendment to OAR 945-0030-0020 synchronizes the calculation and application of any fund balance credit with the Department of Consumer and Business Services's two-year budget cycle. The amendment clarifies that a Marketplace issuer is entitled to credits only to the extent that it is offering products through the Marketplace at the time the credit is due to be applied. The amendment also makes technical corrections to the rule.

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 Consumer and Business Services, Insurance Regulation Chapter 836

Rule Caption: Requirements for limited lines travel producers directing travel retailers to offer and disseminate travel insurance.

Date:	Time:	Location:
6-7-16	9 a.m.	Department of Consumer and Business Services Labor & Industries Bldg. Basement Conference Rm. E 350 Winter St. NE Salem, OR

Hearing Officer: Cece Newell

Stat. Auth.: ORS 731.244, 744.104, 744.111

Other Auth.: 2015 OR Laws Ch 675 (Enrolled SB 715)

Stats. Implemented: ORS 744.101, 744.104, 744.107

Proposed Adoptions: 836-071-0450

Proposed Amendments: 836-071-0108

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

Summary: Senate Bill 715 updated Oregon's producer licensing requirements for travel insurance based on a model act adopted by the National Conference of Insurance Legislators in November 2012, as well as uniform licensing standards adopted by the National Association of Insurance Commissioners in late 2010. The bill permits licensed insurance providers to be the licensees for products distributed through non-insurance travel retailers if specific conditions protecting consumers are met, including registration of the agents,

training, and consumer disclosures. The proposed rules establish direction, for limited travel insurance producers to arrange travel insurance through travel retailers. The rules set out the conditions that must be met for the limited travel insurance producer to establish and maintain a register of required information for travel insurance retailers that arrange travel insurance through the limited travel insurance producer. The rules also address requirements for training travel retailers.

Rules Coordinator: Karen Winkel

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

Telephone: (503) 947-7694

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Rule Caption: Eliminating duplicate notice requirements for long term care insurance.

Stat. Auth.: ORS 731.244, 743.658

Stats. Implemented: ORS 743.658 & 744.088

Proposed Amendments: 836-052-0740

Proposed Repeals: 836-052-0536

Last Date for Comment: 6-1-16, 5 p.m.

Summary: This rulemaking repeals an existing Division of Financial Regulation rule, OAR 836-052-0536 whose requirements are now established in ORS 743.658 and changes an internal reference to OAR 836-052-0536 in 836-052-0740(7) to reflect this change.

Rules Coordinator: Karen Winkel

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

Telephone: (503) 947-7694

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Department of Energy Chapter 330

Rule Caption: Amending Residential Energy Tax Credit rules to implement SB 1507.

Date:	Time:	Location:
5-31-16	2 p.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: ORS 469.040, 469B.103, 316.116, Oregon Laws 2016, chapter 29, Sec. 4 and 5 (SB 1507)

Stats. Implemented: ORS 469B.100-469B.118, 316.116, Oregon Laws 2016, chapter 29, Sec. 4 and 5 (SB 1507)

Proposed Amendments: 330-070-0022

Last Date for Comment: 5-31-16, 5 p.m.

Summary: The proposed rules for the Residential Energy Tax Credit (RETC) program implement changes provided in Oregon Laws 2016, chapter 29, sections 4 and 5 (SB 1507). SB 1507 limits the amount a taxpayer may claim per device when using a RETC incentive to \$1,500 a year, except for alternative fuel devices. This change will impact solar thermal domestic water heating and solar thermal swimming pool device tax credits, these were the only RETC incentives over \$1,500 that did not have an annual claiming limit starting in 2016. Prior to SB 1507, ORS 316.116 already limited alternative fuel device tax credits to \$750. SB 1507 changes would apply to alternative energy devices certified on or after January 1, 2016, and to tax years beginning on or after January 1, 2016. The department plans to file and for the rules to be effective upon the effective date of SB 1507. The department requests public comment on these draft rules.

A call-in number is available for the public hearing, please see website for details and other materials: <http://www.oregon.gov/energy/CONS/Pages/Rulemaking-RETC.aspx>

Rules Coordinator: Elizabeth Ross

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

Telephone: (503) 378-8534

NOTICES OF PROPOSED RULEMAKING

Department of Environmental Quality Chapter 340

Rule Caption: Ballast Water Management and Noise Control Regulation Tables 2016

Date: 5-18-16
Time: 3 p.m.

Location:
DEQ Headquarters
811 SW 6th Ave.,
10th Floor, Rm. EQC A
Portland, OR, 97204

Hearing Officer: DEQ Staff

Stat. Auth.: ORS 467, 468.020 & 783.620–783.640

Stats. Implemented: ORS 467, 467.010, 467.030 & 783.620–783.640

Proposed Amendments: 340-143-0005, 340-143-0010, 340-143-0050, 340-035-0015, 340-035-0025, 340-035-0030, 340-035-0035, 340-035-0040, 340-035-0045

Last Date for Comment: 5-25-16, 4 p.m.

Summary: Ballast Water Rules:

DEQ proposes the Oregon Environmental Quality Commission (EQC) approve the proposed ballast water management rule amendments. These amendments would further enhance DEQ's ability to prevent the transport and introduction of aquatic invasive species (AIS) from commercial shipping activities to state waters, thereby protecting Oregon from potentially harmful economic and environmental impacts. The proposed rule amendments are in response to recent changes in federal regulations and aim to ensure adequate AIS prevention strategies for Oregon ports.

The proposed rules establish greater protection for Oregon water resources and aquatic ecosystems in two ways. First, the rules close a management gap associated with residual ballast water and sediments in empty ballast tanks that represents a risk for introducing aquatic invasive species when vessel operators must ballast and subsequently de-ballast from empty ballast tanks while in state waters. Second, the rules address concerns that recent federal regulatory changes will replace a strategy that has proven to be highly protective for low-salinity ports (like those in Oregon) with reliance upon first generation shipboard treatment technologies that under some circumstances could be less protective of Oregon ports. Specifically, the rule would retain ballast water exchange requirements for a subset of vessel arrivals that represent a high-risk for introducing AIS to Oregon.

Under current state rules, vessel operators are no longer required to conduct ballast water exchange practices following implementation of federal discharge standards that generally require use of new shipboard treatment technology. The proposed rules would retain ballast water exchange requirements, in addition to meeting federal treatment requirements, for high-risk voyages that had sourced ballast from low-salinity environments. The EPA established a policy to retain ballast water exchange (a.k.a. 'exchange plus treatment') under the National Vessel General Permit as a strategy to protect freshwater ports from further damages by AIS, but only required this management model for voyages entering the Great Lakes. Retaining ballast exchange for high-risk voyages would serve as an important interim strategy to protect Oregon's low-salinity ports during a significant transition that depends upon the reliability of new technologies that have lacked rigorous testing. As proposed, the rule would be repealed after eight years unless DEQ and the EQC determine that technology reliability and efficacy of federal shipboard treatment policies remain inadequate. In the event that these rules are adopted by Oregon, it is anticipated that Washington Department of Fish and Wildlife will seek to adopt comparable rules for vessels operating in the Columbia River.

The proposed rules do not involve fees, additional equipment requirements or significant administrative efforts in order to comply. Therefore, under normal operating circumstances, these rules will not have any significant negative economic impacts, either direct or indirect.

DEQ Noise Regulations

This rulemaking includes a second element. As an administrative action intended to improve the clarity of its rules, DEQ has included rulemaking on a second topic in this rulemaking. This action involves DEQ's noise control regulations, found at OAR 340 division 35.

In 1991 the Oregon Legislature withdrew all funding for implementing and administering DEQ's noise regulations. (See OAR 340-035-0110.) DEQ therefore ended its noise control program, although the noise control regulations remain in effect. In response to budget reductions, DEQ no longer conducts a noise control program or enforces the noise control regulations. DEQ has no funding or program to respond to noise complaints, to provide advice about noise issues or to interpret the noise regulations. Local governments may choose to enforce the noise regulations.

The changes DEQ is proposing for the noise regulations are purely administrative to make it easier for the public to access information about these rules. These changes do not indicate any change in DEQ policy or practice concerning the noise regulations. DEQ still does not have a noise control program or have funding or the ability to enforce, apply or interpret the noise regulations, or to investigate noise issues or complaints.

The noise control regulations refer to a number of tables and external documents. Currently, those documents are not published with the official version of the rules on the Oregon Secretary of State web page. Instead, DEQ maintains those documents on its own web site.

In this rulemaking DEQ is asking the EQC to approve amendments to the noise regulations that only incorporate directly into the rules the tables and documents the rules already refer to. This will make it easier for users of these rules to find the information they need to interpret and apply the rules. It will also relieve DEQ from the cost and responsibility of maintaining these documents on its web site.

This rule change does not change any content or wording of the noise control regulations. There is no change in the meaning, effect, or application of these rules. There is also no negative fiscal impact to any person or entity from this rule change.

DEQ will therefore ask the EQC to approve these proposed amendments to the division 35 noise control regulations.

Rules Coordinator: Meyer Goldstein

Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204

Telephone: (503) 229-6478

.....
Department of Fish and Wildlife
Chapter 635

Rule Caption: Amend Rules for Protected Wildlife, Holding and Propagating

Date: 6-9-16
Time: 1 p.m.

Location:
ODFW
4034 Fairview Industrial Dr. SE
Salem, OR 97302

6-10-16
8 a.m.

ODFW
4034 Fairview Industrial Dr. SE
Salem, OR 97302

Hearing Officer: ODFW Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Proposed Amendments: Rules in 635-044

Last Date for Comment: 6-9-16, Close of Hearing

Summary: The proposed rule amendments are needed to change or update various aspects of agency management of protected wildlife, holding, and propagating.

NOTE: Commission hearing dates for June are June 9 and June 10, 2016. (On June 9th the meeting will begin at 1:00 p.m. On June 10, the meeting will begin at 8:00 a.m.) Exhibits for the Wildlife

NOTICES OF PROPOSED RULEMAKING

Division are expected to be completed on June 9, 2016. However, should additional time be needed, the Commission reserves the right to carry over Wildlife Division exhibits on June 10, 2016.

Rules Coordinator: Michelle Tate
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

Rule Caption: Modify 2016–2018 Furbearer Trapping and Hunting Regulations

Date:	Time:	Location:
6-9-16	1 p.m.	ODFW 4034 Fairview Industrial Dr. SE Salem, OR 97302
6-10-16	8 a.m.	ODFW 4034 Fairview Industrial Dr. SE Salem, OR 97302

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: Rules in 635-008, 635-043, 635-045, 635-048, 635-050, 635-200

Last Date for Comment: 6-9-16, Close of Hearing
Summary: Amend rules regarding seasons and bag limits for the 2016-2017 and 2017-2018 furbearer harvest and pursuit seasons and general furbearer trapping and hunting regulations.

NOTE: Commission hearing dates for June are June 9 and June 10, 2016. (On June 9th the meeting will begin at 1:00 p.m. On June 10, the meeting will begin at 8:00 a.m.) Exhibits for the Wildlife Division are expected to be completed on June 9, 2016. However, should additional time be needed, the Commission reserves the right to carry over Wildlife Division exhibits on June 10, 2016.

Rules Coordinator: Michelle Tate
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

Rule Caption: Amendment to Wildlife Control Operator Rules

Date:	Time:	Location:
6-9-16	1 p.m.	ODFW 4034 Fairview Industrial Dr. SE Salem, OR 97302
6-10-16	8 a.m.	ODFW 4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: ODFW Commission
Stat. Auth.: ORS Ch. 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162

Proposed Amendments: 635-435-0010
Last Date for Comment: 6-9-16, Close of Hearing
Summary: The Commission approved amendments to division 435, Wildlife Control Operators, on December 4, 2015. Additional amendments are needed to correct 435-0010(3) regarding the time frame for bat control activities.

NOTE: Commission hearing dates for June are June 9 and June 10, 2016. (On June 9th the meeting will begin at 1:00 p.m. On June 10, the meeting will begin at 8:00 a.m.) Exhibits for the Wildlife Division are expected to be completed on June 9, 2016. However, should additional time be needed, the Commission reserves the right to carry over Wildlife Division exhibits on June 10, 2016.

Rules Coordinator: Michelle Tate
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

Rule Caption: 2016–2017 Big Game Tag Numbers, Dates, and Regulations and Tag Numbers for 2017 Big Game

Date:	Time:	Location:
6-9-16	1 p.m.	ODFW 4034 Fairview Industrial Way SE Salem, OR 97302
6-10-16	8 a.m.	ODFW 4034 Fairview Industrial Way SE Salem, OR 97302

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: Rules in 635-002, 635-008, 635-043, 635-045, 635-049, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080, 635-200
Last Date for Comment: 6-9-16, Close of Hearing
Summary: Set hunting season regulations and/or controlled hunt tag numbers for 2016 and 2017 for game mammals. Set tag numbers for the present year (2016) and tag numbers for next year (2017) in advance.
Rules Coordinator: Michelle Tate
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

Rule Caption: Amend and Adopt Rules for Commercial Coastal Pelagic Species Fisheries and Inspection Authority

Date:	Time:	Location:
6-10-16	8 a.m.	ODFW Headquarters Commission Rm. 4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: OR Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119, 506.129, 506.550, 506.620 & 506.755
Stats. Implemented: ORS 195.540–195.555, 496.162, 506.109, 506.129, 506.550, 506.620 & 506.755

Proposed Adoptions: Rules in 635-004, 635-005, 635-006, 635-012
Proposed Amendments: Rules in 635-004, 635-005, 635-006, 635-012

Proposed Repeals: Rules in 635-004, 635-005, 635-006, 635-012
Last Date for Comment: 6-10-16, Close of Hearing

Summary: Amendments to Oregon’s regulations for Coastal Pelagic Species (CPS) fisheries will bring the State concurrent with federally adopted regulations. CPS includes Pacific sardine, Pacific mackerel, market squid, jack mackerel, northern anchovy, and krill. Proposed rule modifications establish Pacific sardine seasons and/or quotas for the period of July 1, 2016 to June 30, 2017 and multi-year harvest specifications (e.g., annual catch limits) for certain monitored and prohibited stocks. Final federal regulations have not been adopted as of the filing of this Notice. However, it is highly likely that directed commercial sardine fisheries will not be allowed based on the latest stock assessment. Closing the directed sardine fishery will likely shift fishing effort to targeting other CPS stocks, and sardines are likely to be taken incidentally to those operations. Therefore, new rules are needed to extend several state sardine management measures to some or all other CPS fisheries and to add mackerels to the list of prohibited species within the Cape Perpetua Seabird Protection Area. Finally, due to recent case law a new rule is needed to clarify Oregon State Police and Department inspection authority for commercial fishing licenses, gear, and vessels. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

NOTE: The Commission will meet beginning on Thursday, June 9, 2016 at 1:00 p.m. On June 10, the meeting will begin at 8:00 a.m. Rulemaking agenda items for Fish Division exhibits will be heard on Friday, June 10.

Rules Coordinator: Michelle Tate

NOTICES OF PROPOSED RULEMAKING

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,
Administrative Services Division and Director's Office
Chapter 407**

Rule Caption: Align DHS Human Resources Background Check Rules with DAS Criminal Records Check Rules; ORS Renumbering

Date:	Time:	Location:
5-17-16	10:30 a.m.	State Library Bldg., 3rd Flr., Mt. Bachelor Conference Rm. 250 Winter St. NE Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Other Auth.: ORS 181A.215

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027 & 443.004

Proposed Amendments: 407-007-0000 through 407-007-0090

Proposed Repeals: 407-007-0040, 407-007-0075

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

Summary: ORS 181A.215 (formerly ORS 181.547) shifts the criminal records check rules from Oregon state agencies to the Oregon Department of Administrative Services (DAS). The DAS rules (OAR 125-007-0200 to 125-007-0330) became effective 1/4/2016. The Department of Human Services (Department) filed temporary rules 1/14/2016 to modify its criminal records check rules to align with the DAS rules.

In addition, the statutes governing the criminal records check processes (ORS chapter 181) have been renumbered to ORS 181A. References to these statutes have been corrected. Other changes include updating rules to current processes, including the requirement for electronic submission of fingerprints (ORS 181.516) and upgrading to the Department's Background Check Unit's Criminal Records Information Management System (CRIMS).

Adoption of these proposed rules will repeal the temporary rules filed on January 14, 2016.

Proposed rules are available on the Department of Human Services website: <http://www.oregon.gov/DHS/POLICIES/Pages/ss-admin-rules.aspx>. For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: Department of Human Services, Administrative Services Division and Director's Office, 250 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-5250

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Rule Caption: Align DHS Provider Background Check Rules with DAS Criminal Records Check Rules; Add Federal Exclusions

Date:	Time:	Location:
5-17-16	10:30 a.m.	State Library Bldg., 3rd Flr., Mt. Bachelor Conference Rm. 250 Winter St. NE Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 181A.200, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 411.122, 413.036, 418.016, 418.640, 441.055, 443.730, 443.735 & 678.153

Other Auth.: ORS 181A.215; 42USC1320a-7(a); 42USC12645g

Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.025, 409.027, 411.060, 411.122 & 443.004

Proposed Adoptions: 407-007-0279

Proposed Amendments: 407-007-0200 through 407-007-0370

Proposed Repeals: 407-007-0280, 407-007-0325

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

Summary: ORS 181A.215 (formerly ORS 181.547) shifts the criminal records check rules from Oregon state agencies to the Oregon Department of Administrative Services (DAS). The DAS rules (OAR 125-007-0200 to 125-007-0330) became effective 1/4/2016. The

Department of Human Services has filed temporary rules effective 1/14/2016 to 7/11/2016 to align with the DAS rules; these rules are being filed as permanent to be in alignment with the DAS rules.

These rules add language showing mandatory exclusions required under federal law for certain positions if the subject individuals has certain convictions or other conditions. These exclusions do not allow for a weighing test as required in Oregon statute and are therefore included the background check rules to allow transparency for the general public.

In addition, the statutes governing the criminal records check processes (ORS chapter 181) have been renumbered to ORS 181A. References to these statutes have been corrected.

The Department is consolidating definitions for OAR chapter 407 division 007 into OAR 407-007-0010. Definitions specific to OAR 407-007-0200 to 407-007-0370 are retained in these rules.

Adoption of these proposed rules will repeal the temporary rules filed on January 14, 2016.

Proposed rules are available on the Department of Human Services website: <http://www.oregon.gov/DHS/POLICIES/Pages/ss-admin-rules.aspx>. For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: Department of Human Services, Administrative Services Division and Director's Office, 250 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-5250

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**Department of Human Services,
Aging and People with Disabilities and
Developmental Disabilities
Chapter 411**

Rule Caption: ODDS: General Definitions and Acronyms for Developmental Disabilities Services

Date:	Time:	Location:
5-18-16	1:30 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Proposed Amendments: 411-317-0000

Proposed Repeals: 411-317-0000(T)

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

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to permanently amend the general definitions and acronyms for developmental disabilities services in OAR 411-317-0000.

OAR 411-317-0000 is being amended to:

- Make permanent temporary changes that became effective January 1, 2016;

- Provide consistency and streamline definitions;

- Incorporate definitions for home and community-based (HCB) services and settings and person-centered service planning to implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS); and

- Reflect current Department terminology, and perform minor grammar, punctuation, formatting, and housekeeping changes.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

NOTICES OF PROPOSED RULEMAKING

Rule Caption: ODDS: Community Developmental Disabilities Programs (CDDPs)

Date: 5-19-16
Time: 10:30 a.m.
Location: Human Services Bldg.
500 Summer St. NE, Room 160,

Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050 & 430.662

Other Auth.: SB 659 (2015) & SB 97 (2015)

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662–430.695

Proposed Amendments: Rules in 411-320

Proposed Repeals: 411-320-0060, 411-320-0090, 411-320-0100, 411-320-0110, 411-320-0120, 411-320-0130, 411-320-0150, 411-320-0160, 411-320-0020(T), 411-320-0040(T), 411-320-0080(T)

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

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules for Community Developmental Disabilities Programs (CDDPs) in OAR chapter 411, division 320 to make permanent the following temporary changes that became effective on January 1, 2016:

- To provide consistency and streamline definitions across services, the Department removed general definitions included in OAR 411-317-0000.

- To implement Senate Bill 659, the Department prescribed a process for CDDPs to follow when a child, who is not a resident of Oregon, seeks services while visiting a parent, who is a resident of Oregon, for six weeks of the year or more.

- To implement Senate Bill 97, the Department prescribed a process to reinstate services upon a child's return to Oregon after a temporary absence if the temporary absence of the child was due to the child's parent's military obligation.

- To clarify eligibility determinations, the Department specified —
 - Eligibility is based on the full criteria for the diagnosis of a developmental disability; and

- Eligibility determinations for children less than 7 years of age must be based on an early childhood assessment if the assessment is within one year of intake.

In addition, the Department is proposing to restructure the rules in OAR chapter 411, division 320 to ensure uniform standards for case management, provide more consistency, consolidate requirements, and remove redundancies. Specifically, the Department is proposing to:

- Remove the requirements now found in OAR chapter 411, division 415 related to the delivery of case management services and other service access activities, including requirements for CDDP employees who deliver case management services (services coordinators);

- Consolidate CDDP program and contract requirements and incorporate CDDP requirements currently located in other rule divisions;

- Include correct references to OAR chapter 411, division 318 for individual rights to ensure uniform standards related to individual rights across all types of entities involved in the delivery of developmental disabilities services;

- Incorporate Department payment and reporting system requirements for CDDPs;

- Repeal OAR 411-320-0160 for crisis diversion services to reflect current processes;

- Update training requirements and staff duties to align with current practice;

- Add qualifications, training requirements, and duties for a foster care licensure and certifier; and

- Reflect current Department terminology, and perform minor grammar, punctuation, formatting, and housekeeping changes.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer

Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

Rule Caption: ODDS: Agency Certification and Endorsement - Medicaid Provider Enrollment Requirements

Date: 5-19-16
Time: 1:30 p.m.
Location: Human Services Bldg.
500 Summer St. NE, Rm. 160
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070, 411.060, 430.640

Stats. Implemented: ORS 409.050, 427.005, 427.007, 430.215, 430.610-430.695, 443.400-443.455

Proposed Adoptions: 411-323-0065

Proposed Amendments: Rules in 411-323, 411-370

Proposed Repeals: 411-323-0010(T), 411-323-0020(T), 411-323-0030(T), 411-323-0035(T), 411-323-0060(T), 411-370-0010(T)

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

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules in:

- OAR chapter 411, division 323 for agency certification and endorsement to provide developmental disabilities services in community-based settings; and

- OAR chapter 411, division 370 for Medicaid provider enrollment requirements.

The rules in OAR chapter 411, division 323 are being amended to —

- Make permanent temporary changes that became effective on January 1, 2016;

- Remove general definitions included in OAR 411-317-0000;

- Demonstrate the Department's commitment to the Employment First Policy by assuring that only agencies that have a current endorsement are able to deliver employment services under OAR chapter 411, division 345;

- Provide for a two year phase-in period for certification of agencies previously certified under OAR chapter 411, division 340;

- Require endorsement to the rules in OAR chapter 411, division 323 and corresponding program rules when an agency was previously able to deliver attendant care or employment services under a different endorsement or was certified under OAR chapter 411, division 340. This requirement will be phased in over a two year period;

- Change the certification and endorsement periods from five to two years;

- Adopt the standards for home and community-based (HCB) services and settings and person-centered service planning adopted by the Department in OAR chapter 411, division 004 on January 1, 2016;

- Incorporate a new requirement that agency certification and endorsement is contingent upon meeting the standards for HCB services and settings and person-centered service planning in OAR chapter 411, division 004;

- Include correct references to OAR chapter 411, division 318 for individual rights to ensure uniform standards related to individual rights across all types of entities involved in the delivery of developmental disabilities services;

- Establish an alternate fiscal auditing standard for agencies with less than \$1,000,000 revenue per fiscal year;

- Include current Medicaid and Department standards for reimbursement for the delivery of developmental disabilities services; and

- Reflect current Department terminology, and perform minor grammar, punctuation, formatting, and housekeeping changes.

NOTICES OF PROPOSED RULEMAKING

The rules in OAR chapter 411, division 370 are being amended to —

- Require agencies endorsed to operate a Community Living Support Program under OAR chapter 411, division 450 to acquire a Medicaid provider number and meet the associated provider enrollment requirements; and

- Reflect current Department terminology, identify that Support Services Brokerages authorize developmental disabilities services, and perform minor grammar, punctuation, formatting, and housekeeping changes.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: ODDS: Support Service Brokerages for Adults with Intellectual or Developmental Disabilities

Date:	Time:	Location:
5-19-16	10:30 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 427.104, 427.154, 430.662

Stats. Implemented: ORS 427.005, 427.007, 427.400-427.410, 430.610, 430.620, 430.662-430.695

Proposed Amendments: Rules in 411-340

Proposed Repeals: 411-340-0125, 411-340-0130, 411-340-0135, 411-340-0140, 411-340-0160, 411-340-0170, 411-340-0180, 411-340-0020(T), 411-340-0030(T), 411-340-0120(T), 411-340-0150(T)

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

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules for Support Service Brokerages (Brokerages) in OAR chapter 411, division 340 to make permanent the following temporary changes that became effective on January 1, 2016:

- To provide consistency and streamline definitions across services, the Department removed general definitions included in OAR 411-317-0000; and

- The Department shortened the certification period of a Brokerage from five years to two years.

In addition, the Department is proposing to restructure the rules in OAR chapter 411, division 340 to ensure uniform standards for case management, provide more consistency, consolidate requirements, and remove redundancies. Specifically, the Department is proposing to:

- Relocate qualifications and related requirements for case management services to OAR chapter 411, division 415;

- Repeal OAR 411-340-0125 (Crisis Supports in Support Services) to align rules with current Department practice;

- Relocate eligibility requirements, provider qualifications, and service descriptions for the services that a personal agent may authorize. The portions related to attendant care, skills training, and relief care are being moved to new rules for community living supports in OAR chapter 411, division 450 and the remaining services available under the 1915(k) and 1915(c) funding authorities are being moved to new rules for ancillary services in OAR chapter 411, division 435;

- Move the language in OAR 411-340-0170 that is used to certify provider organizations to the new rules for in-home services in OAR chapter 411, division 450. Provider organizations will be required to become certified under OAR chapter 411, division 323 and endorsed to OAR chapter 411, division 450; and

- Move the language in OAR 411-340-0135 and 411-340-0160 that describes the requirements for independent providers and employers of independent providers to OAR chapter 411, division 375.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: ODDS: Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities

Date:	Time:	Location:
5-19-16	2 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775 & 443.790

Stats. Implemented: ORS 443.705-443.825

Proposed Amendments: Rules in 411-360

Proposed Repeals: 411-360-0010(T), 411-360-0020(T), 411-360-0050(T), 411-360-0055(T), 411-360-0060(T), 411-360-0130(T), 411-360-0140(T), 411-360-0170(T), 411-360-0190(T)

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

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules in OAR chapter 411, division 360 for adult foster homes for individuals with intellectual or developmental disabilities.

These rules are being updated to:

- Make permanent temporary changes that became effective on January 1, 2016;

- Provide consistency across services by removing terms included in the general definitions rule, OAR 411-317-0000;

- Add clarifying language to the definition of a functional needs assessment;

- Clarify the authorization and administration of State Plan private duty nursing services by the Medically Fragile Children's Unit to support an individual aged 18 through 20;

- Incorporate direct nursing services to support an adult with complex health management support needs as described in OAR chapter 411, division 380;

- Incorporate the adoption of the rules for home and community-based (HCB) services and settings and person-centered service planning in OAR chapter 411, division 004;

- Require foster care providers to implement, as written by a behavior consultant, Behavior Support Plans and Interaction Guidelines;

- Incorporate changes to Bill of Rights language and requirements to match statutory language;

- Specify Individual Support Plan (ISP) participation requirements for foster care providers by removing the ISP requirements targeted for the case management entity;

- Clarify language to align the Medicaid benefits eligibility language under the qualifications for Department-funded services;

- Remove "crisis services" language; and

- Reflect current Department terminology, and perform minor grammar, punctuation, formatting, and housekeeping changes.

The rules in OAR chapter 411, division 004 implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) by providing a foundation of standards to support the network

NOTICES OF PROPOSED RULEMAKING

of Medicaid-funded and private pay residential and non-residential HCB services and settings and person-centered service planning.

Under the HCB setting standards, adult foster homes meet the definition of a provider owned, controlled, or operated residential setting. A provider initially licensed on or after January 1, 2016 must meet the requirements in OAR chapter 411, division 004 prior to being licensed. A provider licensed prior to January 1, 2016 must make measurable progress toward compliance with the rules in OAR chapter 411, division 004 and be in full compliance by September 1, 2018.

By September 1, 2018, all provider owned, controlled, or operated residential settings must have all the following qualities:

- The setting is integrated in and supports the same degree of access to the greater community as people not receiving HCB services, including opportunities for individuals enrolled in or utilizing HCB services to seek employment and work in competitive integrated employment settings, engage in greater community life, control personal resources, and receive services in the greater community;

- The setting is selected by an individual, or as applicable the legal or designated representative of the individual, from among available setting options, including non-disability specific settings and an option for a private unit in a residential setting;

- The setting ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint;

- The setting optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including, but not limited to, daily activities, physical environment, and with whom to interact;

- The setting facilitates individual choice regarding services and supports, and who provides the services and supports;

- The setting is physically accessible to an individual;

- The unit is a specific physical place that may be owned, rented, or occupied by an individual under a legally enforceable Residency Agreement;

- Each individual has privacy in his or her own unit;

- Units have entrance doors lockable by the individual, with the individual and only appropriate staff having a key to access the unit;

- Individuals sharing units have a choice of roommates;

- Individuals have the freedom to decorate and furnish his or her own unit as agreed to within the Residency Agreement;

- Individuals may have visitors of their choosing at any time;

- Each individual has the freedom and support to control his or her own schedule and activities; and

- Each individual has the freedom and support to have access to food at any time.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: ODDS: Independent Providers Delivering Developmental Disabilities Services

Date:	Time:	Location:
5-18-16	2 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 410.600, 410.606–410.619 & 427.007

Proposed Adoptions: Rules in 411-375-0035, 411-375-0055

Proposed Amendments: 411-375-0000, 411-375-0010, 411-375-0020, 411-375-0040, 411-375-0050, 411-375-0070, 411-375-0080

Proposed Repeals: 411-375-0030, 411-375-0010(T), 411-375-0050(T), 411-375-0055(T), 411-375-0070(T), 411-375-0080(T)

Proposed Ren. & Amends: 411-375-0060 to 411-375-0045

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

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules for independent providers delivering developmental disabilities services in OAR chapter 411, division 375.

The rules in OAR chapter 411, division 375 are being amended to:

- Make permanent temporary changes that became effective on January 1, 2016;

- Provide consistency across services by removing terms included in the general definitions rule, OAR 411-317-0000;

- Implement changes associated with the Fair Labor Standards Act and Collective Bargaining Agreement regarding hours, pay, and benefits for personal support workers;

- Implement changes to the termination and inactivation procedures;

- Expand OAR chapter 411, division 375 to include standards and requirements related to independent providers that are not personal support workers, as well as pulling the standards for employers from other rules and incorporating them into OAR chapter 411, division 375; and

- Provide standards for documentation for independent providers.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: ODDS: Case Management Services

Date:	Time:	Location:
5-19-16	10:30 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 427.402 & 430.662

Stats. Implemented: ORS 427.005, 427.007, 427.400–427.410, 430.610, 430.620 & 430.662–430.695

Proposed Adoptions: Rules in 411-415

Last Date for Comment: 5-23-16, 5:30 p.m.

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to adopt rules in OAR chapter 411, division 415 to streamline the qualifications and related requirements for providers of case management services related to assessments, Individual Support Plans (ISP), and service monitoring.

The rules in OAR chapter 411, division 415 are drawn primarily from the case management and related functions contained in OAR chapter 411, division 320 for Community Developmental Disabilities Programs (CDDPs) and OAR chapter 411, division 340 for Support Services Brokerages and are intended to describe case management services delivered by a CDDP, Brokerage, or the Department through the Children's Intensive In-Home Services Program (CIIS) or the children's residential program.

The rules in OAR chapter 411, division 415 also include standards incorporated into OAR chapter 411, division 320 and 340 by temporary rulemaking on January 1, 2016 relating to home and community-based (HCB) services and settings, person-centered service planning, and conflict free case management.

NOTICES OF PROPOSED RULEMAKING

The rules in OAR chapter 411, division 415 include new language that was not in prior rules, including:

- Authority to make a termination of case management a termination of all other developmental disabilities services.
- Authority for a Brokerage to terminate case management and all other developmental disabilities services.
- A requirement for all case managers to complete core competency training.
- A requirement for a case management entity to complete payment authorization in the Department's payment and reporting system prior to the start of services.
- A requirement for all case management entities to carry out the obligations of family reconnection.
- Adaptation of language and requirements around the new Oregon ISP and processes associated with it.
- Updated expectations around the Career Development Plan.
- Aligned expectations across types of case management providers regarding case management services, including ISP authorizations and the use of service agreements, and the case management entity's role with independent providers.
- A requirement for an annual in home visit for all Department consumers and the authority to terminate services if the visit is not permitted.
- The authority to deny authorization of services when the setting for the delivery of those services is unsafe, or it is not possible for the chosen services to keep the individual safe.
- Updated requirements related to HCBS compliance, including residential and non-residential setting options.
- A rule that specifies the conditions that must be present in order for the Department to make payment for case management services.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman
Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301
Telephone: (503) 945-6398

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Rule Caption: ODDS: Ancillary Services for Individuals Receiving Office of Developmental Disabilities Services

Date:	Time:	Location:
5-19-16	10 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 409.050, 427.104 & 430.662
Stats. Implemented: ORS 427.005, 427.007, 427.115, 430.610, 430.620 & 430.662-430.670

Proposed Adoptions: Rules in 411-435
Last Date for Comment: 5-23-16, 5 p.m.

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to adopt rules for ancillary services in OAR chapter 411, division 435 to include eligibility requirements, service descriptions, service limits, and provider qualifications for certain services available under the 1915(k) and 1915(c) funding authorities. These rules are drawn from portions of existing, almost identical, rules in OAR chapter 411 divisions 300, 308, 330, 340, 350, and 355. The relevant portions of those rules are being repealed and put into this new division. Adopting OAR chapter 411, division 435 will assure that variations in the present rules are eliminated.

The Department is also incorporating new sections into OAR chapter 411, division 435 that were not in prior rules, including:

- Department-wide financial eligibility requirements for long-term services as described in OAR 461-145-0220.
- A requirement that an individual must receive three bids before making an environmental modification or environmental safety modification.
- Clarify the policy requiring that purchases made to meet a single identified goal on an ISP must be considered together as one cost for the purpose of triggering a review by the Department prior to the purchase.
- Prohibiting, in most circumstances, providers who may have an advantage in being selected due to their relationship with the individual from providing services to the individual with which the relationship exists.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman
Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301
Telephone: (503) 945-6398

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Rule Caption: ODDS: Community Living Supports

Date:	Time:	Location:
5-18-16	3 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 409.050 & 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620 & 430.662-430.670
Proposed Adoptions: Rules in 411-450
Last Date for Comment: 5-23-16, 5 p.m.

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to adopt rules for community living supports in OAR chapter 411, division 450 to include the eligibility requirements, service descriptions, service limits, and provider qualifications for attendant care, relief care, and skills training available under the Community First Choice 1915(k) funding authority. These rules were taken from portions of current rules located in OAR chapter 411, divisions 300, 308, 330, 340, 350, and 355. The relevant portions of those rules are being eliminated and consolidated into this new division. This will assure that variation within rules across program areas related to these services are eliminated.

The Department is also incorporating new sections into OAR chapter 411, division 450 that were not in prior rules, including:

- A financial eligibility requirement that an individual with a certain amount of home equity is ineligible for community living supports.
- Authority for the Department to deny services when the services are unable to adequately meet the needs of the individual or when the setting in which services are delivered is not safe for the individual or provider.
- Requiring agency providers to notify the Department when the provider intends to change operations in a way that multiple individuals will lose services.
- Adaptations to any rules that are impacted by OAR chapter 411, division 004 related to home and community-based requirements for facility-based services.
- The provision for these rules to be used as the basis for an agency endorsement as described in OAR chapter 411 division 323.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received

NOTICES OF PROPOSED RULEMAKING

will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: APD - Home and Community-Based Services and Settings for Adult Foster Homes

Date:	Time:	Location:
5-17-16	1:30 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730,

443.735, 443.738, 443.742, 443.760, 443.767, 443.775 & 443.790

Stats. Implemented: ORS 106.010, 443.001-443.004, 443.705-443.825 & 443.875, 443.991

Proposed Amendments: Rules in 411-050

Proposed Repeals: 411-050-0602(T), 411-050-0615(T), 411-050-0630(T), 411-050-0632(T), 411-050-0635(T), 411-050-0642(T), 411-050-0645(T), 411-050-0650(T), 411-050-0655(T), 411-050-0662(T), 411-050-0665(T), 411-050-0670(T), 411-050-0685(T)

Last Date for Comment: 5-21-16, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the rules for in OAR chapter 411, division 050 to make permanent temporary changes that became effective on January 1, 2016 for adult foster homes where care is provided to older or adults with physical disabilities to align the rules with the newly adopted rules in 411-004.

The Department is also updating the rules to improve and streamline processes and to make changes to enhance the safety and welfare of adult foster home residents and licensees. The Department updated the rules to ensure the rules were using current Department terminology and to perform minor grammar, punctuation, formatting, and housekeeping changes.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: Residential Care and Assisted Living Facilities

Date:	Time:	Location:
5-17-16	2 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070, 413.042, 413.085, 443.450

Other Auth.: H.B. 2413 (2015), H.B. 4151 (2015)

Stats. Implemented: ORS 409.050, 413.042, 413.085, 443.400-443.455, 443.991

Proposed Adoptions: 411-054-0038

Proposed Amendments: Rules in 411-054

Proposed Repeals: 411-054-0000(T), 411-054-0005(T), 411-054-0012(T), 411-054-0025(T), 411-054-0027(T), 411-054-0036(T), 411-054-0038(T)

Last Date for Comment: 5-21-16, 5 p.m.

Summary: The Department of Human Services (Department) is amending OAR chapter 411, division 054 to make permanent temporary changes that became effective on January 1, 2016. The Department is amending the rules and adopting a new rule to add in

requirements surrounding individually-based limitations for residential care and assisted living facilities to align the rules with the newly adopted rules in 411-004. The rules in 411-004 provide a foundation of standards to support the network of Medicaid-funded and private pay residential Home and Community-Based Services (HCBS), Home and Community-Based (HCB) settings, and person-centered service planning for individuals receiving HCBS in Oregon.

The amended rules ensure individuals in residential care and assisted living and facilities receive HCBS in settings that are integrated in and support the same degree of access to the greater community as people not receiving HCBS, including opportunities for individuals enrolled in or utilizing HCBS to:

- Engage in community life;
- Control personal resources; and
- Receive services in the community.

The Department is also updating language in 411-054-0012 (Market Study language) to comply with HB 2413 (2015) and 411-054-0025 (Criminal Background language) to comply with HB 4151 (2015).

The Department is updating the rules to match current Department terminology, and perform minor grammar, punctuation, formatting, and housekeeping changes.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: ODDS: CIIS - Behavior Program, Medically Fragile Children's Services, and Medically Involved Children's Program

Date:	Time:	Location:
5-18-16	1 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 417.345

Stats. Implemented: ORS 417.345, 427.005, 427.007, 430.215

Proposed Amendments: Rules in 411-300

Proposed Repeals: Rules in 411-350, 411-355, 411-300-0110(T), 411-300-0130(T), 411-300-0150(T), 411-300-0155(T), 411-300-0170(T)

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

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules for children's intensive in-home services (CIIS) in OAR chapter 411, division 300 to make permanent the temporary rule changes that became effective on January 1, 2016.

In addition, the Department is proposing to restructure the CIIS rules to ensure uniform standards, provide more consistency, consolidate requirements, remove redundancies, and reduce the need for multiple rule changes in the future. Specifically, the Department is proposing to:

- Address the three CIIS programs (Behavior Program, Medically Fragile Children's Services (MFC), and Medically Involved Children's Program (MICP)) in one rule and repeal the rules in OAR chapter 411, division 350 and 355;
- Remove:
- Terms included in the general definitions rule, OAR 411-317-0000;
- The requirements now found in OAR chapter 411, division 415 related to the delivery of case management services and other service access activities, including related requirements for CIIS services coordinators;

NOTICES OF PROPOSED RULEMAKING

- Standards for employers and independent providers, including personal support workers now found in OAR chapter 411, division 375; and

- Community First Choice (K Plan) and waiver service descriptions as they are now included in OAR chapter 411, division 435 (Ancillary Services) and OAR chapter 411, division 450 (Community Living Supports);

- Incorporate the adoption of the rules for home and community-based (HCB) services and settings and person-centered service planning in OAR chapter 411, division 004 to implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS); and

- Move the content related to private duty nursing and clarify the eligibility criteria for private duty nursing services authorized and administered by the MFC Program for children and young adults residing in the family home or a foster home.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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

Rule Caption: Amending rules relating to child welfare

Date:	Time:	Location:
5-23-16	11:30 a.m.	500 Summer St. NE, Rm. 255 Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 417.262 & 418.005

Stats. Implemented: ORS 409.050, 417.262, 417.265, 418.005, 419B.192, 419B.373, 419B.376, 419B.440-419B.476 & 419B.875

Proposed Amendments: Rules in 413-040, 413-090, 413-120

Proposed Repeals: 413-040-0000(T), 413-040-0145(T), 413-040-0150(T), 413-090-0500, 413-090-0510, 413-090-0520, 413-090-0530, 413-090-0540, 413-090-0550, 413-120-0730(T), 413-120-0925(T)

Last Date for Comment: 5-25-16, 5 p.m.

Summary: The Department of Human Services, Office of Child Welfare Programs, is proposing the following rule changes:

OAR 413-040-0000 about definitions for rules in division 413-040 is being amended to define "grandparent" for purposes of notification, visitation, contact, or communication ordered by the court under ORS 419B.876 as the legal parent of the child or young adult's legal parent, regardless of whether the parental rights of the child or young adult's legal parent have been terminated. This makes permanent a temporary rule adopted on December 31, 2015 to comply with ORS 419B.875 as amended by HB 3014 (2015).

OAR 413-040-0145 about court notification of placement changes is being amended to require the Department to file a report with the juvenile court when the Department has removed or plans to remove a child or young adult for the purpose of placing the child or young adult in a different substitute care placement in certain circumstances and to attend a court review hearing scheduled by the court. This makes permanent a temporary rule adopted on December 31, 2015 to comply with ORS 419B.440 as amended by sections 7 and 10 of SB 741 (2015).

OAR 413-040-0150 about notification of administrative reviews, permanency hearings, and review hearings is amended to require the Department to notify grandparents of any court hearing concerning the child. This makes permanent a temporary rule adopted on

December 31, 2015 to comply with ORS 419B.875 as amended by HB 3014.

OAR 413-090-0500 through 413-090-0550 are being repealed. These rules establish the conditions under which the Department will pay the cost of providing legal services to clients who are establishing a court-appointed guardianship of children in the care and custody of the Department. These rules are obsolete and are no longer needed.

OAR 413-120-0025 about the composition of adoption committees is being amended to clarify that adoption committee members should be knowledgeable of the importance of attachment and emotional ties to caregivers.

OAR 413-120-0730 about the order of preference for identification of potential adoptive resources is being amended to authorize the DHS Director to make exceptions to the order of preference for identification of potential adoptive resources when it is determined in the best interest of the child. This makes permanent a temporary rule adopted on February 24, 2016.

OAR 413-120-0925 is being amended to clarify who is considered a "relative" for purposes of outgoing intercountry adoptions subject to The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention) and the Intercountry Adoption Act of 2000, 42 USC 14901 to 14954 (IAA). This makes permanent a temporary rule adopted on January 1, 2016.

In addition, non-substantive edits may be made to rules throughout divisions 413-040, 413-090, and 413-120 to: update definitions; ensure consistent terminology throughout child welfare program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

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,
Home Care Commission
Chapter 418**

Rule Caption: Homecare Choice Program

Date:	Time:	Location:
5-17-16	3 p.m.	Oregon Home Care Commission 676 Church St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.602

Other Auth.: S.B. 1542 (2014)

Stats. Implemented: ORS 410.595-410.625

Proposed Adoptions: 418-040-0000, 418-040-0010, 418-040-0020, 418-040-0030, 418-040-0040, 418-040-0050, 418-040-0060, 418-040-0070, 418-040-0080, 418-040-0090

Proposed Repeals: 418-040-0000(T), 418-040-0010(T), 418-040-0020(T), 418-040-0030(T), 418-040-0040(T), 418-040-0050(T), 418-040-0060(T), 418-040-0070(T), 418-040-0080(T), 418-040-0090(T)

Last Date for Comment: 5-21-16, 5 p.m.

Summary: The Oregon Home Care Commission (Commission) is proposing to adopt rules for the Homecare Choice Program in OAR chapter 418, division 040. The Commission has been legislatively mandated to establish and administer a program to enable individuals using private funds to purchase home care services through the Commission's Registry. These rules establish a consumer-directed program that enables individuals with disabilities to access the Commission's Registry to locate and hire a provider as an employee and purchase services through the Commission. The Commission may also contract with a fiscal intermediary that would be able to pay the

NOTICES OF PROPOSED RULEMAKING

individual's employee on the individual's behalf, withhold and report payroll taxes, and assist consumers with meeting the legal requirements of being a household employer.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Home Care Commission, 500 Summer St. NE, E-48, Salem, OR 97301

Telephone: (503) 945-6398

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

Rule Caption: Amending rules relating to public assistance programs

Date:	Time:	Location:
5-23-16	11:30 a.m.	500 Summer St. NE, Rm. 255 Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 413.042
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.708, 413.085, 414.685, 416.310, 413.340 & 416.350

Proposed Amendments: 461-120-0330, 461-135-0835, 461-145-0380

Last Date for Comment: 5-27-16, 5 p.m.

Summary: OAR 461-120-0330 about the requirement to pursue assets is being amended to align with federal policy regarding converting pension and retirement plans to monthly income if eligible. The rule currently states that individuals must pursue assets to which one has a legal claim or right; however it does not address situations in which one has a legal right to pursue a source of income from an existing resource. This amendment clarifies that individuals must pursue (i.e. set up) monthly payments or distributions from a pension or retirement fund if eligible to do so.

OAR 461-135-0835 about limits on estate claims is being amended to state that recovery for medical assistance benefits paid in the time period of October 1, 1993 to July 18, 1995 is limited to probate estates and that recovery of Medicare Part D "clawback" paid after December 31, 2013 is limited to benefits paid to an individual age 55 or older.

OAR 461-145-0380 about pension and retirement plans is being amended to state that in the Oregon Supplemental Income Program (OSIP), the Oregon Supplemental Income Program Medical (OSIPM), and the Qualified Medicare Beneficiary Disabled Worker (QMB-DW) program, if the equity value of a plan is counted as a resource, payments received from the plan are considered the conversion of a recourse and are not counted as income.

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

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

Rules Coordinator: Kris Skaro

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

Telephone: (503) 945-6067

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Rule Caption: Updating minimum community spouse income allowance

Stat. Auth.: ORS 411.060, 411.070 & 411.706

Other Auth.: 42 U.S.C. §1396r-5(d)(3), S.3106 - Spousal Impoverishment Improvement Act; 42 CFR 435.725-435.735

Stats. Implemented: ORS 411.060, 411.070 & 411.706

Proposed Amendments: 461-160-0620

Last Date for Comment: 5-27-16, 5:30 p.m.

Summary: OAR 461-160-0620 about income deductions and client liability for long-term care services and waived services is being amended to update the minimum community spouse income allowance (Minimum Monthly Maintenance Needs Allowance or MMMNA) which is published by the federal government each year. This amendment keeps Oregon in line with current federal standards for Department Medicaid programs and changes to the minimum monthly maintenance allowance under the Spousal Impoverishment laws. These amendments will take effect July 1.

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

Rules Coordinator: Kris Skaro

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

Telephone: (503) 945-6067

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**Department of Revenue
Chapter 150**

Rule Caption: Marijuana tax: Establishes rules for permanent point-of-sale taxation of marijuana items.

Date:	Time:	Location:
5-23-16	9 a.m.	Revenue Bldg. Fishbowl Conference Rm 955 Center St. NE Salem, OR 97301

Hearing Officer: Xann Culver

Stat. Auth.: ORS 305.100 & 475B.750

Stats. Implemented: ORS 475B.700-475B.760

Proposed Adoptions: 150-475B.710-(A), 150-475B.710-(B), 150-475B.710-(C), 150-475B.715, 150-475B.720, 150-475B.740, 150-475B.755

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

Summary: 150-475B.710-(A) — Establishes deposit due dates for remitting marijuana point-of-sale taxes to the Oregon Department of Revenue.

150-475B.710-(B) — Provides guidance for marijuana retailers to request an extension to file a quarterly marijuana tax return and clarifies definition of "good cause" used to consider filing extension requests.

150-475B.710-(C) — Requires marijuana retailers to register with the Oregon Department of Revenue to report and remit marijuana point-of-sale taxes.

150-475B.715 — Clarifies provisions in statute for assessing delinquent marijuana tax against a marijuana retailer or medical marijuana dispensary and any liable officer, member, or employee of a marijuana retailer or medical marijuana dispensary per statutory authorities. Establishes criteria the department will consider to assess liability against any responsible officer, member, or employee of a marijuana retailer or medical marijuana dispensary for delinquent marijuana tax.

150-475B.720 — Clarifies provisions in statute for providing guidance for acceptable recordkeeping formats and maintenance of books, papers, accounts, or other information related to marijuana tax and the authority of the department to request books, papers, accounts or other information for audit purposes.

150-475B.740 — Clarifies provisions in statute for consumer requests for refund of excess marijuana tax paid at the point-of-sale.

150-475B.755 — Clarifies provisions in statute for assessing a 100 percent penalty for failure to file a marijuana tax return for three consecutive years.

Rules Coordinator: Lois Williams

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

Telephone: (503) 945-8029

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Corporate Tax: Sale of commodities by public utilities, Unitary business ownership percentage

Date: 5-23-16
Time: 9 a.m.
Location: Revenue Bldg.
 Fishbowl Conference Rm
 955 Center St. NE
 Salem, OR 97301

Hearing Officer: Xann Culver

Stat. Auth.: ORS 305.100, 314.280, 314.667 & 314.815

Stats. Implemented: ORS 314.280, 317.705 & 314.667

Proposed Amendments: 150-314.280-(O), 150-317.705(3)(a)

Proposed Renumberings: 150-314.670-(A) to 150-314.667-(A)

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

Summary: 150-314.280-(O) is amended to be applicable to all periods open to examination.

150-317.705(3)(a) is amended to change the level of common ownership necessary to establish a unitary relationship between two or more corporations.

150-314.670-(A) renumbered to 150-314.667-(A) to reflect a statutory change that was enacted by the Legislature.

Rules Coordinator: Lois Williams

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

Telephone: (503) 945-8029

Rule Caption: Cash Handling: Establishes rule for remitting cash payments to the Oregon Department of Revenue.

Date: 5-23-16
Time: 9 a.m.
Location: Revenue Bldg.
 Fishbowl Conference Rm.
 955 Center St. NE
 Salem, OR 97301

Hearing Officer: Xann Culver

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 305.100

Proposed Adoptions: 150-305.100-(E)

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

Summary: 150-305.100-(E) — Provides guidance and procedures to remit cash payments for any taxes, fees, or debts administered by the Oregon Department of Revenue (DOR). DOR district field offices will only accept cash payments up to \$500 for any purpose, no more than five (5) cash payments per month, from July 1, 2016 to December 31, 2016. Eliminates acceptance of cash payments at DOR field offices after December 31, 2016.

Rules Coordinator: Lois Williams

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

Telephone: (503) 945-8029

Department of State Lands Chapter 141

Rule Caption: Establish a Removal-Fill General Permit for Navigational Access Maintenance Dredging

Date:	Time:	Location:
5-16-16	5 p.m.	Port of Newport Marina & RV Park South Beach Activities Rm. 2120 SE Marine Science Dr. Newport, OR 97365
5-17-16	5 p.m.	State Lands Bldg. Land Board Rm. 775 Summer St. NE Salem, OR 97301
5-18-16	5 p.m.	Port of Astoria 10 Pier 1, Suite 100 Astoria, OR 97103
5-26-16	5 p.m.	The Barn Community Center 1200 11th St. SW Bandon, OR 97411

Hearing Officer: Kirk Jarvie, Chris Castelli

Stat. Auth.: ORS 183 - Re: administrative procedures and rules of state agencies; 196.817 - Re: the Department's authority to create a removal-fill general permit by rule or order.

Stats. Implemented: ORS 196.600–196.692 & ORS 196.795–196.990

Proposed Adoptions: 141-093-0250, 141-093-0255, 141-093-0260, 141-093-0265, 141-093-0270, 141-093-0275, 141-093-0280
Last Date for Comment: 5-31-16, 5 p.m.

Summary: This rulemaking addresses the recommendations of Regional Solutions and small ports represented through the Oregon Public Ports Association to simplify and expedite the state permitting requirements for navigational access maintenance dredging. The new rules would create a general permit available to persons needing to conduct such maintenance dredging. Only areas that have been previously dredged and that meet other requirements specified by rule would be eligible to use the general permit.

Rules Coordinator: Sabrina L. Foward

Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279

Telephone: (503) 986-5236

Rule Caption: Amend rules governing the management of state-owned submerged and submersible Land

Date:	Time:	Location:
5-18-16	4 p.m.	Tillamook County Commissioners Conference Rm. A & B 201 Laurel Ave. Tillamook, OR 97141
5-19-16	4 p.m.	State Lands Bldg. Land Board Rm. 775 Summer St. NE Salem, OR 97301
5-24-16	4 p.m.	North Bend Library 1800 Sherman Ave. North Bend, OR 97459
5-25-16	4 p.m.	Klamath County Board of Commissioners BOCC Conference Rm. 219 Klamath Falls, OR 97601

Hearing Officer: Nancy Pustis

Stat. Auth.: ORS 183, 273 & 274

Other Auth.: Oregon Constitution, Article VIII, Section 5

Stats. Implemented: ORS 274

Proposed Adoptions: 141-082-0311

Proposed Amendments: 141-082-0250, 141-082-0255, 141-082-0260, 141-082-0265, 141-082-0275, 141-082-0280, 141-082-0285, 141-082-0290, 141-082-0295, 141-082-0300, 141-082-0305, 141-082-0310, 141-082-0315, 141-082-0325, 141-082-0335, 141-082-0340

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

Summary: These rules govern the granting of leases, public facility licenses, short term access authorizations and registrations for a wide variety of commercial, non-commercial and public uses in, on, under and over state-owned submerged and submersible land. The Department initiated the rule revision process in February 2014 by obtaining Land Board approval. Then as a result of HB 2463 and the receipt of a petition to amend the Waterway Leasing rules in 2015, the Department moved forward to revise the rules. After conferring with a rules advisory committee, most of the changes were minor, clarifying wording in certain sections and adding a new section which lays out the process to implement the Submerged Lands Enhancement Fund (HB 2463).

Rules Coordinator: Sabrina L. Foward

Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279

Telephone: (503) 986-5236

Rule Caption: General Authorization for Recreational Placer Mining within ESH

NOTICES OF PROPOSED RULEMAKING

Date: 5-20-16
Time: 11 a.m.
Location: Dept. of State Lands
Land Board Rm.
775 Summer St. NE
Salem, OR 97301

Hearing Officer: Eric Metz
Stat. Auth.: ORS 196.600–196.692 & 196.795–196.990 & SB 838 (2013)

Stats. Implemented: ORS 196.600–196.692 & 196.795–196.990 & SB 838 (2013)

Proposed Amendments: 141-089-0820, 141-089-0825, 141-089-0830, 141-089-0835

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

Summary: A legislatively established moratorium (Enrolled Senate Bill 838 — 2013) on some motorized placer mining began on January 2, 2016. It was necessary to revise the Department's General Authorization in response to SB 838 statutory changes, including implementing the moratorium for some motorized placer mining. The Department adopted a temporary rule to clarify the process for determining eligibility for the General Authorization and removing certain limitations on placer mining that were established for the period ending January 2, 2016. The agency is now conducting permanent rulemaking and taking public comment on the permanent rule.

Rules Coordinator: Sabrina L. Foward

Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279

Telephone: (503) 986-5236

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

Rule Caption: Establishes eligibility requirements, procedures for issuance of special registration plates; updates DMV group plate rules

Date: 5-18-16
Time: 10 a.m.
Location: DMV Headquarters
Conference Rm. 123
1905 Lana Ave. NE
Salem OR

Hearing Officer: David Eyerly
Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.200, 805.205, 805.206, 805.222 & 822.225

Stats. Implemented: ORS 805.200, 805.205, 805.222 & 822.225
Proposed Adoptions: 735-040-0045, 735-040-0110, 735-040-0115, 735-040-0120, 735-040-0125, 735-040-0130

Proposed Amendments: 735-040-0040

Proposed Repeals: 735-040-0055, 735-040-0061, 735-040-0095, 735-040-0097, 735-040-0100

Last Date for Comment: 5-23-16, Close of Business

Summary: This rulemaking is needed to comply with legislation enacted by the 2015 Legislative Assembly.

DMV issues vehicle registration plates necessary to operate motor vehicles on Oregon roads. Choices for registration plates include the standard tree plate, which is issued to all passenger vehicles unless the vehicle owner chooses a non-standard plate type. Available non-standard plates include, veterans' recognition plates (i.e., Purple Heart and Gold Star Family), special registration plates (i.e., Pacific Wonderland, Crater Lake, Cultural and Wine Country), and group plates issued to non-profit groups and institutions of higher education under ORS 805.205 (i.e., Fallen Public Safety Officer, Share the Road, Oregon State University and University of Oregon). Each of these non-standard plates requires the payment of an additional fee, also known as surcharge, that DMV collects upon initial registration, and, depending on the plate, at registration renewal.

In pertinent part, House Bill 2730 (2015): (1) Amended ORS 805.205 to remove statutory language pertaining to the creation of new group plates issued to non-profit groups and institutions of higher education; (2) Repealed ORS 805.202, which limited the number of specialty plates to four plates available for issuance at any one

time; and (3) Established ORS 805.222 and 805.225 directing DMV to adopt rules to establish a program for the issuance of special registration plates for 501(c)(3) non-profit groups, institutions of higher education and public bodies as defined in ORS 174.109 and to adopt rules for the administration and implementation of the special registration plate program. This includes establishing:

(a) General qualification requirements for non-profit groups, institutions of higher education and public bodies that wish to become eligible for a special registration plate;

(b) When DMV may cease to issue a special registration plate; and

(c) The process to apply for a special registration plate.

The proposed adoption of OAR 735-040-0110, 735-040-0115, 735-040-0120, 735-040-0125 and 735-040-0130 establish the procedures and requirements for the new special registration plate program. This includes general qualification requirements for organizations that wish to participate in the special registration plate program, the issuance of prepaid vouchers and the design requirements for special registration plates. The adoption of OAR 735-040-0045 sets the requirements for groups that continue to function under the old group plate program. DMV is repealing the requirements for the old group program under OAR 735-040-0055, 735-040-0061, 735-0040-0095, 735-040-0097 and 735-040-0100. The amendment of OAR 735-040-0040 updates terms and definitions to conform to the legislative Act and this rulemaking.

The amendment of OAR 735-040-0040 updates terms and definitions to conform to the legislative Act and this rulemaking.

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

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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**Department of Transportation,
Highway Division
Chapter 734**

Rule Caption: Rest Area Sponsorship Acknowledgement Sign Program

Stat. Auth.: ORS 184.616, 184.619 & 366.205

Other Auth.: Federal Policy 5160.1A

Stats. Implemented: ORS 366.205

Proposed Adoptions: 734-031-0001 – 734-031-0030

Last Date for Comment: 5-23-16, Close of Business

Summary: The Department of Transportation (ODOT) provides rest areas as part of the state highway system to offer a stopping place for travelers to take a short break from driving. Many of those rest areas are managed by the Oregon Travel Information Council (TIC). There is interest in seeking sponsorship contributions to support the development, maintenance, and operation of rest areas and to acknowledge those contributions with a sign either in the rest area or on the adjacent state highway. Federal regulations pertaining to state highways allow state transportation agencies to use signs to acknowledge sponsorships provided the state transportation agency has an acknowledgement sign program.

These rules outline the program developed by the Department of Transportation in compliance with Federal Policy 5160.1A, Sponsorship Acknowledgement and Agreements within the Highway Right of Way; and will provide citizens of Oregon an opportunity to contribute support for the development or ongoing operation and maintenance of Department of Transportation rest areas. Sponsorships will be solicited using a competitive process such as a request for proposal with the successful entity selected based on a net benefit for the public. Under these rules, an acknowledgement sign may be offered in exchange for the sponsor's contribution.

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

NOTICES OF PROPOSED RULEMAKING

Higher Education Coordinating Commission Chapter 715

Rule Caption: Collection, reporting, and retention of sexual orientation data at Oregon's public universities.

Date: 5-17-16
Time: 1:30 p.m.
Location: 775 Court St. NE
Salem, OR 97301

Hearing Officer: Kelly Dickinson

Stat. Auth.: ORS 352.274

Other Auth.: ORS 352.002

Stats. Implemented: SB 473 (2015 OR Legislative Assembly)

Proposed Adoptions: 715-015-0005

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

Summary: This rule, pursuant to ORS 352.274 establishes the format and time frame that public universities listed in ORS 352.002 must follow in order to collect, report, and retain voluntarily submitted data on sexual orientation, gender and gender identity, and legal sex of students, faculty, and staff in a manner established by the Higher Education Coordinating Commission (Commission). Universities shall report this data to the Commission Office of Research and Data by June of every year.

Rules Coordinator: Kelly Dickinson

Address: Higher Education Coordinating Commission, 775 Court St. NE, Salem, OR 97301

Telephone: (503) 947-2379

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**Oregon Business Development Department
Chapter 123**

Rule Caption: These relate to the Credit Enhancement Fund.

Stat. Auth.: ORS 285A.075 & 285B.200-285B.218

Stats. Implemented: ORS 285B.200-285B.218

Proposed Amendments: Rules in 123-021

Last Date for Comment: 5-20-16, Close of Business

Summary: Senate Bill 1589 was passed during the 2016 legislative session changing the definition of a qualified business for the Credit Enhancement Fund. As a result, changes to the definition of Qualified Business allows for many more counties and business to become eligible for the program.

The amendments reflect what a Qualified Business is. Eligibility requirements for the program have been updated as well.

Rules Coordinator: Mindee Sublette

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: These rules relate to the Regional Infrastructure Fund.

Stat. Auth.: ORS 285A.075, 285B.551, § 2-4, ch.786 OL 2013, § 2-4, ch.812 OL 2015

Stats. Implemented: ORS 285B.551, § 2-4, ch.786 OL 2013, § 2-4, ch.812 OL 2015

Proposed Amendments: Rules in 123-061

Last Date for Comment: 4-29-16, Close of Business

Summary: In 2013, the Oregon Legislature created the Regional Infrastructure Fund through SB 5533. The fund provides grants and loans to local governments for Regional Implementation Projects including long-range planning, research and design.

The purpose of the creation of new rules and amendments to current ones is to establish a process and criteria for recommending projects to be funded by the Regional Infrastructure Fund.

Advantages:

- Available fund amount established in advance.
- Project applicants know what type of funding they're applying for and how it may be used.
- Project readiness is more certain as applicants are submitted within a set funding date.
- Projects may be vetted more thoroughly.

- Project criteria established in advance.
- Increased public involvement and transparency in recommending projects.

- Consistent evaluation and selection process.

Principles:

- Ensuring statewide economic vitality- Allocation of state funds will reach all corners of Oregon.

- Strategic investments are best identified by regional leaders- Local business and community leaders are best positioned to align priorities, processes, projects, and funding to create meaningful, regional economic impacts

- Timely application of funds targeted to move the needle- Funds have the ability to be targeted towards catalytic economic development projects that have advanced enough and given sufficient funding will reach a significant milestone. Unlocks funding from other sources.

- Transparent and accountable decision-making- Decision-making processes for recommending implementation projects will be inclusive, transparent, and consistent across all regions.

Rules Coordinator: Mindee Sublette

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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**Oregon Department of Education
Chapter 581**

Rule Caption: Dental screening for students

Stat. Auth.: Section 1 and 3, Chapter 558, Oregon Laws 2015 (Enrolled House Bill 2972)

Stats. Implemented: Section 1, Chapter 558, Oregon Laws 2015 (Enrolled House Bill 2972)

Proposed Adoptions: 581-021-0017

Last Date for Comment: 5-19-16, 9 a.m.

Summary: Oral health is an important part of a student's overall health. There are documented connections between overall health and a student's academic performance and attendance. HB 2972 (June, 2015) requires school districts to collect dental screening information for students seven (7) years of age or younger and who are beginning an educational program (includes prekindergarten) for the first time. Schools may perform dental screenings but are not required to. Schools must provide preventative dental care information to new students. Lastly, school districts shall report the percentage of students who fail to submit a screening certificate to the Oregon Department of Education by October 1 of each year. No later than December 1 each year, the Oregon Department of Education shall submit a summary to the Interim Legislative Committees on Education and to the Dental Director appointed by the Oregon Health Authority.

Proposed OAR language mirrors statute language.

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: Compulsory school age

Stat. Auth.: ORS 339.030 & 339.035

Stats. Implemented: ORS 339.035

Proposed Amendments: 581-021-0026, 581-021-0029

Last Date for Comment: 5-19-16, 9 a.m.

Summary: The legislature lowered the compulsory school age from 7 to 6 in 2015. The rule amendments adjust the references to compulsory school age to reflect this change.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

NOTICES OF PROPOSED RULEMAKING

Rule Caption: African American/Black Student Success Plan Grant

Stat. Auth.: ORS 329.841

Stats. Implemented: ORS 329.841

Proposed Adoptions: 581-017-0550, 581-017-0553, 581-017-0556, 581-017-0559, 581-017-0562, 581-017-0565

Last Date for Comment: 5-19-16, 9 a.m.

Summary: Establishes African American/Black Student Success Grant Funding process. Includes eligibility, criteria, funding and reporting.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Bonds required for student instructional materials.

Stat. Auth.: ORS 337.030, 337.035, 337.060, 337.065, 337.075 & 337.260

Stats. Implemented: ORS 337.090

Proposed Amendments: 581-011-0080

Last Date for Comment: 5-19-16, 9 a.m.

Summary: Allows the Department of Education to collect a bond or irrevocable letter of credit from a publisher of instructional materials for K–12 students as part of review process. Provides exception for certain types of instructional materials.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Oregon Health Authority, Health Licensing Office Chapter 331

Rule Caption: Require practitioners complete an OHA survey in accordance with 2015 Legislation SB 230.

Date:	Time:	Location:
5-20-16	10 a.m.	Health Licensing Office 700 Summer St. NE, Suite 320 Salem, OR

Hearing Officer: Samie Patnode

Stat. Auth.: ORS 676.615, Chapter 380, 2015 Law, ORS 815

Stats. Implemented: ORS 676.615, Chapter 380, 2015 Law, ORS 815

Proposed Amendments: 331-715-0010

Last Date for Comment: 5-28-16, 5 p.m.

Summary: During the 2015 Legislative Session SB 230 was enacted adding respiratory therapists and polysomnographic technologists to the list of health care professionals who must provide certain demographic and practice information prescribed by Oregon Health Authority (OHA) in order to renew their license.

SB 230 specifies the type of information that may be collected including but not limited to demographics, education, training, employment information and specialty practice information. This information is collected through an online survey which is sent directly to OHA. Currently other health care professionals, including licensed dietitians, who are required to provide this information pay a \$2 annually which is collected at time of renewal.

Rules Coordinator: Samantha Patnode

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

Telephone: (503) 373-1917

Oregon Health Authority, Health Systems Division: Addiction Services Chapter 415

Rule Caption: Permanent repeals to OAR 415-060 titled Standards for Reducing Tobacco Use by Minors.

Stat. Auth.: 413.042, 409.410 & 413.853

Stats. Implemented: ORS 409.410 & 413.853

Proposed Repeals: 415-060-0010, 415-060-0020, 415-060-0030, 415-060-0040, 415-060-0050

Last Date for Comment: 5-23-16, Close of Business

Summary: The purpose of these rules is to adopt procedures concerning random and targeted inspections of outlets that sell tobacco products consistent with Section 202, PL 102-321, (1992) 106 stat.394-95, codified at 42 USC §300x-26, which requires enforcement of laws to reduce tobacco use by minors as a condition of full block grant funding.

Rules Coordinator: Nola Russell

Address: Oregon Health Authority, Health Systems Division: Addiction Services, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-7652

Oregon Health Authority, Health Systems Division: Medical Assistance Programs Chapter 410

Rule Caption: CCO Substance Use Disorder Provider, Treatment and Facility Certification and Licensure

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

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 192.527, 192.528, 413.042, 414.065, 443.400 & 430.306

Stats. Implemented: ORS 192.527, 192.528, 413.042, 414.065, 443.400 & 430.306

Proposed Adoptions: 410-141-3110

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

Summary: The Authority needs a rule to address Substance Use Disorder (SUD) Provider, Treatment and Facility Certification and Licensure as they fit into the coordinated care organizational framework. This rule specifies the regulations that provide such a framework for certification and licensure for the SUD program.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Rule Caption: Requirements for CCO Appeal

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

Hearing Officer: Sandy Cafourek

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

Stats. Implemented: ORS 414.610–414.685

Proposed Amendments: 410-141-3262

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

Summary: This rule pertains to the Grievance System rules as required by 42 CR 438.420. This rule is the framework and guidance for the CCOs with which to administer the appeals process as required in CFR within the managed care delivery system. Revision of this rule provides clarification in the language for a standard appeal. An oral appeal request must be followed up by a written request. We have also provided clarification language regarding what happens should a member fail to follow up a standard oral request for an appeal with a written request. The Authority has also aligned the CCO language with the Medicare language-timelines for standard resolution of an appeal, changing from 16 days to 14 days.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Board Registered/Licensed Interns to be included as Non-payable, Enrollable Medicaid Providers

Date: 7-19-16 **Time:** 10:30 a.m. **Location:** 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.065, 430.640, 430.705 & 430.715

Proposed Amendments: 410-172-0660

Proposed Repeals: 410-172-0660(T)

Last Date for Comment: 7-21-16, 5 p.m.

Summary: The Oregon Health Authority needs to include board registered, certified, or licensed (non-clinical) provider types practicing under a board approved supervision plan under enrolled or (paid provider) Medicaid providers. This rule is in response to provider inquiries about parity among interns. OHA approved pre-graduate mental health interns for enrollment and practice within Oregon Medicaid. OHA did not include board registered, certified or licensed (non-clinical) provider types practicing under a board approved supervision plan under enrolled (paid provider) Medicaid providers.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

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Rule Caption: Updating Rules to Align with Changes to the State Plan and the Oregon Eligibility System

Date: 5-17-16 **Time:** 10:30 a.m. **Location:** 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Other Auth.: 42 CFR: 435.110, 435.112, 435.115, 435.116, 435.118, 435.403, 435.940, 435.1200, 457.80, 457.340, 458.350, 435.3, 435.4, 435.406, 435.407, 435.940, 435.952, 435.956, 435.1008, 457.320, 457.380, 435.940, 435.956, 435.406, 457.380, 435.117, 435.170, 435.190, 435.916, 435.917, 435.926, 435.952, 435.1200, 435.1205, 447.56, 457.340, 457.350, 457.360, 457.805, 433.145, 433.147, 433.148, 433.146, 435.610, 435.115, 435.403, 435.1200, 457.80, 457.340, 458.350, 435.119, 435.222, 435.118, 433.138, 433.147, 433.148, 435.602 & 435.608

Stats. Implemented: ORS 411.060, 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 411.447, 413.032, 413.038, 414.025, 414.231, 414.534, 414.536 & 414.706

Proposed Amendments: 410-200-0015, 410-200-0100, 410-200-0105, 410-200-0110, 410-200-0111, 410-200-0115, 410-200-0120, 410-200-0125, 410-200-0130, 410-200-0135, 410-200-0140, 410-200-0200, 410-200-0215, 410-200-0230, 410-200-0235, 410-200-0240, 410-200-0310, 410-200-0415, 410-200-0425, 410-200-0440, 410-200-0505, 410-200-0510

Proposed Repeals: 410-200-0015(T), 410-200-0100, 410-200-0105(T), 410-200-0110(T), 410-200-0111(T), 410-200-0115(T), 410-200-0120(T), 410-200-0125(T), 410-200-0130(T), 410-200-0135(T), 410-200-0140(T), 410-200-0200(T), 410-200-0215(T), 410-200-0230(T), 410-200-0235(T), 410-200-0240(T), 410-200-0310(T), 410-200-0415(T), 410-200-0425(T), 410-200-0440(T), 410-200-0505(T), 410-200-0510(T), 410-200-0500

Last Date for Comment: 5-19-16, 5 p.m.

Summary: The Authority is updating rules to align with changes to the state plan and the Oregon Eligibility System. This includes house-keeping, editing, and formatting changes.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Rule Caption: Former Foster Care Youth Medical-Specific Requirements

Date: 5-17-16 **Time:** 10:30 a.m. **Location:** 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Other Auth.: 42 CFR: 435.110, 435.112, 435.115, 435.116, 435.118, 435.403, 435.940, 435.1200, 457.80, 457.340, 458.350, 435.3, 435.4, 435.406, 435.407, 435.940, 435.952, 435.956, 435.1008, 457.320, 457.380, 435.940, 435.956, 435.406, 457.380, 435.117, 435.170, 435.190, 435.916, 435.917, 435.926, 435.952, 435.1200, 435.1205, 447.56, 457.340, 457.350, 457.360, 457.805, 433.145, 433.147, 433.148, 433.146, 435.610, 435.115, 435.403, 435.1200, 457.80, 457.340, 458.350, 435.119, 435.222, 435.118, 433.138, 433.147, 433.148, 435.602 & 435.608

Stats. Implemented: ORS 411.060, 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 411.447, 413.032, 413.038, 414.025, 414.231, 414.534, 414.536 & 414.706

Proposed Adoptions: 410-200-0407

Last Date for Comment: 5-19-16, 5 p.m.

Summary: This rule describes specific eligibility requirements for the Former Foster Care Youth Program effective December 1, 2015.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

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Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: Standards for Reducing the Sale of Tobacco and Inhalant Delivery Systems to Minors

Date: 5-16-16 **Time:** 9 a.m. **Location:** Portland State Office Bldg. 800 NE Oregon St., Rm. 1B Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 163.575, 167.400, 167.402, 167.407, 431A.175, 431A.178 & 431A.183

Stats. Implemented: ORS 431A.175, 431A.178 & 431A.183

Proposed Adoptions: 333-015-0200, 333-015-0205, 333-015-0210, 333-015-0215, 333-015-0220

Proposed Repeals: 333-015-0200(T), 333-015-0205(T), 333-015-0210(T), 333-015-0215(T), 333-015-0220(T)

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

Summary: The Oregon Health Authority (Authority), Public Health Division is proposing to permanently adopt administrative rules in chapter 333, division 15 pertaining to standards for reducing the sale of tobacco and inhalant delivery systems to minors. This proposed permanent rulemaking will make temporary rules effective January 1, 2016 through June 28, 2016 permanent.

The proposed rulemaking:

1. Creates definitions in rules to reflect the purpose of the statute, and add clarity to the rules.
2. Requires tobacco and inhalant delivery system retailers to post a notice substantially similar to the content of notice as defined in rules.
3. Adds inhalant delivery systems to requirements specifying the location tobacco products within a retail store.
4. Adds inhalant delivery systems to the Authority's enforcement activities for implementing sales to minors regulations.

Rules Coordinator: Tracy Candela

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-0561

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Marijuana Labeling, Concentration Limits and Testing; and Medical Marijuana Growers, Processors, Dispensaries and Patients

Date:	Time:	Location:
5-19-16	11 a.m.	Portland State Office Bldg. 800 NE Oregon Street, Rm. 1B Portland, OR 97232
5-23-16	1:30 p.m.	Medford Public Library Large Conference Rm. 205 S Central Ave. Medford, OR 97501
5-25-16	1 p.m.	Atrium Bldg. Planning and Development Dept. 99 W 10th Ave. Eugene, OR 97401
6-3-16	1 p.m.	Deschutes Co. Health Services Stan Owen Rm. 2577 NE Courtney Dr. Bend, Or 97701

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 431A.010, 438.605, 438.610, 438.615 & 438.620, ORS 475B.415-475B.430, 475B.435-475B.440, 475B.450, 475B.525, 475B.555, 475B.605, 475B.610, 475B.625, and Section 105, chapter 614, OL 2015

Stats. Implemented: ORS 475B.400-475B.555, 475B.605, 475B.610, 475B.625, and Section 105, chapter 614, OL 2015

Proposed Adoptions: 333-007-0010, 333-007-0020, 333-007-0030, 333-007-0040, 333-007-0050, 333-007-0060, 333-007-0070, 333-007-0080, 333-007-0083, 333-007-0085, 333-007-0090, 333-007-0100, 333-007-0200, 333-007-0210, 333-007-0220, 333-07-0300, 333-007-0310, 333-007-0315, 333-007-0320, 333-007-0330, 333-007-0340, 333-007-0345, 333-007-0350, 333-007-0360, 333-007-0370, 333-007-0380, 333-007-0390, 333-007-0400, 333-007-0410, 333-007-0420, 333-007-0430, 333-007-0440, 333-007-0450, 333-007-0470, 333-007-0480, 333-007-0490, 333-064-0100, 333-064-0110

Proposed Amendments: 333-008-0010, 333-008-0020, 333-008-0021, 333-008-0022, 333-008-0023, 333-008-0025, 333-008-0033, 333-008-0037, 333-008-0040, 333-008-0045, 333-008-0080, 333-008-0500, 333-008-0510, 333-008-0540, 333-008-0550, 333-008-0560, 333-008-0570, 333-008-0630, 333-008-1000, 333-008-1020, 333-008-1040, 333-008-1060, 333-008-1070, 333-008-1075, 333-008-1078, 333-008-1110, 333-008-1190, 333-008-1200, 333-008-1205, 333-008-1225, 333-008-1230, 333-008-1245, 333-008-1610, 333-008-1620, 333-008-1650, 333-008-1670, 333-008-1690, 333-008-1710, 333-008-1720, 333-008-1730, 333-008-1740, 333-008-1760, 333-008-1770, 333-008-1780, 333-008-1790, 333-008-1800, 333-008-1810, 333-008-1830, 333-008-2030, 333-008-2080, 333-008-2090, 333-008-2100, 333-008-2110, 333-008-2180, 333-008-2190

Proposed Repeals: 333-007-0010(T), 333-007-0020(T), 333-007-0030(T), 333-007-0040(T), 333-007-0050(T), 333-007-0060(T), 333-007-0070(T), 333-007-0080(T), 333-007-0083(T), 333-007-0085(T), 333-007-0090(T), 333-007-0100(T), 333-007-0200(T), 333-007-0210(T), 333-007-0220(T), 333-008-1073, 333-008-1225(T), 333-008-1640, 333-007-0300(T), 333-007-0310(T), 333-007-0315(T), 333-007-0320(T), 333-007-0330(T), 333-007-0340(T), 333-007-0350(T), 333-007-0360(T), 333-007-0370(T), 333-007-0380(T), 333-007-0390(T), 333-007-0400(T), 333-007-0410(T), 333-007-0420(T), 333-007-0430(T), 333-007-0440(T), 333-007-0450(T), 333-007-0460(T), 333-007-0470(T), 333-007-0480(T), 333-007-0490(T), 333-034-0100(T), 333-064-110(T)

Last Date for Comment: 6-3-16, 5 p.m.

Summary: The Oregon Health Authority (OHA), Public Health Division is proposing to permanently adopt rules in chapter 333, division 7 and 64 related to marijuana product serving size and concentration limits, marijuana labeling and marijuana laboratory sampling and testing; and permanently amend and repeal administrative rules

in chapter 333, division 8 pertaining to medical marijuana growers, processors, dispensaries and patient cards.

House Bill 3400 (Oregon Laws 2015, chapter 614) made many changes to the Oregon Medical Marijuana Act, including directing the Oregon Health Authority, in consultation with the Oregon Liquor Control Commission (OLCC) and the Oregon Department of Agriculture (ODA), to protect public safety by establishing rules on marijuana laboratory sampling and testing, marijuana labeling, marijuana product serving size and concentration limits.

In order to protect public health and safety, these rules establish standards for the sampling and testing of marijuana items, including, but not limited to, tests for pesticides, solvents, microbiological contaminants, and tetrahydrocannabinol and cannabidiol concentration. In addition, the rules on testing establish sampling procedures for marijuana items and the reporting of test results. The rules establish labeling standards of marijuana items ensuring that labels include, among other things, health and safety warnings, product content, activation time, THC concentration levels and laboratory testing information. The rules also establish the maximum concentration of THC that is permitted in a marijuana item or single serving of a marijuana item, and the number of servings permitted in a marijuana item.

On and after October 1, 2016, all marijuana items sold in a medical marijuana dispensary or in a retail establishment licensed by the OLCC will be required to meet these labeling, concentration limit and serving size standards established by the Authority.

OLCC licenses will be required to comply with the sampling and testing requirements at all times.

Changes to chapter 333, division 8 of the Oregon Administrative Rules are necessary to implement SB 1511, (Oregon Laws 2016, chapter 83), SB 1598 (Oregon Laws 2016, chapter 23) and HB 4014 (Oregon Laws 2016, chapter 24). In addition, certain housekeeping measures are necessary for rules governing processors and dispensaries to more adequately reflect the intent of the rules that were filed on March 1, 2016. Revisions to these rules include, but are not limited to, the following areas:

- Fees for patient applicants who have served in the armed forces;
- The residency requirements for persons responsible for marijuana grow sites (PRMG), persons responsible for a dispensary, and persons responsible for a marijuana processing site;
- The issuance of a receipt to a patient applicant;
- Requirements for Grandfathered grow sites;
- Grow site plant limits;
- Delegation of reporting and documentation requirements by a PRMG;
- Land use compatibility statements from local governments;
- Dispensary premises restrictions and requirements;
- Transfers of marijuana by a patient or designated primary caregiver to a registered processing site and transfers from a registered processing site to a patient or designated primary caregiver;
- Required reporting by registered processing sites to the Authority; and
- Security, camera and video requirements.

Rules Coordinator: Tracy Candela

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-0561

Rule Caption: Hospital Nurse Staffing

Date:	Time:	Location:
5-18-16	2 p.m.	800 NE Oregon St., Rm. 1C Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 413.042, 441.025, 441.057, 441.151-441.177 & 441.185

Stats. Implemented: ORS 441.057, 441.154, 441.155, 441.156, 441.157, 441.164, 441.165, 441.166, 441.168, 441.169, 441.171, 441.173, 441.175, 441.179 & 441.185

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 333-510-0105, 333-510-0110, 333-510-0115, 333-510-0120, 333-510-0125, 333-510-0130, 333-510-0135, 333-510-0140

Proposed Amendments: 333-501-0035, 333-501-0040, 333-501-0045, 333-510-0002, 333-510-0045

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

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently adopt and amend Oregon Administrative Rules relating to hospital nurse staffing in response to legislation (SB 469, Oregon Laws 2015, chapter 669) that was passed in the 2015 legislative session.

The proposed rulemaking clarifies rules regarding:

- Audit and complaint investigation procedures;
- Civil penalties for violations of nurse staffing laws;
- Nurse staffing law definitions;
- Hospital posting and record keeping requirements;
- Hospital nurse staffing committee requirements;
- Hospital nurse staffing plans and plan review requirements;
- Replacement nurse staffing requirements;
- Nursing staff member overtime;
- Waivers to nurse staffing plan requirements; and
- Minor housekeeping corrections for ease of readability and alignment with other state agency rules.

Rules Coordinator: Tracy Candela

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-0561

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Repeals rules for the Energy Rated Homes of Oregon Program.

Date:	Time:	Location:
5-24-16	9 a.m.	725 Summer St. NE, Rm. 124b Salem, OR 97301

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.559

Proposed Repeals: 813-280-0000, 813-280-0010, 813-280-0020, 813-280-0030, 813-280-0040, 813-280-0050, 813-280-0060, 813-280-0070

Last Date for Comment: 6-10-16, 5 p.m.

Summary: The rules being proposed for repeal govern the Energy Rated Homes of Oregon program. These rules were adopted in response to a federal program. That federal program is no longer being utilized by the State of Oregon or the Housing and Community Services Department, and the Department does not anticipate using this program in the future.

NOTE: The Energy Rated Homes of Oregon Program rules were adopted in response to a federal program. That federal program is no longer being utilized by the State of Oregon or the Housing and Community Services Department.

Rules Coordinator: Alison McIntosh

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Salem, OR 97301

Telephone: (503) 986-2079

Rule Caption: Clarifies and makes consistent the definition of very low income and low income people.

Date:	Time:	Location:
5-31-16	10 a.m.	OHCS 725 Summer S. NE, Rm. 124b Salem, OR 97301

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.610, 458.625, 458.630 & 458.655

Proposed Amendments: 813-042-0010, 813-055-0010

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

Summary: This rule change makes consistent and clarifies the definition of “very low income people” and “low income people” for the General Housing Account Program and the Housing Development Guarantee Program.

Rules Coordinator: Alison McIntosh

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Salem, OR 97301

Telephone: (503) 986-2079

Oregon Liquor Control Commission Chapter 845

Rule Caption: The rules permanently adopt Division 25 rules for Recreational Marijuana.

Date:	Time:	Location:
5-25-16	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Bryant Haley

Stat. Auth.: ORS 475B

Stats. Implemented: ORS 475B

Proposed Adoptions: 845-025-1000, 845-025-1015, 845-025-1030, 845-025-1045, 845-025-1060, 845-025-1070, 845-025-1080, 845-025-1090, 845-025-1100, 845-025-1115, 845-025-1130, 845-025-1145, 845-025-1160, 845-025-1175, 845-025-1190, 845-025-1200, 845-025-1215, 845-025-1230, 845-025-1245, 845-025-1260, 845-025-1275, 845-025-1290, 845-025-1295, 845-025-1300, 845-025-1330, 845-025-1400, 845-025-1405, 845-025-1410, 845-025-1420, 845-025-1430, 845-025-1440, 845-025-1450, 845-025-1460, 845-025-1470, 845-025-1600, 845-025-1620, 845-025-2000, 845-025-2020, 845-025-2030, 845-025-2040, 845-025-2050, 845-025-2060, 845-025-2070, 845-025-2080, 845-025-2400, 845-025-2800, 845-025-2820, 845-025-2840, 845-025-2860, 845-025-2880, 845-025-2890, 845-025-3200, 845-025-3210, 845-025-3215, 845-025-3220, 845-025-3230, 845-025-3240, 845-025-3250, 845-025-3260, 845-025-3280, 845-025-3290, 845-025-3500, 845-025-5000, 845-025-5030, 845-025-5045, 845-025-5060, 845-025-5075, 845-025-5300, 845-025-5350, 845-025-5500, 845-025-5520, 845-025-5540, 845-025-5560, 845-025-5580, 845-025-5590, 845-025-5700, 845-025-5720, 845-025-5730, 845-025-5740, 845-025-5760, 845-025-5790, 845-025-7000, 845-025-7020, 845-025-7030, 845-025-7040, 845-025-7060, 845-025-7500, 845-025-7520, 845-025-7540, 845-025-7560, 845-025-7580, 845-025-7590, 845-025-7700, 845-025-7750, 845-025-8000, 845-025-8020, 845-025-8040, 845-025-8060, 845-025-8080, 845-025-8500, 845-025-8520, 845-025-8540, 845-025-8560, 845-025-8570, 845-025-8580, 845-025-8590, 845-025-8700

Last Date for Comment: 6-8-16, 5 p.m.

Summary: On November 4, 2014, Oregon voters passed the “Control, Regulation and Taxation of Marijuana and Industrial Hemp Act of 2014” (“Measure 91”). This measure effectively decriminalizes certain aspects of the production, sale and personal use of recreational marijuana within the state. The legislature then amended Measure 91 with the passing of HB 3400 during the 2015 legislative session. Subsequently, staff has worked with industry, local government and public safety interests to tailor the rule language. This rules package reflects that work and the changes made in HB 3400.

Rules Coordinator: Bryant Haley

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

Telephone: (503) 872-5136

Oregon Medical Board Chapter 847

Rule Caption: EMS Committee physician member qualifications

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 682.245

Proposed Amendments: 847-035-0011

Last Date for Comment: 5-23-16, Close of Business

NOTICES OF PROPOSED RULEMAKING

Summary: The proposed rule amendment requires that the physician members of the EMS Committee have at least two years of experience actively practicing as Oregon EMS supervising physicians.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Rule Caption: Supervising Physician Organizations

Stat. Auth.: ORS 677.265 & 677.510

Stats. Implemented: ORS 677.205, 677.495, 677.510 & 677.515

Proposed Adoptions: 847-050-0036

Proposed Amendments: 847-050-0010, 847-050-0027, 847-050-0037, 847-050-0040

Last Date for Comment: 5-23-16, Close of Business

Summary: The proposed new OAR 847-050-0036 is a collective rule for all requirements for establishing and maintaining a supervising physician organization. The rule amendments (1) remove substantive provisions regarding agents, supervising physician organizations and supervision from the definitions rule; (2) add a definition for primary supervising physician; (3) clarify that a supervising physician must be available for synchronous communication with the physician assistant; (4) require each supervising physician who is a member of a supervising physician organization to be approved by the Board as a supervising physician; (5) remove the requirement for the primary supervising physician of a supervising physician organization to attest that all member supervising physicians have reviewed the statutes and rules on PAs because all member physicians will have done this through the supervising physician application process; (6) require the Board to reduce the supervising physician application fee for physicians who volunteer in free or non-profit clinics; (7) clarify that the rules on supervision apply equally to supervising physician organizations, not just individual supervising physician-physician assistant teams; (8) require practice settings rather than locations to be listed in the practice agreement; (9) allow the supervising physicians within a supervising physician organization to collectively provide the 8 hours of on-site supervision and chart review; (10) outline statutory requirements for appropriate delegation of medical services to a physician assistant; and (11) provide the statutory language that requires the supervising physician or supervising physician organization to ensure competent practice of the physician assistant. The rule amendments also contain general grammar and housekeeping updates.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Rule Caption: Prescribers of Controlled Substances

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.097, 677.188, 677.190, 677.470, 677.474 & 677.480

Proposed Amendments: 847-015-0005, 847-015-0010, 847-015-0030

Last Date for Comment: 5-23-16, Close of Business

Summary: The proposed rule amendment replaces “physician” with “licensee” or “health care professional” to reflect that other health care professionals, specifically physician assistants and podiatric physicians, are authorized to prescribe controlled substances.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Oregon Racing Commission Chapter 462

Rule Caption: Prohibit use of Clenbuterol in American Quarter Horses at all race tracks in Oregon.

Date:	Time:	Location:
5-19-16	11:30 a.m.	PSOB, 800 NE Oregon St. Rm. 1A Portland, OR 97080

Hearing Officer: Charles Williamson

Stat. Auth.: ORS 462.270(3) & 462.725

Stats. Implemented: ORS 462.270(3) & 462.725

Proposed Amendments: 462-160-0130

Last Date for Comment: 5-19-16, 11:30 a.m.

Summary: Amends current rule to prohibit the use of Clenbuterol in American Quarter Horses at all race tracks in Oregon.

Rules Coordinator: Karen Parkman

Address: Oregon Racing Commission, 800 NE Oregon St., Suite 310, Portland, OR 97232

Telephone: (971) 673-0208

Rule Caption: Rules to govern Racing Roulette Win Pools and Jackpot Pick (n) wagers.

Date:	Time:	Location:
5-19-16	12 p.m.	PSOB 800 NE Oregon St., Rm. 1A Portland, OR 97232

Hearing Officer: Charles Williamson

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270(3)

Proposed Adoptions: 462-200-0660, 462-200-0670

Last Date for Comment: 5-19-16, 12 p.m.

Summary: 462-200-0660: The Racing Roulette Win Pool is a type of wager which in each race three groups are designated with a win payoff for betters selecting the group that contains the winning betting interest.

462-200-0670: The Racing Roulette Jackpot Pick (n) is a type of wager requiring selection of the first place finisher in each of a designated number of contests using the winning betting interest from Racing Roulette Win pool.

Rules Coordinator: Karen Parkman

Address: Oregon Racing Commission, 800 NE Oregon St., Suite 310, Portland, OR 97232

Telephone: (971) 673-0208

Oregon State Library Chapter 543

Rule Caption: Amends rules to update language regarding State Library Board; general administration and housekeeping updates.

Date:	Time:	Location:
6-10-16	9:30 a.m.	Oregon State Library 250 Winter St. NE Salem, OR

Hearing Officer: MaryKay Dahlgreen

Stat. Auth.: ORS 357

Stats. Implemented: ORS 357

Proposed Adoptions: 543-010-0026

Proposed Amendments: 543-001-0010, 543-010-0003, 543-010-0016, 543-010-0021, 543-010-0030, 543-060-0020, 543-060-0030, 543-060-0040, 543-060-0070

Proposed Repeals: 543-010-0032, 543-020-0010, 543-020-0025, 543-020-0026, 543-020-0030

Last Date for Comment: 6-10-16, 12 p.m.

Summary: In response to the passage of HB 3523 in the 2015 Legislative session rules are being adopted, repealed, and amended to reflect the abolishment of the Oregon State Library Board of Trustees and the creation of the Oregon State Library Board and other small grammatical changes. The State Library will be moving and renumbering rule 543-020-0010 (copying charges) to Division 10. The

NOTICES OF PROPOSED RULEMAKING

Library will be repealing rules 543-010-0032, 543-020-0025, 543-020-0026, and 543-020-0030 due to being obsolete.

Rules Coordinator: MaryKay Dahlgreen

Address: Oregon State Library, 250 Winter St. NE, Salem, OR 97301

Telephone: (503) 378-4367

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Rule Caption: Establish rules for the certification of state agency libraries and approval of state agency subscriptions.

Date:	Time:	Location:
6-10-16	10 a.m.	Oregon State Library 250 Winter St. NE Salem, OR

Hearing Officer: MaryKay Dahlgreen

Stat. Auth.: ORS 357.026

Stats. Implemented: ORS 357.028, 357.029 & 357.115

Proposed Adoptions: 543-020-0050, 543-020-0055, 543-020-0060, 543-020-0070, 543-020-0080

Proposed Repeals: 543-010-0022

Last Date for Comment: 6-10-16, 12 p.m.

Summary: In response to the passage of HB 3523 passed in the 2015 Legislative Session rules are being adopted and suspended. The State Library will be moving and renumbering rule 543-010-0022 (eligible recipients of research services) to Division 20. Division 20 will be renamed from "Fees" to "Government Information Services" and adopt rules that will address the process and procedures relating to state agency use of the State Library resources, the approval, negotiation and maintenance of subscriptions and reference-related database for state government, and the certification of state agency libraries excluding the State Archives and the State of Oregon Law Library.

Rules Coordinator: MaryKay Dahlgreen

Address: Oregon State Library, 250 Winter St. NE, Salem, OR 97301

Telephone: (503) 378-4367

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Oregon State Lottery Chapter 177

Rule Caption: Removes references to arrest records; housekeeping edits

Date:	Time:	Location:
5-17-16	2 p.m.	Oregon Lottery 500 Airport Rd. SE Salem, Oregon 97301

Hearing Officer: Staff

Stat. Auth.: ORS 461.110, 461.217, 461.250 & 461.300

Other Auth.: OR Constitution, Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.110, 461.217, 461.250 & 461.300

Proposed Amendments: 177-040-0003

Last Date for Comment: 5-17-16, 2:30 p.m.

Summary: The Oregon Lottery has initiated temporary and permanent rulemaking to amend the above referenced administrative rule to remove the references to arrest records when evaluating a person's application to be a Lottery retailer.

Rules Coordinator: Mark W. Hohlt

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

Telephone: (503) 540-1417

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Rule Caption: Amends Second Chance Drawing rules to change game features, housekeeping and grammatical edits

Date:	Time:	Location:
5-16-16	9 a.m.	Oregon State Lottery Headquarters 500 Airport Rd. SE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 461, 461.220, 461.230 & 461.250

Other Auth.: Oregon Constitution, Article XV, Section 4(4)

Stats. Implemented: ORS 461.220, 461.230 & 461.250

Proposed Amendments: 177-052-0020, 177-052-0030, 177-052-0040, 177-052-0050, 177-052-0060, 177-052-0070

Last Date for Comment: 5-16-16, 9:30 a.m.

Summary: The Oregon Lottery has filed a Notice of Proposed Rulemaking Hearing to amend the Second Chance Drawing game rules to clarify that the Lottery may conduct drawings with multiple winners and multiple prizes, and to clarify the process when a prize winner is deceased.

Other amendments include housekeeping and grammatical edits.

Rules Coordinator: Mark W. Hohlt

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

Telephone: (503) 540-1417

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Oregon State Marine Board Chapter 250

Rule Caption: Long term and unoccupied moorage restrictions on lakes in Jefferson County

Stat. Auth.: ORS 810.110, 830.175 & 830.195

Stats. Implemented: ORS 810.110 & 830.195

Proposed Amendments: 250-020-0161

Last Date for Comment: 5-31-16, 5:30 p.m.

Summary: The intent of this rule is to prevent long term mooring of boats on all lakes in Jefferson County, ensure boats are not left unattended and preserve unrestricted water access for all users.

Rules Coordinator: June LeTarte

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

Telephone: (503) 378-2617

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Oregon State Treasury Chapter 170

Rule Caption: Modifies qualification requirements and application procedures related to the Oregon School Bond Guaranty Program.

Stat. Auth.: ORS 328-321-328.356

Stats. Implemented: ORS 328.321-328.356

Proposed Amendments: 170-063-0000

Last Date for Comment: 5-23-16, Close of Business

Summary: 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

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

Telephone: (503) 373-1028

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Oregon Tourism Commission Chapter 976

Rule Caption: Amend Wine Country License Plate as required by ORS 805.274.

Date:	Time:	Location:
6-14-16	9 a.m.	Event Center on the Beach 29392 Ellensburg Ave. Gold Beach, OR 97444

Hearing Officer: Jeff Hampton

Stat. Auth.: ORS 284.111(6) & 805.274(3)

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 805.274

Proposed Amendments: Rules in 976-002

Last Date for Comment: 6-10-16, 5 p.m.

Summary: Amends OAR 976-002-0030 to include that the tourism promotion designee shall be required, and the guidelines referenced shall require collaboration between tourism promotion designee, relevant regional winery associations and the Oregon Wine Board when plans for use of winery and culinary tourism promotion money are developed.

Rules Coordinator: Sarah Watson

Address: Oregon Tourism Commission, 250 Church St. SE, Suite 100, Salem, OR 97301

Telephone: (503) 967-1568

Parks and Recreation Department Chapter 736

Rule Caption: Amend Special Access Pass Rules

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121 & 390.124

Proposed Amendments: 736-015-0010, 736-015-0015, 736-015-0026, 736-015-0035

Last Date for Comment: 5-31-16, 5 p.m.

Summary: Recent revisions to the special access pass rules made changes that allowed booking sites on-line with the discount. There is a ten day per month limit on the benefit. When we revised the rules we stated that as ten days in a calendar month however our software uses a rolling month, so a rule change is necessary to line up the rules with actual practice. This revision will change the time frame for

using the overnight rental fee waiver from “calendar month” to a “30-day period.”

Recent changes to the OPRD agency structure have resulted in changes to some position titles and office names. There are house-keeping revisions included in this rulemaking that change those terms in the rules that no longer match the current terms used by OPRD.

Rules Coordinator: Claudia Ciobanu

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301-1226

Telephone: (503) 872-5295

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Proposes changes to licensure, programs and professional practices standards.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430, 342.455–342.495 & 342.553

Proposed Adoptions: Rules in 584-220, 584-420

Proposed Amendments: Rules in 584-010, 584-020, 584-020-0005, 584-020-0040, Rules in 584-220, 584-420

Last Date for Comment: 6-15-16, 5 p.m.

Summary: Proposes changes to definition of student; program standards; and dyslexia and reading standards.

Rules Coordinator: Victoria Chamberlain

Address: Teacher Standards and Practices Commission, 250 Division St. NE, Salem, OR 97301

Telephone: (503) 378-6813

ADMINISTRATIVE RULES

Board of Chiropractic Examiners Chapter 811

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

Adm. Order No.: BCE 1-2016

Filed with Sec. of State: 4-5-2016

Certified to be Effective: 5-2-16

Notice Publication Date: 3-1-2016

Rules Amended: 811-010-0085

Subject: 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—(503) 373-1573

811-010-0085

Application and Examination of Applicants

(1) Applicants shall be examined according to ORS 684.050 or 684.052.

(2) The Board shall provide a Candidate's Guide, which contains all necessary examination information.

(3) Fee and application requirements include the following:

(a) A \$100 application and examination fee for chiropractic exams must be received by the Board prior to applicant receiving approval to sit for the examinations.

(b) Re-examinations:

(A) Request for re-examination of the Ethics and Jurisprudence exam must be made to the Board, submitted in writing with a \$100 re-examination fee.

(B) Request for re-examination of the Minor Surgery/Proctology and/or the Obstetrics/Gynecology examinations must be submitted directly to the national testing agency.

(c) A complete set of fingerprints or LiveScan Transmittal Verification form and the criminal background check results obtained from any state or local law enforcement agency, or from any other agency approved by the Board. Applicants shall use forms or methods prescribed by the Board.

(d) Applicant must pay to the Board the current actual cost of conducting the state and federal background check

(4) Documents to be submitted prior to approval to take the Oregon Specifics Examinations:

(a) A completed official application including a recent photograph and fingerprints or LiveScan Transmittal Verification form;

(b) Social Security Number Authorization form;

(c) Evidence of the applicant's good moral character on the letterhead stationary of a chiropractic physician;

(d) A signed affidavit attesting to successful completion of at least two years of liberal arts and sciences study in an accredited college. Original transcripts must be provided if requested by the Board; and

(e) A transcript certified by the registrar, from an approved chiropractic college, including transcripts of coursework as required by OAR 811-020-0006 (minimum Educational Requirements for physiotherapy and minor surgery/ proctology). A transcript of grades is necessary from each chiropractic college attended; and

(f) An official transcript of passing grades from the National Board of Chiropractic Examiners on Part I, II and III and physiotherapy.

(5) Documents and fee to be submitted prior to licensure include:

(a) A \$150 initial license fee;

(b) A diploma or other evidence of graduation certified by the registrar from an approved chiropractic college; and

(c) An official transcript of passing grades from the National Board of Chiropractic Examiners Part IV.

(6) All applicants must take and pass the Oregon Specifics Examination consisting of written examination in ethics and jurisprudence, obstetrics and gynecology, minor surgery and proctology. Applicants who have previously taken and passed obstetrics and gynecology, and/or minor surgery and proctology within the last five years from the date of application as received by the Board are not required to retake these tests, however, all applicants must take and pass the Ethics and Jurisprudence examination.

(7) Oregon Specifics Examination Grades: The Board shall determine the passing scores. All examinations are designed to test minimal competency to protect the public health and safety.

(8) Regrades:

(a) Any request for regrade of the Ethics and Jurisprudence examination must be submitted in writing to the Board. A regrade involves a manual tally of points.

(b) Any regrade of the Minor Surgery/Proctology and/or the Obstetrics/Gynecology examination(s) requires contact to be made directly to the national testing agency and the regrade procedures are determined by them.

(9) An applicant failing to achieve a passing grade, as determined by the Board for the Ethics and Jurisprudence examination, may make application to the Board for a re-examination of the failed section. An applicant failing to achieve a passing grade as determined by the Board for the Minor Surgery/Proctology, and /or the Obstetrics/Gynecology examination(s), must contact the national testing agency for re-examination of the failed section(s).

(10) An applicant must take at least one of the failed section(s) within 13 months following the date when the applicant took the entire examination. If the applicant fails to re-test on at least one failed section within 13 months of the last examination, the file shall become inactive and the applicant must re-apply and take the entire examination.

(11) An applicant attempting to give aid or accepting aid from another while examinations are in progress shall fail the examination and will not be allowed to take the examination for a period of five (5) years.

(12) Refunds:

(a) The application fee is non-refundable; and

(b) The re-examination fee for the Ethics and Jurisprudence exam may be refundable upon request prior to testing.

(c) The criminal background check fee is non-refundable.

(13) The Board may reject applications for good cause, including evidence of unprofessional behavior.

(14) Effective June 1, 2001 applicants who have completed all requirements for licensure, including passage of all required examinations, must submit the initial license fee to obtain license within one year from the date they completed all the requirements. An applicant's initial license will be valid for a minimum of 180 days. However, if the applicant's next birth date is within the 180 days, the initial license will be valid for an additional 12 months beyond the applicant's birth date.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.050 & 684.052

Hist.: 2CE 3, f. 10-9-59; 2CE 7, f. 7-9-68; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 2-1985, f. 11-13-85, ef. 12-1-85; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93; CE 6-1993(Temp), f. 9-29-93, cert. ef. 11-3-93; CE 1-1994, f. & cert. ef. 7-26-94; CE 4-1995, f. & cert. ef. 12-6-95; CE 2-1997, f. & cert. ef. 7-29-97; CE 3-1997(Temp), f. & cert. ef. 9-25-97; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01; BCE 2-2002, f. & cert. ef. 5-29-02; BCE 2-2003, f. & cert. ef. 12-11-03; BCE 1-2004, f. & cert. ef. 6-7-04; BCE 2-2006, f. & cert. ef. 2-9-06; BCE 5-2006, f. & cert. ef. 11-24-06; BCE 1-2007, f. & cert. ef. 11-30-07; BCE 1-2015, f. & cert. ef. 3-20-15; BCE 3-2015, f. 6-8-15, cert. ef. 7-1-15; BCE 4-2015, f. & cert. ef. 10-29-15; BCE 1-2016, f. 4-5-16, cert. ef. 5-2-16

Board of Licensed Professional Counselors and Therapists Chapter 833

Rule Caption: Criminal background checks for renewing licensees.

Adm. Order No.: BLPCT 1-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 833-120-0011

Subject: This 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—(503) 373-1196

833-120-0011

Purpose and Scope

(1) The purpose of these rules, OAR 833-120-0011 to 833-120-0041, is to provide for the screening under ORS 181.534 of licensees, registered interns, and applicants for licensure with the Oregon Board of Licensed Professional Counselors and Therapists to determine if they have a history of criminal behavior such that they would be unable to, or should not be allowed to, perform the services of a Licensed Professional Counselor or Licensed Marriage and Family Therapist.

(2) The following persons must take the steps necessary to complete a nationwide criminal history check under ORS 181.534:

(a) A person who, on or after January 1, 2010, submits an application for licensure to the Board in accordance with OAR 833 division 20; and

(b) A licensee or registered intern who is the subject of inquiry or investigation by the Board.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

ADMINISTRATIVE RULES

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 2-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 11-10-11; Administrative correction 11-18-11; BLPCT 3-2011, f. 12-3-11, cert. ef. 12-15-11; BLPCT 1-2016, f. & cert. ef. 4-1-16

Board of Optometry
Chapter 852

Rule Caption: Changes to agency fees. Adds fees for public records and background checks.

Adm. Order No.: OPT 2-2016

Filed with Sec. of State: 4-8-2016

Certified to be Effective: 4-8-16

Notice Publication Date: 1-1-2016

Rules Amended: 852-010-0080, 852-050-0025

Subject: Division 10 — update fees to reflect new late fees for CPR and renewal. Adds penalties for not responding timely to continuing education audit or failing to complete hours timely. Add fee for national background check.

Division 50 — changes language to allow national background checks in addition to Oregon checks.

Rules Coordinator: Shelley Sneed—(503) 399-0662, ext. 3

852-010-0080

Schedule of Fees

The following fee schedule is established by the Oregon Board of Optometry to set forth in one place all of the fees and specified civil penalties charged by the Board:

(1) Active license:

(a) Annual renewal — \$323, of which \$298 is for the active optometry license and \$25 is the Prescription Drug Monitoring Fund fee collected by the licensing body on behalf of the Oregon Health Authority.

(b) Additional copy of Portable Multiple Practice Location license — \$25 each.

(c) Failure to meet renewal date: Late renewal fee — \$50 first failure, \$100 second failure, \$200 any subsequent failure in a seven-year period.

(d) Lapse in CPR certification during licensing period — \$50, \$100 second failure, \$200 any subsequent failure in a seven-year period.

(e) Failure to notify the Board of practice locations or address or phone number of record — \$50 first failure, \$100 second failure, \$200 any subsequent failure(s) in a seven-year period.

(2) The agency assesses civil penalties for violations of ORS 683.010 to 683.310 and 676.110 to 676.220 and OAR chapter 852, some of which may be settled per the terms of a settlement agreement, consent order or stipulated order. Penalties not listed here will be assessed by the Board on a per case basis.

(a) Failure to respond to a Continuing Education audit within 21 days - \$250.

(b) Failure to complete or document meeting Continuing Education requirements by the due date - \$500 plus license suspension if overdue 60 days or more.

(3) Inactive License:

(a) Annual renewal — \$98.

(b) Late renewal fee — \$15.

(c) Failure to notify the Board of address or phone number of record — \$50 first failure, \$100 second failure, \$200 subsequent failure(s) in any seven-year period.

(4) Application for Licensure:

(a) Application for Examination and Licensure — \$200.

(b) Application for Endorsement Examination and Licensure — \$300.

(c) Application for TPA Certification — \$75.

(d) Law and Administrative Rule Examination administered by the Board — \$75.

(5) Other fees:

(a) Written official license verification — \$20.

(b) List of licensees (electronic or printed) — \$25 each

Active/Inactive.

(c) Reactivation of license — \$100.

(d) Reinstatement of license — \$100.

(e) Law and Administrative Rules booklet — \$25 (available online at no charge).

(f) Decorative Wall Certificate of Registration (optional, personalized and signed by Board) — \$30.

(g) Applicant or licensee must pay to the Board the cost of conducting the state and federal background check. The cost is \$45 and due with the application fee or when requested by the Board.

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

Stat. Auth.: ORS 683, 182 & 431

Stats. Implemented: ORS 683.270, 182.466 & 431.972

Hist.: OPT 1-2001, f. 6-26-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 3-2005, f. 6-29-05, cert. ef. 7-1-05; OPT 3-2006, f. 3-20-06, cert. ef. 7-1-06; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 2-2009, f. & cert. ef. 12-11-09; OPT 2-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 1-2014, f. & cert. ef. 1-3-14; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15; OPT 2-2015, f. & cert. ef. 11-12-15; OPT 1-2016, f. 2-23-16, cert. ef. 4-1-16; OPT 2-2016, f. & cert. ef. 4-8-16

852-050-0025

State Criminal Records Check and Fitness Determination

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

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

(3) The Board may require criminal history of applicants for an initial licensure or renewal, licensees applying to reinstate or reactivate a lapsed license, or licensees under investigation to determine the fitness of an applicant or licensee. Fingerprints and other requested information must be provided upon request as prescribed by the Board. The Board will submit information to the Oregon Department of State Police Law Enforcement Data System to conduct an Oregon Criminal History Check and may also request a National Criminal History Check, and to other sources deemed necessary to ensure public protection

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

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

(a) The nature of the crime;

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

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

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

(A) The passage of time since the commission of the crime;

(B) The age of the applicant or licensee at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime; and

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

(F) Any other information the Board deems relevant or necessary.

(6) All requested background checks include Oregon data. In some circumstances, national criminal data collection may be required.

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

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

(9) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and that is in compli-

ADMINISTRATIVE RULES

ance with ORS 670.280. The Board may also consider any arrests, court records, or other information that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(10) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.413-183.470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183. If an individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the FBI or other reporting agency, the Board will conduct a new criminal history check upon request from the applicant or licensee.

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

Stat. Auth.: ORS 683, 182, 181, 676
Stat. Implemented: ORS 683.140, 683.270, 182.466, 181.534 & 676.303
Hist.: OPT 7-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15; OPT 1-2016, f. 2-23-16, cert. ef. 4-1-16; OPT 2-2016, f. & cert. ef. 4-8-16

Board of Tax Practitioners Chapter 800

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

Adm. Order No.: BTP 1-2016

Filed with Sec. of State: 3-30-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 800-020-0025

Subject: Proposed amendments to increase annual licensing and registration fees by \$10. A temporary fee reduction of \$10 was implemented in 2013.

Rules Coordinator: Heather Shepherd—(503) 378-4860

800-020-0025

Fees

The fees for licenses and registrations issued, renewed, reactivated or otherwise, shall be prescribed by the State Board of Tax Practitioners by rule but shall not exceed the following:

(1) The fee for application for examination for a tax preparer's license is \$50.

(2) The fee for application for examination for a tax consultant's license is \$85.

(3) The fee for issuance of a tax preparer's initial license is \$60.

(4) The fee for a combination tax preparer's initial license/tax preparation business registration is \$110.

(5) The fee for renewal of a tax preparer's active license is \$80.

(6) The fee for issuance or renewal of a tax consultant's active license is \$95.

(7) The fee for an initial consultant license, if an applicant holds an active preparer's license is \$65.

(8) The fee for a combination tax consultant's initial license/tax preparation business registration, if an applicant holds an active preparer's license is \$125.

(9) The fee to place a tax preparer's license in inactive status is \$35.

(10) The fee to place a tax consultant's license in inactive status is \$50.

(11) The fee for reactivation of a tax preparer license in inactive status is \$80.

(12) The fee for reactivation of a tax consultant license in inactive status is \$95.

(13) The fee to reactivate a tax preparer or tax consultant license in lapsed status is \$35, plus payment of all unpaid renewal fees.

(14) The fee for a duplicate practitioner's license is \$10.

(15) The fee for a duplicate business/branch registration is \$10.

(16) The fee for a replacement tax consultant's certificate is \$15.

(17) The fee for issuance or renewal of a tax preparation business registration is \$110.

(18) As provided by subsection (a) and (b) of this section, the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$155:

(a) For Consultants — If postmarked on or before June 15th.

(b) For Preparers — If postmarked on or before October 15th.

(19) The fee for issuance or renewal of a branch office registration is \$20.

(20) The nonrefundable processing fee retained for all refunds issued is \$10.

(21) Dishonored Check or Electronic Payment. Pursuant to ORS 30.701, whenever a bank check, credit or debit transaction in payment of an obligation due for fees, penalties, copies of records or materials, or other services to the agency, is dishonored by the bank upon which the check is drawn, the applicant or authorization holder will be assessed and must pay an administrative processing fee in the amount of \$25. The Board may take any other disciplinary action against an authorization holder or payer and may seek other legal remedies in pursuing to effect collection of the returned items. If a check is returned for Non-Sufficient Fund (NSF) or uncollected funds the Board will attempt to collect payment by other means.

Stat. Auth.: ORS 673.310; 673.730(10); 673.685
Stats. Implemented: ORS 673.685, 673.605 – 673.990
Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2007, f. 7-30-07, cert. ef. 8-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 2-2011, f. 2-7-11, cert. ef. 7-1-11; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 2-2013(Temp), f. 7-22-13, cert. ef. 8-5-13 thru 2-1-14; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14; BTP 1-2016, f. 3-30-16, cert. ef. 4-1-16

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wages for the period beginning April 1, 2016

Adm. Order No.: BLI 1-2016

Filed with Sec. of State: 3-25-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing wage rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning April 1, 2016.

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

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the publication of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* dated January 1, 2016, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning January 1, 2016, and the effective dates of the applicable special wage determination and rates amendments:

(a) Amendments to Oregon Determination 2016-01 (effective April 1, 2016).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* dated January 1, 2016, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Portland and Salem. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

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

ADMINISTRATIVE RULES

f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. & ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09; BLI 17-2009, f. & cert. ef. 7-29-09; BLI 19-2009, f. & cert. ef. 8-18-09; BLI 20-2009, f. & cert. ef. 9-14-09; BLI 21-2009, f. & cert. ef. 9-21-09; BLI 22-2009, f. 9-30-09, cert. ef. 10-1-09; BLI 23-2009, f. & cert. ef. 10-8-09; BLI 24-2009, f. & cert. ef. 11-12-09; BLI 25-2009, f. & cert. ef. 11-23-09; BLI 29-2009, f. 12-31-09, cert. ef. 1-1-10; BLI 1-2010, f. 1-8-10, cert. ef. 1-12-10; BLI 2-2010, f. 1-11-10, cert. ef. 1-13-10; BLI 3-2010, f. & cert. ef. 1-19-10; BLI 4-2010, f. & cert. ef. 1-27-10; BLI 13-2010, f. & cert. ef. 4-1-10; BLI 17-2010, f. 6-29-10, cert. ef. 7-1-10; BLI 20-2010, f. & cert. ef. 10-1-10; BLI 24-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2011, f. 3-25-11, cert. ef. 4-1-11; BLI 4-2011, f. 6-30-11, cert. ef. 7-1-11; BLI 7-2011, f. & cert. ef. 10-12-11; BLI 10-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 4-2012, f. & cert. ef. 3-29-12; BLI 6-2012, f. & cert. ef. 7-2-12; BLI 10-2012, f. 9-26-12, cert. ef. 10-1-12; BLI 13-2012, f. 12-28-12, cert. ef. 1-1-13; BLI 1-2013, f. & cert. ef. 3-25-13; BLI 2-2013, f. & cert. ef. 9-20-13; BLI 3-2013, f. 9-30-13, cert. ef. 10-1-13; BLI 5-2013, f. 12-16-13, cert. ef. 1-1-14; BLI 3-2014, f. & cert. ef. 4-2-14; BLI 8-2014, f. 6-13-14, cert. ef. 7-1-14; BLI 11-2014, f. 9-24-14, cert. ef. 10-1-14; BLI 15-2014, f. 12-9-14, cert. ef. 1-1-15; BLI 3-2015, f. 3-13-15, cert. ef. 4-1-15; BLI 7-2015, f. 6-15-15, cert. ef. 7-1-15; BLI 13-2015, f. 9-3-15, cert. ef. 10-1-15; BLI 17-2015, f. 12-10-15, cert. ef. 1-1-16; BLI 1-2016, f. 3-25-16, cert. ef. 4-1-16

Rule Caption: Implements legislation related to prevailing wage law; clarifies “public works” and “exemptions.”

Adm. Order No.: BLI 2-2016

Filed with Sec. of State: 3-31-2016

Certified to be Effective: 3-31-16

Notice Publication Date: 11-1-2015

Rules Amended: 839-025-0004, 839-025-0020, 839-025-0037, 839-025-0100, 839-025-0320, 839-025-0530

Subject: SB 137 modifies the definition of a public works to include a project for the construction, reconstruction, major renovation or painting of a road, highway, building, structure or improvement of any type that uses \$750,000 or more of funds of a public agency. Previously, this definition required funds of a private entity in addition to \$750,000 or more of public funds. The rule amendments conform the definition of public works in OAR 839-025-0004(20)(a)(B) to the changes made by SB 137. Additionally, the rule amendments add section (20)(a)(F) to OAR 839-025-0004 to include projects resulting from an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints an improvement of any type that occurs, with or without public funds of a public agency, on real property owned by a university with a governing board or by a non-profit organization or other entity that a university with a governing board owns or controls exclusively. This addition reflects changes made to ORS 352.138(4) by HB 2664. Furthermore, as a consequence of other amendments made to ORS 352.138(4)(a) by HB 2664, universities with governing boards are exempt from certain

prevailing wage rate laws when the project does not result from an agreement as described above in OAR

839-025-0004(20)(a)(F). The amendments cite the particular prevailing wage statutes in the list of exemptions found in OAR 839-025-0100.

Other changes made to OAR 839, division 025 make clarifying changes and clean up grammar and typographical errors.

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

839-025-0004

Definitions

As used in OAR chapter 839, division 25, unless the context requires otherwise:

(1) “Apprentice” means:

(a) A person who is individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Office of Apprenticeship (OA), or with any state apprenticeship agency recognized by OA, and who is employed by a registered training agent pursuant to ORS 660.010(10) and is working pursuant to the standards of the apprentice’s apprenticeship program; or

(b) A person in probationary employment as an apprentice in such an apprenticeship program, but who is not individually registered in the program, but who has been certified by the OA or a state apprenticeship agency to be eligible for probationary employment as an apprentice, and who is employed by a registered training agent pursuant to ORS 660.010 (10) and is working pursuant to the standards of the apprentice’s apprenticeship program.

(2) “The Basic Hourly Rate of Pay” or “Hourly Rate” means the rate of hourly wage, excluding fringe benefits, paid to the worker.

(3) “Bureau” means the Bureau of Labor and Industries.

(4) “Commissioner” means the Commissioner of the Bureau of Labor and Industries, or designee.

(5) “Construction” means the initial construction of buildings and other structures, or additions thereto, and of highways and roads. “Construction” does not include the transportation of material or supplies to or from the public works project by employees of a construction contractor or construction subcontractor.

(6) “Division” means the Wage and Hour Division of the Bureau of Labor and Industries.

(7) “Employ” includes to suffer or permit to work.

(8) “Fringe benefits” means the amount of:

(a) The rate of contribution irrevocably made on a “regular basis” and “not less often than quarterly,” as those terms are defined in OAR 839-025-0043, by a contractor or subcontractor to a trustee or to a third person pursuant to a plan, fund or program; and

(b) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program which is committed in writing to the workers affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state or local law to provide any of such benefits. Other bona fide fringe benefits do not include reimbursement to workers for meals, lodging or other travel expenses, nor contributions to industry advancement funds (CIAF for example).

(9)(a) “Funds of a public agency” includes any funds of a public agency that are directly or indirectly used, as described below.

(A) “Directly used funds of a public agency” means revenue, money, or that which can be valued in money collected for a public agency or derived from a public agency’s immediate custody and control, and, except as provided in ORS 279C.810(1)(a)(H) and (J) and subsection (b) of this section, includes but is not limited to any money loaned by a public agency, including the loan of proceeds from the sale of conduit or pass-through revenue bonds for the specific purpose of financing a project, and public property or other assets used as payment for all or part of a project.

(B) “Indirectly used funds of a public agency” means, except as provided in subsection (b) of this section, that a public agency ultimately bears the cost of all or part of the project, even if a public agency is not paying for the project directly or completing payment at the time it occurs or shortly thereafter. A public agency does not indirectly use funds of a public agency when it elects not to collect land rent that is due. Examples of when

ADMINISTRATIVE RULES

an agency “ultimately bears the cost” of all or part of a project include but are not limited to:

(i) Amortizing the costs of construction over the life of a lease and paying these costs with funds of a public agency during the course of the lease;

(ii) A public agency subsidizing the costs of construction that would normally be borne by the contractor;

(iii) Using insurance proceeds that belong to a public agency to pay for construction. Insurance proceeds represent “money collected for the custody and control of a public agency” and therefore are funds of a public agency, whether the contractor obtains payment directly from the insurance company or the public agency; or

(iv) Using or creating a private entity as a conduit for funding a project when the private entity is in fact an alter ego of the public agency.

(b) “Funds of a public agency” does not include:

(A) Funds provided in the form of a government grant to a nonprofit organization, unless the government grant is issued for the purpose of construction, reconstruction, major renovation or painting;

(B) Building and development permit fees paid or waived by the public agency;

(C) Tax credits or tax abatements;

(D) Land that a public agency sells to a private entity at fair market value;

(E) The difference between:

(i) The value of land that a public agency sells to a private entity as determined at the time of the sale after taking into account any plan, requirement, covenant, condition, restriction or other limitation, exclusive of zoning or land use regulations, that the public agency imposes on the development or use of the land; and

(ii) The fair market value of the land if the land is not subject to the limitations described in subparagraph (i) of this paragraph;

(F) Staff resources of the public agency used to manage a project or to provide a principal source of supervision, coordination or oversight of a project;

(G) Staff resources of the public agency used to design or inspect one or more components of a project;

(H) Moneys derived from the sale of bonds that are loaned by a state agency to a private entity, unless the moneys will be used for a public improvement;

(I) Value added to land as a consequence of a public agency’s site preparation, demolition of real property or remediation or removal of environmental contamination, except for value added in excess of the expenses the public agency incurred in the site preparation, demolition or remediation or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870; or

(J) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS Chapter 289 or 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

(10) “Housing” has the meaning given that term in ORS 456.055.

(11) “Major renovation” means the remodeling or alteration of buildings and other structures within the framework of an existing building or structure and the alteration of existing highways and roads, the contract price of which exceeds \$50,000.

(12) “Nonprofit organization,” as used in section (9)(b)(A) of this rule, means an organization or group of organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(13) “Normal business hours” means the hours during which the office of the contractor or subcontractor is normally open for business. In the absence of evidence to the contrary, the Division will consider the hours between 8:00 a.m. and 5:00 p.m., excluding the hours between 12:00 noon and 1:00 p.m., on weekdays as normal business hours.

(14) “Overtime” means all hours worked:

(a) On Saturdays;

(b) On the following legal holidays:

(A) Each Sunday;

(B) New Year’s Day on January 1;

(C) Memorial Day on the last Monday in May;

(D) Independence Day on July 4;

(E) Labor Day on the first Monday in September;

(F) Thanksgiving Day on the fourth Thursday in November;

(G) Christmas Day on December 25.

(c) Over 40 hours in a week; and either

(d) Over eight (8) hours in a day; or

(e) Over 10 hours in a day provided:

(A) The employer has established a work schedule of four consecutive days (Monday through Thursday or Tuesday through Friday) pursuant to OAR 839-025-0034; and

(B) The employer operates in accordance with this established work schedule.

(15) “Overtime rate” means the basic hourly rate of pay multiplied by one and one-half.

(16) “Overtime wages” means the overtime hours worked multiplied by the overtime rate.

(17) “Person” includes a public or private corporation, a partnership, a sole proprietorship, a limited liability company, a government or governmental instrumentality.

(18) “Prevailing wage rate claim” means a claim for wages filed by a worker with the Division.

(19) “Public agency” means the State of Oregon or any political subdivision thereof or any county, city, district, authority, public corporation or entity and any instrumentality thereof organized and existing under law or charter.

(20)(a) “Public work,” “public works” or “public works project” includes but is not limited to:

(A) Roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest;

(B) A project for the construction, reconstruction, major renovation or painting of a road, highway, building, structure or improvement of any type that uses \$750,000 or more of funds of a public agency; or

(C) A project for the construction of a privately owned road, highway, building, structure or improvement of any type that uses funds of a private entity and in which 25 percent or more of the square footage of the completed project will be occupied or used by a public agency; or

(D) A device, structure, or mechanism, or a combination of devices, structures, or mechanisms that:

(i) Uses solar radiation as a source for generating heat, cooling, or electrical energy; and

(ii) Is constructed or installed, with or without using funds of a public agency, on land, premises, structures, or buildings that a public agency owns, regardless of the total project cost; or

(E) A project for the construction, reconstruction, major renovation or painting of a road, highway, building, structure, or improvement of any type that occurs, with or without using funds of a public agency, on real property that the Oregon University System or an institution in the Oregon University System owns.

(F) Pursuant to ORS 352.138(4)(b), a project resulting from an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints an improvement of any type that occurs, with or without using funds of a public agency, on real property owned by a university with a governing board or by a nonprofit organization or other entity that a university with a governing board owns or controls exclusively.

(b) “Public works” does not include:

(A) Reconstructing or renovating privately owned property that a public agency leases; or

(B) A private nonprofit entity’s renovation of publicly owned real property that is more than 75 years old if:

(i) The real property is leased to the private nonprofit entity for more than 25 years;

(ii) Funds of a public agency used in the renovation do not exceed 15 percent of the total cost of the renovation; and

(iii) Contracts for the renovation were advertised or, if not advertised, were entered into before July 1, 2003, but the renovation has not been completed on or before July 1, 2007.

(21) “Public works contract” or “contract” means any contract, agreement or understanding, written or oral, into which a public agency enters for any public work.

(22) “Reconstruction” means highway and road resurfacing and rebuilding, the restoration of existing highways and roads, and the restoration of buildings and other structures.

(23) “Reconstruction or renovation of privately owned property which is leased by a public agency” includes improvements of all types within the framework or footprint of an existing building or structure.

(24)(a) “Residential construction project” means a public works project for the construction, reconstruction, major renovation or painting of a single family house or apartment building of not more than four (4) stories in height and all incidental items such as site work, parking areas, utilities, streets and sidewalks pursuant to the U.S. Department of Labor’s “All

ADMINISTRATIVE RULES

Agency Memorandum No. 130” -- “Application Of The Standard of Comparison ‘Projects Of a Character Similar’ Under the Davis-Bacon and Related Acts” dated March 17, 1978, and “All Agency Memorandum No. 131” “Clarification of All Agency Memorandum No. 130” dated July 14, 1978. (See Appendix 6.)

(b) Notwithstanding the provisions of subsection (a) of this section, where it is determined that a different definition of “residential construction” has been adopted by local ordinance or code, or that the prevailing practice of a particular trade or occupation regarding what is considered “residential construction” differs from the U.S. Department of Labor definition of residential construction, the commissioner may consider such information in determining a project to be a “residential construction project.”

(25) “Site of work” is defined as follows:

(a) The site of work is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed, and other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the site.

(b) Except as provided in subsection (c) of this section, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards and similar facilities, are part of the site of work provided they are dedicated exclusively, or nearly so, to the performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them. Such facilities which are established by a supplier of materials for the project after the opening of bids are deemed to be dedicated exclusively to the performance of the contract or project.

(c) Not included in the site of work are permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, and similar facilities of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the site of work. Such permanent, previously established facilities are not part of the site of the work, even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract or project.

(26) “Special wage determination” means a wage determination made at the request of a public agency and which is applicable only to specific job classes. A special wage determination is issued in those cases where there is no current wage determination applicable to specific job classes and the use of such job classes is contemplated on a public works project.

(27) “Trade” or “occupation” is defined in accordance with the prevailing practices of the construction industry in Oregon.

(28) “Trainee” means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Office of Apprenticeship (OA), as meeting its standards for on-the-job training programs, and which has been so certified by that office, and who is employed by a registered training agent pursuant to ORS 660.010(10) and is working pursuant to the standards of the trainee’s program.

(29) “Training agent” means an employer that is registered with a local joint committee and the Apprenticeship and Training Division of the Bureau of Labor and Industries.

(30) “Wage determination” includes the original decision and any subsequent amendments made by the commissioner in accordance with ORS 279C.815.

(31) “Wages” or “Prevailing Wages” means the basic hourly rate of pay and fringe benefits as defined in sections (2) and (8) of this rule.

(32) “Worker” means a person employed on a public works project and whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental, professional or managerial. The term “worker” includes apprentices, trainees and any person employed or working on a public works project in a trade or occupation for which the commissioner has determined a prevailing rate of wage. (See OAR 839-025-0035.)

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

Stat. Auth.: Stat. Auth.: ORS 651.060(4), 279C.808

Stats. Implemented: H.B. 2646, 77th Leg., Reg. Ses. (Or2013), ORS 279C

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 4-1984, f. & ef. 3-13-84; BL 7-1989(Temp), f. 10-2-89, cert. ef. 10-3-89; BL 5-1990, f. 3-30-90, cert. ef. 4-1-90; BL 3-1996, f. & cert. ef. 1-26-96; BL 8-1996, f. 8-26-96, cert. ef. 9-1-96; BL 3-1997(Temp), f. 7-31-97, cert. ef. 8-1-97; BL 1-1998, f. & cert. ef. 1-5-98; BL 15-2001, f. & cert. ef. 11-14-01; BL 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0004, BL 7-2005, f. 2-25-05, cert. ef. 3-1-05; BL 29-2005, f. 12-29-05, cert. ef. 1-1-06; BL 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06; BL 39-2006, f. 11-8-06, cert. ef. 11-10-06; BL 20-2007(Temp), f.

7-30-07, cert. ef. 8-1-07 thru 1-27-08; BL 42-2007, f. 12-28-07, cert. ef. 1-1-08; BL 23-2010, f. 12-30-10, cert. ef. 1-1-11; BL 9-2011, f. 10-27-11, cert. ef. 11-1-11; BL 9-2013, f. 12-18-13, cert. ef. 1-1-14; BL 2-2016, f. & cert. ef. 3-31-16

839-025-0020

Public Works Contracts and Contract Specifications; Required Conditions

(1) For purposes of this rule:

(a) “Construction Manager/General Contractor contract” (or “CM/GC contract”) means a contract that typically results in a general contractor/construction manager initially undertaking various pre-construction tasks that may include, but are not limited to: design phase development, constructability reviews, value engineering, scheduling, and cost estimating, and in which a guaranteed maximum price for completion of construction-type work is typically established by amendment of the initial contract, after the pre-construction tasks are complete or substantially complete. “CM/GC” refers to the general contractor/construction manager under this form of contract. Following the design phase, the CM/GC may then act as a General Contractor and begin the subcontracting process. The CM/GC typically coordinates and manages the construction process, provides contractor expertise, and acts as a member of the project team.

(b) “Construction specifications” include the detailed description of physical characteristics of the improvement, design details, technical descriptions of the method and manner of doing the work, quantities or qualities of any materials required to be furnished, descriptions of dimensions, required units of measurement, composition or manufacturer, and descriptions of any quality, performance, or acceptance requirements.

(2) Every public works contract must contain the following:

(a) A condition or clause that, if the contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person, or the assignee of the person, in connection with the public works contract as such claim becomes due, the proper officer or officers of the public agency may pay such claim and charge the amount of the payment against funds due or to become due the contractor by reason of the contract (Reference: ORS 279C.515);

(b) A condition that no person will be employed for more than 10 hours in any one day, or 40 hours in any one week except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases the person so employed must be paid at least time and one-half the regular rate of pay for all time worked:

(A) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

(B) For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

(C) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540 (Reference: ORS 279C.520(1));

(c) A condition that an employer must give notice to employees who work on a public works contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work (Reference: ORS 279C.520(2)); and

(d) A condition that the contractor must promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such contractor, of all sums which the contractor agrees to pay for such services and all moneys and sums which the contractor collected or deducted from the wages of the contractor’s employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service (Reference: ORS 279C.530); and

(e) A condition or clause that requires the contractor to:

(A) Have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8) or (9).

(B) Require, in every subcontract, that the subcontractor have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8) or (9).

(3)(a) Every public works contract and subcontract must provide that each worker the contractor, subcontractor or other person who is a party to the contract uses in performing all or part of the contract, must be paid not less than the applicable prevailing rate of wage for each trade or occupation as defined by the Commissioner of the Bureau of Labor and Industries in

ADMINISTRATIVE RULES

the applicable publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon.

(b) If a public works project is subject to both ORS 279C.800 to ORS 279C.870 and to the Davis-Bacon Act (40 U.S.C. 3141 et seq.), every public works contract and subcontract must provide that the worker whom the contractor, subcontractor or other person who is a party to the contract uses in performing all or part of the contract, must be paid not less than the higher of the applicable state prevailing rate of wage for each trade or occupation as defined by the Commissioner of the Bureau of Labor and Industries in the applicable publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon or federal prevailing rate of wage.

(4)(a) The specifications for every public works contract must contain a provision that states the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act (40 U.S.C. 3141 et seq.).

(b) Except as provided in subsection (d) of this section and sections (6) and (7) of this rule, the existing state prevailing rate of wage and the applicable publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon are those in effect at the time the initial specifications were first advertised for bid solicitations.

(c) If a public agency is required under subsection (a) of this section or section (6) of this rule to include the state and federal prevailing rates of wage in the specifications for a contract for public works, the public agency shall also include in the specifications the requirement that the contractor pay the higher of the applicable state or federal prevailing rate of wage to all workers on the public works project.

(d) Pursuant to ORS 279C.838(4) and notwithstanding ORS 279C.830(1), if the contract is subject to both ORS 279C.800 to 279C.870 and the Davis Bacon Act (40 U.S.C. 3141 et seq.), the public agency may provide in the specifications for the contract a single date to be used to establish the "existing state prevailing rate of wage," the applicable publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon, and the "applicable federal prevailing rate of wage" that is consistent with the federal requirements under 29 CFR 1.6.

(e) The specifications for a contract for public works must provide that the contractor and every subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8) or (9).

(5)(a) The provisions described in sections (3) and (4), and sections (6) and (7) if applicable, must be included in all specifications for each contract awarded on the project, regardless of the price of any individual contract, so long as the combined price of all contracts awarded on the project is \$50,000 or more (Reference: ORS 279C.830).

(b) A statement incorporating the applicable state prevailing wage rate publication and any amendments thereto into the specifications by reference will satisfy these requirements. Except as provided in subsection (c), such reference must include the title of the applicable wage rates publication or determination and the date of the publication or determination as well as the date of any applicable amendments.

(c) When the prevailing wage rates are available electronically or are accessible on the Internet, the rates may be incorporated into the specifications by referring to the electronically accessible or Internet-accessible rates and by providing adequate information about how to access the rates. Such reference must include the title of the applicable wage rates publication or determination and the date of the publication or determination as well as the date of any applicable amendments. The reference requirements of this subsection will be satisfied if such reference includes Uniform Resource Locator (URL) information for a webpage or webpages showing the title of each applicable wage rates publication or determination and the date of each publication or determination as well as the date of any applicable amendments.

(6)(a) When a public agency is a party to a CM/GC contract, the CM/GC contract becomes a public works contract either when the contract first constitutes a binding and enforceable obligation on the part of the CM/GC to perform or arrange for the performance of construction, reconstruction, major renovation or painting of an improvement that is a public works or when the CM/GC contract enters the construction phase, whichever occurs first.

(b) For example, the CM/GC will have a binding and enforceable obligation to perform or arrange for the performance of construction, reconstruction, major renovation or painting of an improvement after the public agency and CM/GC commit to the guaranteed maximum price.

(c) For purposes of this rule, the CM/GC contract enters the construction phase when the agency first authorizes the performance of early

construction, reconstruction, major renovation or painting work directly related to the improvement project.

(d) The publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon and the prevailing wage rate in effect at the time the CM/GC contract becomes a public works contract shall apply and the applicable prevailing wage rates must be included with the construction specifications for the CM/GC contract.

(7) A public works project described in ORS 279C.800(6)(a)(B), (C), (D), or (E) that is not a CM/GC contract subject to section (6) of this rule, and for which no public agency awards a contract to a contractor for the project, is subject to the publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon and the existing state prevailing rate of wage or, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act that are in effect at the time a public agency enters into an agreement with a private entity for the project. (Note: The effective date of the applicable federal prevailing rate of wage may be different under federal law.) After that time, the specifications for any contract for the public works shall include the applicable prevailing rate of wage.

(8) If a project is a public works of the type described in ORS 279C.800(6)(a)(B), (C), (D), or (E), and no public agency awards a contract to a contractor for the project, a public agency will be deemed to have complied with the provisions of ORS 279C.830 if the public agency requires compliance with the provisions of section (5) of this rule in any agreement entered into by the public agency committing to provide funds for the project, to occupy or use the completed project, or authorizing the construction or installation of a solar radiation device.

(9) Public agencies may obtain, without cost, a copy of the existing state prevailing rate of wages for use in preparing the contract specifications by contacting the Prevailing Wage Rate Unit or any office of the bureau.

Stat. Auth.: ORS 651.060(4), 279C.808

Stats. Implemented: H.B. 2646, 77th Leg., Reg. Ses. (Or2013), ORS 279C

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 7-1989(Temp), f. 10-2-89, cert. ef. 10-3-89; BL 5-1990, f. 3-30-90, cert. ef. 4-1-90; BL 3-1996, f. & cert. ef. 1-26-96; BL 3-1997(Temp), f. 7-31-97, cert. ef. 8-1-97; BL 1-1998, f. & cert. ef. 1-5-98; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0020, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06; BLI 39-2006, f. 11-8-06, cert. ef. 11-10-06; BLI 2-2007, f. & cert. ef. 1-23-07; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10; BLI 28-2009, f. 12-1-09, cert. ef. 1-1-10; BLI 23-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 3-2011(Temp), f. & cert. ef. 6-8-11 thru 12-4-11; BLI 6-2011(Temp), f. & cert. ef. 7-22-11 thru 12-4-11; BLI 9-2011, f. 10-27-11, cert. ef. 11-1-11; BLI 9-2013, f. 12-18-13, cert. ef. 1-1-14; BLI 2-2016, f. & cert. ef. 3-31-16

839-025-0037

Residential Construction Projects

(1)(a) For residential construction projects as defined in OAR 839-025-0004(24) and subject to ORS 279C.800 to 279C.870, public agencies shall use federal Davis-Bacon wage rates for residential construction projects unless there is no applicable federal rate for a particular trade or classification on the residential project.

(b) If the applicable federal Davis-Bacon wage rate determination does not include a rate for a particular trade or classification needed on a specific residential construction project, and the project is subject to ORS 279C.800 to 279C.870 but not the federal Davis-Bacon Act, the public agency is required to request a special wage rate, identifying the specific trade or classification, pursuant to OAR 839-025-0007.

(c) The commissioner may consider and approve a residential wage determination for a trade or classification issued by any federal agency within twelve months of the date of any request for a special wage rate pursuant to subsection (b) of this section.

(d) Requests for special wage rate determinations for projects subject to both ORS 279C.800 to 279C.870 and the federal Davis-Bacon Act shall be submitted pursuant to Title 29 CFR, Part 5.5(a)(1)(ii) as amended December 19, 2008.

(e) Copies of any special federal wage rate determinations requested and subsequent determination(s) issued pursuant to subsection (d) of this section must be provided to the commissioner by the public agency.

(2) Notwithstanding section (1) of this rule, the commissioner, consistent with statutory authority, may survey and issue residential rates.

(3) Requests for special wage rates for residential construction projects pursuant to section (1)(b) of this rule must be submitted to the Bureau of Labor and Industries by the public agency no fewer than fifteen (15) business days prior to the date the specifications for the project are first advertised.

(4) If a public agency fails to request special wage rates for a residential construction project pursuant to section (1)(b) of this rule at least

ADMINISTRATIVE RULES

fifteen (15) business days before the date the specifications for the project are first advertised for the project, the Prevailing Wage Rates for Public Contracts published by the Commissioner of the Bureau of Labor and Industries in effect when the specifications are first advertised shall apply to those trades or classifications for which there is no applicable federal residential rate.

(5) The federal Davis-Bacon wage rates apply to residential construction projects subject to ORS 279C.800 to 279C.870 regardless of whether federal law requires Davis-Bacon rates on the project.

(6) Notwithstanding any other provision of this rule, unless otherwise exempt, under no circumstances may a rate less than the minimum wage rate required by ORS 653.025 be paid to any worker on a residential construction project subject to ORS 279C.800 to 279C.870.

Stat. Auth.: ORS 279C & 651.060
Stats. Implemented: ORS 279C.800-279C.870
Hist.: BLI 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06; BLI 39-2006, f. 11-8-06, cert. ef. 11-10-06; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 9-2011, f. 10-27-11, cert. ef. 11-1-11; BLI 2-2016, f. & cert. ef. 3-31-16

839-025-0100

Exemptions

(1) All public works are regulated under ORS 279C.800 to 279C.870 except as follows:

(a) Projects for which the total price does not exceed \$50,000. As used in this section, the price of a project includes, but is not limited to, the value of work performed by every person paid by a contractor or subcontractor in any manner for the person's work on the project, but does not include the value of donated materials or work performed on the project by individuals volunteering to the public agency without pay. If the price of a project exceeds \$50,000 at any time during the project, the project is not exempt from ORS 279C.800 to 279C.870.

(b) Contracts of a People's Utility District, which are regulated under ORS 261.345.

(c) Projects for which no funds of a public agency are directly or indirectly used.

(d) Projects:

(A) That are privately owned;

(B) That use funds of a private entity;

(C) In which less than 25 percent of the square footage of a completed project will be occupied or used by a public agency; and

(D) For which less than \$750,000 of funds of a public agency are used.

(E) For purposes of this rule, if none of the square footage of a completed project will be occupied or used by a public agency and no funds of a public agency are used, the provisions of paragraphs (C) and (D) of this subsection will be deemed to have been met.

(e) Projects for residential construction that are privately owned and that predominantly provide affordable housing. As used in this paragraph:

(A) "Affordable housing" means housing that serves occupants whose incomes are no greater than 60 percent of the area median income or, if the occupants are owners, whose incomes are no greater than 80 percent of the area median income.

(B) "Predominantly" means 60 percent or more.

(C) "Privately owned" includes:

(i) Affordable housing provided on real property owned by a public agency if the real property and related structures are leased to a private entity for 50 or more years; and

(ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability company in which a housing authority, as defined in ORS 456.005, is a general partner, director or managing member and the housing authority is not a majority owner in the partnership, nonprofit corporation or limited liability company.

(2) The provisions of ORS 279C.840 and these rules that regulate payment of the prevailing rate of wage do not apply to:

(a) Inmates of the Oregon Department of Corrections assigned to:

(A) A work release program or otherwise working in gainful private employment pursuant to ORS 144.480, relating to prison inmate labor; or

(B) State Parks and Recreation Department projects to improve, maintain and repair buildings and property at state parks and recreation areas pursuant to ORS 390.195(1).

(b) Oregon Youth Conservation Corps members.

(3) Pursuant to ORS 352.138, universities with governing boards are exempt from the following Prevailing Wage Rate statutes: ORS 279C.805; ORS 279C.807; ORS 279C.808; ORS 279C.815; ORS 279C.817; ORS 279C.820; and ORS 279C.829. This exemption, however, does not apply to an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints an improvement on real property owned by a

university with a governing board or by a nonprofit organization or other entity that a university with a governing board owns or controls exclusively.

(4) A public agency is not subject to ORS 279C.800 to 279C.870 if the public agency only provides funds for a public works project that are not "funds of a public agency" as that phrase is defined in OAR 839-025-0004(9), or, if the public agency will use or occupy less than 25% of the square footage of the completed public works project and less than 25% of combined square footage of the completed project will be used or occupied by public agencies.

(5) Notwithstanding the provisions of sections (1), (2), (3), and (4) of this rule, public works as defined in ORS 279C.800 (6)(a)(D) are not exempt from ORS 279C.800 to 279C.870.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 279 & 651.060

Stats. Implemented: ORS 279.357, 390.195(1) & OL Ch. 628 (2001)

Hist.: BL 4-1984, f. & cert. ef. 3-13-84; BL 3-1996, f. & cert. ef. 1-26-96; BL 1-1998, f. & cert. ef. 1-5-98; BLI 15-2001, f. & cert. ef. 11-14-01; Renumbered from 839-016-0100, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 18-2006, f. 5-12-06, cert. ef. 5-15-06; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 23-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2016, f. & cert. ef. 3-31-16

839-025-0320

Payment of Prevailing Wage by Persons Other than Contractors or Subcontractors Prohibited

(1) Except as provided herein, no person, other than the contractor or subcontractor, shall pay or contribute any portion of the prevailing rate of wage specified in the contract to workers employed on the public works contract.

(2) Section (1) of this rule does not apply to payments to workers who are enrolled in government-subsidized training or retraining programs.

(3) For purposes of this rule, a person pays or contributes to the payment of the prevailing rate of wage when a contractor or subcontractor receives monies pursuant to a program, plan or other agreement that includes a provision that members of a labor organization contribute part of their wages to the labor organization for the purpose of paying contractors or subcontractors the difference in the wage rate negotiated under the collective bargaining agreement and the wage rate used by the contractor or subcontractor in obtaining a contract. However, a person does not pay or contribute to the payment of the prevailing rate of wage when the contractor or subcontractor receives monies pursuant to such program, plan or agreement if the collectively bargained wage rate exceeded the prevailing rate of wage in effect at the time the contractor or subcontractor made a bid on a contract.

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.348 - 279.380

Hist.: BL 3-1996, f. & cert. ef. 1-26-96; Renumbered from 839-016-0320, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 2-2016, f. & cert. ef. 3-31-16

839-025-0530

Violations for Which a Civil Penalty May Be Assessed

(1) The commissioner may assess a civil penalty for each violation of any provision of the Prevailing Wage Rate Law (ORS 279C.800 to 279C.870) and for each violation of any provision of the administrative rules adopted under the Prevailing Wage Rate Law.

(2) Civil penalties may be assessed against any contractor, subcontractor or public agency regulated under the Prevailing Wage Rate Law and are in addition to, not in lieu of, any other penalty prescribed by law.

(3) The commissioner may assess a civil penalty against a contractor or subcontractor for any of the following violations:

(a) Failure to pay the applicable prevailing rate of wage in violation of ORS 279C.840;

(b) Failure to pay all wages due and owing to the contractor's or subcontractor's workers on the regular payday established and maintained under ORS 652.120 in violation of ORS 279C.840(1).

(c) Failure to post the applicable prevailing wage rates in violation of ORS 279C.840(4);

(d) Failure to post the notice describing the health and welfare or pension plans in violation of ORS 279C.840(5);

(e) Failure to include a provision in a subcontract that workers shall be paid not less than the specified minimum hourly rate of wage in violation of ORS 279C.830(1)(c);

(f) If a public works project is subject to both ORS 279C.800 to 279C.870 and to the Davis-Bacon Act (40 U.S.C. 3141 et seq.), failure to include a provision in a subcontract that workers must be paid not less than the higher of the applicable state or federal prevailing rate of wage in violation of ORS 279C.830(1)(d);

ADMINISTRATIVE RULES

(g) Failure to include in a subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt, in violation of ORS 279C.830(2);

(h) Failure to file with the Construction Contractors Board a public works bond, as required under ORS 279C.836, before starting work on a contract or subcontract for a public works project subject to the provisions of ORS 279C.800 to 279C.870;

(i) Failure to verify that a subcontractor has filed a public works bond as required or has elected not to file a public works bond under ORS 279C.836 prior to permitting a subcontractor to start work on a public works project;

(j) Failure to file certified statements in violation of ORS 279C.845;

(k) Filing inaccurate or incomplete certified statements in violation of ORS 279C.845;

(l) Failure to retain 25 percent of the amount the first-tier subcontractor earned when the first-tier subcontractor fails to submit payroll and certified statement forms to the public agency in violation of ORS 279C.845;

(m) Paying the prevailing rate of wage in violation of ORS 279C.840(6);

(n) Reducing an employee's pay in violation of ORS 279C.840(7);

(o) Taking action to circumvent the payment of the prevailing wage, other than subsections (k) and (m) of this section, in violation of ORS 279C.840(7);

(p) Failure to submit reports and returns in violation of ORS 279C.815(3);

(q) Failure to certify the accuracy of reports and returns in violation of ORS 279C.815(3);

(r) Failure to timely pay the fee required by ORS 279C.825 on public works contracts first advertised or solicited prior to January 1, 2008;

(s) Receiving a public works contract or subcontract while on the list of ineligibles in violation of ORS 279C.860;

(t) Awarding a contract to a contractor whose name appears on the list of ineligibles pursuant to ORS 279C.860.

(u) Failure to contribute fringe benefit wages timely to a trustee or to a third person pursuant to a plan, fund or program on a "regular basis" and "not less often than quarterly," as those terms are defined in OAR 839-025-0043.

(4) The commissioner may assess a civil penalty against a public agency for any of the following violations:

(a) Failure to include in the specifications for a public works contract a provision stating the applicable existing prevailing wage rate in violation of ORS 279C.830(1)(a);

(b) If a public works project is subject to both ORS 279C.800 to 279C.870 and to the Davis-Bacon Act (40 U.S.C. 3141 et seq.), failure to require the contractor to pay the higher of the applicable state prevailing rate of wage or federal prevailing rate of wage to all workers in violation of ORS 279C.830(1)(b);

(c) Failure to include a contract provision stating that workers must be paid the applicable prevailing rate of wage in violation of ORS 279C.830(1)(c);

(d) If a public works project is subject to both ORS 279C.800 to 279C.870 and to the Davis-Bacon Act (40 U.S.C. 3141 et seq.), failure to include a contract provision stating that workers on public works must be paid not less than the higher of the applicable state prevailing rate of wage or federal prevailing rate of wage in violation of ORS 279C.830(1)(d);

(e) Failure to include in the specifications for a contract for a public works a provision stating that the contractor and every subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt, in violation of ORS 279C.830(2);

(f) Failure to include in a contract for a public works a provision requiring the contractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt, in violation of ORS 279C.830(2)(a);

(g) Failure to include in a contract for a public works a provision requiring the contractor to include in every subcontract a provision requiring the contractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt, in violation of ORS 279C.830(2)(b);

(h) Failure to notify the commissioner when a contract is awarded in violation of ORS 279C.835;

(i) Dividing a public works project in violation of ORS 279C.827;

(j) Failure to include a copy of the disclosure of first-tier subcontractors with the Notice of Public Works in violation of ORS 279C.835;

(k) Failure to retain 25 percent of the amount the contractor earned when the contractor fails to submit payroll and certified statement forms to the public agency in violation of ORS 279C.845;

(l) Failure to timely pay the fee required in violation of ORS 279C.825;

(m) Awarding a contract to a contractor whose name appears on the list of ineligibles maintained pursuant to ORS 279C.860;

(n) Entering into an agreement with another state or a political subdivision or agency of another state agreeing that a contractor or subcontractor may pay less than the prevailing rate of wage determined in accordance with ORS 279C.815 under the terms of a contract for public works to which the contracting agency is a party or of which the contracting agency is a beneficiary in violation of ORS 279C.829.

Stat. Auth.: ORS 651.060(4), 279C.808

Stats. Implemented: ORS 279C

Hist.: BL 3-1996, f. & cert. ef. 1-26-96; BL 1-1998, f. & cert. ef. 1-5-98; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0530, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10; BLI 28-2009, f. 12-1-09, cert. ef. 1-1-10; BLI 3-2011(Temp), f. & cert. ef. 6-8-11 thru 12-4-11; BLI 9-2011, f. 10-27-11, cert. ef. 11-1-11; BLI 9-2013, f. 12-18-13, cert. ef. 1-1-14; BLI 2-2016, f. & cert. ef. 3-31-16

Department of Agriculture Chapter 603

Rule Caption: Apiary Registration Fees - Defines colonies, Adds a fee for each beehive.

Adm. Order No.: DOA 6-2016

Filed with Sec. of State: 4-5-2016

Certified to be Effective: 4-5-16

Notice Publication Date: 3-1-2016

Rules Adopted: 603-055-0200

Rules Amended: 603-055-0100

Subject: 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—(503) 986-4583

603-055-0100

Apiary Registration Fees

The following annual apiary registration fees are established by authority provided in ORS 602.090: Every person who owns or is in charge of five or more colonies of bees located within this state must register the colonies with the Department of Agriculture. Each registration shall be accompanied by a fee, which shall cover each colony of bees owned by the registrant.

(1) For registrations made before June 1 of each year, the annual registration fee shall be \$10 per registration and \$0.50 per colony.

(2) The number of colonies that must be registered shall be based on the high number of full strength colonies managed within the state of Oregon at any time during the previous year.

(3) For registrations made after July 1 of each year, the annual registration fee shall be \$20 per registration and \$0.50 per colony.

(4) All moneys collected pursuant to ORS 602.090 shall be spent on pollinator research that is predominately focused on honeybees.

Stat. Auth.: ORS 561.190 & 602.090

Stats. Implemented: ORS 602.090

Hist.: AD 7-1992, f. & cert. ef. 6-3-92; AD 2-1994, f. & cert. ef. 2-8-94; DOA 6-2016, f. & cert. ef. 4-5-16

603-055-0200

Definition

As used in this rule, unless the context or a specially applicable definition requires otherwise: As defined in ORS 602.010, "Colony" or "colonies of bees" refers to any hive occupied by bees and "hive" means any receptacle or container made or prepared for use of bees, or box or similar container taken possession of by bees, except for nucleus hives.

Stat. Auth.: ORS 561.190 & 602.090

Stats. Implemented: ORS 602.090

Hist.: DOA 6-2016, f. & cert. ef. 4-5-16

Rule Caption: Adds EHV-1 (neurologic form) and SECD to list of reportable diseases for veterinarians.

Adm. Order No.: DOA 7-2016

Filed with Sec. of State: 4-5-2016

ADMINISTRATIVE RULES

Certified to be Effective: 4-5-16

Notice Publication Date: 9-1-2015

Rules Amended: 603-011-0212

Subject: In order to protect the health of animals and the public in the state of Oregon, the Oregon Department of Agriculture (ODA) maintains a list of diseases that must be reported to ODA when they are detected by any person practicing veterinary medicine. Reportable diseases may include unidentified vesicular diseases, suspected diseases that are foreign or exotic, diseases exhibiting highly pathogenic or lethal effects, or specified diseases that have been discovered and identified that present serious harms to the health of animals in Oregon. ODA proposes to add Equine Herpes Virus-1 (neurologic form) and Swine Enteric Coronavirus Diseases (SECD, including Porcine Epidemic Diarrhea Virus (PEDv) and Porcine Delta Coronavirus (PDCoV)) to the list of specified list of diseases because they have been discovered to be particularly virulent, and pose serious problems to the health of animals if proper reporting, surveillance, and control measures are not taken.

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

603-011-0212

Diseases Reportable by Veterinarians

Any person practicing veterinary medicine in this state shall immediately notify the department by telephone of observing the following abnormalities:

- (1) Any unidentified vesicular disease;
- (2) Any exotic disease or foreign animal disease, even if only suspected;
- (3) Any disease of unknown etiology exhibiting highly pathogenic or lethal effect; or
- (4) Any person practicing veterinary medicine in this state shall immediately notify the department by telephone of clinical evidence of any of the following diseases.

(a) **Multi Species Diseases:**

- (A) Anthrax;
- (B) Babesiosis/Piroplasmiasis;
- (C) Bluetongue;
- (D) Brucellosis (abortus, mellitensis, suis);
- (E) Foot and mouth disease;
- (F) Pseudorabies;
- (G) Rabies; and
- (H) Vesicular Stomatitis.

(b) **Cattle Diseases:**

- (A) Bovine spongiform encephalopathy;
- (B) Bovine tuberculosis;
- (C) Malignant catarrhal fever; and
- (D) Trichomoniasis.

(c) **Equine Diseases:**

- (A) Contagious equine metritis;
- (B) Equine encephalomyelitis (WEE, EEE, VEE and WNV);
- (C) Equine Herpes Virus-1 neurologic form (EHV-1 neurologic form);

- (D) Equine infectious anemia;
- (E) Equine viral arteritis.
- (d) **Sheep and Goat Diseases:** Scrapie.

(e) **Swine Diseases:**

- (A) Classical swine fever;
- (B) Swine Enteric Coronavirus Diseases (SECD). Includes Porcine Epidemic Diarrhea Virus (PEDv) and Porcine Delta Coronavirus (PDCoV);

(C) Swine Influenza.

(f) **Poultry Diseases:**

- (A) Avian chlamydiosis;
- (B) Avian infectious laryngotracheitis;
- (C) Exotic Newcastle disease;
- (D) Notifiable avian influenza;
- (E) Pullorum disease; and
- (F) Salmonella enteritidis.

Stat. Auth.: ORS 561.190, 596.321 & 596.341

Stats. Implemented: ORS 596.321

Hist.: AD 2-1985, f. & ef. 1-18-85; AD 1-1995, f. & cert. ef. 2-3-95; DOA 14-2010, f. & cert. ef. 8-31-10; DOA 7-2016, f. & cert. ef. 4-5-16

Rule Caption: Increases wholesale seed dealers license from \$500 annually to \$750.

Adm. Order No.: DOA 8-2016

Filed with Sec. of State: 4-15-2016

Certified to be Effective: 4-15-16

Notice Publication Date: 1-1-2016

Rules Amended: 603-056-0095

Subject: The proposed amendments would cause a 50% increase in license fees for Wholesale Seed Dealers, raising fees from \$500 to \$750 annually. The Oregon Seed Association has requested an additional 0.5 FTE seed regulatory position to provide outreach and education services and random inspection of Oregon licensed Wholesale Seed Dealers. The current license fee does not support the requested level of oversight; Oregon Seed Association supports this fee increase.

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

603-056-0095

Seed Dealer License Fees

The following designated annual license fees shall be applicable to each described activity under authority of ORS 633.700:

- (1) Seed retailer: \$40; and
- (2) Seed wholesaler: \$750.

Stat. Auth.: ORS 561.190 & 633.700

Stats. Implemented: ORS 633.700

Hist.: AD 30-1977, f. & ef. 12-30-77; AD 3-1990, f. & cert. ef. 3-16-90; AD 5-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; AD 1-1992, f. & cert. ef. 2-3-92; AD 12-1993(Temp), f. 8-20-93, cert. ef. 8-23-93; AD 18-1993, f. & cert. ef. 12-1-93; DOA 18-2000 f. & cert. ef. 6-14-00; DOA 11-2014, f. & cert. ef. 7-28-14; DOA 8-2016, f. & cert. ef. 4-15-16

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

Rule Caption: Clarifies the calculation of electrical permit fees and provision of inspection services

Adm. Order No.: BCD 4-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 1-1-2016

Rules Adopted: 918-309-0075

Rules Amended: 918-309-0000, 918-309-0030, 918-309-0040, 918-309-0060, 918-309-0070

Subject: These rules clarify the calculation of specified electrical permit fees, the number of inspections available to a permittee, and when a building inspection program may stop work.

Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-309-0000

Electrical Permits

(1) Except as provided by OAR 918, division 282, dealing with restricted energy transactions, limited maintenance specialty contractor-HVAC/R, and registered telecommunications service provider, the signature of a signing supervising electrician or limited supervising electrician must be required on each permit to aid inspections by the division and indicate responsibility under ORS 479.710. Any person providing false or incorrect information or false or an incorrect signature to obtain a permit may be subject to compliance action by the board.

(2) The following may purchase electrical permits:

(a) Electrical contractors; and

(b) Registered telecommunications service providers (TSP) as defined in ORS 759.005, including competitive carriers, competitive local exchange carriers (CLEC) and telecommunications utilities. These telecommunications service providers are listed as such by the Public Utilities Commission (PUC).

(3) A permit is required prior to start of electrical work. See OAR 918-309-0080 for temporary permit criteria. Expansion of work under a permit may be added to an existing permit prior to final inspection.

(4) A permit must be posted in a conspicuous place near the main electrical panel location. If there is no main panel installed, the permit must be posted in a conspicuous place on the job site.

(5) An electrical permit, other than a restricted energy electrical permit as provided in OAR 918-309-0400, issued to one person or firm is not

ADMINISTRATIVE RULES

transferable and may not permit any other person or firm to perform any electrical work thereunder.

(6) Any permittee holding an unexpired permit may apply for an extension of the time within which work may be completed.

(7) Permits issued by an inspection jurisdiction under the provisions of the Oregon Electrical Specialty Code and these rules expire and become null and void if the work authorized by the permit is:

- (a) Not started within 180 days from the date of permit issuance; or
- (b) Suspended or abandoned for a period of 180 days after the work is started.

(8) Corrections to electrical installations must be completed regardless of 180-day suspension or abandonment of work. All corrections to electrical installations must be completed within 20 calendar days of notice of deficiency. See OAR 918-271-0030 for requirements.

(9) In addition to other signing supervising electricians, the following are authorized to sign permits:

(a) A person whose qualifications are relied upon for licensing under OAR 918-282-0140 is a "supervisor" under ORS 479.560 and can sign for electrical permits or labels for work under a limited maintenance specialty contractor-HVAC/R license;

(b) A Class "A" or Class "B" limited energy technician can sign permits or labels for 100 volt-ampere or less electrical installations performed by those licensees;

(c) A "supervisor" as used in ORS 479.630 who can sign restricted energy permits includes:

(A) A Class "A" or "B" limited energy technician when the electrical installation is within the scope of the person's license;

(B) Persons whose qualifications are relied upon for the issuance of a restricted energy electrical contractor license under OAR 918-282-0060; and

(C) Any other electrical licensee authorized to sign a permit provided the work is within the scope of the person's license.

(10) No electrical permit is required:

(a) To replace light bulbs, fluorescent tubes, or approved fuses, or to connect approved portable electrical equipment to permanently installed and properly wired receptacles;

(b) For experimental electrical work or testing of electrical products in testing laboratories of electric shops, educational institutions, industrial plants, or recognized testing laboratories;

(c) For those minor electrical installations for which the board has authorized an installation label;

(d) To install components exempted by OAR 918, division 261;

(e) To replace an existing garbage disposal, dish washer, electric water heater or similar appliance of 30 amps or less, single phase; or

(f) To install cord and plug connected Class 2 irrigation control systems.

(11) Unless noted otherwise in these rules, a permittee is entitled to two inspections for each electrical installation or portion thereof for which a permit fee is assessed. The total number of inspections under a permit are aggregated and used to inspect any of the installations under the permit. A permittee is considered to have received an inspection only when the permittee has requested and received an inspection from the municipality. Inspections are counted based on a single visit, in person or through an approved electronic inspection method, to a job site. See examples below:

Example 1: A permittee installing a service (OAR 918-309-0040), two feeders (918-309-0040), and ten branch circuits (918-309-0060) is entitled to eight inspections.
Permit Type(s): Installation of service, feeders (2) and branch circuits (10)
Inspections: One Service x 2 inspections/installation = 2 inspections
Two Feeders x 2 inspections/installation = 4 inspections
Ten Branch Circuits x 2 inspections/20 circuits = 2 inspections
(or portion thereof)
Total inspections 8 inspections

Example 2: A permittee installing a service, two feeders, and ten branch circuits requests an inspection from the municipality to inspect the service and feeders. The inspector arrives the next day and inspects the service and feeders. The permittee has received one inspection, and is entitled to seven further inspections. The remaining inspections may be used to inspect any of the installations under the permit.

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

Stat. Auth.: ORS 479.560

Stats. Implemented: ORS 479.560 & 479.870

Hist.: DC 10, f. 4-13-72, ef. 5-1-72; DC 41, f. 1-20-75, ef. 2-11-75; DC 49(Temp), f. 6-30-75, ef. 7-1-75; DC 54, f. 9-5-75, ef. 10-1-75; DC 12-1981, f. 9-29-81, ef. 10-1-81; DC 10-1982, f. & ef. 3-1-82; DC 20-1982, f. & ef. 9-21-82; DC 12-1983(Temp), f. 6-10-83, ef. 7-1-83; DC 17-1983, f. & ef. 7-21-83, DC 5-1984, f. & ef. 2-24-84; Renumbered from 814-022-0125; BCA 16-1988, f. & cert. ef. 7-20-88; BCA 2-1992(Temp), f. 2-28-92, cert. ef. 3-18-92; BCA 11-1992, f. & cert. ef. 6-26-92; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-260-0190; BCD 7-1997, f. & cert. ef. 4-1-97; BCD 16-1997, f. 9-30-97, cert. ef. 10-1-97; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 23-2002, f. 9-13-02 cert. ef. 10-1-02; BCD 5-2003, f. 3-14-03, cert. ef. 4-1-03; BCD 4-2004, f. 3-31-04, cert. ef. 4-1-04; BCD 4-2016, f. & cert. ef. 4-1-16

918-309-0030

Permits for Residential Wiring

(1) The permittee is entitled to four inspections for a one-family dwelling, and eight inspections for a two-family dwelling. Fees are based on square footage for each one- or two-family dwelling (including attached garage) for residential wiring as follows:

- (a) Wiring of not more than 1,000 square feet, \$106;
- (b) Each additional 500 square feet or portion thereof, \$19.

(2) Permit fee for Manufactured Home or Modular Dwelling including service or feeder to unit served, \$63.

(3) Permit fee for Limited Energy:

(a) One and Two Family Residential, \$25. This permit fee covers all limited energy type systems installed in the building when installed at the same time by the permittee. A permit holder working under a residential wiring permit calculated under section (1) of this rule is not required to obtain a limited energy permit to install wiring for doorbells, garage door openers and heating and air conditioning systems.

(b) Multi-family residential, \$45. This permit fee covers all limited energy systems installed in the building, except protective signaling as defined in ORS 479.905(5). The fee is assessed once per floor, regardless of the number of dwelling units on each floor. The permittee is entitled to two inspections per floor.

(c) Multi-family residential protective signaling, \$63. This permit fee includes all protective signaling systems installed in the building as defined in ORS 479.905(5). The fee is assessed once per floor, regardless of the number of dwelling units on each floor. The permittee is entitled to two inspections per floor. See example below. [ED. NOTE: Example available from the agency.]

(4) Items Covered in this Section:

(a) When computing the area, include the square footage of attached garages;

(b) The residential fee covers services, feeders and all branch circuits on and inside each dwelling unit and includes garages that are attached to the dwelling unit, including the limited energy systems for the doorbell, garage door opener, and the heating and air conditioning control wiring in one and two family dwellings only;

(c) New Construction. Use this fee in connection with new construction;

(d) Remodels, Additions, Alterations or Repairs. Compute the fee under this section using the square footage of the area remodeled or added, then compute the fee under OAR 918-309-0060 "branch circuits." Use the lower fee;

(e) Reconnection only. See OAR 918-309-0040(9).

(5) Application of Fees:

(a) One- or Two-Family Dwellings. To calculate the fee for a one or two-family dwelling, obtain the square footage of each unit. Include the garage if it is attached to any unit. There is an exception in subsection (c)(A) of this section if a detached garage or accessory building is built at the same time as the dwelling unit. Compute the fee using the procedure shown for each dwelling unit. Record the number of units under "Items" in the permit and multiply this with the fee shown;

(b) Multi-family Building. In the case of a multi-family building containing three or more apartments, determine the square footage of the largest apartment in the building and compute the fee. For each additional apartment in the building, a fee of one-half of the first unit fee must be used. The house panel fee for general service equipment such as apartment unit lights, washer-dryer, outdoor lighting and the like is calculated using OAR 918-309-0060(1) services and feeders, and OAR 918-309-0060(2)(b) dealing with branch circuits. The permittee is entitled to four inspections per floor;

(c) Detached Garages. Detached garages and accessory buildings are not considered part of the residential unit. The permit fee is based on the method of supplying power to the unit:

(A) Exception — Simultaneous Construction with Single Branch Circuit. If the structure receives power through a branch circuit from the house panel with a single branch circuit, include the square footage of the garage with the living unit, provided the garage is built at the same time as the dwelling unit. If separate construction is involved, use the fee for branch circuits under OAR 918-309-0060;

(B) Sub-Panel. If the detached structure has a sub-panel powered from the house service, the fee is computed using the "feeder" section, OAR 918-309-0040 and branch circuits, OAR 918-309-0060(1);

(C) If the detached structure is built first, the fee is based on service, feeder and branch circuits;

ADMINISTRATIVE RULES

(D) Separate Service. If the structure has a separate service, the fee is based upon service, feeder and branch circuits.

(d) Reconnect Only. See OAR 918-309-0040(9);

(e) House Moves. In most instances, the fee will only involve a service reconnect:

(A) If changes to the service are made, a new service charge is made under OAR 918-309-0040;

(B) For each new, extension or alteration of branch circuits, use OAR 918-309-0060;

(C) If the building was moved in sections and there is no upgrading of the service, use the fees in this section using square footage.

(f) Manufactured Dwellings and Modular Homes. Manufactured dwellings and modular homes usually require a service and a feeder from the service to the home. In mobile home parks, usually only the feeder is necessary because the service already exists. Where there is a detached garage or accessory building, refer to subsection (5)(c) of this rule dealing with detached structures.

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

Stat. Auth.: ORS 455.030 & 479.870

Stat. Implemented: ORS 455.030 & 479.870

Hist.: DC 74, f. 5-21-76, ef. 8-1-76; DC 102, f. & ef. 11-1-77; DC 1-1979, f. & ef. 1-5-79; DC 5-1979(Temp), f. & ef. 3-5-79; DC 10-1979, f. & ef. 6-8-79; DC 12-1981, f. 9-29-81, ef. 10-1-81; DC 10-1982, f. & ef. 3-1-82; DC 7-1983, f. & ef. 3-11-83; Renumbered from 814-022-0108; BCA 10-1991, f. 4-26-91, cert. ef. 7-1-91; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-260-0220; BCD 9-1998(Temp), f. 6-2-98, cert. ef. 7-1-98 thru 12-27-98; BCD 18-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 9-2001(Temp), f. 8-15-01, cert. ef. 9-4-01 thru 3-3-02; BCD 10-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 10-2003(Temp), f. 6-20-03, cert. ef. 7-1-03 thru 12-27-03; BCD 16-2003, f. & cert. ef. 10-1-03; BCD 4-2016, f. & cert. ef. 4-1-16

918-309-0040

Permit for the Installation, Alteration, or Relocation of an Electrical Service or Feeder

Permanent service or feeder.

(1) Each service or feeder of 200 amps or less, \$79.

(2) Each service or feeder in excess of 200 amps but not more than 400 amps, \$94.

(3) Each service or feeder in excess of 400 amps but not more than 600 amps, \$156.

(4) Each service or feeder in excess of 600 amps but not more than 1,000 amps, \$204.

(5) Each service or feeder over 1,000 amps or volts, \$469.

(6) General Procedure for a Separate Service. If a structure has a separate service, the fee is based on the service size (amps), plus feeders, if any, plus the number of branch circuits.

(7) Fees in this rule are in addition to any other fees required under ORS 479.510 to 479.855.

(8) Where the service constitutes a load center, the permit fee must be calculated the same as any service panel. The charges must be for the size of the service and the branch circuits or feeders to the load center.

(9) Reconnect Only. This rule applies to reconnection where the service was disconnected for repair or by the serving utility company and no change in service capacity or location is made. This allows the replacement of a meter base, a service mast, a service panel, a subpanel, the feeder to one of the items listed or the repair or replacement of damaged service mast and meter on the exterior of a building. The \$63 fee covers one inspection for this item.

(a) If a major violation of the service exists, a new service and new permit fee is required;

(b) It may also be used for house moves. If a major violation of the code or a dangerous condition exists in a house move, repair or replacement and a permit are required.

(10) Fees charged under this rule may not be charged both for amps and volts.

(11) In commercial and industrial buildings, separately metered premises that are divided from each other by walls are classified as a separate building for the purpose of computing permit fees. A different permit is required for each separate building:

(a) Master Service. For buildings with a master service, such as an office building, compute fees by the service (amps), the feeders (amps) and branch circuits. If there is more than one service, each service is charged separately along with its related feeders and branch circuits;

(b) Single Occupant. In single occupant buildings, the fee is based on the service (amps), the number of feeders (by amps) and branch circuits;

(c) Tenants. Where tenants are involved, the shell receives a permit for any service, feeders and branch circuits that involve only the shell. Each tenant space requires a separate permit. Each tenant space is charged for service (amps), the number of feeders by amps and branch circuits.

Stat. Auth.: ORS 455.020 & 479.870

Stat. Implemented: ORS 455.020 & 479.870

Hist.: DC 74, f. 5-21-76, ef. 8-1-76; DC 102, f. & ef. 11-1-77; DC 1-1979, f. & ef. 1-5-79; DC 5-1979(Temp), f. & ef. 3-5-79; DC 10-1979, f. & ef. 6-8-79; DC 12-1981, f. 9-29-81, ef. 10-1-81; DC 10-1982, f. & ef. 3-1-82; DC 7-1983, f. & ef. 3-11-83; Renumbered from 814-022-0108; BCA 10-1991, f. 4-26-91, cert. ef. 7-1-91; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-260-0230; BCD 9-1998(Temp), f. 6-2-98, cert. ef. 7-1-98 thru 12-27-98; BCD 18-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 9-2001(Temp), f. 8-15-01, cert. ef. 9-4-01 thru 3-3-02; BCD 10-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 4-2004, f. 3-31-04, cert. ef. 4-1-04; BCD 4-2016, f. & cert. ef. 4-1-16

918-309-0060

Branch Circuits

Branch circuits, alterations or extensions.

(1) The fee for branch circuits with purchase of service or feeder fee for each branch circuit, \$4.

(2) The fee for branch circuits without purchase of service or feeder fee:

(a) The first branch circuit, \$54;

(b) Each additional branch circuit, \$4.

(3) For signs and outline lighting refer to OAR 918-309-0070(2).

(4) The permittee is entitled to two inspections for every 20 branch circuits or portion thereof.

Stat. Auth.: ORS 455.020 & 479.870

Stat. Implemented: ORS 455.020 & 479.870

Hist.: DC 74, f. 5-21-76, ef. 8-1-76; DC 102, f. & ef. 11-1-77; DC 1-1979, f. & ef. 1-5-79; DC 5-1979(Temp), f. & ef. 3-5-79; DC 10-1979, f. & ef. 6-8-79; DC 12-1981, f. 9-29-81, ef. 10-1-81; DC 10-1982, f. & ef. 3-1-82; DC 7-1983, f. & ef. 3-11-83; Renumbered from 814-022-0108; BCA 10-1991, f. 4-26-91, cert. ef. 7-1-91; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-260-0250; BCD 9-1998(Temp), f. 6-2-98, cert. ef. 7-1-98 thru 12-27-98; BCD 18-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 9-2001(Temp), f. 8-15-01, cert. ef. 9-4-01 thru 3-3-02; BCD 10-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 4-2016, f. & cert. ef. 4-1-16

918-309-0070

Miscellaneous

Special fees are established for the following items in lieu of fees set under OAR 918-309-0060.

(1) Permit for each domestic water or sewage pump, irrigation pump or circle and its associated controls, excluding service fee, \$63;

(a) Single Circuit. If a well pump or sewage pump and its associated controls are serviced from the house main service, and the pump is installed and ready for inspection, no additional fee is charged. If the pump is installed by another contractor or later, an additional pump fee and a new permit is necessary under this part;

(b) Feeder. If the well has a subpanel, there is a fee for the feeder from the main service to the subpanel and a fee for branch circuits. If the pump is installed later, or by another contractor, a new permit and pump fee is required;

(c) Separate Service. If the well has separate service the fee is based on the service (amps) and the number of branch circuits. If the pump is installed later, or by a different contractor, a new permit and pump fee is required.

(2) Permit for the installation of each electrical sign or outline lighting system supplied by a single branch circuit, \$63.

(3) Each limited energy circuit panel, one or more air-conditioning or heater thermostats installed at a job site, multiple circuit terminal board or installation or extension of limited energy circuits, \$63.

(4) The permit fees in this rule, except as noted in subsection (11), are for up to two inspections and are charged in addition to other fees for electrical service.

(5) Note the exception under OAR 918-309-0030(3)(a)(A) dealing with residential limited energy.

(6) Installation of signal circuits in buildings over three floors. Each floor in excess of three is considered a separate panel for the purpose of calculating fees.

(7) Fees for inspections in excess of those allowed under OAR 918-309-0030 through 918-309-0060, \$55.

(8) Fees for other inspections not covered by this rule. All inspections not provided in this rule must be charged at \$86 per hour including travel and office time with a minimum charge of one hour.

(9) Fees for Bulk Labels:

(a) Bulk labels sold only to electrical contractors, \$25 per label;

(b) Contractors working under a bulk label system are billed for any difference in the cost of the bulk label and the cost of the permit fees required in this rule.

(10) The fee for swimming pools is permitted as provided in OAR 918-309-0040 and 918-309-0060. The inspection of the grounding of the pool is included in the permit for the pool and counted as one of the number of allowed inspections under the permit.

ADMINISTRATIVE RULES

(11) Permit fees for renewable electrical energy systems. For renewable electrical energy permit applications, see OAR 918-309-0410. For repairs and maintenance of renewable electrical energy systems, see OAR 918-309-0220(5).

- (a) (A) 5 KVA or less: \$79;
- (B) 5.01 KVA to 15 KVA: \$94;
- (C) 15.01 KVA to 25 KVA: \$156.
- (b) For wind generation systems in excess of 25KVA:
 - (A) 25.01 KVA to 50 KVA: \$204;
 - (B) 50.10 KVA to 100 KVA: \$469;
 - (C) For wind generation systems that exceed 100 KVA the permit fee is calculated in accordance with OAR 918-309-0040.
- (c) For solar generation systems in excess of 25KVA:
 - (A) Each additional KVA over 25 will be charged an additional \$6.25 per KVA.
 - (B) The permit charge will not increase beyond the calculation for 100 KVA.
 - (d) Permits issued under this sub-section include three inspections. Additional inspections will be billed at an hourly rate.

(12) Work Commencing before permit issuance. Any person who commences electrical work on a building or structure before obtaining the necessary permits will be subject to an investigative fee. The amount of the investigative fee is the average or actual additional cost of ensuring that a building or structure is in conformance with the Oregon Electrical Specialty Code and is in addition to the required permit fees.

Stat. Auth.: ORS 479.870
Stats. Implemented: ORS 455.083 & 479.870
Hist.: BCA 16-1990, f. 6-27-90, cert. ef. 7-1-90; BCA 6-1991(Temp), f. 3-21-91, cert. ef. 7-1-91; BCA 10-1991, f. 4-26-91, cert. ef. 7-1-91; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-260-0260; BCD 9-1998(Temp), f. 6-2-98, cert. ef. 7-1-98 thru 12-27-98; BCD 18-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 19-1999, f. 12-30-99, cert. ef. 1-1-00; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 9-2001(Temp), f. 8-15-01, cert. ef. 9-4-01 thru 3-3-02; BCD 10-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 23-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 6-29-02; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 9-2002, f. 3-29-02, cert. ef. 4-1-02; BCD 13-2010, f. 9-30-10, cert. ef. 10-1-10; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 4-2016, f. & cert. ef. 4-1-16

918-309-0075

Provision of Services

(1) For any project requiring plan review, once the initial permit and plan review fees have been paid, a building official, inspector, or plans examiner may not stop work on-site or otherwise delay or refuse to provide inspection services in order to compel payment of outstanding fees.

(2) Stop-work orders may only be issued for permitted projects for violations of the minimum safety standards.

(3) Any violation of these rules is a failure to administer a building inspection program for the purposes of ORS Chapters 455 and 479, and may result in sanctions including but not limited to civil penalties and actions on certifications and other division approvals.

Stat. Auth.: ORS 455.055
Stats. Implemented: ORS 455.055
Hist.: BCD 4-2016, f. & cert. ef. 4-1-16

Rule Caption: Clarifies process for disconnect of electrical installation or product.

Adm. Order No.: BCD 5-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 2-1-2016

Rules Adopted: 918-271-0105

Subject: This rule clarifies the process by which the division may disconnect or order the disconnection of an electrical installation or product that fails to comply with minimum safety standards, electrical product safety standards or constitutes an immediate hazard to life or property. The rule provides for a hearing after the disconnection to review the division's action.

Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-271-0105

Electrical Disconnection

(1) In the case of a disconnection made or ordered under ORS 479.820(2) or (3) and after setting forth in writing the facts supporting the action, the division may disconnect or cause the disconnection of service, without hearing, to:

- (a) An electrical installation or product that fails to comply with minimum safety standards; or

(b) An electrical installation or product, the condition of which constitutes an immediate hazard to life or property.

(2) In the case of a disconnection under section (1) of this rule, if the owner of the installation, or of the property where the installation is located, requests a hearing within 90 days after the date of disconnection, then a hearing shall be granted and the division may issue an order pursuant to such hearing as required by ORS chapter 183 confirming, altering, or dismissing its earlier order.

(3) Such a hearing need not be held where the disconnection or order of disconnect is accompanied by, or is pursuant to, a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the installation or property owner.

Stat. Auth.: ORS 479.820
Stats. Implemented: ORS 479.820
Hist.: BCD 5-2016, f. & cert. ef. 4-1-16

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

Adm. Order No.: BCD 6-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 2-1-2016

Rules Amended: 918-098-1010, 918-098-1012, 918-098-1015, 918-098-1025, 918-098-1210, 918-098-1215, 918-098-1305, 918-098-1320, 918-098-1470, 918-098-1480, 918-098-1900, 918-695-0410
Rules Repealed: 918-098-1010(T), 918-098-1025(T), 918-098-1470(T), 918-098-1480(T), 918-098-1900(T)

Subject: These rules amend the division's certification requirements for persons performing work in Oregon as a building official, inspector, or plans examiner. These changes include requiring a division administered training class for building officials. These rules add a second avenue to obtain a medical gas plumbing inspector certification. They also expand the scope of work of some certifications to allow for plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks, while removing the application provisions for the Manufactured Structure Installer Inspector and the Park and Camp Installer certifications. The rules also clarify the duties and responsibilities of building officials, inspectors, and plans examiners, and clarify the cite-it write-it requirements.

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) Completion of a certification training course administered by the division; or

(B) Two years experience working for or on behalf of a jurisdiction performing building permit inspections on buildings or structures regulated by the state building code or its equivalent; or

(C) Be a registered architect, a certified 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).

ADMINISTRATIVE RULES

(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; BCD 6-2016, f. & cert. ef. 4-1-16

918-098-1012

Scope Of Work Allowed For Persons With An Oregon Inspector Certification and an International Code Council Certification

(1) Individuals meeting the experience requirement in OAR 918-098-1010 who possess a valid Oregon Inspector Certification and a current International Code Council certification may perform work based on the type of International Code Council Certification they possess.

(2) A Certified Building Official Legal/Management may oversee a jurisdiction's administration and enforcement of the state building code for those specialty codes assumed by the jurisdictions pursuant to ORS

455.148 or 455.150. Building officials may not perform plan reviews or inspections unless they possess the appropriate certification for the type of plan review or inspection being performed.

(a) Commercial Building Inspector certificate holders may conduct construction inspections for:

(A) All work regulated by the **Oregon Structural Specialty Code**; and

(B) Structural work on townhouse structures, rowhouse structures, and apartment buildings regulated by the **Oregon Residential Specialty Code**.

(b) Commercial Building Plans Examiner certificate holders may review construction plans for:

(A) Compliance with the provisions of the **Oregon Structural Specialty Code** and **Oregon Fire Code**, except the fire and life safety plan review provisions for structures required to receive a state fire and life safety plan review; and

(B) Fire and life safety construction on townhouse structures, rowhouse structures, and apartment buildings regulated by the **Oregon Residential Specialty Code**.

(c) Commercial Fire Plans Examiner certificate holders who also have the Commercial Building Plans Examiner Certificate may review construction plans for compliance with the fire and life safety plan review provisions of the **Oregon Structural Specialty Code** and the **Oregon Fire Code**.

(d) A Commercial Mechanical Inspector certificate holder may conduct construction inspections and may review construction plans for:

(A) All work regulated by the **Oregon Mechanical Specialty Code**; and

(B) Mechanical work on townhouse structures, rowhouse structures and apartment buildings regulated by the **Oregon Residential Specialty Code**.

(e) A Residential Building Inspector certificate holder may conduct construction inspections and plan reviews for structural work regulated by the **Oregon Residential Specialty Code**; and

(A) Construction work on manufactured structures and accessory buildings and structures regulated under the **Oregon Manufactured Dwelling Installation Specialty Code**;

(B) The provisions of OAR chapter 918, division 500;

(C) The **Manufactured Home Construction and Safety Standards in 24 CFR 3280 and 24 CFR 3282**; and

(D) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks.

(f) A Residential Mechanical Inspector certificate holder may conduct inspections and plan reviews for mechanical work regulated by the **Oregon Residential Specialty Code**; and

(A) Mechanical work on manufactured dwelling alterations under the **Oregon Manufactured Dwelling Installation Specialty Code**;

(B) The provisions of OAR chapter 918, division 500;

(C) The **Manufactured Home Construction and Safety Standards** located in **24 CFR 3280 and 3282**; and

(D) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks.

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

Stat. Auth.: ORS 455.720 & 455.730

Stats. Implemented: ORS 455.720 & 455.730

Hist.: 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 13-2007, f. 12-28-07 cert. ef. 1-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-

2016, f. & cert. ef. 4-1-16

918-098-1015

Scope of Work Allowed for Persons with an Oregon Inspector Certification and Oregon Code Certifications

Persons who possess a valid Oregon Inspector Certification and a valid Oregon Code Certification may perform inspections and plan reviews based on the class designated on their certificate. The classes, other than electrical and plumbing inspector classifications found in OAR 918-281-0020 and 918-695-0400, are:

(1) Building Official. Persons certified as an Oregon Building Official may oversee jurisdictions' administration and enforcement of the state building code for those specialty codes assumed by the jurisdiction pursuant to ORS 455.148 or 455.150. Building officials may not perform plan reviews or inspections unless they possess the appropriate certification for the plan review or inspection being performed.

(2) Fire and Life Safety. Persons certified as fire and life safety plans examiners may review construction plans for compliance with the fire and life safety plan review provisions of the **Oregon Structural Specialty**

ADMINISTRATIVE RULES

Code and the **Oregon Fire Code** for any structure regulated by the Oregon Structural Specialty Code.

(3) A-Level.

(a) Persons certified as A-level structural plans examiners may:

(A) Review construction plans for compliance with the provisions of the **Oregon Structural Specialty Code** and **Oregon Fire Code** for all work regulated by the Oregon Structural Specialty Code, except the fire and life safety plan review provisions for structures required to receive a state fire and life safety plan review; and

(B) Review construction plans for work that falls within the B-level structural plans examiner classification.

(b) Persons certified as A-level structural inspectors:

(A) Conduct construction inspections of all work regulated by the Oregon Structural Specialty Code; and

(B) Conduct inspections of work that falls within the B-level structural inspector classification.

(c) Persons certified as A-level mechanical inspectors may:

(A) Conduct construction inspections and may review construction plans for all work regulated by the **Oregon Mechanical Specialty Code**; and

(B) Conduct inspections and review construction plans for work that falls within the B-level mechanical inspector classification.

(4) B-Level.

(a) Persons certified as B-level structural plans examiners may review construction plans for compliance with the provisions of the Oregon Structural Specialty Code and Oregon Fire Code for work regulated by the Oregon Structural Specialty Code, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS chapter 671.

(b) Persons certified as B-level structural inspectors may conduct construction inspections of work regulated by the Oregon Structural Specialty Code, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS chapter 671.

(c) Persons certified as B-level mechanical inspectors may conduct construction inspections of work regulated by the Oregon Mechanical Specialty Code, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS chapter 671.

(d) Persons certified as B-level structural plans examiners, B-level structural inspectors, or B-level mechanical inspectors:

(A) May qualify to be certified to review construction plans or conduct inspections of structures regulated by the Oregon Residential Specialty Code; and

(B) May not be authorized to review construction plans or conduct inspections of structures that are outside the B-level classification without first obtaining the appropriate certification.

(5) One and two family dwelling or residential.

(a) Persons certified as one and two family dwelling or residential:

(A) Structural inspectors may conduct construction inspections of structural work regulated by the Oregon Residential Specialty Code; and

(i) Manufactured structures and manufactured structure accessory buildings and structures under the **Oregon Manufactured Dwelling Installation Specialty Code**;

(ii) The provisions of OAR chapter 918, division 500;

(iii) The Manufactured Home Construction and Safety Standards located in 24 CFR 3280 and 3282; and

(iv) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks.

(B) Mechanical inspectors may conduct inspections for mechanical work regulated by the Oregon Residential Specialty Code; and

(i) Manufactured dwellings under the Oregon Manufactured Dwelling Installation Specialty Code;

(ii) The provisions of OAR chapter 918, division 500;

(iii) The Manufactured Home Construction and Safety Standards located in 24 CFR 3280 and 3282; and

(iv) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks.

(C) Plumbing inspectors may conduct inspections for plumbing work regulated by the Oregon Residential Specialty Code; and

(i) Manufactured dwellings under the Oregon Manufactured Dwelling Installation Specialty Code;

(ii) The provisions of OAR chapter 918, division 500;

(iii) The Manufactured Home Construction and Safety Standards located in 24 CFR 3280 and 3282;

(iv) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks; and

(v) Any portion of a solar water heating system installation up to 180 gallons of storage tank capacity.

(D) Electrical inspectors may conduct inspections for electrical work regulated by the Oregon Residential Specialty Code; and

(i) The Oregon Manufactured Dwelling Installation Specialty Code;

(ii) The provisions of OAR chapter 918, division 500;

(iii) The Manufactured Home Construction and Safety Standards located in 24 CFR 3280 and 3282;

(iv) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks; and

(v) Any portion of a solar PV installation up to 25 Kw.

(b) Persons certified as a one-and-two family dwelling plans examiners may review construction plans for compliance with provisions of the Oregon Residential Specialty Code; and

(i) Structures under the Oregon Manufactured Dwelling Installation Specialty Code;

(ii) The provisions of OAR chapter 918, division 500;

(iii) The Manufactured Home Construction and Safety Standards located in 24 CFR 3280 and 3282; and

(iv) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks.

(c) Persons certified as a one and two family dwelling or residential inspectors and plans examiners may not be authorized to review construction plans or conduct inspections of either A-level or B-level structures without the required commercial A-level or B-level certification.

(d) See OAR 918-098-1325 for additional requirements of one and two family dwelling residential inspectors and plans examiners performing manufactured dwelling alteration inspections or plan reviews.

(e) See OAR 918-098-1330 for additional requirements of one and two family dwelling residential inspectors performing manufactured structure accessory structure or accessory building inspections.

(6) Specialized Solar Photo-Voltaic. Persons certified as a Specialized Solar PV inspector may conduct inspections of the structural and electrical systems for solar PV installations up to 25 Kw that follow the "prescriptive installation" provisions in section 305.4 of the Oregon Solar Installation Specialty Code.

(7) Plumbing inspectors certified under OAR 918-695-0400 may, in addition to any other authority, inspect any portion of a solar water heating system installation up to 180 gallons of storage tank capacity. This rule does not apply to limited or special plumbing inspectors.

(8) Electrical inspectors certified under OAR 918-281-0020 may, in addition to any other authority, inspect any portion of a solar PV installation up to 25 Kw.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: DC 24-1978, f. & ef. 9-1-78; DC 10-1980, f. & ef. 9-10-80; DC 4-1983, f. & ef. 1-12-83; Renumbered from 814-003-0065; BCA 16-1992, f. & cert. ef. 8-11-92; BCD 8-1997, f. & cert. ef. 4-1-97; Renumbered from 918-099-0065; BCD 15-1997, f. 9-30-97, cert. ef. 10-1-97; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0060; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0060; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 13-2007, f. 12-28-07 cert. ef. 1-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; 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 5-2014, f. & cert. ef. 4-1-14; BCD 6-2016, f. & cert. ef. 4-1-16

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.

ADMINISTRATIVE RULES

(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; BCD 6-2016, f. & cert. ef. 4-1-16

918-098-1210

Residential Plumbing Inspectors

(1) A person possessing an Oregon “One and Two Family Dwelling Plumbing Inspector” certification is considered a “Residential Plumbing Inspector” for the purpose of these rules.

(2) A person issued a residential plumbing inspector certification must also possess a valid Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing residential plumbing inspections.

(3) A residential plumbing inspector may conduct inspections for plumbing work regulated by the Oregon Residential Specialty Code, and where connection to the building is not a separate plumbing system; and

(a) Plumbing work on manufactured dwellings, manufactured structure accessory buildings and structures under the **Oregon Manufactured Dwelling Installation Specialty Code**;

(b) The provisions of OAR chapter 918, division 500;

(c) The **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282;

(d) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks; and

(e) Any portion of a solar water heating system installation up to 180 gallons of storage tank capacity.

(4) To qualify to perform work as a residential plumbing inspector, individuals must demonstrate compliance with at least one of the following minimum experience, education, or training requirements:

(a) A valid division certification as an **Oregon Plumbing Specialty Code** inspector; or

(b) Completion of a training course administered by the division; or

(c) Two years of experience designing or installing plumbing systems as a journeyman plumber or its equivalent; or

(d) 2 years of experience as a plumbing inspector in another jurisdiction inspecting plumbing systems in commercial or residential structures for compliance with a recognized code for plumbing installations; or

(e) 90 quarter hours or 60 semester hours education and training in mechanical engineering, which includes designing and installing plumbing systems, through a college or community college; or

(f) Valid division certification as a one and two family dwelling or residential inspector under one or more provisions of the Oregon Residential Specialty Code, and:

(A) 1 year of experience administering and enforcing another provision of the Oregon Residential Specialty Code; and

(B) Confirmation by the building official of the jurisdiction that employs the applicant that the applicant has completed a one and two family dwelling or residential plumbing inspector cross-training program that meets the minimum requirements established by the division.

(g) Any combination of experience designing, installing, or inspecting plumbing systems totaling 3 years.

(5) Persons certified by a nationally recognized certification body to inspect plumbing systems in commercial or residential structures according

to a recognized code in plumbing installations may be granted 2 years of credit toward the experience requirements listed in subsections (4)(c) and (d) of this rule.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.622

Hist.: BCD 8-1997, f. & cert. ef. 4-1-97; BCD 38-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0220; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0220; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; 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 5-2014, f. & cert. ef. 4-1-14; BCD 6-2016, f. & cert. ef. 4-1-16

918-098-1215

Residential Electrical Inspectors

(1) A person possessing an Oregon “One and Two Family Dwelling Electrical Inspector” certification is considered a “Residential Electrical Inspector” for the purpose of these rules.

(2) A person issued a residential electrical inspector certification must also possess a valid Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing residential electrical inspections.

(3) Residential electrical inspectors may conduct inspections for electrical work regulated by the **Oregon Residential Specialty Code**; and

(a) Electrical work on manufactured dwellings, manufactured structure accessory buildings and structures under the Oregon Manufactured Dwelling Installation Specialty Code;

(b) The provisions of OAR chapter 918, division 500;

(c) The **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282;

(d) Plan review and inspection of manufactured dwelling parks, recreational parks, organizational camps, and picnic parks; and

(e) Any portion of a solar PV installation up to 25 Kw.

(4) To qualify to perform work as a residential electrical inspector, individuals must demonstrate compliance with at least one of the following minimum experience, education, or training requirements:

(a) A valid division certification as an Oregon Electrical Specialty Code inspector; or

(b) Completion of a training course administered by the division; or

(c) 2 years of experience installing electrical systems as a limited residential journeyman electrician or a general journeyman electricians license or their respective equivalents; or

(d) 2 years of experience as an electrical inspector in another jurisdiction inspecting electrical installations in commercial or residential structures for compliance with a recognized code for electrical installations; or

(e) 90 quarter hours or 60 semester hours education and training in electrical engineering, which includes designing and installing electrical systems, through a college or community college; or

(f) Valid division certification as a one and two family dwelling or residential inspector under one or more provisions of the Oregon Residential Specialty Code, and:

(A) 1 year of experience administering and enforcing another provision of the Oregon Residential Specialty Code; and

(B) Confirmation by the division that an applicant has completed a one and two family dwelling or residential electrical inspector cross-training program that meets the minimum requirements established by the division.

(g) Any combination of experience or education listed in subsections (c) through (e) of this section designing, installing, or inspecting electrical systems totaling 3 years.

(5) Persons certified by a nationally recognized certification body to inspect electrical installations in commercial or residential structures according to a recognized code in electrical installations may be granted 2 years of credit toward the experience requirements and may be considered as meeting some requirements of a division approved cross-training program, except the experience listed in subsections (4)(c) and (d) of this rule.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.622

Hist.: BCD 8-1997, f. & cert. ef. 4-1-97; BCD 38-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0230; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0230; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; 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 5-2014, f. & cert. ef. 4-1-14; BCD 6-2016, f. & cert. ef. 4-1-16

918-098-1305

Manufactured Structure Installation Inspector Certification

(1) Scope of Activities and Authority.

(a) A manufactured structure installation inspector conducts onsite field inspections of manufactured dwelling or park trailer installations

ADMINISTRATIVE RULES

including site preparation, setbacks, drainage, stand, foundation support, earthquake bracing systems, tie-downs, under-floor enclosures, access, egress, plumbing utility connections (within 30 lineal feet of the manufactured dwelling), mechanical connections and electrical feeder assembly connections (as defined by Article 550 of the National Electrical Code), electrical fixture connections, and plumbing, mechanical, and electrical crossover connections for manufactured structures under ORS 446.230 and 446.240;

(b) This certification does not include inspections or plan reviews of manufactured dwelling alterations or manufactured structure accessory structures and accessory buildings. See OAR 918-098-1325 and 918-098-1330 for certification requirements.

(c) This certification can be used only in a jurisdiction that:

(A) Meets all of the requirements of this rule and OAR 918-500-0055;

(B) Complies with ORS 446.250 and 446.253(2) relating to the delegation of full responsibility for permit issuance and inspections;

(C) Issues permits according to ORS 446.253; and

(D) Enforces the current edition of the **Oregon Manufactured Dwelling Installation Specialty Code**, the provisions of OAR chapter 918, division 500, and all referenced standards contained therein.

(2) A Manufactured Structure Installation Inspector must also possess an Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing inspections.

(3) Revocation. The division is authorized to revoke this certification under ORS 446.255. Persons certified under this rule who fail to meet the minimum continuing education requirements are subject to revocation. If the minimum continuing education is met within 60 days from the date it was originally due, the division may discontinue any pending revocation action based on a failure to meet minimum continuing education requirements.

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

Stat. Auth.: ORS 446.250, 446.255 & 455.720

Stats. Implemented: ORS 446.250, 446.255 & 455.720

Hist.: BCA 25-1990, f. & cert. ef. 10-17-90; BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; Renumbered from 918-099-0135; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; Renumbered from 918-098-0310; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; Renumbered from 918-098-0310; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; 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 6-2016, f. & cert. ef. 4-1-16

918-098-1320

Park and Camp Inspector Certification

Scope of Activities and Authority.

(1) A park and camp inspector conducts field inspections, reviews plans, and provides other technical services for manufactured dwelling parks, recreational parks, organizational camps, and picnic parks under ORS 446.066 and 446.335.

(2) This certification can only be used in a jurisdiction that:

(a) Meets all of the requirements of this rule;

(b) Complies with ORS 446.430, 455.170, and 455.680 relating to the delegation of full responsibility for permit issuance and inspections; and

(c) Issues permits, enforces the current edition of ORS chapter 446, OAR chapter 918, divisions 600 and 650, and all referenced standards contained therein.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: BCA 25-1990, f. & cert. ef. 10-17-90; BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; Renumbered from 918-099-0150; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; Renumbered from 918-098-0340; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; Renumbered from 918-098-0340; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; 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 6-2016, f. & cert. ef. 4-1-16

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) Performing only inspections or plan reviews with 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 Chapters 455 and 479 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 Chapters 455 and 479;

(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 479.853;

(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 assisting 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 requests for information from the division, including requests for information during the course of an investigation. 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; BCD 6-2016, f. & cert. ef. 4-1-16

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 licensed 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 and ensuring they 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; and

(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; BCD 6-2016, f. & cert. ef. 4-1-16

ADMINISTRATIVE RULES

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; BCD 6-2016, f. & cert. ef. 4-1-16

918-695-0410

Certification for Medical Gas Plumbing Inspectors

(1) To promote effective and uniform enforcement of the **Oregon Plumbing Specialty Code** by improving the competence of plumbing inspectors, this rule establishes minimum training and certification qualifications to make inspections for compliance with the **Oregon Plumbing Specialty Code**. Persons employed for purposes of enforcing the requirements of other administrative agencies are exempt from this section.

(2) No person may be appointed or employed as a medical gas plumbing inspector by any municipality without being currently certified under the provisions of this rule.

(3) Persons must be certified as an Oregon Plumbing Specialty Code Inspector for inspections for compliance with the Oregon Plumbing Specialty Code.

(4) No person may perform medical gas plumbing inspections or plan reviews without a valid division-approved medical gas plumbing inspector certification.

(5) In order to obtain a Medical Gas Plumbing Inspector certification a person must apply for an Oregon Code Certification under OAR 918-098-1025(3)(a) and (b); and

(a) Submit to the division a copy of a valid ASSE 6020 medical gas certification; or

(b) Complete a training course for medical gas plumbing inspectors administered by the division.

(6) Persons certified under this rule must maintain their Oregon Plumbing Specialty Code Inspector certification including any required training.

(7) Notwithstanding subsection (5) of this rule the division may issue a Medical Gas Plumbing Inspector certification to a person with a valid Oregon Plumbing Specialty Code Inspector certification who submits to the division proof of a valid ASSE 6020 medical gas certification issued prior to April 1, 2016. This subsection expires November 1, 2016.

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

Stat. Auth.: ORS 447.010

Stats. Implemented: ORS 447.010

Hist.: BCD 27-2000, f. 10-13-00 cert. ef. 10-01-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; Administrative correction 1-20-06; BCD 6-2016, f. & cert. ef. 4-1-16

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**Department of Consumer and Business Services,
Finance and Securities Regulation
Chapter 441**

Rule Caption: Revises the fee schedule for assessments financial institutions pay to the Director.

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

Filed with Sec. of State: 3-16-2016

Certified to be Effective: 3-16-16 thru 7-29-16

Notice Publication Date:

Rules Amended: 441-500-0020

Subject: The Department of Consumer and Business Services (DCBS) is revising its rules to ensure that it has sufficient revenue to adequately carry out its supervisory mandates under the Oregon Bank Act, which requires DCBS to determine whether Oregon state-chartered banking institutions are operating in a safe and sound manner. The temporary rule increases assessment rates by five percent and also extends the date fees are due by 15 days to provide banks and trust companies additional time to pay the revised assessment.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-500-0020

Fees for Banks, Trust Companies, Savings Banks, Extranational Institutions, Savings Associations and Call for Reports

(1) Definitions.

(a) As used in this rule, "assets" means;

(A) The average assets of an Oregon based insured institution; or

(B) The average Oregon assets of an extranational institution.

(b) For the purposes of determining averages in subsections (1)(a):

(A) Average assets for an Oregon based insured institution shall be determined from the quarterly Call Reports of Condition and Income filed with the applicable federal supervisory agency for the calendar year immediately preceding the due date of the fee assessment; and

(B) Average Oregon assets in for an extranational institution shall be determined from the quarterly reports of Oregon Assets filed with the Director for the calendar year immediately preceding the due date of the assessment.

(2) Call for Reports. To the extent any report used to determine the fee assessment is not required to be filed or made available to the Director under other Banking Rules, the specific reports shall be provided by the insured institution or extranational institution upon the call of the Director to allow the fee assessments to be determined.

(3) Subject to section (10) of this rule, the annual fee assessment under ORS 706.530 for an insured institution subject to the jurisdiction of the Director, including a savings association, is: If assets are:

(a) Less than \$10 million, \$840 plus .000289 of all assets;

(b) \$10 million or more but less than \$25 million, \$1,706 plus .000210 of all assets;

(c) \$25 million or more but less than \$100 million, \$3,040 plus .000161 of all assets;

(d) \$100 million or more but less than \$500 million, \$10,285 plus .000095 of all assets;

(e) \$500 million or more but less than \$1 billion, \$23,935 plus .000069 of all assets;

(f) \$1 billion or more but less than \$2 billion, \$26,035 plus .000067 of all assets;

(g) \$2 billion or more but less than \$3 billion, \$28,135 plus .000066 of all assets;

(h) \$3 billion or more but less than \$4 billion, \$31,285 plus .000065 of all assets;

(i) \$4 billion but less than \$10 billion, \$35,485 plus .000064 of all assets;

(j) \$10 billion or more, \$950,000.

(4) Subject to section (10) of this rule, the annual fee assessment determined in section (3) of this rule shall include a risk-based assessment calculated on the basis of the CAMELS rating assigned to the insured institution as of December 31 in the calendar year immediately preceding the due date of the risk-based assessment. The rate of the risk-based assessment is as follows: [Table not included. See ED. NOTE.]

(5) Subject to section (10) of this rule, the annual regulatory fee assessment under ORS 706.530 for each trust company subject to the Director's jurisdiction is \$2,100 plus:

(a) .0000639 of the first \$150 million in managed assets; and .0000319 of managed assets greater than \$150 million;

(b) .0000160 of the first \$150 million in custodial assets; and .0000080 of custodial assets greater than \$150 million.

(6) Subject to section (10) of this rule, the annual regulatory fee assessment under ORS 706.530 and 713.090 for each extranational institution is: If Oregon assets are:

(a) Less than \$10 million, \$845 plus .000310 of all assets;

(b) \$10 million or more but less than \$25 million, \$2,545 plus .000140 of all assets;

(c) \$25 million or more but less than \$100 million, \$3,545 plus .000100 of all assets;

(d) \$100 million or more but less than \$500 million, \$6,745 plus .000068 of all assets;

(e) \$500 million or more, but less than \$1 billion, \$10,245 plus .000061 of all assets;

(f) \$1 billion or more but less than \$2 billion, \$15,245 plus .000056 of all assets;

(g) \$2 billion or more, \$17,245 plus .000055 of all assets.

(7) The fees assessed by this rule are not subject to prorate or refund.

(8) If no fee is assessed during any year under sections (3) or (5) of this rule because an insured institution did not have Oregon assets during the calendar year immediately preceding the due date of the assessment, the insured institution may be charged for actual cost, if the Director partici-

ADMINISTRATIVE RULES

pates in any examination of the institution during the same calendar year. Actual cost shall be determined in the same way as provided in OAR 441-500-0030.

(9) All fees assessed under sections (3) to (6) of this rule are due and payable on April 15 of each calendar year.

(10)(a) The Director may by order reduce the fees assessed for any specific year.

(b) When a fee is assessed under sections (3) to (6) of this rule, the assessment shall not be less than:

(A) \$5,000 for an insured institution, including a savings association, under section (3);

(B) \$2,500 for a trust company under section (5) and an extranational institution under section (6).

(11) The charges for special examination and special attention provided in OAR 441-500-0030 are in addition to and not in lieu of the fees assessed by this rule.

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

Stat. Auth.: ORS 706.620

Stats. Implemented: ORS 706.530

Hist.: FID 2-1986, f. & ef. 3-7-86; FID 3-1986, f. & ef. 5-15-86; FID 4-1986, f. & ef. 7-25-86; FCS 2-1988, f. 1-29-88, cert. ef. 2-1-88; Renumbered from 805-002-0100; FCS 1-1989, f. 1-18-89, cert. ef. 2-1-89; FCS 1-1993, f. & cert. 2-23-93; FCS 4-1994, f. & cert. ef. 4-25-94; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-505-0020; FCS 6-2007, f. & cert. ef. 10-22-07; FCS 1-2008, f. & cert. ef. 1-28-08; FCS 2-2009, f. & cert. ef. 2-3-09; FCS 9-2009, f. 9-15-09, cert. ef. 9-25-09; FCS 2-2010, f. & cert. ef. 3-16-10; FSR 2-2016(Temp), f. & cert. ef. 3-16-16 thru 7-29-16

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

Rule Caption: Calculation and application of a fund balance credit

Adm. Order No.: HMP 1-2016(Temp)

Filed with Sec. of State: 3-25-2016

Certified to be Effective: 3-25-16 thru 9-19-16

Notice Publication Date:

Rules Amended: 945-030-0020

Subject: The amendment to OAR 945-0030-0020 synchronizes the calculation and application of any fund balance credit with the Department of Consumer and Business Services's two-year budget cycle. The amendment clarifies that a Marketplace issuer is entitled to credits only to the extent that it is offering products through the Marketplace at the time the credit is due to be applied. The amendment also makes technical corrections to the rule.

Rules Coordinator: Victor Garcia—(971) 283-1878

945-030-0020

Establishment of Administrative Charge Paid by Insurers

(1) After consulting with the advisory committee created by Section 13 of 2015 Senate Bill 1, the Marketplace will annually provide a report on administrative charges to the Director of the Department of Consumer and Business Services.

(2) The report will be posted on the Marketplace's website for public review and comment.

(3) At a minimum, the report will include:

(a) A projection of Marketplace operating expenses, including the Marketplace's share of the department's shared services expenses and operating expenses borne by the Marketplace and reimbursed by another agency, based on the department's budgets, assuming for this purpose that the operating expenses in any actual or expected biennial budget are distributed evenly over the biennium;

(b) A projection of Marketplace enrollment for the next calendar year; and

(c) A proposed administrative charge for the next calendar year.

(4) The department will hold a public hearing on a proposed administrative charge.

(5) No later than the end of the first quarter of a calendar year the Director shall amend or approve an administrative charge for the next calendar year.

(6) Any administrative charge adopted by the Director shall be established in rule.

(7) The administrative charge shall be expressed as a per member per month figure.

(8) The annual administrative charge assessed by the Marketplace shall not exceed the limits set forth in ORS 741.105(2) on the premium or

other monthly charge based on the number of enrollees receiving coverage in qualified health plans or stand alone dental plans through the Marketplace during the month of December preceding the report.

(9) By the 30th day of September of every odd year, the department shall:

(a) Calculate the maximum amount of funds that the department may hold under ORS 741.105(3)(b) by calculating:

(A) The Marketplace's fund balance as of the 30th day of the immediately preceding June minus:

(B) One-fourth of the Marketplace's budgeted operating expenses for the two-year period beginning on the first day of the immediately preceding July and ending on the 30th day of June of the following odd year;

(A) Example 1: If the Marketplace's fund balance is \$1 million as of June 30, 2017 and its operating budget is \$4 million for July 1, 2017 through June 30, 2019, the department would retain \$1 million and credit carriers \$0.00 because there is no excess fund balance - \$1 million minus (\$4 million divided by 4) is zero;

(B) Example 2: If the Marketplace's fund balance is \$1 million as of June 30, 2017 and its operating budget is \$2.4 million for July 1, 2017 through June, 2019, the department would retain an excess fund balance of \$600,000 and credit a total of \$400,000 to carriers - \$1 million minus (\$2.4 million divided by 4) equals \$400,000; and

(c) Credit each individual carrier participating in the Marketplace an amount equal to the pro-rata share of any positive difference obtained from the calculation described in paragraph (9)(b) of this rule based on the total assessments the carrier paid to the department during the two-year period described in paragraph (9)(a)(A) of this rule plus the pro-rata share of the total assessments paid during the two-year period described in paragraph (9)(a)(A) of this rule by carriers no longer selling qualified health plans through the Marketplace.

(A) Example 1: If the difference in the calculation described in paragraph (9)(b) of this rule is less than or equal to zero on June 30, 2017, there is no excess fund balance and the department would not credit any individual carrier because the fund balance is either zero or negative.

(B) Example 2: If, after performing the calculation described in paragraph (9)(b) of this rule, the excess fund balance is \$1.2 million on June 30, 2017, and Carrier A paid 10% of the total assessments the Marketplace received between July 1, 2015 and June 30, 2017, the department must credit Carrier A a total of \$120,000 - \$1.2 million multiplied by .10 equals \$120,000.

(10) Except as provided in paragraph 11 of this rule, the department shall apply the credit described in paragraph (9)(c) of this rule by reducing each monthly charge assessed during the period described in paragraph (9)(a)(B) by one-twenty-fourth of the credit. For example, if, after performing the calculation described in paragraph (9)(b) of this rule, the excess fund balance is \$1.2 million on June 30, 2017, and Carrier A paid 10% of the total assessments received by the Marketplace between July 1, 2015 and June 30, 2017, the department must credit Carrier A \$5,000 per month in each month the carrier participates in the Marketplace between July 2017 through June 2019 - (\$1.2 million multiplied by .10) divided by 24 equals \$5,000.

(11) If the director determines that application of the credit as described in paragraph (10) of this rule would jeopardize a Marketplace carrier's financial solvency, the department may use any reasonable method to credit the carrier the amount due under paragraph (9)(c) of this rule.

Stat. Auth.: ORS 741.002 & 741.005

Stats. Implemented: ORS 741.105

Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15; OHIE 4-2015, f. & cert. ef. 11-6-15; HMP 1-2016(Temp), f. & cert. ef. 3-25-16 thru 9-19-16

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

Adm. Order No.: HMP 2-2016

Filed with Sec. of State: 4-12-2016

Certified to be Effective: 4-12-16

Notice Publication Date: 3-1-2016

Rules Amended: 945-030-0030

Rules Repealed: 945-030-0035

Subject: 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

ADMINISTRATIVE RULES

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—(971) 283-1878

945-030-0030

Administrative Charge on Insurers and Health Care Service Contractors

(1) Effective January 1, 2015, each health insurer or health care service contractor offering:

(a) Qualified health plans through the Marketplace shall pay a monthly administrative charge equal to \$9.66 times the number of members enrolled through the Marketplace in that month.

(b) Stand alone dental plans through the Marketplace shall pay a monthly administrative charge equal to \$0.97 times the number of members enrolled through the Marketplace in that month.

(2) Effective January 1, 2016, each health insurer or health care service contractor offering:

(a) Qualified health plans through the Marketplace shall pay a monthly administrative charge equal to \$9.66 times the number of members enrolled through the Marketplace in that month.

(b) Stand alone dental plans through the Marketplace shall pay a monthly administrative charge equal to \$0.97 times the number of members enrolled through the Marketplace in that month.

(3) Effective January 1, 2017, each health insurer or health care service contractor offering:

(a) Qualified health plans through the Marketplace shall pay a monthly administrative charge equal to \$6.00 times the number of members enrolled through the Marketplace in that month.

(b) Stand alone dental plans through the Marketplace shall pay a monthly administrative charge equal to \$0.57 times the number of members enrolled through the Marketplace in that month.

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.105

Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 3-2013(Temp), f. & cert. ef. 5-28-13 thru 11-22-13; OHIE 5-2013, f. & cert. ef. 8-19-13; OHIE 2-2014, f. & cert. ef. 4-15-14; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15; OHIE 4-2015, f. & cert. ef. 11-6-15; HMP 2-2016, f. & cert. ef. 4-12-16

Department of Consumer and Business Services, Insurance Regulation Chapter 836

Rule Caption: Aligning health insurance rules to changes in applicable state and federal laws

Adm. Order No.: ID 4-2016

Filed with Sec. of State: 4-8-2016

Certified to be Effective: 4-8-16

Notice Publication Date: 1-1-2016

Rules Adopted: 836-053-0015, 836-053-1500, 836-053-1505, 836-053-1510

Rules Amended: 836-010-0013, 836-052-1000, 836-053-0010, 836-053-0021, 836-053-0030, 836-053-0050, 836-053-0066, 836-053-0230, 836-053-0410, 836-053-0431, 836-053-0465, 836-053-0472, 836-053-0510, 836-053-0825, 836-053-0830, 836-053-0835

Rules Repealed: 836-053-0014(T), 836-053-0015(T), 836-053-1500(T), 836-053-1505(T), 836-053-1510(T), 836-009-0020, 836-009-0025, 836-009-0030, 836-009-0035, 836-009-0040

Subject: These rules reflect changes in state and federal laws and statutes that impact current rules and require new rules. The rules include provisions defining “small employer” and establishing eligible employees and the counting methodology an insurer must use to determine whether an employer is a small employer or a large employer. These rules are necessary to implement requirements of Senate Bill 231 (2015 Session) to establish the definition of “prominent carrier” and to prescribe the primary care services for which costs must be reported to the Department of Consumer and Business Services (DCBS) by prominent carriers. These rules define “prominent carrier” based on annual premium income and clarify the data to be reported to DCBS.

Because federal legislation eliminates the need for expanded transitional plans for small employer groups that have 51-100 employees, these rules also repeal a previously adopted temporary rule that allowed small group transitional plans and provided guidance to

insurers who proposed to issue the transitional plans to certain small employers. The rules also eliminate provisions related to individual transitional plans which ended on December 31, 2015, because those provisions will no longer be necessary and update exhibits related to transitional plans.

The rules specify the intent of the DCBS to not enforce provisions of a state mandate related to prosthetics and orthotics that sunset by operation of the state law. Other federal statutes may impose similar coverage requirements.

The rules clarify that an insurer may not rescind a policy or certificate on the basis of statements related to pediatric dental coverage.

Rules relating to a one percent assessment on health insurers are repealed because the assessment is no longer imposed by Oregon statutes.

Finally, the rules eliminate obsolete references to 2014 special enrollment periods, the Oregon Health Insurance Exchange Corporation, the use of health statements for underwriting purposes and make technical changes to reflect the merger of two DCBS divisions, the Insurance Division and the Division of Finance and Corporate Securities, into a single division, the Division of Financial Regulation.

Rules Coordinator: Karen Winkel—(503) 947-7694

836-010-0013

Additional Filing Requirements for Transitional Health Benefit Plans

(1) Under section 5, chapter 80, Oregon Laws 2014, a transitional health benefit plan must comply with the Insurance Code as of December 31, 2013.

(2) In addition to the requirements of OAR 836-010-0000, 836-010-0011, and 836-010-0021 when submitting a filing for a rate change to a transitional health benefit plan, the insurer shall comply with the guidance for the applicable plan year as provided in Exhibits 1, 2 and 3 of this rule.

(3) The additional filing requirements set forth in this section apply only to 2015, 2016 and 2017 transitional plans.

Stat. Auth.: ORS 731.244 & 743.018

Stats. Implementing: 2014 OL Ch. 80, Sec. 5 (Enrolled SB 1582)

Hist.: ID 8-2014(Temp), f. & cert. ef. 4-24-14 thru 10-20-14; ID 17-2014, f. & cert. ef. 10-6-14; ID 4-2016, f. & cert. ef. 4-8-16

836-052-1000

Prosthetic and Orthotic Devices

(1) This rule is adopted under the authority of ORS 731.244 for the purpose of clarifying position of the Department of Consumer and Business Services regarding the status and enforcement of ORS 743A.144.

(2) Because the Oregon Legislative Assembly has not updated ORS 743A.144, the provisions of that statute are subject to the automatic repeal found in ORS 743A.001. Therefore, the department will not actively update the list of prosthetic and orthotic devices and supplies subject to the mandated provisions. However, many of these devices and supplies may be required under other state or federal law and the department will continue to review provisions in plans and policies for compliance with other applicable state and federal laws related to prosthetic or orthotic devices.

Stat. Auth.: ORS 731.244 & 743A.144

Stats. Implemented: ORS 743A.144

Hist.: ID 12-2007, f. 12-18-07, cert. ef. 1-1-08; ID 12-2009, f. & cert. ef. 12-18-09; ID 8-2011, f. & cert. ef. 2-23-11; ID 8-2012, f. & cert. ef. 4-5-12; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0010

Purpose; Statutory Authority; Enforcement

(1) OAR 836-053-0010 to 836-053-0070 are adopted for the purpose of implementing ORS 743B.003 to 743B.020 and 743B.100, pursuant to the authority of ORS 731.244 and 743B.003 to 743B.020 and 743B.100.

(2) Violation of any provision of OAR 836-053-0021 to 836-053-0065 is an unfair trade practice under ORS 746.240.

Stat. Auth.: ORS 731.244, 743.731(4) & 746.240

Stats. Implemented: ORS 743.730 et seq.

Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 12-1996, f. & cert. ef. 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0015

Definition of Small Employer

(1) This rule is adopted for the purpose of modifying the definition of small employer as authorized in ORS 743B.005.

(2) This rule establishes the definition of small employer to be used in any instance in which the definition set forth in ORS 743B.005 would

ADMINISTRATIVE RULES

apply and in rules of the Department of Consumer and Business Services implementing the Insurance Code, for the period beginning on January 1, 2016 and ending on December 31, 2017.

(3) As used in ORS 743B.005 and rules of the Department of Consumer and Business Services implementing the Insurance Code, "small employer" means, in connection with a group health benefit plan with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 50 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

(4) For purposes of determining the number of employees in a group health benefit plan, insurers and producers should follow the guidance entitled, "Revised Counting Methodology for Determining Small or Large Group," as set forth in Exhibit A of this rule.

Stat. Auth.: ORS 731.244 & 743.730(27)

Stats. Implemented: ORS 743.730

Hist.: ID 12-2015(Temp), f. & cert. ef. 10-16-15 thru 4-11-16; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0021

Plans Offered to Oregon Small Employers

(1) A small employer carrier shall issue a plan to a small employer if the employee eligibility criteria established by the small employer meet the requirements of this section. A carrier must follow the methodology and address the issues included in the "Revised Counting Methodology for Determining Small or Large Group," as set forth in Exhibit A of OAR 836-053-0015 to collect data to determine the applicable type of group coverage for an employer and to provide disclosure notices as required for small employers. The eligibility criteria must be based solely on the criteria set forth in Exhibit A and completion of a group eligibility waiting period, if applicable.

(2) Impermissible employee eligibility criteria include:

(a) Health status;

(b) Disability; and

(c) A requirement that an employee be actively at work when coverage would otherwise begin.

(3) A small employer carrier may provide different health benefit plans to different categories of employees of an employer, as determined by the employer only if based on bona fide employment-based classifications that are consistent with the employer's usual business practice. The categories may not relate to the actual or expected health status of the employees or their dependents.

Stat. Auth.: ORS 731.244, 743B.020 & 743B.003

Stats. Implemented: ORS 743B.003 - 743B.020 & 743B.100

Hist.: ID 5-1998, f. & cert. ef. 3-9-98; ID 23-2002, f. & cert. ef. 11-27-02; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 12-2015(Temp), f. & cert. ef. 10-16-15 thru 4-11-16; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0030

Marketing of a Health Benefit Plan to Small Employers

(1) A carrier may offer different small employer health benefit plans in different geographic areas. The bronze and silver plan required to be offered under ORS 743B.130 and a point-of-service plan required under ORS 743B.220 must be offered in every geographic area in which the carrier offers or renews its small employer health benefit plans. A carrier may not cease offering or renewing, or offering and renewing, the bronze or silver small group health benefit plan required to be offered under ORS 743B.130 or a point-of-service plan required under ORS 743B.130 in a geographic area unless the carrier discontinues all plans in the geographic area as provided in ORS 743B.013.

(2) A carrier must offer all of its approved nongrandfathered small employer health benefit plans and plan options, to all small employers on a guaranteed issue basis without regard to health status, claims experience or industry except that a carrier may limit enrollment to the period from November 15 to December 15 of each calendar year for small employers that fail to meet the carrier's reasonable participation or contribution requirements. A carrier may not serve only a portion of the small employer market, such as employers with more than 25 employees, and a carrier may not establish or maintain a closed plan or plan option or a closed book of business in the small employer market. For purposes of this section, a "closed" arrangement is one in which coverage is maintained and renewed for currently enrolled small employers, but the coverage is not offered or issued to other small employers.

(3) A carrier may not require a small employer to purchase or maintain other lines of coverage, such as group life insurance, in order to purchase or maintain a small employer health benefit plan. However, a small group carrier may require reasonable assurance of pediatric dental coverage

consistent with Essential Health Benefits, Final Rule, 78 Fed. Reg. 12853 (February 25, 2013).

(4) A carrier must market fairly all of its small employer health benefit plans and plan options and shall not engage in any practice that:

(a) Restricts a small employer's choice of such plans and plan options; or

(b) Has the effect or is intended to influence a small employer's choice of such plans and plan options for reasons of risk selection.

(5) A carrier shall not provide to any insurance producer any financial or other incentive that conflicts with the requirements of section (4) of this rule.

(6) A carrier must use the same sales compensation methodology for all small employer health benefit plans offered by the carrier.

(7) A small employer carrier may not terminate, fail to renew, or limit its contract or agreement of representation with an insurance producer for any reason related to the following: the health status, claims experience, occupation, geographic location of small employer groups, or the type of small employer plans placed by the insurance producer with the carrier.

Stat. Auth.: ORS 731.244 & 743B.003

Stats. Implemented: ORS 743B.003, 743B.012, 743B.013, 743B.130, 746.650

Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 12-1996, f. & cert. ef. 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0050

Trade Practices Relating to Small Employer Health Benefit Plans

(1) When offering plans to small employers, a carrier must briefly describe the variety of small employer plans and plan options that are available from the carrier and must specify that:

(a) Nongrandfathered plans and plan options are available without regard to health status, claims experience or industry and are offered on a guaranteed issue basis; and

(b) Grandfathered plans and plan options are available under limited circumstances to a small employer that has existing grandfathered coverage.

(2) Subject to requirements established by the Department of Consumer and Business Services pursuant to 45 CFR 155.720(b) for small employer health benefit plans offered through the health insurance exchange, a small employer health benefit plan must be issued with an effective date no later than 31 days after the carrier actually receives the application, and if required by the carrier, the premium.

(3) Neither a carrier nor an insurance producer may encourage or direct a small employer to seek coverage from another carrier because of the small employer's health status, claims experience, industry occupation or geographic location, if within the carrier's service area.

(4) Neither a carrier nor an insurance producer may induce or otherwise encourage a small employer to separate or otherwise exclude an eligible employee from employment or from health coverage or benefits provided in connection with the employee's employment.

(5) A small employer health benefit plan may specify that an enrolled small employer may replace its current coverage with another small employer plan offered by the carrier only on the anniversary date of the current coverage. This limitation also applies to a small employer that discontinues coverage with a carrier, or forfeits coverage because of non-payment of premiums and then requests new coverage with the same carrier.

(6) A small employer carrier that also issues individual health benefit plans may not include with an invoice for small employer coverage, individual health benefit plan premiums for employees of the employer or otherwise bill a small employer for such premiums.

Stat. Auth.: ORS 731.244 & 746.240

Stats. Implemented: ORS 743.731, 743.734(1), 743.736, 743.737 & 746.240

Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 12-1996, f. & cert. ef. 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0066

Rating for Transitional Health Benefit Plans Offered to Small Employers

For purposes of rating, a transitional health benefit plan offered to small employers:

(1) Is subject to the requirements of OAR 836-053-0065 that apply to grandfathered health benefit plans offered to small employers; and

(2) Must be pooled with all of the carrier's grandfathered business in the small employer market to determine its geographic average rate.

Stat. Auth.: ORS 731.244, 743.731 & 743.737 & 2014 OL Ch. 80, Sec. 5

Stats. Implemented: ORS 743.731 & 746.737 & 2014 OL Ch. 80, Sec. 5

ADMINISTRATIVE RULES

Hist.: ID 6-2014(Temp), f. & cert. ef. 4-11-14 thru 10-8-14; ID 17-2014, f. & cert. ef. 10-6-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0230

Underwriting

(1) Every group health benefit plan issued by a carrier must specify all of the participation, contribution and eligibility requirements that have been agreed upon by the carrier and the covered group, and the carrier must apply those requirements uniformly within each category of eligible members.

(2) A carrier offering a group health benefit plan shall not use health statements, except as provided in ORS 743B.103. A health statement for a group health benefit plan also must comply with the requirements of OAR 836-053-0510. After enrollment, health statements or other information may be used by a carrier for the purpose of providing services or arranging for the provision of services under a group health benefit plan.

(3) A carrier offering a group health benefit plan shall not use health statements or other information revealing individual health status to determine the acceptance or rejection of a group that has applied for coverage. Impermissible other information includes claim records that identify individual claimants.

(4) If a carrier accepts a group for coverage, the carrier shall not:

(a) Decline to offer coverage to any eligible member;

(b) Impose any terms or conditions on the coverage of an eligible member that are based on the actual or expected health status of the member, except as provided in ORS 743B.105; or

(c) Delay enrollment for an otherwise eligible employee or dependent who is disabled when enrollment would normally occur.

(5) A late enrollee, as defined in ORS 743B.005, must be accepted for coverage in a group health benefit plan, but may be subject to the coverage limitations specified in ORS 743B.105.

(6) An enrollee who qualifies under a special enrollment period, as specified in ORS 743B.105, must be accepted for coverage in a group health benefit plan and shall not be considered a late enrollee.

(7) A modification to an existing group health benefit plan that is required by ORS 743B.103 to 743B.105 or by OAR 836-053-0210 to 836-053-0250 shall be implemented for each policyholder on the next renewal date. For the purposes of this subsection, the next renewal date means the first renewal date of the policy issued to the policyholder that occurs on or after the operative date of the governing statutory provision (i.e., October 1, 1996, for SB 152 (1995); August 1, 1997, for SB 98 (1997)).

(8) A group health benefit plan shall be renewable at the option of the policyholder and shall not be discontinued by the carrier during or at the termination of the contract period except in the circumstances specified in ORS 743B.105 and consistent with the requirements of HIPAA (42 U.S.C. 300gg-12).

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 743B.522 & 743B.103 to 743B.105

Hist.: ID 12-1996, f. & cert. ef. 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0410

Purpose; Statutory Authority; Enforcement

(1) OAR 836-053-0410 to 836-053-0465 are adopted under the authority of ORS 743B.330, 743B.126 and 743B.310 for the purpose of implementing ORS 743B.022, 743B.125, 743B.126 and 743B.310 relating to individual health benefit plans.

(2) Violation of any provision of OAR 836-053-0431 to 836-053-0465 is an unfair trade practice under ORS 746.240.

Stat. Auth.: ORS 743B.330, 743B.126, 743B.310

Stats. Implemented: ORS 743B.330, 743B.126, 743B.310

Hist.: ID 12-1996, f. & cert. ef. 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 23-2011, f. & cert. ef. 12-19-11; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0431

Underwriting, Enrollment and Benefit Design

(1) A carrier must offer all of its approved nongrandfathered individual health benefit plans and plan options, including individual plans offered through associations, to all individuals eligible for such plans on a guaranteed issue basis without regard to health status, age, immigration status or lawful presence in the United States. Except as provided in section (2) of this rule:

(a) For individual health benefit plans approved by October 1 of each calendar year for sale in the following calendar year, a carrier may limit enrollment to October 15 to December 7 of each preceding calendar year for coverage effective on or after January 1, 2016; and

(b) Coverage must be effective consistent with the dates described in 45 CFR 155.410(c) and (f).

(2)(a) Notwithstanding section (1) of this rule, a carrier must deny enrollment under the following circumstances:

(A) To an individual who is not lawfully present in the United States in a plan provided through the health insurance exchange.

(B) To an individual entitled to benefits under a Medicare plan under part A or B or a Medicare Choice or Medicare Advantage plan described in 42 USC 1395W-21, if and only if the individual is enrolled in such a plan.

(b) A carrier must enroll an individual who, within 60 days before application for coverage with the carrier:

(A) Loses minimum essential coverage. Loss of minimum essential coverage does not include termination or loss due to failure to pay premiums or rescission as specified in 45 CFR 147.128. The effective date of coverage for the loss of minimum essential must be consistent with the requirements of 45 CFR 155.420(b)(1).

(B) Gains a dependent or becomes a dependent through marriage, birth, adoption or placement for adoption or foster care. The effective date for coverage for enrollment under this paragraph must be:

(i) In the case of marriage, no later than the first day of the first calendar month following the date the carrier receives the request for special enrollment.

(ii) In the case of birth, on the date of birth.

(iii) In the case of adoption or placement for adoption or foster care, no later than the date of adoption or placement for adoption or foster care.

(C) Experiences a qualifying event as defined under section 603 of the Employee Retirement Income Security Act of 1974, as amended.

(D) Experiences an event described in 45 CFR 155.420(d)(4), (5), (6), or (7). The effective date of coverage for enrollment under this paragraph must be:

(i) For 45 CFR 155.420(d)(4) or (d)(5), consistent with the requirements of 45 CFR 155.420(b)(2)(iii).

(ii) For 45 CFR 155.420(d)(6) or (d)(7), consistent with the requirements of 45 CFR 155.420(b)(1).

(E) Loses eligibility for coverage under a Medicaid plan under title XIX of the Social Security Act or a state child health plan under title XXI of the Social Security Act. The effective date of coverage for enrollment under this paragraph must be consistent with the requirements of 45 CFR 155.420(b)(1).

(3) Except as permitted under a preexisting condition provision of a grandfathered individual plan, a carrier may not modify the benefit provisions of an individual health benefit plan for any enrollee by means of a rider, endorsement or otherwise for the purpose of restricting or excluding coverage for medical services or conditions that are otherwise covered by the plan.

(4) A carrier may offer wrap-around occupational coverage to an accepted individual health benefit plan applicant.

(5) A carrier may impose an individual coverage waiting period on the coverage of certain new enrollees in a grandfathered individual health benefit plan in accordance with ORS 743B.125. The terms of the waiting period must be specified in the policy form and enrollee summary. The waiting period may apply only when the carrier has determined that the enrollee has a preexisting health condition warranting the application of a waiting period through evaluation of the form entitled "Oregon Individual Standard Health Statement" as set forth on the website of the Department of Consumer and Business Services at www.insurance.oregon.gov.

(6) A carrier may treat a request by an enrollee in an individual health benefit plan to enroll in another individual plan as a new application for coverage.

(7) Unless otherwise required by law and except as provided in section (8) of this rule, a carrier must implement a modification of a non-grandfathered individual health benefit plan required by statute on the next anniversary or fixed renewal date of the plan that occurs on or after the operative date of the statutory provision requiring the modification.

(8) For a grandfathered individual health benefit plan:

(a) Unless otherwise required by law, a carrier must implement a modification required by statute on the first day of the calendar year that occurs on or after the operative date of the statutory provision requiring the modification.

(b) A carrier must eliminate and deem ineffective a rider or endorsement in effect for an enrollee based on the actual or expected health status of the enrollee and that excludes coverage for diseases or medical conditions otherwise covered by the plan as of the next renewal date;

(c) If an enrollee who is subject to a preexisting condition provision has a rider or endorsement eliminated in accordance with subsection (a) of this section, the enrollee's medical condition that is subject to the rider or

ADMINISTRATIVE RULES

endorsement may be subject to the preexisting conditions provision of the plan, including the prior coverage credit provisions;

(9) In accordance with applicable federal law, a carrier may not deny continuation or renewal of an individual health benefit plan based on Medicare eligibility of an individual but an individual health benefit plan may contain a Medicare non-duplication provision.

(10) Violation of this rule is an unfair trade practice under ORS 746.240.

Stat. Auth.: ORS 731.244, 743.745 & 743.769

Stats. Implemented: ORS 743.745 & 743.766 - 743.769

Hist.: ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 2-2014(Temp), f. & cert. ef. 2-4-14 thru 7-31-14; ID 5-2014(Temp), f. & cert. ef. 4-2-14 thru 9-24-14; ID 7-2014(Temp), f. & cert. ef. 4-16-14 thru 9-24-14; ID 14-2014, f. & cert. ef. 7-30-14; ID 17-2014, f. & cert. ef. 10-6-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0465

Rating for Individual Health Benefit Plans

(1) Individual health benefit plans must be rated in accordance with the geographic areas specified in OAR 836-053-0065. A carrier must file a single geographic average rate for each health benefit plan that is offered to individuals within a geographic area. The geographic average rate must be determined on a pooled basis, and the pool shall include all of the carrier's business in the Oregon individual health benefit plan market, except for grandfathered health benefit plans and student health benefit plans.

(2) The variation in geographic average rates among different individual health benefit plans offered by a carrier must be based solely on objective differences in plan design or coverage. The variation shall not include differences based on the risk characteristics or claims experience of the actual or expected enrollees in a particular plan.

(3) A carrier may use the same geographic average rate for multiple rating areas.

(4) For a nongrandfathered health benefit plan:

(a) A carrier must implement premium rate increases on a fixed schedule that applies concurrently to all enrollees in a plan. A carrier may adjust an enrollee's premium during the rating period if the enrollee has a change in family composition.

(b) Premium rates must total the sum of the product of the applicable factors in subsection (c) of this section for each enrollee and dependent 21 years of age and older and the sum of the product of the applicable factors in section (7) of this rule for each of the three oldest dependent children under the age of 21.

(c) As determined by a carrier, variations in rates may be based on one or both of the following factors:

(A) The ages of enrollees and their dependents according to Exhibit 1 to this rule. Variations in rates based on age may not exceed a ratio of three to one; or

(B) A tobacco use factor of no more than one and one-half times the non-tobacco use rate for persons 18 years of age or older except that the factor may not be applied when the person is enrolled in a tobacco cessation program.

(5) For a grandfathered health benefit plan, a carrier must implement premium rate increases in a consistent manner for all enrollees in a plan. A carrier may use either of the following methods to schedule premium rate increases for all enrollees in a grandfathered health benefit plan:

(a) A rolling schedule that is based on the anniversary of the date of coverage issued to each enrollee or on another anniversary date established by the carrier; or

(b) A fixed schedule that applies concurrently to all enrollees in a plan. If a fixed schedule is used, a carrier may adjust the premium of an enrollee during the rating period if the enrollee moves into a higher age bracket or has a change in family composition.

(6) In addition to other bases offered by a carrier, an enrollee of an individual health benefit plan must be offered the opportunity to pay premium on a monthly basis.

Stat. Auth.: ORS 731.244, 743.019, 743.020, 743.769 & 2014 OL Ch. 80, Sec. 5

Stats. Implemented: ORS 743.766 - 743.769, 746.015, 746.240 & 2014 OL Ch. 80, Sec. 5

Hist.: ID 12-1996, f. & cert. ef. 9-23-96; Renumbered from 836-053-0420, ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 7-2001(Temp), f. 5-30-01, cert. ef. 5-31-01 thru 11-16-01; ID 14-2001, f. & cert. ef. 11-20-01; ID 5-2010, f. & cert. ef. 2-16-10; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 6-2014(Temp), f. & cert. ef. 4-11-14 thru 10-8-14; ID 17-2014, f. & cert. ef. 10-6-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0472

Statutory Authority and Implementation

(1) OAR 836-053-0473 and 836-053-0475 are adopted under the authority of ORS 731.244, 743.018, 743.019, and 743.020 to aid in giving effect to provisions of ORS Chapters 742, 743 and 743B relating to the filing of rates and policy forms with the Director. The requirements of OAR

836-053-0473 and 836-053-0475 are in addition to any other requirements established by statute or by rule or bulletin of the Department.

(2) OAR 836-053-0473 and 836-053-0475 apply to the following rate filings submitted or resubmitted to the Director on or after April 1, 2010:

(a) Health benefit plans for small employers;

(b) Individual health benefit plans.

Stat. Auth.: ORS 743.018, 743.019 & 743.020

Stats. Implemented: ORS 742.003, 742.005, 742.007, 743.018, 743.019, 743.020, 743.022 & 743B.005

Hist.: ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0510

Evaluating the Health Status of an Applicant for Individual Health Benefit Plan Coverage

(1) A carrier may use the health statement entitled, "Oregon Standard Health Statement" set forth on the website of the Department of Consumer and Business Services at www.insurance.oregon.gov to evaluate the health status of an applicant for coverage in a grandfathered individual health benefit plan. In all instances in which a carrier uses the Oregon Standard Health Statement, the carrier must pay for the costs associated with its use or the collection of information described in section (2) of this rule.

(2) In evaluating an Oregon Standard Health Statement, a carrier may request the applicant's medical records or a statement from the applicant's attending physician, but such a request may be made only for questions marked "Yes" by the applicant in the numbered questionnaire portion of the statement. Although a carrier's request for additional medical information is limited to the specific questions marked "Yes," a carrier may use all of the information received in response to such a request in evaluating the applicant's health statement.

(3) A carrier may use the information obtained in the "Oregon Standard Health Statement from an individual enrolled in a nongrandfathered individual health benefit plan for the sole purpose of health care management, including providing or arranging for the provision of services under the plan.

(4)(a) A carrier that chooses to collect health-related information from an applicant for individual grandfathered coverage before enrollment must:

(A) Prominently state immediately before, and on the same page as, any health-related questions that:

(i) Health-related information provided by the applicant will be used solely for health care management purposes.

(ii) The applicant's coverage cannot and will not be denied, terminated, delayed, limited or rescinded based on the applicant's responses or failure to respond to the questions.

(iii) The premium charged for the insurance policy cannot and will not change based on the applicant's responses or failure to respond to questions.

(B) Limit pre-enrollment health-related questions to whether an applicant:

(i) Has a disability or a chronic health condition

(ii) Has been advised by a licensed medical professional in the twelve months before application that hospitalization, surgery or treatment is necessary or pending.

(iii) Is pregnant.

(b) A carrier that chooses to ask questions described in paragraph

(4)(a) (B) of this section may include the following as examples of a disability or chronic health condition:

(A) Asthma,

(B) Lung disease,

(C) Depression,

(D) Diabetes,

(E) Heart disease,

(F) Chronic back pain,

(G) Chronic joint pain,

(H) Obesity.

(c) A carrier may not delay or refuse to issue nongrandfathered individual coverage to an applicant because the applicant has failed to respond or failed to respond completely to the questions allowed under paragraph

(3) (a)(B) of this section.

(d) For purposes of ORS 743B.103 and this section, "applicant" includes a prospective enrollee or dependent of a prospective enrollee.

(5) Violation of any provision of this rule is an unfair trade practice under ORS 746.240.

Stat. Auth.: ORS 731.244 & 743B.103

Stats. Implemented: ORS 743B.103

Hist.: ID 12-1996, f. & cert. ef. 9-23-96; Renumbered from 836-053-0470, ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 9-2004, f. & cert. ef. 11-19-04; ID 9-2011, f. & cert. ef. 2-23-11; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 4-2016, f. & cert. ef. 4-8-16

ADMINISTRATIVE RULES

836-053-0825

Rescission of a Group Health Benefit Plan

(1) For purposes of ORS 743B.013 and 743B.105, "representative" means a person who, with specific authority from the employer or plan sponsor to do so, binds the employer or plan sponsor to a contract for health benefit plan coverage.

(2) The notice required by ORS 743B.013(6), 743B.105(8) and 743B.310(3) to each plan enrollee affected by the rescission must be in writing and include all of the following:

(a) Clear identification of the alleged fraudulent act, practice or omission or the intentional misrepresentation of material fact underlying the rescission.

(b) An explanation of why the act, practice or omission was fraudulent or was an intentional misrepresentation of a material fact.

(c) A statement explaining an enrollee's right to file a grievance or request a review of the decision to rescind coverage.

(d) A description of the health carrier's applicable grievance procedures, including any time limits applicable to those procedures.

(e) A statement explaining that complaints relating to the notice of rescission required under ORS 743B.013 (6), 743B.105 (8) and 743B.310 (3) may be made with the Department of Consumer and Business Services by writing to the department at PO Box 14480, Salem, OR 97309-0405; by calling (503) 947-7984 or (888) 877-4894; online at <http://www.insurance.oregon.gov>; or by electronic mail to cp.ins@state.or.us. The statement shall also explain that complaints to the Department of Consumer and Business Services do not constitute grievances under the health benefit plan and may not preserve an enrollee's rights under the plan.

(f) The toll-free customer service number of the insurer.

(g) The effective date of the rescission and the date back to which the coverage will be rescinded.

(3) Subject to ORS 743.023(3), a health carrier may provide the required notice for small employer group health insurance either by first class mail or electronically.

(4)(a) On or before June 30 of each calendar year, an insurer must submit an electronic notice for the preceding calendar year in the format prescribed by the Director of the Department of Consumer and Business Services and in accordance with instructions accessed through the website of the department at <http://www.insurance.oregon.gov>. The notice required by ORS 743B.013 (6)(c), 743B.105(8)(c) and 743B.310(4) must include information related to group health benefit plan rescissions including but not limited to the total number of:

(A) Fully rescinded group health benefit plans;

(B) Partially rescinded group health benefit plans;

(C) Group health benefit plans in force on December 31 of the report year;

(D) Enrollees affected by a fully rescinded group health benefit plan; and

(E) Enrollees affected by a partially rescinded group health benefit plan.

(b) The notice required under this section may be combined with the notice required under OAR 836-053-0830 and 836-053-0835.

(5) An insurer may not rescind coverage for fraud if a representative fails to accurately comply with the requirement to provide reasonable assurance that pediatric dental coverage is separately provided.

Stat. Auth.: ORS 743.018, 743.019, 743.020 & 743B.310

Stats. Implemented: ORS 742.003, 742.005, 742.007, 743.018, 743.019, 743.020, 743.022, 743B.005, 743B.013, 743B.105 & 743B.310

Hist.: ID 23-2011, f. & cert. ef. 12-19-11; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0830

Rescission of an Individual Health Benefit Plan or Individual Health Insurance Policy

(1) The notice required by ORS 743B.310 (2) to the individual whose coverage is rescinded must be in writing and include all of the following:

(a) Clear identification of the alleged fraudulent act, practice or omission or the intentional misrepresentation of material fact underlying the rescission.

(b) An explanation as to why the act, practice or omission was fraudulent or was an intentional misrepresentation of a material fact.

(c) A statement informing the individual of any right the individual has to file a grievance or to request a review of the decision to rescind coverage.

(d) A description of the health carrier's grievance procedures, including any time limits applicable to those procedures if such procedures are available to the individual.

(e) A statement explaining that complaints relating to the notice of rescission required by ORS 743B.310 (2) may be made with the Department of Consumer and Business Services by writing to PO Box 14480, Salem, OR 97309-0405; by calling (503) 947-7984 or (888) 877-4894; online at <http://www.insurance.oregon.gov>; or by electronic mail to cp.ins@state.or.us. The statement shall also explain that such complaints do not constitute grievances under the health benefit plan or health insurance policy and may not preserve an enrollee's rights under the plan or policy.

(f) The toll-free customer service number of the insurer.

(g) The effective date of the rescission and the date back to which the coverage will be rescinded.

(2) Subject to ORS 743.777, a health carrier may provide the notice required under ORS 743B.310 (2) for individual health insurance either by first class mail or electronically.

(3)(a) On or before June 30 of each calendar year, an insurer must submit an electronic notice for the preceding calendar year in the format prescribed by the Director of the Department of Consumer and Business Services and in accordance with instructions set forth on the website of the Department of Consumer and Business Services at <http://www.insurance.oregon.gov>. The notice required by ORS 743B.310 (4) must include information related to rescission of individual health benefit plans and individual health insurance policies including but not limited to the total number of:

(A) Fully rescinded individual health benefit plans and individual health insurance policies;

(B) Partially rescinded individual health benefit plans and health insurance policies;

(C) Individual health benefit plans and individual health insurance policies in force on December 31 of the report year; and

(D) Enrollees affected by full or partial rescission of an individual health benefit plan or individual health insurance policy.

(b) The notice required under this section may be combined with the notice required under OAR 836-053-0825 and 836-053-0835.

(4) A health carrier may not rescind coverage for fraud if an individual fails to accurately comply with the requirement to provide reasonable assurance that pediatric dental coverage is separately provided.

Stat. Auth.: ORS 731.244 & 743B.310

Stats. Implemented: ORS 743B.003 & 743B.310

Hist.: ID 23-2011, f. & cert. ef. 12-19-11; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-0835

Rescission of an Individual's Coverage under a Group Health Benefit Plan or Group Health Insurance Policy

(1) Subject to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, P.L. 99-272, April 7, 1986, and ORS 743.601 and 743.610, for purposes of rescission of an individual's coverage under a group health insurance policy, including a group health benefit plan under ORS 743B.013, 743B.105 and 743B.310, "rescission" does not include retroactive cancellation or discontinuance of coverage of an enrollee if:

(a) The enrollee is no longer eligible for such coverage;

(b) The enrollee has not paid required premiums or contributed to coverage or any premiums paid have been refunded; and

(c) The insurer is not notified of the enrollee's change in eligibility when the change occurs.

(2) The notice required by ORS 743B.013(5), 743B.105(7) and 743B.310(2) to each plan enrollee affected by rescission of coverage under a group health benefit plan or group health insurance policy must be in writing and include all of the following:

(a) Clear identification of the alleged fraudulent act, practice or omission or the intentional misrepresentation of material fact underlying the rescission.

(b) An explanation of why the act, practice or omission was fraudulent or was an intentional misrepresentation of a material fact.

(c) A statement explaining an enrollee's right to file a grievance or request a review of the decision to rescind coverage.

(d) A description of the health carrier's applicable grievance procedures, including any time limits applicable to those procedures.

(e) A statement explaining that complaints relating to the notice of rescission required under ORS 743B.013 (5), 743B.105(7) and 743B.310(2) may be made with the Department of Consumer and Business Services by writing to the department at PO Box 14480, Salem, OR 97309-0405; by calling (503) 947-7984 or (888) 877-4894; online at <http://www.insurance.oregon.gov>; or by electronic mail to cp.ins@state.or.us. The statement shall also explain that complaints to the Department of Consumer and Business Services do not constitute griev-

ADMINISTRATIVE RULES

ances under the group health benefit plan or group health insurance policy and may not preserve an enrollee's rights under the plan or policy.

(f) The toll-free customer service number of the insurer.

(g) The effective date of the rescission and the date back to which the coverage will be rescinded.

(3) Subject to ORS 743.023, a health carrier may provide the required notice for small employer group health insurance either by first class mail or electronically.

(4)(a) On or before June 30 of each calendar year, an insurer must submit an electronic notice for the preceding calendar year in the format prescribed by the Director of the Department of Consumer and Business Services and in accordance with instructions set forth on the website of the Department of Consumer and Business Services at <http://www.insurance.oregon.gov>. The notice required by ORS 743B.013(5), 743B.105(7) and 743B.310(2) must include information related to rescissions of enrollee coverage under a group health benefit plan or group health insurance policy including but not limited to the total number of enrollees affected by full or partial rescission of coverage under a group health benefit plan or group health insurance policy.

(b) The notice required under this section may be combined with the notice required under OAR 836-053-0825 and 836-053-0830.

(5) An insurer may not rescind coverage for fraud if an enrollee fails to accurately comply with the requirement to provide reasonable assurance that pediatric dental coverage is separately provided.

Stat. Auth.: ORS 743.244, 743B.013, 743B.105, 743B.310
Stats. Implemented: ORS 743B.013, 743B.105, 743B.310
Hist.: ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 4-2016, f. & cert. ef. 4-8-16

836-053-1500

Purpose; Statutory Authority; Applicability

(1) OAR 836-053-1500 to 836-053-1510 are adopted for the purpose of implementing sections 1 to 4, chapter 575, Oregon Laws 2015 and section 7, chapter 26, Oregon Laws 2016.

(2) The requirements set forth in OAR 836-053-1500 to 836-053-1510 apply to prominent carriers.

Stat. Auth.: ORS 731.244; sec 1 - 4, ch 575, OLs 2015, sec 7, ch 26, OL 2016
Stats. Implemented: Sections 1 & 3, ch. 575, OL 2015, sec 7, ch. 26, OL 2016
Hist.: ID 13-2015(Temp), f. & cert. ef. 10-20-15 thru 4-8-16; ID 4-2016, f. & cert. ef. 4-8-16

836-053-1505

Definitions for OAR 836-053-1500 to 836-053-1510

As used in OAR 836-053-1500 to 836-053-1510:

(1) The definitions set forth in Section 2, chapter 575, Oregon Laws 2015 apply to the use of those terms in these rules.

(2) "Prominent carrier" means:

(a) A carrier with annual premium income of \$200 million or more in direct health premiums written in Oregon and is not also licensed as a Coordinated Care Organization;

(b) The Public Employees' Benefit Board; and

(c) The Oregon Educators Benefit Board.

(3) "Non-claims based primary care expenditures" means resources given to a primary care provider or practice for the following services or arrangements:

(a) Capitation or salaried arrangements with primary care providers or practices not billed or captured through claims;

(b) Risk-based reconciliation for arrangements with primary care providers or practices not billed or captured through claims;

(c) Payments to Patient-Centered Primary Care Homes or Patient-Centered Medical Homes based upon that recognition or payments for participation in proprietary or other multi-payer medical home initiatives;

(d) Retrospective incentive payments to primary care providers or practices based on performance aimed at decreasing cost or improving value for a defined population of patients;

(e) Prospective incentive payments to primary care providers or practices aimed at developing capacity for improving care for a defined population of patients;

(f) Payments for Health Information Technology structural changes at a primary care practice such as electronic records and data reporting capacity from those records; or

(g) Workforce expenses including payments or expenses for supplemental staff or supplemental activities integrated into the primary care practice (i.e. practice coaches, patient educators, patient navigators, nurse care managers, etc.).

(4) "Non-claims based total health care expenditures" means resources given to a provider or practice for the following services or arrangements:

(a) Capitation or salaried arrangements with providers or practices not billed or captured through claims;

(b) Risk-based reconciliation for arrangements with providers or practices not billed or captured through claims;

(c) Payments to Patient-Centered Primary Care Homes, Patient-Centered Medical Homes, or Patient-Centered Specialty Practices based upon that recognition or payments for participation in proprietary or other multi-payer medical home or specialty care initiatives;

(d) Retrospective incentive payments to providers or practices based on performance aimed at decreasing cost or improving value for a defined population of patients;

(e) Prospective incentive payments to providers or practices aimed at developing capacity for improving care for a defined population of patients;

(f) Payments for Health Information Technology structural changes at a practice such as electronic records and data reporting capacity from those records; or

(g) Workforce expenses including payments or expenses for supplemental staff or supplemental activities integrated into the practice (i.e. practice coaches, patient educators, patient navigators, nurse care managers, etc.).

(5) "Patient-Centered Medical Home" means a practice or provider who has been recognized as such by the National Committee for Quality Assurance.

(6) "Patient-Centered Primary Care Home" means a health care team or clinic as defined in ORS 414.655, meets the standards pursuant to OAR 409-055-0040, and has been recognized through the process pursuant to OAR 409-055-0040.

(7) "Patient-Centered Specialty Practice" means a practice or provider who has been recognized as such by the National Committee for Quality Assurance.

(8) "Practice" means an individual, facility, institution, corporate entity, or other organization which provides direct health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider. The term provider refers to both performing providers and billing providers unless otherwise specified.

(9) "Primary care" means family medicine, general internal medicine, naturopathic medicine, obstetrics and gynecology, pediatrics or general psychiatry.

(10) "Primary care provider" means:

(a) A physician, naturopath, nurse practitioner, physician assistant or other health professional licensed or certified in this state, whose clinical practice is in the area of primary care.

(b) A health care team or clinic that has been certified by the Oregon Health Authority as a Patient-Centered Primary Care Home.

Stat. Auth.: ORS 731.244 & 2015 OL Ch. 575 Sec. 1
Stats. Implemented: & 2015 OL Ch. 575 Sec. 1 & 3
Hist.: ID 13-2015(Temp), f. & cert. ef. 10-20-15 thru 4-8-16; ID 4-2016, f. & cert. ef. 4-8-16

836-053-1510

Prominent Carrier Reporting Requirements

(1) Not later than October 1 of each year from 2016 through 2018, each prominent carrier shall submit to the Department of Consumer and Business Services all non-claims based primary care expenditures for the prior calendar year using the approved file layout and format set forth on the website of the Department of Consumer and Business Services at www.insurance.oregon.gov.

(2) Each prominent carrier shall submit to Department all non-claims based total health care expenditures for the prior calendar year using the approved file layout and format set forth on the website of the Department of Consumer and Business Services at www.insurance.oregon.gov.

(3) Each category included in the approved file format is mutually exclusive; therefore, expenditures shall only be accounted for in one category.

(4) All data shall be submitted to the department no later than October 1 of each year that the prominent carrier is required to report under section (1) of this rule.

(5) Claims-based primary care and total health care expenditures will be calculated for each prominent carrier by the Oregon Health Authority using data from the All-Payer All-Claims Database.

(6) Expenditures for services or activities outside the primary care setting, regardless of a primary care capacity building intent, are not considered primary care expenditures for purposes of this report.

Stat. Auth.: ORS 731.244 & 2015 OL Ch. 575 Sec. 1, Sec. 1 & 3, sec. 7, ch. 26, OL 2016
Stats. Implemented: & 2015 OL Ch. 575 Sec. 1 & 3, sec. 7, ch. 26, OL 2016
Hist.: ID 13-2015(Temp), f. & cert. ef. 10-20-15 thru 4-8-16; ID 4-2016, f. & cert. ef. 4-8-16

ADMINISTRATIVE RULES

Department of Corrections Chapter 291

Rule Caption: Searches in Department of Corrections Facilities

Adm. Order No.: DOC 5-2016

Filed with Sec. of State: 3-24-2016

Certified to be Effective: 3-24-16

Notice Publication Date: 1-1-2016

Rules Amended: 291-041-0010, 291-041-0015, 291-041-0016, 291-041-0018, 291-041-0020, 291-041-0030, 291-041-0035

Subject: These amendments are necessary to remove references to department policies that are internal management directives, and to reflect operational changes within the department.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-041-0010

Definitions

(1) Authorized Legal Material: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, correspondence, and other necessary documents (including discovery and exhibits), in or directly pertaining to an inmate's own pending and active case(s), lawsuit(s) before the courts or paroling authorities.

(2) Confiscation: To take control of or possession of after the search.

(3) Contraband: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, or which the inmate is not specifically authorized to obtain or possess or which the inmate alters without authorization.

(4) Contractor: Any person under contractual arrangement to provide services to the Department of Corrections.

(4) Department of Corrections (DOC) Employee: Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections.

(5) Emergency: Any condition or situation where life, health, or safety may be threatened or where time frame considerations necessitate an immediate response or remedial action.

(6) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(7) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director, or administrator and has responsibility for delivery of program services or coordination of program operations.

(8) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post prison supervision, or probation status.

(9) Inspection Device: Any device (i.e., metal detector, fluoroscope, cell phone detector, etc.) that is used to detect contraband in the form of metal or other foreign objects.

(10) Non-Intrusive Sensors: Electronic or mechanical devices which do not physically intrude nor permeate human body orifices, manufactured for the purpose of detecting materials or various types which may be considered contraband, i.e., narcotics, narcotic paraphernalia, weapons. (Examples: metal detectors, heartbeat monitor equipment to detect the presence of persons.)

(11) Officer-in-Charge: That person designated by the functional unit manager to supervise the institution and make operational decisions in accordance with policy, rule, or procedure during periods when the functional unit manager or the officer-of-the-day is not readily available.

(12) Officer-of-the-Day: That person designated by the functional unit manager and approved by the Assistant Director for Operations or the Institutions Administrator to act on behalf of the functional unit manager during non-business hours and other periods in which the functional unit manager may be absent.

(13) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(14) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

(15) Other Agency Liaison: Employees from other state and local agencies that have an ongoing business need serving inmates and employees of the department. These employees include, but are not limited to, county parole and probation officers, local law enforcement, and state police.

(16) Reasonable Suspicion: An apparent state of objective facts and rational inferences drawn there from that would permit a reasonable and experienced correctional staff person to conclude that an individual or set of circumstances poses a threat to the safety, security, health and good order of the facility, or the safety and security of inmates, staff, visitors, volunteers, contractors or the community, including, but not limited to, committing a crime or rule violation or conspiring or attempting the same.

(17) Search: A close inspection, including touching in an impartial manner, of a person, a person's cell or other living unit, vehicle, possessions, or other property, or buildings or premises. For purposes of entering a correctional institution, searches often require the removal and separate inspection of shoes, belts, jackets, and other accessories during processing. Types of searches include the following:

(a) Clothed: To search a person for something by running the hands over the clothed person, through the hair, inspecting pockets and cuffs, and other items in his/her possession.

(b) Consent: Inspections of a person or their property conducted with prior permission of the person being searched or of a person who own or has in his/her possession that property which is searched.

(c) Internal: Digital intrusion of body orifices and interiors of rectum or vagina in search for contraband. Also used to describe more than sight inspection of nostrils, ears, and mouth.

(d) Unclothed: A search procedure wherein the person being searched removes all of his/her clothing and is visually examined and clothing removed is carefully inspected before return and redressing, for the purpose of detecting contraband.

(18) Security Inspection: A distinction is made between search and security inspection. The later is accomplished by means of an inspection device (i.e., metal detector), without the element of a personal contact search, although accompanying property will be subject to a visual or hand examination.

(19) Special Housing: Housing for inmates whose assignment is administrative housing, disciplinary segregation, Intensive Management Unit, Death Row, mental health special housing, or infirmary.

(20) Visitor: Any person, not a DOC or OCE employee, volunteer or other agency liaison who is within the boundaries of Department of Corrections facility property.

(21) Volunteer: An approved person who donates time, knowledge, skills, and effort to enhance the mission, activities, and programs of the department.

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

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

Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 3-1980(Temp), f. & ef. 3-5-80; CD 24-1980, f. & ef. 7-3-80; CD 10-1981(Temp), f. & ef. 5-5-81; CD 42-1981, f. & ef. 10-30-81; CD 52-1981(Temp), f. & ef. 11-20-81; CD 6-1982, f. & ef. 1-29-82; CD 36-1983(Temp), f. & ef. 10-14-83; CD 11-1984, f. & ef. 4-11-84; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0015

General Guidelines

(1) All inmates, DOC and OCE employees, volunteers and visitors confined, working or visiting in a Department of Corrections facility will be subject to search of their persons, cells or other living units, work areas, vehicles, possessions, and other property in accordance with the procedures provided in this rule.

(a) In addition, all such persons will be subject to security inspection by means of a security device such as a metal detector, if such exists.

(b) Accompanying property brought into, or taken out of a Department of Corrections facility by a visitor or a DOC or OCE employee may also be subject to visual and/or physical examination by staff members assigned to such duty by the functional unit manager or designee, or the Department of Corrections Inspector General or designee.

(c) Drug detection dogs may be used to assist authorized Department of Corrections personnel to detect and control contraband within Department of Corrections facilities and property.

(2) Vehicular Traffic: Careful inspection of all vehicular traffic and supplies coming into or leaving the institution will be conducted. Use of detectors at vehicle gates and entrances to the facility may be used to facilitate searches of all persons, packages, brief cases, etc.

(3) Vehicles brought onto Department of Corrections premises are subject to search.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 42-1981, f. & ef. 10-30-81; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0016

Religious Activity Areas and Religious Items

In accordance with these rules and the rules on Religious Activities (OAR 291-143), searches of inmate religious activity areas and authorized religious or spiritual items (including hair and garments worn) shall be conducted in a manner that reflects an awareness of and sensitivity to individual religious beliefs, practices, and respect for the authorized objects, symbols, and hairstyles used in the religious practice.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 1-1996, f. 1-26-96, cert. ef. 2-1-96; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0018

Training

The department shall train staff assigned to supervise inmates in how to conduct cross-gender searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 15-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 5-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14; DOC 9-2014, f. & cert. ef. 3-4-14; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0020

Inmates

(1) Search of inmates, living units, work areas, other places they inhabit or frequent, and their property will be conducted regularly on an unannounced and unscheduled basis.

(2) An inspection of each cell, room or dormitory area will occur prior to occupancy by a new inmate.

(3) In conducting searches of an inmate's living unit, place of work, or other places frequented or inhabited, the employee conducting the search will be expected to leave the search area in an orderly and neat condition. Care will be exercised to ensure that authorized property is not damaged or disposed of.

(4) Inmates may be subject to search at any time; but no more frequently than is necessary to control contraband or to recover stolen or missing property. However, all inmates will be subject to a search on each occasion before and after they leave a Department of Corrections facility, and on each occasion before and after visits, entering or exiting special housing units and before or after contact with persons outside the facility.

(5) The type of search administered will avoid unnecessary force, embarrassment, or indignity to the inmate. Non-intrusive sensors and inspection devices may be used when appropriate.

(6) Clothed Searches: Inmates may be searched only by authorized Department of Corrections personnel or a sworn police officer in the performance of his/her official duty. Cross-gender clothed searches of female inmates will not occur unless there is an emergency, and shall be documented.

(7) Unclothed Searches: Unclothed searches conducted by DOC staff will be of the same gender as the inmate, unless there is an emergency. Except in emergencies, inmates undergoing unclothed searches will be removed to a private area for the search.

(a) The facility shall document all unclothed searches to include cross-gender and cross-gender visual body cavity searches.

(b) The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.

(c) If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(8) Visual inspections for security reasons may be conducted by authorized personnel. All internal examinations must be conducted by medical personnel only upon authorization of the functional unit manager or the officer-of-the-day and only when there is reasonable suspicion as defined in OAR 291-041-0010(16) to justify the search. The inmate's written consent will not be required; however, an internal search will not be conduct-

ed if it could result in injury to the inmate or the personnel conducting the search.

(9) Hair:

(a) If staff need to conduct a hair search, it may be necessary to require the inmate to unbraided, loosen or cut the hair to complete the search.

(b) The inmate will be given an adequate amount of time to unbraided or loosen the hair.

(c) An inmate who refuses to unbraided or loosen the hair is subject to disciplinary action in accordance with the rule on Prohibited Inmate Conduct and Processing of Disciplinary Actions (OAR 291-105).

(d) If the inmate is unable to unbraided or loosen the hair so a search can be accomplished, staff shall conduct the search if possible in the least intrusive manner (e.g., hand wand, visual inspection, etc.). At no time shall staff cut an inmate's hair to complete a search WITHOUT approval of the functional unit manager or officer-of-the-day.

(e) If an inmate's hair creates a significant security or operational concern, a religious sincerity test may be conducted. Based on the results of the sincerity test, the functional unit manager or designee will determine what further action shall be taken.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 3-1980(Temp), f. & ef. 3-5-80; CD 24-1980, f. & ef. 7-3-80; CD 42-1981, f. & ef. 10-30-81; CD 36-1983(Temp), f. & ef. 10-14-83; CD 11-1984, f. & ef. 4-11-84; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 15-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 5-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14; DOC 9-2014, f. & cert. ef. 3-4-14; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0030

Employees, Volunteers and Other Agency Liaison

(1) When to Search: Except as provided in rule OAR 291-041-0015, a DOC employee, contractor, volunteer or OCE employee may be requested to submit to personal search of his/her person or vehicle or other possessions on Department property only when there is reasonable suspicion that the employee, volunteer or other agency liaison is in possession of unauthorized property or contraband and that the search and confiscation is necessary to substantiate the suspected violation.

(2) Who is Involved in the Search:

(a) Upon reasonable suspicion, a functional unit manager or his/her designee may request the security manager or officer-in-charge to conduct the search of a DOC or OCE employee, volunteer or other agency liaison, his/her vehicle, or other possessions. The employee, volunteer or other agency liaison shall be present during the search of his/her vehicle or other possessions.

(b) DOC or OCE employees, volunteers or other agency liaison will be afforded privacy during the search, which will be conducted in a professional manner so as to avoid any undue embarrassment or indignity to the individual.

(c) Refusal of a DOC or OCE employee to submit to a reasonable suspicion search may constitute grounds for disciplinary action.

(3) Searches conducted by DOC staff shall be the same gender as the employee, contractor, volunteer, or other agency liaison.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 10-1981(Temp), f. & ef. 5-5-81; CD 42-1981, f. & ef. 10-30-81; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0035

Visitors

(1) When to Search: A search of a visitor will generally occur only when the visitor consents and there is reasonable suspicion that the visitor is in possession of contraband, and that the search and confiscation is vital necessary to substantiate the suspected violation.

(a) Consent is not required when a delay or non-consent would constitute a direct and immediate threat to the safety and security of the facility.

(b) Consent is not required when the search is conducted pursuant to an arrest or to protect the safety of staff or other persons.

(2) If a Crime is Suspected: If alleged commission of a criminal offense is involved, the matter will fall within the jurisdiction of appropriate law enforcement agencies, which will be promptly notified.

(3) Conduct the Search: Searches of visitors at a Department of Corrections facility will be conducted at the direction of the functional unit manager or designee, or the Department of Corrections Inspector General or designee, based upon reasonable suspicion that the visitor is in possession of unauthorized property or contraband.

ADMINISTRATIVE RULES

(a) Visitor searches may be conducted by authorized Corrections staff or by an authorized law enforcement officer. If requested, authorized Corrections staff may assist law enforcement officers in conducting any search, investigation, or arrest of a visitor. Searches conducted by DOC staff shall be the same gender as the visitor.

(b) Adequate facilities must be provided for the search which shall be done in a professional manner so as not to cause undue embarrassment to the visitor. The subject of the search will be advised of search procedures (i.e., removal of clothing, visual inspection of cavities, etc.) prior to the search.

(c) If an internal examination is indicated, this shall be done only by competent medical personnel at the direction of the law enforcement official conducting the search.

(4) After Search or Inspection: Those individuals who refuse to be searched or, who after being searched were found to be in possession of unauthorized property or contraband, shall have their visiting status immediately suspended and will be sanctioned as provided in the Department of Corrections rule on Visiting (Inmate) (OAR 291-127).

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

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

Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

Rule Caption: Earned discharge for offenders on probation or local control post-prison supervision

Adm. Order No.: DOC 6-2016

Filed with Sec. of State: 3-30-2016

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Rules Amended: 291-209-0010, 291-209-0020, 291-209-0030, 291-209-0040

Rules Repealed: 291-209-0010(T), 291-209-0020(T), 291-209-0030(T), 291-209-0040(T), 291-209-0050(T), 291-209-0060(T), 291-209-0050, 291-209-0060

Subject: These rule amendments are necessary to implement 2015 legislation (HB 3070). This revision clarifies that earned discharge applies to probation as well as local control post-prison supervision. The process for determining an offender's eligibility for earned discharge has been modified. Now earned discharge is determined by a one-time review of an offender's compliance with conditions of supervision. Previously time credits were used to calculate when an offender could be discharged.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-209-0010

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.633, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to describe the manner in which an offender sentenced to felony probation or to the legal and physical custody of the supervisory authority under ORS 137.124(2) may receive a reduction in the period of probation or local control post-prison supervision in accordance with the provisions of ORS 137.633.

(3) Policy:

(a) It is the policy of the Department of Corrections that eligible offenders be considered by the supervisory authority for a reduction in the period of probation or local control post-prison supervision for complying with their terms of supervision, including the payment of restitution and participation in recidivism reduction programs, as provided in these rules.

(b) Offenders whose supervision has been transferred to Oregon under the Interstate Compact for Adult Offender Supervision are ineligible for earned discharge under these rules.

(c) These rules apply to offenders convicted of a felony and sentenced on or after August 1, 2013, to probation or to the legal and physical custody of the supervisory authority under ORS 137.124(2).

(d) These rules do not apply to persons who:

(A) Were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason; or

(B) Were sentenced on or after August 1, 2013, to probation or to the legal and physical custody of the supervisory authority but the supervision is under the jurisdiction of the Board of Parole and Post-Prison Supervision.

Stat Auth: ORS 137.633, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.633, 179.040, 423.020, 423.030, 423.075

Hist.: DOC 13-2014(Temp), f. 5-7-14, cert. ef. 5-13-14 thru 11-9-14; DOC 21-2014, f. & cert. ef. 11-4-14; DOC 18-2015(Temp), f. 12-28-15, cert. ef. 1-1-16 thru 6-28-16; DOC 6-2016, f. & cert. ef. 3-30-16

291-209-0020

Definitions for OAR 291-209-0020 to 291-209-0070

(1) Administrative Sanctions: Local structured, intermediate sanctions, as those terms are used in ORS 137.592, 137.593, 137.595, 144.106, and 144.346 and in Criminal Justice Commission and Board of Parole and Post-Prison Supervision administrative rules, imposed by the Department of Corrections or a county community corrections agency for violation of conditions of supervision. Administrative sanctions are less than a revocation action and include, but are not limited to local confinement in jails, restitution centers, work release centers, treatment facilities, or similar facilities or community services work, work crew and house arrest.

(2) Compensatory Fines: A court-imposed penalty for the commission of a crime resulting in injury for which the person injured by the act constituting a crime has a remedy by civil action (unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction).

(3) Compliance with the Conditions of Supervision and the Supervision Case Plan: For purposes of these rules, the supervisory authority shall deem an eligible offender to be in compliance with the conditions of supervision and any applicable supervision case plan if the offender:

(a) Has fully paid any restitution or compensatory fines ordered by the court;

(b) Has not been administratively sanctioned, excluding interventions, or found in violation by the court in the immediate six months prior to consideration for discharge on the eligible case(s) under review; and

(c) Is actively participating in his/her supervision case plan.

(4) Earned Discharge: A discharge from probation or local control post-prison supervision prior to the scheduled supervision expiration date.

(5) Interventions: Interventions imposed by the Department of Corrections or a county community corrections agency for violations of one or more conditions of supervision. Interventions include, but are not limited to, verbal reprimand, written reprimand, job search programming, increased reporting requirements, curfew, day reporting, modification of conditions, and outpatient treatment. Intervention responses are not counted as custody units and may be imposed along with sanctions.

(6) Offender: Any person under the supervision of local community corrections who is on probation, parole, or post-prison supervision status

(7) Restitution: Full, partial or nominal payment of economic damages to a victim.

(8) Supervising Officer: The parole and probation officer assigned to supervise the offender.

(9) Supervision: Supervision requiring the supervising officer's regular contact with and monitoring of the offender to assure continued compliance with the general and special conditions of supervision.

(10) Supervisory Authority: The state or local corrections agency or official designated in each county by that county's Board of County Commissioners or county court to operate correction supervision services, custodial facilities, or both per ORS 144.087(1).

Stat Auth: ORS 137.633, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.633, 179.040, 423.020, 423.030, 423.075

Hist.: DOC 13-2014(Temp), f. 5-7-14, cert. ef. 5-13-14 thru 11-9-14; DOC 21-2014, f. & cert. ef. 11-4-14; DOC 18-2015(Temp), f. 12-28-15, cert. ef. 1-1-16 thru 6-28-16; DOC 6-2016, f. & cert. ef. 3-30-16

291-209-0030

Period of Supervision

(1) All persons convicted of a felony and sentenced on or after August 1, 2013, to probation or to the legal and physical custody of the supervisory authority under ORS 137.124(2) shall serve a minimum period of supervision before consideration for earned discharge under these rules.

(2) The maximum reduction earned under this rule may not exceed 50 percent of the period of supervision imposed.

(3) A reduction may not be used to shorten the period of supervision to less than six months.

Stat Auth: ORS 137.633, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.633, 179.040, 423.020, 423.030, 423.075

Hist.: DOC 13-2014(Temp), f. 5-7-14, cert. ef. 5-13-14 thru 11-9-14; DOC 21-2014, f. & cert. ef. 11-4-14; DOC 18-2015(Temp), f. 12-28-15, cert. ef. 1-1-16 thru 6-28-16; DOC 6-2016, f. & cert. ef. 3-30-16

ADMINISTRATIVE RULES

291-209-0040

Earned Discharge

(1) At 60 days prior to completion of the minimum period of supervision as authorized in OAR 291-209-0030, the supervising officer or designee shall review the offender's file and determine if the offender is in compliance with the offender's conditions and any applicable supervision case plan as defined in these rules.

(a) If the supervising officer or designee determines that the offender is in compliance, the supervising officer shall recommend to the supervisory authority that it grant earned discharge to the offender.

(b) Upon receiving a request from the supervising officer, the supervisory authority shall grant the offender earned discharge if the supervisory authority determines that the offender is in compliance with his or her conditions of supervision and any applicable supervision case plan as defined in these rules.

(c) If the supervising officer or designee determines that the offender is not in compliance, earned discharge shall not be granted; however, the supervising officer may conduct a subsequent earned discharge review at any point thereafter until the offender is approved for earned discharge or the case under consideration reaches its sentence expiration date.

(d) If the offender has been convicted of a new felony or misdemeanor crime that occurred while on supervision for the case under consideration, the offender is not eligible for earned discharge.

Stat Auth: ORS 137.633, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.633, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 13-2014(Temp), f. 5-7-14, cert. ef. 5-13-14 thru 11-9-14; DOC 21-2014, f. & cert. ef. 11-4-14; DOC 18-2015(Temp), f. 12-28-15, cert. ef. 1-1-16 thru 6-28-16; DOC 6-2016, f. & cert. ef. 3-30-16

Department of Fish and Wildlife Chapter 635

Rule Caption: 2016 Spring Chinook Seasons on the Lower Deschutes and Hood Rivers.

Adm. Order No.: DFW 17-2016(Temp)

Filed with Sec. of State: 3-21-2016

Certified to be Effective: 4-15-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-018-0090

Subject: This amended rule allows the sport harvest of hatchery spring Chinook salmon in the Lower Deschutes River from May 1 through July 31, 2016; and sport harvest of hatchery spring Chinook salmon in the Hood River from April 15 through June 30, 2016. The Deschutes River open area extends from the mouth at the I-84 Bridge upstream to Sherars Falls. The Hood River open area extends from the mouth to the mainstem confluence with the East Fork; and the West Fork from the confluence with the mainstem upstream to the angling deadline 200 feet downstream of Punchbowl Falls. The daily bag limit for the Lower Deschutes River is one (1) adult hatchery salmon and five (5) hatchery jack salmon per day. The daily bag limit for the Hood River is two (2) adult hatchery salmon per day; and five (5) hatchery jack salmon per day. All wild Chinook salmon must be released unharmed.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-018-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Central 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) Hood River from the mouth to the mainstem confluence with the East Fork, and the West Fork from the confluence with the mainstem upstream to the angling deadline 200 feet downstream of Punchbowl Falls is open to angling for hatchery Chinook salmon from April 15 through June 30, 2016.

(a) The catch limit is two (2) adult hatchery Chinook salmon per day, and five (5) hatchery jack salmon per day. All wild Chinook salmon must be released unharmed.

(b) All other catch limits and restrictions remain unchanged from those listed for Hood River in the **2016 Oregon Sport Fishing Regulations**.

(3) The Deschutes River from the mouth at the I-84 Bridge upstream to Sherars Falls is open to angling for trout, hatchery steelhead and hatchery Chinook salmon from May 1 through July 31, 2016.

(a) The catch limit is one (1) adult hatchery Chinook salmon per day, and five (5) hatchery jack salmon per day. All wild Chinook salmon must be released unharmed.

(b) It is unlawful to continue to angle in the area from Sherars Falls downstream to the upper railroad trestle after taking a daily bag limit of one (1) adult Chinook salmon.

(c) All other catch limits and restrictions remain unchanged from those listed for the Deschutes River in the **2016 Oregon Sport Fishing Regulations**.

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 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10; DFW 27-2010(Temp), f. 3-8-10, cert. ef. 4-15-10 thru 7-31-10; DFW 66-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 10-31-10; DFW 86-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 10-31-10; DFW 106-2010(Temp), f. 7-26-10, cert. ef. 8-1-10 thru 12-31-10; DFW 164-2010(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 16-2011(Temp), f. 2-16-11, cert. ef. 4-15-11 thru 7-31-11; DFW 17-2011(Temp), f. 2-17-11, cert. ef. 4-15-11 thru 7-31-11; DFW 42-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 93-2011(Temp), f. 7-13-11, cert. ef. 8-1-11 thru 10-31-11; DFW 123-2011(Temp), f. 9-2-11, cert. ef. 9-3-11 thru 12-31-11; DFW 160-2011(Temp), f. 12-20-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 34-2012(Temp), f. 4-13-12, cert. ef. 4-15-12 thru 7-31-12; DFW 55-2012(Temp), f. & cert. ef. 6-4-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 88-2012(Temp), f. 7-16-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 16-2013(Temp), f. 2-25-13, cert. ef. 4-15-13 thru 6-30-13; DFW 75-2013(Temp), f. 7-15-13, cert. ef. 8-1-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 13-2014(Temp), f. 2-18-14, cert. ef. 4-15-14 thru 7-31-14; DFW 83-2014(Temp), f. 7-1-14, cert. ef. 8-1-14 thru 10-31-14; Administrative correction 11-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 27-2015(Temp), f. 4-9-15, cert. ef. 4-15-15 thru 6-30-15; Administrative correction, 7-24-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 99-2015(Temp), f. & cert. ef. 8-3-15 thru 12-31-15; Temporary suspended by DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 128-2015(Temp), f. 9-14-15, cert. ef. 9-18-15 thru 12-31-15; DFW 141-2015(Temp), f. 10-15-15, cert. ef. 10-16-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 17-2016(Temp), f. 3-21-16, cert. ef. 4-15-16 thru 7-31-16

Rule Caption: Establish 2016 Seasons and Regulations for Game Mammals

Adm. Order No.: DFW 18-2016

Filed with Sec. of State: 3-21-2016

Certified to be Effective: 3-21-16

Notice Publication Date: 9-1-2015

Rules Adopted: 635-073-0100, 635-067-0036

Rules Amended: 635-065-0001, 635-065-0011, 635-065-0015, 635-065-0090, 635-065-0401, 635-065-0625, 635-065-0720, 635-065-0735, 635-065-0740, 635-065-0760, 635-065-0765, 635-066-0000, 635-067-0000, 635-067-0030, 635-068-0000, 635-069-0000, 635-

ADMINISTRATIVE RULES

072-0000, 635-073-0000, 635-075-0020, 635-075-0025, 635-075-0026

Subject: Establish 2016 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including, but not limited to, general hunting and controlled hunt regulations.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-065-0001

Purpose and General Information

(1) The purpose of these rules is to establish license and tag requirements, limits, areas, methods and other restrictions for hunting game mammals pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 065 incorporates, by reference, the requirements for hunting game mammals set out in the document entitled “2016 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2016 Oregon Big Game Regulations” in addition to OAR chapter 635, to determine all applicable requirements for game mammals. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district, and headquarters offices, and website of the Oregon Department of Fish and Wildlife.

(3) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 88-2003(Temp), f. & cert. ef. 9-3-03 thru 12-31-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0011

Mandatory Reporting Penalty

All big game tag holders, except for bighorn sheep and Rocky Mountain goat, and all turkey tag holders are required to report hunting effort and harvest.

(1) Reporting deadlines for 2015-2016 seasons are as follows:

(a) January 31, 2016: For hunts ending between April 1 and December 31, 2015.

(b) April 15, 2016: For hunts ending between January 1 and March 31, 2016.

(2) Any person with any deer or elk tag for hunts and seasons listed in the 2015 Oregon Big Game Regulations pamphlet, issued through the Point of Sale (POS) system, that fails to report by deadlines established in OAR 635-065-0011(1) will not be able to obtain a license to hunt game mammals or game birds in Oregon without paying a penalty.

(a) The penalty will be assessed beginning December 1, 2016 with purchase of a 2017 license.

(b) The penalty fee amount will be \$25.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 10-2013, f. & cert. ef. 2-7-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0015

General Tag Requirements and Limits

(1) Big Game Tags: Any person hunting game mammals for which a tag is required must have on their person a valid tag for the dates, area and species being hunted.

(2) Any person 12 years of age or older may purchase game mammal tags if they possess an adult or juvenile hunting license.

(3) A person may obtain and possess during an annual hunting season only:

(a) One valid general season black bear tag;

(b) One valid additional general black bear tag valid in management units 20-30;

(c) One valid controlled black bear tag in addition to general season bear tags issued under subsection (a) and (b) above;

(d) One valid 700 series “leftover” controlled bear tag;

(e) One valid cougar (mountain lion) tag;

(f) One valid additional general cougar (mountain lion) tag;

(g) One valid pronghorn antelope tag except as provided in OAR 635-073-0100.

(4) Except as provided in OAR chapter 635, division 090, and except as provided in OAR 635-075-0010, and 635-073-0100, a person may obtain and possess only one of the following tags during an annual hunting season:

(a) One valid deer bow tag;

(b) One valid western Oregon deer tag;

(c) One valid 100 series controlled buck hunt tag;

(d) One valid 600 series controlled antlerless deer tag in addition to one of (4)(a)–(4)(c)

and (4)(e);

(e) One valid 100 series “left over” controlled deer tag;

(f) One valid 600 series “left over” controlled deer tag;

(5) Except as provided in OAR chapter 635, division 090, and OAR 635-073-0100, a person may obtain and possess only one of the following tags during an annual hunting season:

(a) One valid Cascade elk tag;

(b) One valid Coast First Season elk tag;

(c) One valid Coast Second Season elk tag;

(d) One valid Rocky Mountain elk — first season tag,

(e) One valid Rocky Mountain elk — second season tag;

(f) One valid elk bow tag;

(g) One valid controlled elk hunt tag;

(6) In addition to the tags described in OAR 635-065-0015(5), a person during an annual hunting season may obtain or possess only one valid 200 series “leftover” controlled elk tag.

(7) In addition to the tags described in OAR 635-065-0015(3), (4), and (5), a person during an annual hunting season may obtain or possess only one valid “Mandatory Hunter Reporting Incentive Tag” per annual hunting season. If the Department awards a hunter such a tag through the controlled hunt draw authorized by OAR 635-060-0030(5), the following requirements will apply:

(a) On or before July 15, 2016 the hunter must inform the Department which species the tag is to be issued for (pronghorn antelope, deer, or elk) and purchase the tag. Tags not purchased by July 15 will be offered to an alternate hunter with a tag sale deadline of July 31, 2016.

(b) Hunting hours, hunt dates, bag limit and hunt area for Mandatory Hunter Reporting Incentive Tags will be the same as those listed in OAR 635-090-0150(3) for deer or (4) for elk, or 635-067-0028(2) for pronghorn.

(c) Bag limit: one pronghorn antelope or one deer or one elk.

(d) Oregon Department of Fish and Wildlife employees are not eligible for a Mandatory Hunter Reporting Incentive Tag.

(8) Except as provided in OAR 635-067-0032 thru 635-067-0034, a person may obtain and possess only one bighorn sheep ram tag in a lifetime.

(9) Except as provided in OAR 635-067-0041 a person may obtain and possess only one Rocky Mountain goat tag in a lifetime.

(10) It is unlawful for any person to issue or to possess any game mammal tag which has been backdated.

(11) Any game mammal tag having an issue date subsequent to the last day authorized for issue of such tag as listed in “Oregon Big Game Regulations” for the current season is a void tag. Exception:

(a) Members of the uniformed services returning to the state after the deadline shall be permitted to purchase general season tags for themselves at the Salem headquarters and regional offices of the Department.

(b) Notwithstanding the deadlines for tag purchases provided by rule and in the hunting regulation synopses, any person who qualifies to purchase a tag but fails to make the purchase by the deadline, may purchase the tag late if the person:

(A) Submits a written affidavit certifying that the person has not yet hunted during the season for which the tag is sought to the Department’s Licensing Services Office;

(B) The request must be received by the Department before the end of the season for the particular tag; and

(C) Pays the Department the fee for a duplicate tag, in addition to the usual tag fee.

(D) A tag purchased for a season that has not begun may be canceled and replaced with a tag for an ongoing season using the process outlines in 635-065-0015(b)(A) and (B) provided the original tag is surrendered with the affidavit and the fee for a duplicate tag is paid to the Department.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162

Stats Implemented: ORS 496.012, 496.138, 496.146, 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 13-1988, f.

ADMINISTRATIVE RULES

& cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89, Renumbered from 635-65-780; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 18-1994, f. & cert. ef. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 7-1996, f. & cert. ef. 2-12-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 6-17-97, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 54-2000(Temp), f. & cert. ef. 8-28-00 thru 12-31-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 52-2001(Temp), f. & cert. ef. 6-27-01 thru 12-24-01; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 106-2009(Temp), f. & cert. ef. 9-2-09 thru 3-1-10; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 26-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; DFW 58-2010(Temp), f. & cert. ef. 5-12-10 thru 11-8-10; DFW 70-2010(Temp), f. & cert. ef. 5-18-10 thru 11-10-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0090

Disabled Hunter Seasons and Bag Limits

(1) ORS 496.018 provides that in order to be considered a person with a disability under the wildlife laws, a person shall provide to the Fish and Wildlife Commission either written certification from a licensed physician, certified nurse practitioner, or licensed physician assistant of certain specified disabilities or written proof that the U.S. Department of Veterans Affairs or the Armed Forces shows the person to be at least 65 percent disabled. To implement that statute, this rule provides for the issuance of an "Oregon Disabilities Hunting and Fishing Permit" by the Department.

(2) To obtain an "Oregon Disabilities Hunting and Fishing Permit," a person shall submit to the Department a completed form specified by the Department. If the completed form accurately provides all required information, the Department shall issue an "Oregon Disabilities Hunting and Fishing Permit". Permits are valid for five calendar years. To renew a permit, the holder must submit a new, updated application form.

(3) The Department may revoke, suspend or decline to issue or renew an "Oregon Disabilities Hunting and Fishing Permit" for failure to submit accurate information. The holder or applicant may request a contested case hearing to appeal such an action.

(4) A person who possesses an Oregon Disabilities Hunting and Fishing Permit issued by the Department is qualified for expanded bag limits as follows:

Season/Tag — Bag Limit

General or controlled buck deer — One deer

In the following units: Biggs, Columbia Basin (except: That portion of the Columbia Basin Unit described as follows shall be closed to all bowhunting: Beginning at Vinson at the intersection of Hwy 74 and Butter Creek Road, west on Hwy 74 to Sandhollow Rd, north on Sandhollow Rd to Baseline Rd, west ½ mile to Sandhollow Rd, north on Sandhollow Rd to Hwy 207, north and east on State Hwy 207 to Butter Creek Junction, south on Butter Creek Rd to Hwy 74 at Vinson), Hood, Indigo, Maupin, McKenzie, Melrose, Santiam, Willamette.

General or controlled bull elk — Legal bull or antlerless elk

In the following units: Applegate, Beatys Butte, Beulah, Biggs, Catherine Creek, Chesnimus, Columbia Basin (except: That portion of the Columbia Basin Unit described as follows shall be closed to all bowhunting: Beginning at Vinson at the intersection of Hwy 74 and Butter Creek Road, west on Hwy 74 to Sandhollow Rd, north on Sandhollow Rd to Baseline Rd, west ½ mile to Sandhollow Rd, north on Sandhollow Rd to Hwy 207, north and east on State Hwy 207 to Butter Creek Junction, south on Butter Creek Rd to Hwy 74 at Vinson), Dixon (outside National Forest Lands within the unit), Evans Creek (outside National Forest Lands within the unit), East Fort Rock (that portion east of Hwy 97), Fossil, Grizzly, Hood, Innaha, Indigo (outside National Forest Lands within the unit), Juniper, Keating, Lookout Mountain, Malheur River, Maupin, McKenzie (outside National Forest Lands within the unit), Melrose, Minam, Murderers Creek, Northside, Ochoco, Owyhee, Paulina, Pine Creek, Ritter portion of the Heppner unit (that part of unit 48 south and east of the North Fork John Day River), Rogue (outside National Forest Lands within the unit), Santiam (outside National Forest Lands within the unit), Silvies, Siuslaw, Sixes, Sled Springs, Snake River, Steens Mountain, South Sumpter (that part of Unit 51 south of Burnt Rvr Canyon Rd from Durkee to junction State Hwy 245 and Hwy 245 from junction Burnt Rvr Canyon Rd to Unity), Wagonfire, White River, Whitehorse, and Willamette. Controlled pronghorn antelope Buck only hunts — One pronghorn In the following units: Beatys Butte, Biggs, Columbia Basin, Fort Rock, Grizzly, Juniper, Keating, Lookout Mountain, Malheur River, Maupin, Maury, Murderers Creek, Northside, Ochoco, Paulina, Silver Lake, Silvies, Steens Mountain, Sumpter, Wagonfire, Warner. For hunts with bag limits other than one buck or one bull, the bag limit remains as shown in the Oregon Big Game Regulations.

(5) The Oregon Disabilities Hunting and Fishing Permit is valid only with a general season or controlled bull elk, buck deer, or pronghorn antelope tag for the area and time period being hunted. The permit must be carried on the person while hunting.

(6) An able-bodied companion may accompany a person with an Oregon Disabilities Hunting and Fishing Permit and kill any animal wounded by the permit holder. The wounded animal must be killed using a legal weapon for the season and species designated on the tag. The companion must immediately attach the permit holder's tag to the carcass of the animal. The companion is not required to possess a hunting license or tag.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 29-1987, f. & ef. 6-19-87; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 142-2005, f. & cert. ef. 12-16-05; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0401

Deadline for Purchase of General Season Tags

(1) No western Oregon deer rifle tag shall be issued after 11:59 pm, Pacific Time, September 30, 2016.

(2) No deer bow tag shall be issued after 11:59 pm, Pacific Time, August 26, 2016.

(3) No General Season bear tag shall be issued after 11:59 pm, Pacific Time, September 30, 2016.

(4) SW Additional Bear Tags may be purchased anytime during the bear hunting season, after a General Season Bear tag has been purchased. An unused bear tag must be in the hunter's position at the time they are hunting.

(5) No General Season cougar tag shall be issued after 11:59 pm, Pacific Time, September 30, 2016.

(6) Additional Cougar Tags may be purchased anytime during the cougar hunting season, after a General Season Cougar tag has been purchased. An unused cougar tag must be in the hunter's position at the time they are hunting.

(7) No Rocky Mountain Elk Rifle First Season Tag shall be issued after 11:59 pm, Pacific Time, October 25, 2016.

(8) No Rocky Mountain Elk Rifle Second Season Tag shall be issued after 11:59 pm, Pacific Time, November 4, 2016.

(9) No Coast First Season Elk Tag shall be issued after 11:59 pm, Pacific Time, November 11, 2016.

(10) No Coast Second Season Elk Tag shall be issued after 11:59 pm, Pacific Time, November 18, 2016.

(11) No Cascade Elk Rifle Tag shall be issued after 11:59 pm, Pacific Time, October 14, 2016.

(12) No elk bow tag shall be issued after 11:59 pm, Pacific Time, August 26, 2016.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; Renumbered from 635-065-0010; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 70-2007(Temp), f. & cert. ef. 8-13-07 thru 2-9-08; DFW 103-2007(Temp), f. & cert. ef. 9-27-07 thru 3-24-08; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0625

Regulations on State and Federal Wildlife Areas, Refuges and Special Areas

State and Federal wildlife areas, refuges and special areas listed below shall be open to hunting during authorized seasons, subject to the following special regulations and exceptions:

(1) Bear Valley National Wildlife Refuge (Klamath County): Closed to all public entry except walk-in deer hunting prior to November 1.

(2) Cascade Head — Lincoln City Area: The Cascade Head — Lincoln City Area is closed to hunting with centerfire rifles, muzzleloaders, or handguns. Hunting is restricted to archery and shotguns only during authorized seasons, except for Department approved emergency hunts. Hunters using shotguns for elk shall use slugs (single projectile) only. The Cascade Head — Lincoln City Area boundaries shall be defined as follows: Beginning at the Pacific Ocean and Siletz River mouth, east along the north shoreline of the Siletz River to Drift Cr. Rd. (mile post 1 on Hwy 229);

ADMINISTRATIVE RULES

north on Drift Cr. Rd. to Anderson Cr. Rd.; north on Anderson Cr. Rd. to Schooner Cr. Rd.; west on Schooner Cr. Rd. to Forest Rd. 2200; north and east on FR 2200 to FR 1726; west on FR 1726 to FR 2100; northeast on FR 2100 to the power line crossing; north along the power line to State Hwy. 18; west on Hwy 18 to Old Scenic Hwy 101; north on Old Scenic Hwy 101 to Three Rocks Rd.; west on Three Rocks Rd. to U.S. Hwy 101; north on Hwy 101 to FR 1861; west on FR 1861 to Harts Cove trailhead; west on Harts Cove trail to the Pacific Ocean; south along the coastline to the Siletz River, point of beginning.

(3) Cold Springs Refuge (Umatilla County): The Cold Springs Refuge shall be closed to deer and elk hunting.

(4) Dean Creek Elk Viewing Area (Douglas County): All Bureau of Land Management lands within or contiguous to BLM lands within T22S R11W (including Spruce Reach Island located adjacent to Hwy. 38 and between the outlets of Koapke and Hinsdale Sloughs) are closed to hunting. Also, other lands located within the following boundary are closed to hunting during all elk and deer seasons that pertain to this area: beginning at the intersection of Schofield Rd. and Hwy. 38, south on Schofield Rd. to its intersection with Hakki Ridge Rd., east on Hakki Ridge Rd. to the crest of Hakki Ridge, east along the crest of Hakki Ridge to its intersection with the BLM boundary located in T22S, R11W Section 4, easterly along the BLM boundary to Hwy. 38, west on Hwy 38 to point of beginning.

(5) Dunes National Recreational Area: Use of rifles and handguns is prohibited for all hunting in that portion of the Siuslaw Unit west of Highway 101 and north of Tahkenitch Creek.

(6) North Bank Habitat Management Area (NBHMA; previously known as the Dunning Ranch Area in Douglas County): 6,500 acres located approximately eight miles northeast of Roseburg. Area: All BLM lands located in T25S, R5W, Sections 35,36; T26S, R5W, Sections 1,2,11,12,13,14; T25S, R4W, Sections 31,32,33; T26S, R4W, Sections 4,5,6,7,8,18. This area is closed to all big game hunting except for and during controlled hunts specific to the NBHMA by hunters possessing a controlled hunt tag for the area. Elk, black bear, and cougar hunting will be allowed by hunters who possess a valid NBHMA controlled hunt tag in addition to valid elk, black bear, or cougar tags. The use of bait for hunting game mammals is prohibited on NBHMA. All BLM lands located in T25S, R5W, Sections 35, 36; T26S, R5W, Sections 1, 2, 11, 12, 13, 14; T25S, R4W, Sections 31,32, 33; T26S, R4W, Sections 4, 5, 6, 7, 8, 18.

(7) William Finley National Wildlife Refuge (Benton County):

(a) Portions of the Refuge are open to deer and elk hunting under special regulations established by the Refuge.

(b) All hunters shall obtain a refuge permit and check in and out of the refuge daily. Information about deer and elk hunting locations, seasons, weapon restrictions, and application instructions are available at the refuge office at 541-757-7236 or on their website (http://www.fws.gov/refuge/William_L_Finley/Hunt.html).

(8) Government Island State Recreation Area (Multnomah County): Use of rifles, handguns, and shotguns with slugs or buckshot, and bows is prohibited at all times.

(9) Hart Mountain National Antelope Refuge (Lake County): Portions of the refuge shall be open for hunting as prescribed under chukar season, controlled pronghorn antelope and bighorn sheep hunts, deer bowhunting season, and muzzleloader deer season. The refuge is open for pronghorn antelope Mandatory Reporting Incentive tag holders, and pronghorn antelope and bighorn sheep auction and raffle tag holders but is closed for Access and Habitat deer and elk auction and raffle and Mandatory Reporting Incentive tag holders.

(10) Heppner Regulated Hunt Area: bowhunting; open fires and camping prohibited in posted areas. Approximately 63 square miles in Townships 2, 3, 4, and 5 South, Ranges 25, 26, 27 and 28 East;

(11) John Day Fossil Beds National Monument: Those parts of the National Monument in the Grizzly, Biggs, Fossil, and Northside Units are closed to all hunting and trapping.

(12) John Day River Refuge: Includes all land within 1/4 mile of the John Day River mean high water line from the Columbia River upstream to Thirty Mile Creek. Within this area, from the Columbia Rvr upstream to Rock Cr, the area shall be open to hunting of upland game birds during authorized seasons only between September 1 and October 31 annually but closed to all waterfowl hunting. The remaining area from Rock Cr upstream to Thirty Mile Cr is open to the hunting of all game birds during authorized seasons. Hunting of big game is allowed during authorized seasons.

(13) Klamath Marsh National Wildlife Refuge: This area is closed to all deer and elk hunting.

(14) Long Ranch (Linn County): Forty-eight acres in T13S, R4E, and S32 are closed to all hunting.

(15) Malheur National Wildlife Refuge (Harney County): Portions of the refuge in Blitzen Valley lying west of State Highway 205 is open during authorized rifle and bow deer and pronghorn antelope seasons.

(16) McDonald Forest-Dunn Forest Area (Benton County): The area is closed to all hunting except during controlled hunts as authorized by the commission.

(17) McKay Creek Refuge (Umatilla County): This refuge is closed to deer and elk hunting.

(18) Metolius Wildlife Refuge (Jefferson County): All hunting, injuring, taking, killing, or destroying any wild bird or mammal on public land is prohibited on public lands within T12 and T13S, R9E, bounded by USFS road 1420 and 1419 on the west; road 1400 on the south and east; and road 1420-400, Metolius River, and posted boundary from the Metolius River to road 1400 on the north (approximately five square miles). 36 CFR 261.58(v).

(19) Mill Creek Watershed (Umatilla County): This watershed is closed to all access and hunting except by holders of a Mill Creek Watershed controlled elk tag and a Forest Service entry permit.

(20) Newberry Crater Wildlife Refuge (Deschutes County): All hunting, injuring, taking, killing, or destroying any wild bird or mammal is prohibited on public lands within the rim of Newberry Crater in: T21S, R12E; T22S, R12E; T21S, R13E; T22S, R13E (approximately 15 square miles).

(21) Rimrock Springs Wildlife Area (Grizzly Unit): This area is closed to all hunting.

(22) Rogue River Area:

(a) All land within one mile of the Rogue River between Grave Creek and Lobster Creek is closed to bear hunting.

(b) All land within 1/4 mile of the Rogue River in the wild river section from Grave Creek downstream to Watson Creek is closed to all hunting except during authorized seasons.

(23) Snake River Islands (Malheur County): Closed to hunting with rifles.

(24) South Slough National Estuarine Reserve: Specific areas are closed to hunting due to public health and safety. Contact reserve headquarters office for specific closures.

(25) Starkey Experimental Forest Enclosure (Union County): That portion of The Starkey Experimental Forest within the eight foot high elk-proof fence enclosure is closed to all hunting during deer and elk season except for persons possessing a controlled hunt tag for the area. A posted 1/4 mile buffer zone on the National Forest lands surrounding the enclosure is closed to all hunting with a centerfire rifle or bow. The enclosure is open to deer and elk hunting only by permit during controlled hunts. The main study area is open to hunting of other species during authorized seasons. The 12-foot right-of-way along each side of all eight foot-high perimeter and internal game fences is closed to all motorized travel. Public entry is allowed only through the main gate. The Experimental Forest is closed to all public entry during the winter closure, which runs from the day after the controlled antlerless elk hunt until May 1 annually. Access and Habitat auction or raffle tag holders are not eligible to hunt in the Starkey Experimental Forest enclosure.

(26) Umatilla Refuge (Morrow County): This refuge is closed to deer and elk hunting except during controlled hunts specific to the refuge and emergency hunts as provided in OAR chapter 635, division 078.

(27) Wallowa Lake (Wallowa County): All land on or within 1/4 mile of the Wallowa River from Wallowa Lake upstream to the falls and within 1/4 mile along the west side of Wallowa Lake from the Wallowa Lake State Park to the Wallowa River outlet is closed to all big game hunting.

(28) Willamette River Greenway Corridor: Hunting is permitted with shotguns or bows and arrows only during authorized season on Willamette River Greenway parcels, except in those parcels where hunting is prohibited.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 41-1987, f. & ef. 7-6-87; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 94-1988(Temp), f. & cert. ef. 9-19-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07;

ADMINISTRATIVE RULES

DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 80-2013(Temp), f. 7-25-13, cert. ef. 7-26-13 thru 1-21-14; Administrative correction, 2-24-14; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0720

Bows and Arrows

Hunters shall use:

(1) Any long, recurve, or compound bow with 40-pound or heavier pull rating to hunt pronghorn antelope, black bear, cougar (mountain lion), or deer.

(2) Any long, recurve, or compound bow to hunt western gray squirrels.

(3) Any long, recurve, or compound bow with a 50-pound or heavier pull rating to hunt bighorn sheep, Rocky Mountain goat, or elk.

(4) Only unbarbed fixed position blade broadheads at least 7/8-inch wide to hunt game mammals other than western gray squirrel. Possession of moveable blade broadheads is prohibited when hunting game mammals, except western gray squirrels may be hunted with moveable blade broadheads.

(5) A long, recurve, or compound bow and shall not possess any crossbow while hunting within an authorized bowhunting area or season.

(6) Only a long, recurve, or compound bow during any authorized pronghorn antelope, deer or elk bowhunting season to hunt pronghorn antelope, deer, or elk.

(7) For hunting seasons designated as bowhunting, hunters shall only use the bows legal for the species being hunted. Bows may be used during game mammal seasons in which centerfire firearms are legal.

(8) Hunters shall not use any electronic device(s) attached to bow or arrow except lighted arrow nocks that have no function other than to increase visibility of the arrow are allowed.

(9) Hunters shall not use any device secured to or supported by the bow for the purpose of maintaining the bow at full draw (Persons unable to comply because of a disability may be eligible for a temporary permit from the Department).

(10) Hunters shall not use any device secured to or supported by a bow's riser which supports or guides an arrow from a point rearward of a bow's brace height (i.e. the position of the bows string when the bow is undrawn).

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 21-1982, f. & ef. 3-31-82; FWC 37-1982, f. & ef. 6-25-82; FWC 15-1983, f. & ef. 4-19-83; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 41-1987, f. & ef. 7-6-87; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 125-2009, f. & cert. ef. 10-7-09; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0735

Vehicles, Boats, Aircraft

It is *unlawful*:

(1) To hunt any big game from a motor-propelled vehicle. Exception: A qualified disabled hunter may obtain an Oregon Disabilities Hunting and Fishing Permit to hunt from a motor vehicle except while the vehicle is in motion or on any public road or highway. For the purpose of this regulation, "motor vehicle" includes All Terrain Vehicles (ATVs).

(2) To hunt within eight (8) hours of communicating with or receiving information on the location of game mammals from a manned aircraft.

(3) To use drones for the following purposes related to the pursuit of wildlife:

(a) Angling;

(b) Hunting;

(c) Trapping;

(d) Aiding angling, hunting or trapping through the use of drones to harass, track, locate or scout wildlife; and

(e) Interfering in the acts of a person who is lawfully angling, hunting or trapping.

(f) EXCEPTIONS allowing the use of drones for the pursuit of wildlife:

(A) Subject to ORS 837.360 and 837.365, the State Department of Fish and Wildlife and the department's agents and contractors may use of drones in carrying out the duties of the department;

(B) The use of drones in a manner otherwise prohibited under this section if the purpose

of the use is to benefit wildlife management or habitat or for the protection of property.

(g) As used in this rule, "drone" means:

(A) An unmanned flying machine;

(B) An unmanned water-based vehicle; or

(C) Any other vehicle that is able to operate in the air, in or under the water or on land, either remotely or autonomously, and without a human occupant.

(4) To hunt within eight hours after having been transported by helicopter or fixed-wing aircraft to any point other than an established airport adequate for fixed-wing aircraft.

(5) To shoot at pronghorn antelope from a point within 50 yards of a motor-propelled vehicle including aircraft, except for qualified disabled hunters as shown in 635-065-735(1).

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 58-1991, f. & cert. ef. 6-24-91; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 142-2005, f. & cert. ef. 12-16-05; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0740

Hunting Prohibited

It is unlawful:

(1) To hunt with a centerfire or muzzleloading rifle during the standard eastern Oregon controlled deer buck season (October 3 – October 14, 2015) Cascade bull elk season, Coast bull elk seasons, or Rocky Mountain bull or either-sex elk seasons, [or the standard Rocky Mountain unit's antlerless elk seasons (November 21 – November 29, 2015) without a valid, unused tag for that species, time period and area on their person. EXCEPTIONS:

(a) Landowners, or their agent, hunting predators on lands they own or lease may use centerfire or muzzleloading rifles to hunt on such lands.

(b) Hunters may use .22 caliber or smaller centerfire rifles for hunting coyotes (Canis latrans) in the Juniper, Beatys Butte, East Beulah, Whitehorse and Owyhee units and in the Wagonire Unit south of the Lake County Road 5-14 during Rocky Mountain bull or either-sex elk seasons, or the standard Rocky Mountain unit's antlerless elk seasons (November 21 – November 29, 2015).

(c) Hunters who have a tag for one of the hunts listed in this paragraph, or a tag for another game mammal controlled hunt valid within the time period and area of the above hunts may hunt as authorized by that tag and may hunt bear and/or cougar within the time period and area for which their tag is valid (used or unused) provided they have a valid unused bear and/or cougar tag.

(d) Hunters are not required to have an elk tag to hunt bear or cougar in the Applegate WMU during elk seasons.

(2) To hunt on any refuge closed by the state or federal government.

(3) To hunt within the corporate limits of any city or town, public park or cemetery, or on any campus or grounds of a public school, college, or university or from a public road, road right-of-way, or railroad right-of-way.

(4) Notwithstanding section (3) of this rule, controlled antlerless elk hunts are permitted within the south city limits of Seaside if the herd should become a serious problem.

(5) To hunt game mammals outside any area designated by a controlled hunt tag when such tag is required for that hunt season.

(6) To hunt in any Safety Zones created and posted by the Department.

(7) To hunt protected wildlife except:

(a) by a permit or during an authorized season established by the commission.

(b) That crow, blackbirds, cowbirds, and magpies may be taken under Federal regulations for reason of depredation or health hazards as described in the Code of Federal Regulations.

(8) To pursue or assist another to pursue a cougar (mountain lion) during an authorized cougar (mountain lion) season unless in possession of an unused cougar (mountain lion) tag or accompanied by the holder of an

ADMINISTRATIVE RULES

unused cougar (mountain lion) tag which is valid for that area and time period.

(9) To engage in computer-assisted hunting (Internet hunting) or provide or operate facilities for computer-assisted hunting in Oregon. As used in this act, "computer-assisted hunting" (Internet hunting) means the use of a computer or any other device, equipment, or software to remotely control the aiming and discharge of a firearm, bow, or any other weapon to hunt any game bird, wildlife, game mammal, or other mammal, and "facilities for computer-assisted remote hunting" means real property and improvements on the property associated with hunting, including hunting blinds, offices and rooms equipped to facilitate computer-assisted remote hunting. Nothing in subsection (9) of this section prohibits the use computer-assisted hunting by employees or agents of county, state or federal agencies while acting in their official capacities.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 41-1987, f. & ef. 7-6-87; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0760

Other Restrictions

It is unlawful:

- (1) To take or hold in captivity the young of any game mammal.
- (2) To hold in captivity any wildlife of this state for which a permit is required without first securing a permit.
- (3) To release without a permit any wildlife brought from another state or country, or raised in captivity in this state.
- (4) To resist game law enforcement officers.
- (5) To refuse inspection of any license, tag or permit by an employee of the Department; any person authorized to enforce the wildlife laws; or a landowner or agent of the landowner on his or her land while on that property.
- (6) To refuse inspection, by an employee of the Oregon Department of Fish and Wildlife, or any person authorized to enforce wildlife laws, of any gear used for the purpose of taking wildlife.
- (7) To take or attempt to take any game mammals, game birds, migratory waterfowl or any protected wildlife species of any size or sex or amount, by any method or weapon, during any time or in any area not prescribed in these rules.
- (8) To disturb, damage, remove, alter or possess any official Department signs.
- (9) To sell, lend, or borrow any big game tag.
- (10) It is unlawful to operate or to be transported in a motor-propelled vehicle in violation of Cooperative Travel Management Areas. "Motor-propelled vehicle" includes aircraft not landing on designated airstrips. Through cooperative agreement, motor vehicle use is limited to specific roads during the dates for the areas listed below. There are two methods of posting road access information; negative marking in which closed roads are marked by signs, gates, berms, or other similar indicators, or positive marking in which open roads are marked by round green reflectors, orange carsonite posts, or similar indicators. Unit descriptions may be found in OAR 635-080-0000 through 635-080-0077. The following closures shall be effective during the specified periods each year:

(a) North Coast Access Area: Three days prior to opening of general archery season through the close of all bull elk rifles seasons. — Applies to all gated, posted, and/or barrier closed roads within the Saddle Mountain, Scappoose, Trask and Wilson wildlife management units. Cooperators require: day use only on private lands, no ATV use on private and designated state lands, no vehicle may block any road gate.

(b) Upper Tualatin-Trask: Three days prior to the opening of controlled buck deer rifle season through the close of all bull elk rifle seasons — That part of the Trask Unit as follows: 60 square miles in Townships 1 and 2 North and 1 South, and Ranges 5 and 6 West;

(c) Rickreall Regulated Hunt Area: November 1 through November 30 annually — That part of Stott Mt. Unit as follows: 12 square miles in Townships 7 and 8 South, Ranges 6 and 7 West;

(d) Luckiamute: Permanent Closure — Those parts of the Stott Mt. /Alsea Units as follows: 9 square miles in Townships 8 and 9 South, Ranges 7 and 8 West.

(e) Mid-Coast: Permanent Closure — That part of the Alsea Unit as follows: Open roads in the Siuslaw NF lands south of US Hwy 20 and north of State Hwy 126 are designated on the Siuslaw NF Motor Vehicle Use Map. However; additional roads may be posted as closed as part of the Cooperative TMA or for administrative purposes.

(f) Smith Ridge: Permanent Closure — That part of the McKenzie Unit as follows: 8 square miles in Townships 13 and 14 South, Ranges 6 and 7 East;

(g) Chucksney Mountain: September 1 through November 30 annually — That part of the McKenzie Unit as follows: 6 square miles in Township 19 South, Range 5 1/2 East;

(h) Skookum Flat: Permanent Closure — That part of the McKenzie Unit as follows: 8 square miles in Townships 19 and 20 South, Range 6 East;

(i) Scott Creek: Permanent Closure — That part of the McKenzie Unit as follows: 51 square miles in Townships 14, 15, and 16 South, Ranges 6 and 7 East;

(j) Wendling: opening of general buck deer season through November 30. Approximately 185 sq. mi in Unit 19 northeast of Springfield; north of Hwy 126, east of Marcola and Brush Creek Rds., and south of the Calapooia River Mainline. Roads open to motor vehicle use will be marked with orange road markers. Access may be closed due to fire danger.

(k) Coos Bay BLM: Permanent Closure — That part of the Tioga Unit as follows: Individual posted roads on lands administered by BLM, Coos Bay District.

(l) Upper Rogue: Three days prior to the general Cascade elk season through the end of the general Cascade elk season — That part of the Rogue Unit as follows: High Cascades Ranger District, Rogue River National Forest;

(m) Jackson: Three days prior to the general Cascade elk season through April 30 annually — That part of the Rogue, Dixon, and Evans Creek units as follows: 116 square miles in Townships 32, 33, 34, and 35 South, Ranges 1 and 2 West and 1 and 2 East; off-road motor vehicle travel is prohibited at all times;

(n) Pokegama: November 20 through March 31 annually — That part of the Keno Unit as follows: 97 square miles in Townships 40 and 41 South, Ranges 4, 5, and 6 East;

(o) Lower Klamath Hills: Permanent Closure — That part of the Klamath Unit as follows: 3 square miles in Township 40 South, Range 9 East;

(p) Goodlow Mountain Area Closure: December 1 through March 31 annually — That part of the Klamath Unit as follows: 17 square miles in Townships 38 and 39 South, Ranges 12 and 13 East;

(q) Sun Creek: November 1 through June 30 annually — That part of the Sprague Unit as follows: 14 square miles in Township 32 South, Ranges 6 and 7 1/2 East;

(r) Fox Butte: Three days prior to the opening of controlled buck deer season through the close of the controlled buck deer season — That part of the Paulina Unit as follows: 230 square miles in Townships 20, 21, 22, 23, and 24 South, Ranges 14, 15, and 16 East;

(s) Timbers: Permanent Closure — That part of the Paulina Unit as follows: 25 square miles in Townships 23 and 24 South, Ranges 9 and 10 East;

(t) Rager: Three days prior to the opening of controlled buck deer rifle season through the close of antlerless elk rifle season — That part of the Ochoco Unit as follows: 352 square miles south of U.S. Highway 26 and west of the South Fork John Day River.

(u) White River Wildlife Area: December 1 through March 31 annually — That part of the White River Unit as follows: 59 square miles along the eastern edge of the Mt. Hood National Forest in the southern half of the White River Unit;

(v) Lower Deschutes: Permanent Closure — That part of the Biggs Unit as follows: 12 square miles along lower 17 miles of Deschutes River except the county access road to Kloam;

(w) Murderers Creek-Flagtail: Three days prior to the opening of the archery deer and elk seasons through the close of controlled buck deer rifle season and from three days prior to the controlled Rocky Mountain bull elk first season through the Rocky Mountain bull elk second season — That

ADMINISTRATIVE RULES

part of the Murderers Creek Unit as follows: 185 square miles in Townships 13, 14, 15, 16, and 17 South, Ranges 26, 27, 28, and 29 East;

(x) Camp Creek: Three days prior to opening of controlled buck deer rifle season through the close of controlled buck deer rifle season and from three days prior to the controlled Rocky Mountain bull elk first season through the Rocky Mountain bull elk second season — That part of the Northside Unit as follows: 54 square miles in Townships 10, 11, and 12 South, Ranges 31, 32, and 33 East.

(y) Heppner Regulated Hunt Area: Year-round, unless posted otherwise. That part of the Heppner Unit as follows: Approximately 63 square miles in Townships 2, 3, 4, and 5 South, Ranges 25, 26, 27, and 28 East;

(z) Bridge Creek Wildlife Area: December 1 through April 14 annually except by permit — That part of the Ukiah Unit as follows: 20 square miles in Townships 5 and 6 south, Ranges 31 and 32 East in the Southwest corner of Ukiah Unit;

(aa) Meacham: Three days prior to the opening of the archery deer and elk seasons through May 31. Approximately 41 square miles in Units 49, 52 and 54 in townships 1 and 2 south, township 1 north, ranges 34, 35, and 36 east.

(bb) Dark Canyon: Three days prior to the opening of controlled buck deer season through the close of the last elk season encompassing this travel management area. That part of the Sumpter Unit as follows: 20 square miles in Townships 11 and 12 South, Ranges 40 and 41 East;

(cc) Patrick Creek: Three days prior to the opening of controlled buck deer season through the close of the last elk season and May 1 through June 30 encompassing this travel management area. That part of the Sumpter Unit as follows: 8 square miles in Townships 10 and 11 South, Ranges 35 1/2 and 36 East;

(dd) Dry Beaver/Ladd Canyon: Permanent Closure — That part of the Starkey Unit as follows: 125 square miles in Townships 4, 5 and 6 South, Ranges 35, 36, 37 and 38 East;

(ee) Clear Creek: Three days prior to opening of Rocky Mountain bull elk season through close of Rocky Mountain bull elk second season — That part of the Starkey Unit as follows: 21 square miles in Township 5 South, Ranges 37 and 38 East;

(ff) Trail Creek: Three days prior to opening of Rocky Mountain bull elk season through close of Rocky Mountain bull elk second season — That part of the Starkey Unit as follows: 29 square miles in Townships 6 and 7 South, Ranges 35 1/2 and 36 East;

(gg) Indian Creek-Gorham Butte: Three days prior to opening of Rocky Mountain bull elk season through close of Rocky Mountain bull elk second season — That part of the Starkey Unit as follows: 24 square miles in Townships 6 and 7 South, Ranges 36 and 37 East;

(hh) Elkhorn Wildlife Area: Permanent Closure — Those parts of the Starkey and Sumpter units as follows: 7 square miles in Township 6 South, Range 38 East;

(ii) Starkey Experimental Forest Enclosure: Permanent Closure — That part of the Starkey Unit as follows: 40 square miles in Townships 3 and 4 South, Range 34 East;

(jj) Hall Ranch: Three days prior to the opening of Rocky Mountain bull elk first season through April 30 — that part of the Catherine Creek Unit as follows: 3 square miles in Township 5 South, Range 41 East;

(kk) Little Catherine Creek: Three days prior to opening of archery season through May 31 — That part of the Catherine Creek Unit as follows: 22 square miles in Townships 3, 4 and 5 South, Ranges 40 and 41 East;

(ll) Walla Walla: Permanent Closure — Those parts of Walla Walla, Wenaha, and Mt. Emily units as follows: All gated, posted, and closed roads within the Walla Walla Ranger District of the Umatilla National Forest.

(mm) Wenaha Wildlife Area: Permanent Closure — That part of the Wenaha Unit as follows: 17 square miles in Townships 5 and 6 North, Ranges 42 and 43 East along eastern edge of Umatilla Forest in northeast corner of Wenaha Unit;

(nn) Noregaard: Three days prior to archery season through May 31. However, roads will be open to permit removal of camping equipment during a time period extending through two Sundays following the end of the last antlerless elk rifle season. That part of the Sled Springs Unit as follows: 175 square miles in west one-third of Sled Springs Wildlife Unit.

(oo) Shamrock: Three days prior to archery season through May 31. However, roads will be open to permit removal of camping equipment during a time period extending through two Sundays following the end of the last antlerless elk rifle season. — That part of the Sled Springs Unit as follows: 20 square miles in Township 4 North, Range 44 East;

(pp) Chesnimnus: Three days prior to Chesnimnus rifle bull season through end of Chesnimnus rifle bull season — That portion of the

Chesnimnus Wildlife Unit within the boundaries of the Wallowa-Whitman National Forest;

(qq) Cemetery Ridge Road: Permanent Closure — That part of the Chesnimnus Unit as follows: Cemetery Ridge Road north of the south boundary of Section 4, Township 3 North, and Range 48 East.

(rr) Lord Flat Trail (#1774): Three days prior to archery season through the end of all elk rifle seasons — 15 miles of road in Townships 1 South and 1 and 2 North, Ranges 49 and 50 East;

(ss) Grouse-Lick Creeks: Three days prior to opening of Rocky Mountain bull elk first season through the close of Rocky Mountain bull elk second season — That part of the Imnaha Unit as follows: 100 square miles in Townships 2, 3, 4, and 5 South, Ranges 46, 47 and 48 East;

(tt) Clear Lake Ridge: Three days prior to opening of archery season through December 1 annually — That part of the Imnaha Unit as follows: Five square miles in Township 2 South, Range 47 East, Sections 3 and 4 and Township 1 South, Range 47 East, Sections 28, 15, 33, 34 and 22.

(uu) Mehlorn: Permanent Closure: That part of the Pine Creek and Keating Units as follows: 26 square miles in Township 6 South, Ranges 45 and 46 East;

(vv) Lake Fork-Dutchman: Three days prior to opening of archery season to the end of all elk rifle seasons and from May 1 to July 1 — That part of the Pine Creek Unit as follows: 42 square miles in Townships 6 and 7 South, Ranges 46 and 47 East;

(ww) Okanogan-Fish: Three days prior to the opening of buck deer rifle season to the end of elk rifle seasons and from May 1 to July 1 — That part of the Pine Creek Unit as follows: 20 square miles in Township 6 and 7 South, Ranges 46 and 47 East;

(xx) Summit Point: Permanent Closure: That part of the Keating Unit as follows: 14 square miles in Townships 6 and 7 South, Ranges 44 and 45 East.

(yy) Eagle Creek: December 1 — April 15: That part of the Keating Unit as follows: 17 square miles in Townships 7 and 8 South, Range 44 and 45 East;

(zz) Conroy Cliff: Three days prior to the opening of controlled buck deer rifle season through the close of controlled buck deer rifle season and from three days prior to the controlled Rocky Mountain bull elk first season through the Rocky Mountain bull elk second season — That part of the Malheur River Unit as follows: 46 square miles in Townships 16, 17, and 18 South, Ranges 32 1/2, 34, and 35 East;

(aaa) Devine Ridge-Rattlesnake: Three days prior to the opening of controlled buck deer rifle season through the close of controlled buck deer rifle season and from three days prior to the controlled Rocky Mountain bull elk first season through the Rocky Mountain bull elk second season — That part of the Malheur River Unit as follows: 59 square miles in Townships 20 and 21 South, Ranges 31, 32, 32 1/2 East;

(bbb) Dairy Creek: Three days prior to the opening of controlled buck deer rifle season through the close of controlled buck deer rifle season and from three days prior to the controlled Rocky Mountain bull elk first season through the Rocky Mountain bull elk second season — That part of the Silvies Unit as follows: 98 square miles in Townships 19, 20, 21, and 22 South, Ranges 24, 25, and 26 East;

(ccc) Burnt Cabin: Three days prior to the opening of controlled buck deer rifle season through the close of controlled buck deer rifle season and from three days prior to the controlled

Rocky Mountain bull elk first season through the Rocky Mountain bull elk second season — That part of the Silvies Unit as follows: 22 square miles in Townships 18 and 19 South, Ranges 26 and 27 East;

(ddd) Walker Rim: Three days prior to the opening of controlled buck deer season through the close of the controlled buck deer season — That part of the Fort Rock Unit as follows: 113 square miles in Townships 24, 25, and 26 South, Ranges 8, 9, and 10 East;

(eee) North Paulina: Permanent Closure — That part of the Fort Rock Unit as follows: 12 square miles in Townships 25 and 26 South; Range 8 East;

(fff) Sugarpine Mountain: Permanent Closure — That part of the Fort Rock Unit as follows: 40 square miles in Township 28, Ranges 9 and 10 East;

(ggg) Stott Mt.-North Alsea: One day prior to opening of archery season through the bull elk rifle seasons — All gated and/or barrier closed roads within the Alsea Unit north of US Hwy 20 and west of State Hwy 223 (Kings Valley Hwy); and in the Stott Mt. Unit. Cooperators require: day use only on private lands, no ATV use on private lands and designated state lands, and no vehicle may block any road or gate. Access may be closed during extreme fire danger;

ADMINISTRATIVE RULES

(hhh) Spring Butte: Permanent Closure — That part of the Paulina Unit as follows: 30 square miles in Township 23 South, Range 11 East;

(iii) Wildhorse Ridge/Teepee Butte: Three days prior to archery season through the end of all elk rifle seasons. Posted and gated roads north of 46 roads in Chesnimnus Unit are closed;

(jii) Hells Canyon National Recreation Area: Permanent Closure — Those parts of the Chesnimnus, Imnaha, Snake River, and Pine Creek Units in Eastern Wallowa County that are closed by the National Recreation Area;

(kkk) PO Saddle Road — Three days prior to opening of archery season through June 15th, annually — Three miles of road in Townships 3 and 4 South, Range 48 East.

(lll) Whiskey Creek — Three days prior to archery season through May 31. However, roads will be open to permit removal of camping equipment during a time period extending through two Sundays following the last antlerless elk season. That part of the Sled Springs unit as follows — 45 square miles in Townships 2 and 3 North, Ranges 43, 44, and 45 East.

(mmm) South Boundary: Permanent Closure — That part of the Ochoco Unit as follows: 47 square miles in Townships 15 and 16 South, Ranges 20, 21, and 22 East.

(nnn) Green Diamond Travel Management Area: Permanent Closure — Applies to all gated, posted, or barrier-closed roads within the Rogue, Keno, Klamath Falls, Sprague, Interstate, Silver Lake, and Fort Rock Units within the land holdings of Green Diamond Resource Company.

(ooo) Prineville Reservoir Wildlife Area: From November 15 or December 1 (as posted at each gate) through April 15 annually — That part of the Ochoco and Maury Units as follows: 5 square miles in Township 16 South, Range 17 East.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stat. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 30-1995, f. & cert. ef. 4-17-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 5-2003, f. 1-17-03, cert. ef. 7-1-03; DFW 116-2003(Temp), f. & cert. ef. 11-25-03 thru 3-31-04; DFW 120-2003, f. 12-4-03, cert. ef. 6-16-04; DFW 125-2004, f. 12-21-04, cert. ef. 6-1-05; DFW 133-2005, f. 12-1-05, cert. ef. 6-1-06; DFW 128-2006, f. 12-7-06, cert. ef. 6-1-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 159-2014(Temp), f. 12-4-14, cert. ef. 1-1-15 thru 6-29-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-065-0765

Tagging, Possession, Transportation and Evidence of Sex

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to such carcass or remain with any parts thereof so long as the same are preserved.

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.

(3) It is unlawful to possess the meat or carcass of any deer, elk, pronghorn antelope, bighorn sheep, or Rocky Mountain goat without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. Evidence of sex for deer, elk, pronghorn antelope, bighorn sheep, or Rocky Mountain goat is:

(a) The animal's scalp which shall include the attached eyes and ears, if animal is female; or ears, antlers or horns, and eyes if the animal is male, or;

(b) Reproductive organs (testicles, scrotum, or penis if male; vulva or udder (mammary) if female) naturally attached to one quarter of the carcass or to another major portion of meat.

(i) For hunts with antler or horn restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers or horns naturally attached shall accompany the carcass or major portions of meat.

(ii) For hunts where only white-tailed deer and for hunts where only mule deer are legal: in addition to evidence of sex, (testicles, scrotum, penis, vulva, udder, mammary), either the head or tail shall remain natural-

ly attached to one quarter of the carcass or to another major portion of meat as evidence of the species taken.

(4) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag was originally attached to the carcass and the number of that tag shall accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the Department.

(5) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal must be tagged with a tag or metal seal by the Department or by the Oregon State Police.

(6) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the Department or by the Oregon State Police.

(7) It is unlawful to receive or have in possession any game mammal or part thereof which:

(a) Is not properly tagged;

(b) Was taken in violation of any wildlife laws or regulations; or

(c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.

(8) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers, unless he has notified and received permission from the Department or personnel of the Oregon State Police prior to transporting.

(9) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the Department may be made available to scientific and educational institutions and for ceremonial purposes.

(10) Except for the following parts, importation of a cervid carcass or parts of a cervid carcass is prohibited if the cervid was killed in a state or province with a documented case of Chronic Wasting Disease:

(a) Meat that is cut and wrapped commercially or privately;

(b) Meat that has been boned out;

(c) Quarters or other portions of meat with no part of the spinal column or head attached;

(d) Hides and/or capes with no head attached;

(e) Skull plates with antlers attached that have been cleaned of all meat and brain tissue;

(f) Antlers with no tissue attached;

(g) Upper canine teeth (buglers, whistlers, ivories);

(h) Finished taxidermy heads.

(11) For the purposes of the parts and carcass import ban in subsection 10, the states or provinces with a documented case of Chronic Wasting Disease (CWD) are Alberta, Colorado, Illinois, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming, and Saskatchewan. The Department shall add by temporary rule any additional states or provinces when any new cases of CWD arise.

(12) The parts and carcass import ban in subsection (11) does not apply to parts or carcasses shipped to the National Fish and Wildlife Forensics Laboratory (Ashland, Oregon) for the purpose of law enforcement investigations and also does not apply to parts or carcasses of reindeer/caribou.

(13) Cervid carcasses or parts of cervid carcasses found in Oregon in violation of the parts and carcass ban in subsection 10 shall be disposed of in a manner as follows:

(a) Brain tissue, spinal columns, and whole heads or heads minus the cleaned skull plate and attached antlers, shall be disposed of either by incineration at temperatures exceeding 800° F or at lined landfills registered by Oregon Department of Environmental Quality capable of accepting animal carcasses without environmental contamination; rendering is not an allowed means of disposal.

(b) The person(s) who imported parts in violation of the parts and carcass ban in subsection 10 shall pay for appropriate disposal of cervid carcasses or parts of cervid carcasses.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stat. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1988, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW

ADMINISTRATIVE RULES

92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 90-2002(Temp), f. & cert. ef. 8-16-02 thru 2-11-03; DFW 114-2002(Temp), f. & cert. ef. 10-18-02 thru 2-11-03; DFW 126-2002, f. & cert. ef. 11-12-02; DFW 127-2002(Temp), f. & cert. ef. 11-14-02 thru 2-11-03; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 61-2003, f. & cert. ef. 7-16-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 111-2005(Temp), f. & cert. ef. 9-23-05 thru 10-31-05; Administrative correction 11-18-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 135-2008, f. & cert. ef. 10-17-08; DFW 2-2009, f. & cert. ef. 1-9-09; DFW 8-2010(Temp), f. & cert. ef. 1-25-10 thru 7-24-10; DFW 21-2010(Temp), f. & cert. ef. 2-26-10 thru 8-24-10; DFW 36-2010(Temp), f. & cert. ef. 3-30-10 thru 9-25-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 92-2012(Temp), f. & cert. ef. 7-23-12 thru 1-19-13; DFW 136-2012, f. & cert. ef. 10-24-12; DFW 137-2012(Temp), f. & cert. ef. 10-24-12 thru 4-22-13; DFW 4-2013, f. 1-15-13, cert. ef. 2-1-13; DFW 10-2013, f. & cert. ef. 2-7-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 155-2014(Temp), f. & cert. ef. 10-28-14 thru 4-26-15; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 14-2016(Temp), f. & cert. ef. 2-25-16 thru 8-22-16; DFW 18-2016, f. & cert. ef. 3-21-16

635-066-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting black bear pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 066 incorporates, by reference, the requirement for black bear hunting set out in the document entitled 2016 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for the hunting of black bear. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

(3) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 64-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-067-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 067 incorporates, by reference, the requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat set out in the document entitled "2016 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

(3) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

(4) Controlled hunt tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. Permitted weapons and ammunition are established in OAR chapter 635, division 065. Controlled hunt tag numbers for 2015 are listed in Tables 1, 2, and 3 and are adopted and incorporated into OAR chapter 635, division 067 by reference.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 65-1989, f. & cert. ef. 8-15-89; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 60-2008,

f. & cert. 6-12-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 85-2010(Temp), f. & cert. ef. 6-21-10 thru 12-17-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-067-0030

Controlled Bighorn Sheep Hunts

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 32-1978, f. & cert. ef. 6-30-78; FWC 12-1979, f. & cert. ef. 3-28-79; FWC 29-1979, f. & cert. ef. 8-2-79; FWC 14-1980, f. & cert. ef. 4-8-80; FWC 10-1981, f. & cert. ef. 3-31-81; FWC 22-1981, f. & cert. ef. 6-29-81; FWC 21-1982, f. & cert. ef. 3-31-82, Renumbered from 635-060-0610; FWC 15-1983, f. & cert. ef. 4-19-83; FWC 16-1984, f. 4-6-84, cert. ef. 4-15-84; FWC 21-1985, f. & cert. ef. 5-7-85; FWC 29-1986, f. & cert. ef. 7-23-86; FWC 11-1987, f. & cert. ef. 3-6-87; FWC 14-1988, f. & cert. ef. 3-10-88; FWC 16-1989, f. & cert. ef. 3-28-89; FWC 65-1989, f. & cert. ef. 8-15-89; FWC 25-1990, f. & cert. ef. 3-21-90; FWC 21-1991, f. & cert. ef. 3-12-91; FWC 45-1992, f. & cert. ef. 7-15-92; FWC 61-1992, f. & cert. ef. 7-30-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 6-1995, f. 1-23-95, cert. ef. 4-1-95; FWC 54-1995, f. & cert. ef. 6-20-95; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 99-2006(Temp), f. & cert. ef. 9-11-06 thru 9-30-06; Administrative correction 10-16-06; DFW 109-2009(Temp), f. & cert. ef. 9-9-09 thru 9-30-09; Administrative correction 10-22-09; DFW 81-2011, f. 6-29-11, cert. ef. 8-20-11; DFW 115-2011(Temp), f. & cert. ef. 8-16-11 thru 2-11-12; DFW 116-2011(Temp), f. & cert. ef. 8-19-11 thru 10-1-11; Administrative correction 10-27-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 108-2012(Temp), f. & cert. ef. 8-16-12 thru 11-1-12; DFW 116-2012(Temp), f. & cert. ef. 9-4-12 thru 3-2-13; Administrative correction, 3-20-13; DFW 119-2014(Temp), f. 8-8-14, cert. ef. 8-28-14 thru 10-31-14; Administrative correction 11-24-14; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-067-0036

Rocky Mountain Goat Auction Tag

(1) One Rocky Mountain Goat tag will be auctioned to the highest bidder annually in the manner and at such time as provided by the Department. The Department may contract with a sportsmen's group or organization to conduct the auction.

(2) The Rocky Mountain Goat auction tag and auction shall be limited as follows:

(a) Bag Limit: One Rocky Mountain Goat.

(b) Hunting Hours: One-half hour before sunrise to one-half hour after sunset.

(c) Open Season: The season shall begin on September 1 and shall end on October 31.

(d) Open Area: Any area where Rocky Mountain Goat hunts and tags have been authorized for the current year.

(e) Auction Requirements:

(A) The minimum acceptable bid for a Rocky Mountain Goat auction tag shall be \$2,000.00. The bid price includes the hunting license and tag fee. A valid Rocky Mountain Goat tag will be provided to the winning bidder and a valid hunting license will be provided if the winning bidder has not already purchased one, so long as the winner is eligible to purchase an adult Oregon hunting license or a juvenile Oregon hunting license.

(B) Any person, resident or nonresident, is eligible to bid.

(C) If the highest bid is submitted by a person other than the person who is to receive the tag, the Department shall be notified within five business days of the name, address, and phone number of the individual who is to receive the license and tag and his or her position or affiliation with the corporation or organization.

(D) Acceptance of the highest bid shall be conditional until the full amount of the bid is paid. Payment shall be made to the Oregon Department of Fish and Wildlife by cashiers check or certified check within 60 days of the date of the auction, whether conducted by the Department or by a sportsman's group or organization authorized by the Department to conduct the auction.

(E) If the full amount is not paid as provided in OAR 635-067-0032(2)(d)(D), the Department may, at its discretion, reject the bid and offer the tag to the next highest bidder. If the Department offers the tag to the next highest bidder, such next highest bidder must make payment to the Oregon Department of Fish and Wildlife by cashiers check or certified check within 30 days of notification of his or her opportunity to obtain the tag.

(F) The Department shall reserve the right to accept or reject any or all bids.

Stat. Auth.: ORS 496.012, 496.138 & 496.146

Stats Implemented: ORS 496.012, 496.138 & 496.146

Hist.: DFW 18-2016, f. & cert. ef. 3-21-16

ADMINISTRATIVE RULES

635-068-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting western Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2015 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 068 by reference.

(3) OAR chapter 635, division 068 incorporates, by reference, the requirements for hunting western Oregon deer set out in the document entitled "2016 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon deer. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 39-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. & cert. ef. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 121-2003, f. & cert. ef. 12-4-03, cert. ef. 1-19-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 124-2004, f. & cert. ef. 12-21-04, cert. ef. 3-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2005, f. & cert. ef. 12-1-05, cert. ef. 3-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 125-2006, f. & cert. ef. 12-4-06, cert. ef. 3-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 116-2007, f. & cert. ef. 10-31-07, cert. ef. 3-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 13-2009, f. & cert. ef. 2-19-09, cert. ef. 3-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 14-2010, f. & cert. ef. 2-16-10, cert. ef. 3-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 14-2011, f. & cert. ef. 2-15-11, cert. ef. 3-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 15-2012, f. & cert. ef. 2-10-12, cert. ef. 3-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 14-2013, f. & cert. ef. 2-15-13, cert. ef. 3-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 122-2013, f. & cert. ef. 10-25-13; DFW 16-2014, f. & cert. ef. 2-27-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 15-2015, f. & cert. ef. 2-26-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-069-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting eastern Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2015 are listed in Tables 1 and 2 and are adopted and incorporated into OAR Chapter 635, division 069 by reference.

(3) OAR Chapter 635, Division 069 incorporates, by reference, the requirements for hunting eastern Oregon deer set out in the document entitled "2016 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for hunting eastern Oregon deer. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 40-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 20-2000(Temp), f. & cert. ef. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 7-2003, f. & cert. ef. 1-17-03, cert. ef. 2-1-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. & cert. ef. 12-4-03, cert. ef. 2-2-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. & cert. ef. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. & cert. ef. 12-1-05, cert. ef. 2-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. & cert. ef. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. & cert. ef. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. & cert. ef. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 7-2011, f. & cert. ef. 1-31-11, cert. ef. 2-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 3-2012, f. & cert. ef. 2-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 4-2013, f. & cert. ef. 1-15-13, cert. ef. 2-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 3-2014, f. & cert. ef. 1-22-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 15-2015, f. & cert. ef. 2-26-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-072-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, and other restrictions for hunting western gray squirrels pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 072 incorporates, by reference, the requirements for hunting western gray squirrel set out in the document entitled "2016 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western gray squirrel. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(3) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 43-1988, f. & cert. ef. 6-13-88; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. & cert. ef. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. & cert. ef. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. & cert. ef. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. & cert. ef. 12-7-06, cert. ef. 1-1-07; DFW 118-2007, f. & cert. ef. 10-31-07, cert. ef. 1-1-08; DFW 150-2008, f. & cert. ef. 12-18-08, cert. ef. 1-1-09; DFW 140-2009, f. & cert. ef. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. & cert. ef. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. & cert. ef. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. & cert. ef. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-073-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for bow and muzzleloader hunting, Premium Hunts, and controlled deer and elk youth hunts; pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2015 for deer and elk bow and muzzleloader hunting and deer and elk youth hunts are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 073 by reference.

(3) OAR chapter 073 incorporates, by reference, the requirements for bow and muzzleloader hunting, Premium Hunts, and controlled deer and elk youth hunts set out in the document entitled "2016 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations," in addition to OAR chapter 635, to determine all applicable requirements for bow and muzzleloader hunting, Premium Hunts, and controlled deer and elk youth hunts. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 44-1988, f. & cert. ef. 6-13-88; FWC 18-1994, f. & cert. ef. 3-30-94, cert. ef. 5-1-94; FWC 17-1996, f. & cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 21-2000(Temp), f. & cert. ef. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. & cert. ef. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. & cert. ef. 12-4-03, cert. ef. 2-2-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. & cert. ef. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. & cert. ef. 12-1-05, cert. ef. 2-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. & cert. ef. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. & cert. ef. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. & cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 7-2011, f. & cert. ef. 1-31-11, cert. ef. 2-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 3-2012, f. & cert. ef. 2-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 4-2013, f. & cert. ef. 1-15-13, cert. ef. 2-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 3-2014, f. & cert. ef. 1-22-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 89-2014(Temp), f. & cert. ef. 7-7-14 thru 11-1-14; Administrative correction 11-24-14; DFW 15-2015, f. & cert. ef. 2-26-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-073-0100

Controlled Premium Hunt Regulations

(1) Tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060.

(2) "L" series Premium Hunt deer tags, "M" series Premium Hunt elk tags, and "N" series Premium Hunt pronghorn antelope tags are in addition

ADMINISTRATIVE RULES

to all other tags and permits approved by the commission. In addition to the number of deer, elk, and pronghorn antelope tags legally available to an individual, an individual is allowed one additional deer tag, one additional elk tag, and one additional pronghorn antelope tag annually provided these tags are Premium Hunt series tags.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 18-2016, f. & cert. ef. 3-21-16

635-075-0020

Landowner Hunting Preference Tags in Special Seasons

(1)(a) Landowner hunting preference tags are not available for Premium Hunts (series L, M, and N) or the long duration youth elk hunts (August 1 – December 31) or the Melrose 223T (August 1 – March 31, 2015) youth elk hunt.

(b) During controlled elk hunts with a bag limit of spike or better in units where the usual bag limit for bull elk is spike only, landowner hunting preference tags shall be limited to five tags or 10 percent of the total controlled hunt tags whichever is greater; the bag limit for these elk tags shall be spike or better.

(2) If landowner preference tags remain from the controlled hunts described in 635-075-0020(1)(b) after the game mammal controlled hunt drawing, the Department will issue remaining tags to qualified landowners in the following manner:

(a) The tags shall be issued on a first-come, first-served basis.

(b) The Department will set the time and date for the sale of the tags.

(c) Tags issued are additional tags. A qualified landowner may purchase only one first-come, first-served tag per hunt series. Such a tag may be for the landowner or for someone other than the landowner listed on their tag distribution form.

(d) For the purposes of OAR 635-075-0020(2), “qualified landowner” is a landowner who registered their land through the landowner preference program for the Wildlife Management Unit which includes the controlled hunt and who has a current tag distribution form filed with the Department.

(3) A hunter who received a tag of his or her choice through the original game mammal controlled hunt drawing process may exchange that tag for a remaining tag in the first-come, first-served process while tags remain available. Tag purchases and exchanges may be obtained only through ODFW Salem Headquarters and must be made before the start of the seasons for which the tags are issued. The tag being exchanged shall not be reissued.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.151 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.151 & 496.162
Hist.: FWC 10-1994, f. & cert. ef. 2-24-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 4-2003, f. 1-17-03, cert. ef. 4-1-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16

635-075-0025

Outfitters and Guides Nonresident Tag Allocation

(1) Eligibility: Outfitters and Guides must be registered pursuant to ORS 704 prior to making application for big game tags described herein.

(2) The nonresident tags allocated shall be based on one half the nonresident tags drawn in the previous year from the standard first drawing determined by hunt number for series 100, 200, and 600 as described in OAR 635-060-005 and 635-068-0000 through 635-071-0000.

(a) Prior to November 1 of each year, the department shall publish a list of tags available for allocation based on nonresident tags drawn in the annual June drawing.

(b) In the event of new hunts, no Outfitter and Guide tags will be allocated for that year for those hunts, except for unit wide hunts that are split will have tags reapportioned for the new hunts.

(c) All tags allocated shall be considered nonresident for the purposes of OAR 635-060-0030(2).

(d) The Commission may revoke or refuse to issue all or any portion of the permits based upon a commission finding of an emergency situation or for a biological need. In the event of a tag number reduction of 50% or more for the current hunt year, Outfitter and Guide tags will be reduced proportionately to the overall tag reduction. Tags will be reallocated based on the application draw number.

(e) For the purposes of these rules, “emergency situation or biological needs” is defined as a situation in which harvest mortality above a prescribed level would significantly jeopardize the department’s ability to meet sex ratio or population management objectives for a wildlife management unit or subunit.

Stat. Auth.: ORS 496.012, 496.138 & 497.112
Stats. Implemented: ORS 496.012, 496.138 & 497.112

Hist.: FWC 73-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 18-2016, f. & cert. ef. 3-21-16

635-075-0026

Application Requirements

(1) A valid controlled hunt Outfitter and Guide application shall be purchased from the Department. The purchase price of the application is \$6.00 (plus a \$2.00 agent fee).

(a) Only one hunt number and one species type may be included on a single application. No more than 50% of the available tags for a specific hunt number and species may be applied for, except in cases where only one person applies for tags and/or an odd number of tags exists in particular hunt.

(b) Tags will only be issued for specific hunt units in which the Outfitter and Guide is certified.

(c) Applications must be complete and include such information as required which will include the six-digit State Marine Board Registration number required under ORS 704.020 or they may be disqualified from the tag allocation drawing.

(d) Applications, along with the proper fees, must be received by midnight December 1, of each year, at the Department headquarters office. Applications received after the specified deadline dates shall be disqualified.

(2) No outfitter or guide may receive more than 25 tags per year for any single species of big game from the December Outfitter and Guide tag drawing. Tags received in the first-come, first-serve remaining tag process are in addition to tags drawn by an outfitter and guide in the December Outfitter and Guide tag drawing.

Stat. Auth.: ORS 496.012, 496.138 & 497.112, Other Auth.: SB 247 (2015)

Stats. Implemented: ORS 496.012, 496.138 & 497.112

Hist.: FWC 73-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 114-2004(Temp), f. & cert. ef. 11-23-04 thru 5-20-05; Administrative correction 6-17-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 6-2006, f. & cert. ef. 1-25-06; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16; DFW 18-2016, f. & cert. ef. 3-21-16

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Rule Caption: Sea Urchin and Sea Cucumber Commercial Fisheries Regulations.

Adm. Order No.: DFW 19-2016

Filed with Sec. of State: 3-23-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 2-1-2016

Rules Amended: 635-005-0790, 635-005-0795, 635-005-0800, 635-005-0805, 635-005-0810, 635-005-0815, 635-005-0820, 635-005-0825, 635-005-0830, 635-005-0835, 635-005-0840, 635-005-0845

Subject: These proposed rules: 1) Amend the number of limited entry permits in the sea urchin fishery from 30 permits to 12 permits; 2) Adopt new rules to disallow use of enriched air; and 3) Adopt new rules to incorporate California sea cucumbers into the permit. These modifications will increase long-term sustainability of the sea urchin fishery. In particular, the proposed rules will: 1) Reduce the total harvest potential of the fleet to better match productivity of the resource; 2) Increase the investment of active fishers by a reduction in the number of new permits allocated through a lottery; 3) Maintain the status quo in gear use which will help preserve the deep water populations that are important to productivity and the fishery; and 4) Incorporate permitting for commercial harvest of California sea cucumbers (which typically involves only sea urchin harvesters) into the limited entry system for sea urchins.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-005-0790

Fishery Defined

“Sea urchin and sea cucumber fishery” means the commercial fisheries for red sea urchins (*Mesocentrotus franciscanus*), purple sea urchins (*Strongylocentrotus purpuratus*) and California sea cucumbers (*Parastichopus californicus*).

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

ADMINISTRATIVE RULES

635-005-0795

Requirement for Sea Urchin and Sea Cucumber Permit

(1) It is unlawful to take, land or possess sea urchins or California sea cucumbers for commercial purposes without first obtaining a Sea Urchin and Sea Cucumber Permit issued pursuant to OAR 635-005-0800 through 635-005-0830.

(2) It is unlawful for a wholesaler, canner, or buyer to buy or receive sea urchins or sea cucumbers taken in the sea urchin and sea cucumber fishery from a person for which the permit required by section (1) of this rule has not been issued.

(3) A Sea Urchin and Sea Cucumber Permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and 508.260.

(4) No individual may hold more than one Sea Urchin and Sea Cucumber Permit at any one time.

(5) Unless otherwise provided, Sea Urchin and Sea Cucumber Permits must be purchased by December 31 of the year the permit is sought for renewal.

(6) Applications for Sea Urchin and Sea Cucumber Permits shall be in such form and contain such information as the Department may prescribe.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306 & 508.760
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0800

Permit Fee

(1) The annual fee for a Sea Urchin and Sea Cucumber Permit is \$125.00 (plus a \$2.00 license agent fee) for resident applicants and \$175.00 (plus a \$2.00 license agent fee) for non-resident applicants. See ORS 508.760.

(2) A fee of \$100.00 shall be charged for each transfer of participation rights under OAR 635-005-0830. See ORS 508.760.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Other Auth.: Oregon Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109, 506.129, 508.760
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0805

Eligibility Requirements for a Permit

(1) An individual licensed as a commercial fisher under ORS 508.235 is eligible to obtain a Sea Urchin and Sea Cucumber Permit required by OAR 635-005-0795:

- (a) By renewal of the previous year's permit; or
- (b) Through the lottery if a lottery is held in accordance with OAR 635-005-0825.

(2) In making determinations regarding issuance or renewal of any limited entry permit, the Department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements Department records and such receipts, accounts, contracts and other business records of private parties as the Department or the Board considers reliable evidence of the qualifications or requirements in question.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.760
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0810

Revocation and Refusal to Issue Permits

The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a Sea Urchin and Sea Cucumber Permit pursuant to ORS 508.485 and 508.490.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.760
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0815

Review of Denials

(1) An individual whose application for issuance, renewal or transfer of a Sea Urchin and Sea Cucumber Permit established pursuant to OAR 635-005-0795, 635-005-0820 and 635-005-0830 is denied may make written request to the Board for review of the denial. The procedure for requesting review and the applicable standard of review of a Sea Urchin and Sea Cucumber Permit shall be as pursuant to ORS 508.760. For the Sea Urchin and Sea Cucumber fishery, the Board may waive requirements for renewal of permits if the Board finds that strict adherence to these requirements were not met as a result of undue hardship as defined in OAR 635-005-0240.

(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a Letter of Delegation to the Department.

(3) For those fisheries requiring a \$125.00 application fee for Board review, the fee is non-refundable. However, if the Board grants the applicant's request, the non-refundable fee shall apply toward the permit fee.

(4) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.550.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.762
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0820

Renewal of Permit

(1) Sea Urchin and Sea Cucumber Permits may be renewed the following year:

(a) By submitting to the Department a \$125.00 fee (plus a \$2.00 license agent fee) for resident applicants and a \$175.00 fee (plus a \$2.00 license agent fee) for non-resident applicants and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(b) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins or 500 pounds of California sea cucumbers in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of the Commercial Fishery Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the landing requirement by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(2) An application for renewal of a Sea Urchin and Sea Cucumber Permit shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by January 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Other Auth.: Oregon Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109, 506.129, 508.762
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0825

Lottery for Limited Entry Sea Urchin and Sea Cucumber Permits

(1) If the total number of Sea Urchin and Sea Cucumber Permits which have been renewed, and for which an appeal is pending with the Commercial Fishery Permit Board and awarded through a prior lottery, is less than 12, a lottery shall be held on the 4th Friday in April. However, as a result of any such lottery, the total number of permits issued shall not exceed 12.

(2) An individual must be 18 years of age or older and furnish proof of age to be eligible for the lottery.

(3) An individual shall not already hold a valid Sea Urchin and Sea Cucumber Permit, however, an individual whose permit is at issue in a pending Sea Urchin and Sea Cucumber Permit Board proceeding or before a court of law may participate in the lottery.

(4) If a permittee whose permit is at issue either before the Sea Urchin and Sea Cucumber Permit Board or a court of law is awarded another permit through the lottery and thereafter prevails before the Board or in court, the permittee shall immediately surrender one of the Sea Urchin and Sea Cucumber Permits to any Department office, so that only one valid permit is held.

(5) An individual who qualifies to participate in the lottery shall send a complete lottery application to the Department, date-stamped or post-marked no later than April 15 of the year for which the permit is to be issued. An individual shall not submit more than one application to participate in the lottery. For successful applicants, the application fee shall apply toward the permit fee of \$125.00 (plus a \$2.00 license agent fee) for resi-

ADMINISTRATIVE RULES

dent applicants and \$175.00 fee (plus a \$2.00 license agent fee) for nonresident applicants.

(6) The names of lottery applicants shall be drawn to obtain the available permits. All other names of lottery applicants shall be drawn and placed on an alternate list in the order in which they were drawn, and shall be issued permits during the next 24 months as they may become available through Permit Board actions or surrender of permits by a permit holder.

(7) An individual whose name is drawn in the lottery shall thereafter apply on the prescribed form, to the Department to obtain a permit. Such application must be received by the Department within 30 days of the date the notification was mailed to the successful applicant following the lottery.

(8) Any individual who fails to apply for the lottery permit within 30 days shall forfeit such permit. The permit shall then be made available to the first name on the alternate list, and shall be applied for in accordance with section (7) of this rule.

(9) If all permits are not issued by renewal or through the lottery, permits thereafter may be issued on a first come first served basis up to the total number of permits allowed. All applications shall be mailed to the Department and priority shall be based on postmark or date-stamped date.

(10) The Commission may suspend the lottery for up to two years based upon its assessment of the condition of the resource and recommendations of the Sea Urchin and Sea Cucumber Permit Review Board.

(11) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(12) Only one application per vessel may be submitted for each permit fishery lottery.

(13) Any application which is not legible, has incomplete information, or is postmarked after the deadline shall not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Other Auth.: Oregon Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109, 506.129, 508.762
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0830

Transferability of Permits

(1) Any transfer of a Sea Urchin and Sea Cucumber Permit without the written consent of each person holding a security interest in such vessel is void. The following rules apply to transfer of Sea Urchin and Sea Cucumber Permits:

(2) The Department shall approve the transfer of any permit to any purchaser of the permit, provided that not more than one sale or transfer of the permit occurs within that calendar year;

(3) No Sea Urchin and Sea Cucumber Permit issued to an individual through the lottery after 1998 may be transferred to another individual until a cumulative total of 20,000 pounds of sea urchins, or 2,000 pounds of California sea cucumbers have been landed on commercial fish receiving tickets by the individual issued the permit through the lottery.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129, 508.762
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0835

Logbook Required

(1) The Department shall make available a logbook to each licensed commercial fisher who holds a valid Sea Urchin and Sea Cucumber Permit.

(2) Each permit holder is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.

(3) Upon request of an authorized representative of the Department or the Oregon State Police, the permit holder shall permit examination and transcription of information of such logbook.

(4) Upon request of an authorized representative of the Department, the permit holder shall surrender a legible copy of such logbook.

(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0840

Closed Seasons and Areas

It is unlawful for commercial purposes to take, land or possess sea urchins or California sea cucumbers:

(1) Which have been taken in water depths shallower than ten feet below mean lower low water.

(2) Within the following areas:

(a) From Orford Reef, described as the area encompassed by parallels of Latitude 42°46'N and 42°49'N from May 1 through October 31;

(b) Within 1,000 feet of Pyramid Rock on Rogue Reef described by the area encompassed by parallels of Latitude 42°26.4'N and 42°26.9'N and by meridians of Longitude 124°28.4'W and 124°27.8'W, or within the rectangle marked by corner buoys from May 1 through August 31; or

(c) The Special Regulation Marine Areas described in OAR 635-005-0260.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306
Hist.: FWC 85-1987, f. 10-6-87, ef. 1-1-88; FWC 117-1989, f. 11-22-89, cert. ef. 12-1-89; FWC 50-1990, f. 6-15-90, cert. ef. 6-18-90; FWC 118-1990, f. 10-24-90, cert. ef. 10-22-90; FWC 12-1991, f. & cert. ef. 2-20-91; FWC 26-1992, f. 4-21-92, cert. ef. 4-22-92; FWC 96-1994, f. 12-28-94, cert. ef. 1-1-95; DFW 142-2008, f. & cert. ef. 11-21-08; Renumbered from 635-005-0180, DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

635-005-0845

Prohibitions

(1) It is unlawful for commercial purposes to take, land or possess sea urchins or California sea cucumbers:

(a) Where more than two divers were in the water off any one vessel at the same time;

(b) Where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any vessel while harvesting, possessing, or transporting sea urchins or California sea cucumbers;

(c) Unless the vessel displays the vessel's federal document or Marine Board numbers on a weather deck so as to be visible from above. The number shall contrast with the background and be in block Arabic numerals at least 18 inches high for vessels over 65 feet in length and at least ten inches high for vessels 65 feet or less. The operator of the vessel shall keep the identifying markings clearly legible and in good repair, and shall ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the vessel number from an enforcement vessel or aircraft.

(2) For each trip, any permit holder shall clearly identify and keep separate until processed all sea urchins or California sea cucumbers taken by that permit holder.

(3) Notwithstanding any other provision in these regulations, no person other than the holder of a current Sea Urchin and Sea Cucumber Permit issued by the Department is allowed to dive in the water to take sea urchins or California sea cucumbers or to otherwise assist, while submerged, in the harvest of sea urchins or California sea cucumbers.

(4) Use of any gas mixture other than atmospheric air for diving is prohibited when taking sea urchins or California sea cucumbers. Tanks containing gas mixtures other than atmospheric air and capable of being used for diving may not be aboard vessels while operating under a Sea Urchin and Sea Cucumber Permit, except that tanks of oxygen may be aboard vessels for emergency use above water.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 19-2016, f. 3-23-16, cert. ef. 4-1-16

Rule Caption: Youngs Bay Select Area Commercial Salmon and Shad Fishery Modified.

Adm. Order No.: DFW 20-2016(Temp)

Filed with Sec. of State: 3-25-2016

Certified to be Effective: 3-28-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: This amended rule reduces the size of the area previously authorized for commercial salmon fishing in the Youngs Bay Select Area of the Columbia River during the period from 10:00 a.m. to 2:00 p.m. Monday, March 28, 2016. The new area boundaries are from the first powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers (Walluski Area). Rule revisions are consistent with action taken March 24, 2016 by the Oregon Department of Fish and Wildlife.

Rules Coordinator: Michelle Tate—(503) 947-6044

ADMINISTRATIVE RULES

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, with the exception of March 28 when the open area boundaries are from the first powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers (Walluski Area). Those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River) are closed. For the spring and summer fisheries the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers and includes the lower Walluski River upstream to Highway 202 Bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the headline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries and upstream of the alternate Highway 101 Bridge in the Lewis and Clark River. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is unlawful to use a gill net having a mesh size that is less than 7 inches during the winter season. It is unlawful to use a gill net having a mesh size that is more than 9.75 inches during the spring and summer seasons.

(b) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.111
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; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; FWC 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; FWC 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; FWC 9-2007, f. & cert. ef. 2-14-07; FWC 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; FWC 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; FWC 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; FWC 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; FWC 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; FWC 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; FWC 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; FWC 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; FWC 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; FWC 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; FWC 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; FWC 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; FWC 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; FWC 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; FWC 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; FWC 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; FWC 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; FWC 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; FWC 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; FWC 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; FWC 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; FWC 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; FWC 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; FWC 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; FWC 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; FWC 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; FWC 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; FWC 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; FWC 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; FWC 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; FWC 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; FWC 23-2011, f. & cert. ef. 3-21-11; FWC 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; FWC 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; FWC 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; FWC 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; FWC 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; FWC 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; FWC 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; FWC 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; FWC 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; FWC 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; FWC 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; FWC 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; FWC 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; FWC 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; FWC 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; FWC 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; FWC 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; FWC 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; FWC 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; FWC 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; FWC 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; FWC 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; FWC 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; FWC 109-2013(Temp), f. 9-27-13,

ADMINISTRATIVE RULES

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; DFW 20-2016(Temp), f. 3-25-16, cert. ef. 3-28-16 thru 7-31-16

Rule Caption: Amend Division 415 Rules to Refer Specifically to Division 140 Rules for Sage-Grouse Mitigation Issues

Adm. Order No.: DFW 21-2016

Filed with Sec. of State: 3-25-2016

Certified to be Effective: 3-25-16

Notice Publication Date: 2-1-2016

Rules Amended: 635-415-0025

Subject: Approval of permanent rules for division 415. This amendment in division 415 directs sage-grouse specific mitigation issues to refer to division 140, Greater Sage-Grouse Conservation Strategy for Oregon, and creates an exception for any energy facility that has submitted a preliminary application for site certificate to ORS 496.300 et seq. on or before the effective date of this rule.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-415-0025

Implementation of Department Habitat Mitigation Recommendations

(1) "Habitat Category 1" is irreplaceable, essential habitat for a fish or wildlife species, population, or a unique assemblage of species and is limited on either a physiographic province or site-specific basis, depending on the individual species, population or unique assemblage.

(a) The mitigation goal for Category 1 habitat is no loss of either habitat quantity or quality.

(b) The Department shall act to protect Category 1 habitats described in this subsection by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) No authorization of the proposed development action if impacts cannot be avoided.

(2) "Habitat Category 2" is essential habitat for a fish or wildlife species, population, or unique assemblage of species and is limited either on a physiographic province or site-specific basis depending on the individual species, population or unique assemblage.

(a) The mitigation goal if impacts are unavoidable, is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 2 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) Mitigation of impacts, if unavoidable, through reliable in-kind, in-proximity habitat mitigation to achieve no net loss of either pre-development habitat quantity or quality. In addition, a net benefit of habitat quantity or quality must be provided. Progress towards achieving the mitigation goals and standards shall be reported on a schedule agreed to in the mitigation plan performance measures. The fish and wildlife mitigation measures shall be implemented and completed either prior to or concurrent with the development action.

(c) If neither 635-415-0025(2)(b)(A) or (B) can be achieved, the Department shall recommend against or shall not authorize the proposed development action.

(3) "Habitat Category 3" is essential habitat for fish and wildlife, or important habitat for fish and wildlife that is limited either on a physiographic province or site-specific basis, depending on the individual species or population.

(a) The mitigation goal is no net loss of either habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 3 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) Mitigation of impacts, if unavoidable, through reliable in-kind, in-proximity habitat mitigation to achieve no net loss in either pre-development habitat quantity or quality. Progress towards achieving the mitigation goals and standards shall be reported on a schedule agreed to in the mitigation plan performance measures. The fish and wildlife mitigation measures shall be implemented and completed either prior to or concurrent with the development action.

(c) If neither 635-415-0025(3)(b)(A) or (B) can be achieved, the Department shall recommend against or shall not authorize the proposed development action.

(4) "Habitat Category 4" is important habitat for fish and wildlife species.

(a) The mitigation goal is no net loss in either existing habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 4 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) Mitigation of impacts, if unavoidable, through reliable in-kind or out-of-kind, in-proximity or off-proximity habitat mitigation to achieve no net loss in either pre-development habitat quantity or quality. Progress towards achieving the mitigation goals and standards shall be reported on a schedule agreed to in the mitigation plan performance measures. The fish and wildlife mitigation measures shall be implemented and completed either prior to or concurrent with the development action.

(c) If neither 635-415-0025(4)(b)(A) or (B) can be achieved, the Department shall recommend against or shall not authorize the proposed development action.

(5) "Habitat Category 5" is habitat for fish and wildlife having high potential to become either essential or important habitat.

(a) The mitigation goal, if impacts are unavoidable, is to provide a net benefit in habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 5 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) Mitigation of impacts, if unavoidable, through actions that contribute to essential or important habitat.

(c) If neither 635-415-0025(5)(b)(A) or (B) can be achieved, the Department shall recommend against or shall not authorize the proposed development action.

(6) "Habitat Category 6" is habitat that has low potential to become essential or important habitat for fish and wildlife.

(a) The mitigation goal is to minimize impacts.

(b) The Department shall act to achieve the mitigation goal for Category 6 habitat by recommending or requiring actions that minimize direct habitat loss and avoid impacts to off-site habitat.

(7) For proposed developments subject to this rule with impacts to greater sage-grouse habitat in Oregon, mitigation shall be addressed as described in OAR 635-140-0000 through 635-140-0025, except that any energy facility that has 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 fulfilling the avoidance test contained in 635-140-0025, Policy 2, subsections (a), (b), (c) and (d)(A). Other mitigation provisions contained in 635-140-0025, Policy 2, subsections (d)(B) and (e), and Policies 3 and 4 remain applicable.

Stat. Auth.: ORS 496.012, 496.112, 496.118, 496.138, 496.146, 496.171, 498.500, 498.502, 506.109 & 506.119

Stats. Implemented: ORS 496.012, 496.112, 496.118, 496.138, 496.146, 496.171, 498.500, 498.502, 506.109 & 506.119

Hist.: FWC 133-1991, f. & cert. ef. 11-19-91; DFW 47-1998, f. & cert. ef. 6-15-98; DFW 25-2000, f. 4-26-00, cert. ef. 5-1-00; DFW 147-2015(Temp), f. & cert. ef. 10-19-15 thru 4-15-16; DFW 21-2016, f. & cert. ef. 3-25-16

Rule Caption: Amend Rules to Correct 2016 Oregon Big Game Regulations Adopted by Reference

Adm. Order No.: DFW 22-2016(Temp)

Filed with Sec. of State: 3-25-2016

Certified to be Effective: 3-25-16 thru 9-20-16

Notice Publication Date:

Rules Amended: 635-065-0001

Subject: Amend 2016 Oregon Big Game Regulations to correct the cost of a Uniformed Service Deer Tag and the age for youth hunter.

Rules Coordinator: Michelle Tate—(503) 947-6044

ADMINISTRATIVE RULES

635-065-0001

Purpose and General Information

(1) Notwithstanding the provisions of the 2016 Oregon Big Game Regulations:

(a) The cost of a Uniformed Service Buck Deer Tag is \$26.50 (page 6 of 2016 Oregon Big Game Regulations);

(b) No person younger than 14 years of age shall hunt with a firearm or bow and arrow unless person is accompanied by an adult, or is hunting on land owned by the parent or legal guardian of the person (per ORS 497.350)

(2) The purpose of these rules is to establish license and tag requirements, limits, areas, methods and other restrictions for hunting game mammals pursuant to ORS Chapter 496.

(3) OAR chapter 635, division 065 incorporates, by reference, the requirements for hunting game mammals set out in the document entitled "2015 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2015 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for game mammals. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district, and headquarters offices, and website of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 88-2003(Temp), f. & cert. ef. 9-3-03 thru 12-31-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 18-2016, f. & cert. ef. 3-21-16; DFW 22-2016(Temp), f. & cert. ef. 3-25-16 thru 9-20-16

Rule Caption: Columbia River Commercial Spring Chinook Drift Net Fishery Set for March 29, 2016.

Adm. Order No.: DFW 23-2016(Temp)

Filed with Sec. of State: 3-28-2016

Certified to be Effective: 3-28-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0022, 635-042-0160, 635-042-0180

Rules Suspended: 635-042-0160(T), 635-042-0180(T)

Subject: This amended rule allows a non-Indian commercial spring Chinook fishery in the mainstem Columbia River in an area from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). The authorized fishing period begins Tuesday, March 29, 2016 at 12:00 noon and runs through 9:00 p.m. (9 hours). Retention and sales of non-adipose fin-clipped Chinook salmon caught between 12:00 noon and 12:00 midnight March 29, 2016, from the Deep River and Blind/Knappa sloughs Select Areas are prohibited. Rule modifications are consistent with action taken March 28, 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

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon and shad may be taken by drift tangle net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 5 during the period: Tuesday March 29, 2016 from 12:00 p.m. to 9:00 p.m. (9 hours).

(2) An adipose fin clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook tangle net fishery:

(a) It is unlawful to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic)

and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the inside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(4) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25 fathom intervals must be in color contrast to the corks used in the remainder of the net.

(5) On tangle nets, an optional steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(6) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(7) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(8) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(9) Sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

ADMINISTRATIVE RULES

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(10) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(11) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(12) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery. In addition, cooperation with department personnel prior to a fishing period is expected.

(13) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp), f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. & cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. & cert. ef. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. & cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. & cert. ef. 6-28-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. & cert. ef. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. & cert. ef. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. & cert. ef. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. & cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. & cert. ef. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. & cert. ef. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. & cert. ef. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. & cert. ef. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. & cert. ef. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. & cert. ef. 3-31-14, cert. ef. 4-1-14 thru 7-31-14; DFW 38-2014(Temp), f. & cert. ef. 5-7-14 thru 7-31-14; DFW 43-2014(Temp), f. & cert. ef. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 50-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. & cert. ef. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 22-2015(Temp), f. & cert. ef. 3-30-15, cert. ef. 3-31-15 thru 4-1-15; DFW 24-2015(Temp), f. & cert. ef. 4-6-15, cert. ef. 4-7-15 thru 4-8-15; Administrative correction, 4-21-15; DFW 36-2015(Temp), f. & cert. ef. 5-4-15 thru 5-5-15; DFW 39-2015(Temp), f. & cert. ef. 5-6-15 thru 5-7-15; DFW 43-2015(Temp), f. & cert. ef. 5-12-15 thru 5-13-15; Administrative correction, 5-21-15; DFW 51-2015(Temp), f. & cert. ef. 5-27-15 thru 5-28-15; DFW 57-2015(Temp), f. & cert. ef. 6-2-15 thru 6-3-15; DFW 62-2015(Temp), f. & cert. ef. 6-9-15, cert. ef. 6-10-15 thru 6-11-15; Administrative correction, 6-23-15; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods described as the winter fishery and the spring fishery in subsections (1)(a)(A) and (1)(a)(B) respectively, of this rule in those waters of Blind Slough and Knappa Slough. Retention and sale of white sturgeon is prohibited. Retention and sales of non-adipose finclipped Chinook salmon from the Blind Slough Select area is prohibited from 12:00

noon through midnight on March 29, 2016. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough and Knappa Slough in subsection (1)(a)(A), the winter fishery in Blind Slough only in subsection (1)(a)(B), and the spring fishery in Blind Slough and Knappa Slough in subsections (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. & cert. ef. 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. & cert. ef. 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. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & 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. & cert. ef. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. ef. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 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. & cert. ef. 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. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. & cert. ef. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. & cert. ef. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. & cert. ef. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. & cert. ef. 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. & cert. ef. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. & cert. ef. 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. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-

ADMINISTRATIVE RULES

2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 70-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 76-2015(Temp), f. 6-23-15, cert. ef. 6-25-15 thru 7-31-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15; Administrative correction 11-20-15; DFW 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon and shad may be taken for commercial purposes from the US Coast Guard navigation marker #16 southwest to a marker on the Washington shore upstream to the Highway 4 Bridge. Retention and sales of non-adipose finclipped Chinook salmon from the Blind Slough Select area is prohibited from 12:00 noon through midnight on March 29, 2016. Retention and sale of white sturgeon is prohibited.

(2) The 2016 open fishing seasons are:

(a) Winter season:

Monday, Wednesday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, February 8 through Tuesday, March 29, 2016 (20 nights).

(b) Spring season:

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); and Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, May 2 through Tuesday, June 14, 2016 (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; 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. & cert. ef. 4-21-15 thru 7-30-15; DFW 29-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15; Administrative correction 11-20-15; DFW 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16

Rule Caption: Sport Fishing Regulation Corrections and Changes Statewide for 2016.

Adm. Order No.: DFW 24-2016(Temp)

Filed with Sec. of State: 3-30-2016

Certified to be Effective: 4-1-16 thru 9-27-16

Notice Publication Date:

Rules Amended: 635-011-0100, 635-014-0090, 635-016-0090, 635-017-0090, 635-021-0090, 635-039-0090

Subject: These amended rules correct errors in the published version of the 2016 Oregon Sport Fishing Regulations. Corrections include season date adjustments, gear restriction clarifications, location and deadline clarifications, and updates to statewide regulations and definitions. Modifications allow the use of two fishing rods while fishing for salmon, steelhead, trout, and warmwater species in areas of the Willamette River and its tributaries, including flowing waters, that are open to angling for hatchery Chinook, hatchery steelhead, trout, or warmwater gamefish.

Rules Coordinator: Michelle Tate—(503) 947-6044

ADMINISTRATIVE RULES

635-011-0100

General Rule

(1) It is *unlawful* to take any fish, shellfish, or marine invertebrates for personal use except as provided in these rules which include and incorporate the **2016 Oregon Sport Fishing Regulations** by reference. 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 purpose of these regulations, bass are defined as largemouth bass and smallmouth bass and do not include striped bass or hybrid bass.

(3) Rods or lines must be closely attended.

[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 11-1982, f. & ef. 2-9-82; FWC 2-1984, f. & ef. 1-10-84; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; 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 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; 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 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 153-2011(Temp), f. 11-7-11, cert. ef. 11-15-11 thru 5-12-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 142-2012(Temp), f. 11-6-12, cert. ef. 11-15-12 thru 5-12-13; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 130-2013(Temp), f. 12-9-13, cert. ef. 12-10-13 thru 6-8-14; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16

635-014-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations** pamphlet.

(2) Alsea River and Bay is open for retention of hatchery steelhead January 1 to April 30 and November 1 to December 31, 2016.

(3) Gnat Creek from Aldrich Point Road Bridge to Falls is open for hatchery steelhead from January 1 to August 31 and October 1 to December 31, 2016.

(4) Nehalem River: Open for retention of hatchery steelhead upstream of the Highway 26 bridge at Elsie from January 1 to March 31, May 22 to August 31, and November 1 to December 31, 2016.

(5) North Fork Nehalem River is open for retention of one (1) wild Chinook per day from May 22 to September 15, 2016 from the mouth upstream to Highway 53 bridge. The North Coast Wild Chinook Aggregate limit applies.

(6) Wilson River from Highway 101 Bridge upstream to South Fork is open for retention of hatchery spring Chinook salmon from April 1 to July 31, 2016.

(7) Yaquina River and Bay is open for retention of hatchery steelhead from January 1 to March 31 and December 1 to December 31, 2016, from the visible ends of the jetty tips upstream to first bridge on Eddyville-Nashville Road. It is also open for retention of Chinook salmon from April 1 to December 31, 2016 from the visible ends of the jetty tips upstream to Simpson Creek.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-

29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 63-2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12; DFW 71-2012(Temp), f. 6-27-12, cert. ef. 7-1-12 thru 11-30-12; DFW 130-2012(Temp), f. 10-10-12, cert. ef. 10-13-12 thru 12-31-12; DFW 135-2012(Temp), f. 10-22-12, cert. ef. 10-24-12 thru 12-31-12; DFW 139-2012(Temp), f. 10-30-12, cert. ef. 10-31-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 43-2013(Temp), f. 5-29-13, cert. ef. 6-1-13 thru 10-31-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 60-2013(Temp), f. 6-24-13, cert. ef. 6-30-13 thru 9-30-13; Administrative correction 11-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 74-2014(Temp), f. 6-23-14, cert. ef. 6-30-14 thru 9-30-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 111-2014(Temp), f. & cert. ef. 8-4-14 thru 9-30-14; DFW 133-2014(Temp), f. 9-16-14 & cert. ef. 9-17-14 thru 12-31-14; DFW 148-2014(Temp), f. 10-13-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 23-2015(Temp), f. & cert. ef. 4-1-15 thru 7-31-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 75-2015(Temp), f. 6-23-15, cert. ef. 6-24-15 thru 7-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 94-2015(Temp), f. 7-27-15, cert. ef. 8-1-15 thru 12-31-15; DFW 118-2015(Temp), f. 8-28-15, cert. ef. 9-1-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 142-2015(Temp), f. & cert. ef. 10-16-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16

635-016-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations** pamphlet.

(2) Brush Creek identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Curry County.

(3) Cow Creek above Middle Creek bridge and tributaries:

(a) Catch and release for trout May 22 to Sep 15, 2016;

(b) Artificial flies and lures only;

(c) No limit on size or number of bass;

(d) Closed to all angling May 1-21 and Sep 16 to Nov 30, 2016; Open for catch-and-release for trout from May 22 to September 15, 2016.

(4) Hubbard Creek and Tributaries identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Curry County.

(5) Middle Creek identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Coos County.

(6) North Fork Smith River identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Douglas County.

(a) North Fork Smith River is open for hatchery steelhead from January 1 to April 30 and December 1-31, 2016, from Johnson Creek to Bridge 10.

(b) Open all year for hatchery steelhead, in tidewater.

(7) North Umpqua River from the mouth to the fly area boundary, the Anti Snagging Gear Restriction is in place stipulating that any attached weight may be no more than 36 inches above the lower most hook. This restriction is in effect from March 1 to July 31, 2016 from Lone Rock boat launch to markers (painted lines) upstream of Rock Creek.

(8) Smith River:

(a) The mainstem Smith River is open for hatchery steelhead from January 1 to April 30 and December 1-31, 2016, from Spencer Creek to Sisters Creek.

(b) Open all year for hatchery steelhead, in tidewater.

(9) South Umpqua River use of bait is allowed.

(10) South Umpqua River Tributaries:

(a) Catch-and-release for trout allowed May 22 to September 15, 2016;

(b) Artificial flies and lures only;

ADMINISTRATIVE RULES

cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12; DFW 99-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 67-2013(Temp), f. 7-3-13, cert. ef. 7-11-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 62-2014(Temp), f. & cert. ef. 6-10-14 thru 10-31-14; DFW 70-2014(Temp), f. & cert. ef. 6-13-14 thru 6-30-14; DFW 73-2014(Temp), f. 6-20-14, cert. ef. 6-23-14 thru 10-31-14; DFW 141-2014(Temp), f. 9-25-14, cert. ef. 9-26-14 thru 12-31-14; DFW 150-2014(Temp), f. 10-14-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 49-2015(Temp), f. & cert. ef. 5-27-15 thru 11-22-15; DFW 66-2015(Temp), f. 6-10-15, cert. ef. 6-12-15 thru 11-22-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 152-2015(Temp), f. 11-6-15, cert. ef. 11-17-15 thru 12-31-15; DFW 154-2015(Temp), f. 11-12-15, cert. ef. 11-23-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16

635-021-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Southeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) Crystal Creek: Use of bait is allowed.

Stat. Auth.: ORS 183.325, 496.138, 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12; DFW 114-2012(Temp), f. 8-30-12, cert. ef. 9-1-12 thru 2-27-13; DFW 117-2012(Temp), f. 9-5-12, cert. ef. 9-7-12 thru 2-27-13; DFW 122-2012(Temp), f. 9-21-12, cert. ef. 9-21-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 61-2013(Temp), f. 6-24-13, cert. ef. 7-1-13 thru 12-27-13; DFW 93-2013(Temp), f. 8-22-13, cert. ef. 8-24-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 57-2014(Temp), f. 6-9-14, cert. ef. 6-11-14 thru 9-1-14; DFW 90-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 12-31-14; DFW 116-2014(Temp), f. 8-6-14, cert. ef. 8-9-14 thru 12-31-14; DFW 149-2014(Temp), f. 10-13-14, cert. ef. 11-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 44-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 9-1-15; DFW 85-2015(Temp), f. 7-13-15, cert. ef. 7-18-15 thru 10-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16

635-039-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) For the purposes of this rule, a “sport harvest guideline” is defined as a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery. Upon attainment of a sport harvest guideline, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives.

(a) The following sport harvest guidelines include the combined landings and other fishery related mortality by the Oregon sport fishery in a single calendar year:

(A) Black rockfish, 440.8 metric tons.

(B) Cabezon, 16.8 metric tons.

(C) Blue rockfish, deacon rockfish, and other nearshore rockfish combined, 26 metric tons.

(b) The following sport harvest guidelines include total landings in the Oregon sport ocean boat fishery in a single calendar year: Greenling, 5.2 metric tons.

(3) For the purposes of this rule, “Other nearshore rockfish” means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastrelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).

(4) In addition to the regulations for Marine Fish in the **2016 Oregon Sport Fishing Regulations**, the following apply for the sport fishery in the Marine Zone:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.

(b) All rockfish (“sea bass” “snapper”), greenling (“sea trout”), cabezon, skates, and other marine fish species not listed in the **2016 Oregon Sport Fishing Regulations** in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number), of which no more than three may be blue rockfish or deacon rockfish in aggregate, no more than one may be a canary rockfish, and no more than one may be a cabezon. Retention of the following species is prohibited:

(A) Yelloweye rockfish;

(B) China rockfish;

(C) Copper rockfish;

(D) Quillback rockfish; and

(E) Cabezon from January 1 through June 30.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut 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,

ADMINISTRATIVE RULES

it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

(5) Edible Shrimp:

(a) Daily limit is 20 lbs in the shell;

(b) May be taken by traps, pots, or rings.

(6) Razor Clams:

(a) May be taken by hand, shovel, clam gun, or tube with an opening no less than 4 inches in diameter (cylindrical) or 4 inches by 3 inches (elliptical);

(b) All razor clams must be retained regardless of size or condition;

(c) Each digger must have their own container, dig their own clams, and may not possess more than one limit of clams while in the clam digging area except under the allowances of an Oregon Disabilities Hunting and Fishing Permit.

(7) Whale Cove Habitat Refuge: No take of fish, shellfish and marine invertebrates in all areas in Whale Cove below the extreme high tide east of a line drawn across the mouth of the cove, as defined by points at:

(a) 44°47.237'N., 124°04.298'W; and

(b) 44°47.367'N., 124°04.320'W.

Table 1, as referenced, is available from the Agency.

[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. 1-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 110-2009(Temp), f. 9-10-09, cert. ef. 9-13-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 103-2010(Temp), f. 7-21-10, cert. ef. 7-23-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 97-2011(Temp), f. & cert. ef. 7-20-11 thru 12-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 90-2012(Temp), f. 7-17-12, cert. ef. 9-20-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 112-2013(Temp), f. & cert. ef. 9-27-13 thru 12-31-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 5-2015(Temp), f. 1-13-15, cert. ef. 1-15-15 thru 7-13-15; Temporary suspended by DFW 18-2015, f. & cert. ef. 3-10-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16

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Rule Caption: Columbia River Commercial Spring Chinook Drift Net Fishery Set for April 5, 2016.

Adm. Order No.: DFW 25-2016(Temp)

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

Certified to be Effective: 4-5-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0022

Rules Suspended: 635-042-0022(T)

Subject: This amended rule allows a non-Indian commercial spring Chinook fishery in the mainstem Columbia River in an area from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). The authorized fishing period begins Tuesday, April 5, 2016 at 10:00 a.m. and runs through 8:00 p.m. (10 hours). Rule modifications are consistent with action taken April 5, 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

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon and shad may be taken by drift tangle net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 5 during the period: Tuesday April 5, 2016 from 10:00 a.m. to 8:00 p.m. (10 hours).

(a) A maximum of 4 adipose fin clipped adult Chinook may be possessed or sold by each participating vessel. The first 4 adult hatchery fish must be retained and no additional drifts may be conducted once the Chinook limit has been retained. Jack Chinook (Chinook less than 24-inches in total length) are not included in the landing limit.

(b) An adipose fin clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(2) During the spring Chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the inside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(3) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25 fathom intervals must be in color contrast to the corks used in the remainder of the net.

(4) On tangle nets, an optional steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(5) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(6) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

ADMINISTRATIVE RULES

(7) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(8) Sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked; pumps must continue to run until the net is fully retrieved and completely on board the vessel. Pumps shall continue to run whenever a fish is in the recovery box.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(9) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(10) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(11) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery. In addition, cooperation with department personnel prior to a fishing period is expected.

(12) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-

2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. & cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. & cert. ef. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. & cert. ef. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. & cert. ef. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. & cert. ef. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. & cert. ef. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. & cert. ef. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. & cert. ef. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. & cert. ef. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. & cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. & cert. ef. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. & cert. ef. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. & cert. ef. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. & cert. ef. 4-1-14 thru 7-31-14; DFW 38-2014(Temp), f. & cert. ef. 5-7-14 thru 7-31-14; DFW 43-2014(Temp), f. & cert. ef. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 50-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. & cert. ef. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 22-2015(Temp), f. & cert. ef. 3-30-15, cert. ef. 3-31-15 thru 4-1-15; DFW 24-2015(Temp), f. & cert. ef. 4-7-15 thru 4-8-15; Administrative correction, 4-21-15; DFW 36-2015(Temp), f. & cert. ef. 5-1-15, cert. ef. 5-4-15 thru 5-5-15; DFW 39-2015(Temp), f. & cert. ef. 5-6-15 thru 5-7-15; DFW 43-2015(Temp), f. & cert. ef. 5-12-15 thru 5-13-15; Administrative correction, 5-21-15; DFW 51-2015(Temp), f. & cert. ef. 5-27-15 thru 5-28-15; DFW 57-2015(Temp), f. & cert. ef. 6-2-15 thru 6-3-15; DFW 62-2015(Temp), f. & cert. ef. 6-9-15, cert. ef. 6-10-15 thru 6-11-15; Administrative correction, 6-23-15; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16; DFW 25-2016(Temp), f. & cert. ef. 4-4-16, cert. ef. 4-5-16 thru 7-31-16

Rule Caption: Youngs Bay Select Area Commercial Salmon and Shad Fishery Modified.

Adm. Order No.: DFW 26-2016(Temp)

Filed with Sec. of State: 4-5-2016

Certified to be Effective: 4-6-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: This amended rule authorizes four new 4-hour commercial fishing periods for salmon and shad in the Youngs Bay Select Area of the Columbia River. The first new 4-hour fishing period begins at 6:30 p.m. Wednesday, April 6, 2016. The fishing area boundaries are from the first powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers (Walluski Area). Rule revisions are consistent with action taken April 4, 2016 by the Oregon Department of Fish and Wildlife at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0145

Youngs Bay Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods in waters of Youngs Bay as described below. Retention and sale of white sturgeon is prohibited.

(a) The 2016 open fishing periods are established in three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: Open Mondays, Wednesdays and Thursdays from February 8 through March 28. Beginning (i) March 14 through March 28 the following open periods apply:

(ii) Monday, March 14, 12:00 noon–4:00 p.m. (4 hours);

(iii) Wednesday, March 16, 2:00 p.m.–6:00 p.m. (4 hours);

(iv) Thursday, March 17, 3:00 p.m.–7:00 p.m. (4 hours);

(v) Monday, March 21, 7:00 p.m.–11:00 p.m. (4 hours);

(vi) Wednesday, March 23, 8:00 p.m.–midnight (4 hours);

(vii) Thursday, March 24, 8:00 p.m.–midnight (4 hours); and

(viii) Monday, March 28, 10:00 a.m.–2:00 p.m. (4 hours).

(ix) Beginning April 6 through April 17 the following open periods apply:

(x) Wednesday, April 6, 6:30 p.m.–10:30 p.m. (4 hours);

(xi) Sunday, April 10, 9:30 a.m.–1:30 p.m. (4 hours);

(xii) Wednesday, April 13, 12:00 noon–4:00 p.m. (4 hours); and

(xiii) Sunday, April 17, 4:30 p.m.–8:30 p.m. (4 hours).

(B) Spring Season: Open during the following periods:

(i) Thursday, April 21, 7:00 p.m.–11:00 p.m. (4 hours);

(ii) Tuesday, April 26, 7:00 p.m.–7:00 a.m. Friday, April 27 (12 hours);

ADMINISTRATIVE RULES

- (iii) Thursday, April 28, 7:00 p.m. –7:00 a.m. Friday, April 29 (12 hours);
 - (iv) Monday, May 2, 4:00 p.m. –10:00 a.m. Tuesday, May 3 (18 hours);
 - (v) Wednesday, May 4, 9:00 a.m. –9:00 p.m. (12 hours);
 - (vi) Thursday, May 5, 4:00 p.m. –10:00 a.m. Friday, May 6 (18 hours);
 - (vii) Monday, May 9, Noon to Noon Friday, June 10 (4 days/week, 20 days total); and
 - (viii) Monday, June 13, Noon to Noon Wednesday, June 15 (2 days).
- (C) Summer Season: Beginning June 16 the following open periods apply:

- (i) Thursday, June 16, Noon to Noon Friday, June 17 (1 day);
- (ii) Monday, June 20, Noon to Noon Friday, June 24 (4 days);
- (iii) Monday, June 27, Noon to Noon Friday, July 1 (4 days);
- (iv) Monday, July 4, Noon to Noon Thursday, July 7 (3 days); and
- (v) Tuesdays, July 12, Noon to Noon Thursdays, July 28 (2 days/week, 6 days total)

(b) The fishing areas for the winter fisheries, the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers including the lower Walluski River upstream to the Highway 202 Bridge are open, with the exception of March 28 through April 17 when the open area boundaries are from the first powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers including the lower Walluski River upstream to the Highway 202 Bridge (Walluski Area). Those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River) are closed. For the spring and summer fisheries the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers and includes the lower Walluski River upstream to Highway 202 Bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the headline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries and upstream of the alternate Highway 101 Bridge in the Lewis and Clark River. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is unlawful to use a gill net having a mesh size that is less than 7 inches during the winter season. It is unlawful to use a gill net having a mesh size that is more than 9.75 inches during the spring and summer seasons.

(b) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. & 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. & 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. & 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. & 5-22-92, cert. ef. 5-25-92; FWC 74-1992(Temp), f. & 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. & 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. & 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. & 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. & 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. & 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. & 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. & 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. & 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. & 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; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. & 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99

thru 8-6-99; 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; DFWQ 20-2016(Temp), f. & 3-25-16, cert. ef. 3-28-16 thru 7-31-16; DFW 26-2016(Temp), f. & 4-5-16, cert. ef. 4-6-16 thru 7-31-16

ADMINISTRATIVE RULES

Rule Caption: Open Spring Chinook Sport Fishery on the Snake River below Hells Canyon Dam.

Adm. Order No.: DFW 27-2016(Temp)

Filed with Sec. of State: 4-6-2016

Certified to be Effective: 4-23-16 thru 9-30-16

Notice Publication Date:

Rules Amended: 635-023-0134

Subject: Amended rule opens a spring Chinook fishery on the Snake River from Dug Bar Boat Ramp upstream to the deadline below Hells Canyon Dam beginning on April 23, 2016 to coincide with the State of Idaho's regulations for this fishery.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0134

Snake River Fishery

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for 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) Notwithstanding all other specifications and restrictions as outlined in the **2016 Oregon Sport Fishing Regulations**, the following conditions apply:

(a) The Snake River from Dug Bar boat ramp upstream to the deadline below Hell's Canyon Dam is open seven (7) days per week, beginning Saturday, April 23, 2016 until further notice.

(b) Daily bag limit is four (4) adipose fin-clipped spring Chinook salmon per day, of which no more than two (2) can be an adult in excess of 24 inches in length. Anglers must cease fishing for salmon for the day when either four (4) salmon or two (2) adult salmon have been retained, whichever comes first.

(c) Barbless hooks are required.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 47-2005(Temp), f. 5-19-05, cert. ef. 5-21-05 thru 6-20-05; Administrative correction 7-20-05; DFW 31-2006(Temp), f. 5-18-06, cert. ef. 5-20-06 thru 6-19-06; Administrative correction 7-21-06; DFW 31-2007(Temp), f. 5-9-07, cert. ef. 5-11-07 thru 6-18-07; DFW 43-2007(Temp), f. 6-14-07, cert. ef. 6-19-07 thru 7-2-07; Administrative correction 2-8-08; DFW 43-2008(Temp), f. 4-25-08, cert. ef. 4-26-08 thru 7-20-08; DFW 64-2008(Temp), f. 6-18-08, cert. ef. 6-21-08 thru 7-31-08; Administrative correction 8-21-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 58-2009(Temp), f. 5-27-09, cert. ef. 5-30-09 thru 7-12-09; DFW 80-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 7-17-09; Administrative correction 7-21-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 42-2010(Temp), f. 4-13-10, cert. ef. 4-24-10 thru 7-31-10; DFW 107-2010(Temp), f. 7-26-10, cert. ef. 7-31-10 thru 8-4-10; Administrative correction, 8-18-10; DFW 119-2010(Temp), f. 8-18-10, cert. ef. 9-1-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 29-2011(Temp), f. 4-12-11, cert. ef. 4-23-11 thru 10-19-11; DFW 118-2011(Temp), f. 8-23-11, cert. ef. 9-1-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 35-2012(Temp), f. 4-16-12, cert. ef. 4-22-12 thru 9-30-12; DFW 93-2012(Temp), f. 7-24-12, cert. ef. 8-5-12 thru 9-30-12; DFW 109-2012(Temp), f. 8-21-12, cert. ef. 9-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 29-2013(Temp), f. 4-25-13, cert. ef. 5-4-13 thru 9-30-13; DFW 76-2013(Temp), f. 7-16-13, cert. ef. 7-21-13 thru 9-30-13; DFW 94-2013(Temp), f. 8-23-13, cert. ef. 9-1-13 thru 11-30-13; Administrative correction, 12-19-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 33-2014(Temp), f. 4-21-14, cert. ef. 4-26-14 thru 9-30-14; DFW 98-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; DFW 122-2014(Temp), f. 8-4-14, cert. ef. 9-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 32-2015(Temp), f. 4-27-15, cert. ef. 5-2-15 thru 9-30-15; DFW 96-2015(Temp), f. 7-29-15, cert. ef. 8-2-15 thru 9-30-15; DFW 103-2015(Temp), f. 8-12-15, cert. ef. 9-1-15 thru 11-30-15; Administrative correction, 12-22-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 27-2016(Temp), f. 4-6-16, cert. ef. 4-23-16 thru 9-30-16

Rule Caption: Establishes Rules Regarding Western Oregon and Rocky Mountain Elk Regulations for 2016

Adm. Order No.: DFW 28-2016

Filed with Sec. of State: 4-6-2016

Certified to be Effective: 4-6-16

Notice Publication Date: 9-1-2015

Rules Amended: 635-070-0000, 635-071-0000

Subject: Establishes 2016 seasons, dates, bag limits, areas and restrictions for Western Oregon elk and Rocky Mountain elk as outlined in the 2016 Big Game Regulations.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-070-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2015 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 70 by reference.

(3) OAR chapter 635, division 70 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled "2016 Oregon Big Game Regulations", into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 119-2003, f. 12-4-03, cert. ef. 4-1-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 8-2004(Temp), f. & cert. ef. 2-2-04 thru 7-31-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 41-2006, f. & cert. ef. 6-15-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 21-2013, f. 3-11-13, cert. ef. 4-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 19-2014, f. & cert. ef. 3-11-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 25-2015, f. & cert. ef. 4-8-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 28-2016, f. & cert. ef. 4-6-16

635-071-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2015 are listed in Tables 1 and 2 and are adopted and incorporated in OAR chapter 635, division 71 by reference.

(3) OAR chapter 635, division 71 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2016 Oregon Big Game Regulations", into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 1-2004(Temp), f. & cert. ef. 1-13-04 thru 7-9-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; Administrative correction 11-22-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 21-2013, f. 3-11-13, cert. ef. 4-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 19-2014, f. & cert. ef. 3-11-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 25-2015, f. & cert. ef. 4-8-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 28-2016, f. & cert. ef. 4-6-16

ADMINISTRATIVE RULES

Rule Caption: Columbia River Spring Recreational Season for Salmon, Steelhead and Shad Closed.

Adm. Order No.: DFW 29-2016(Temp)

Filed with Sec. of State: 4-7-2016

Certified to be Effective: 4-8-16 thru 6-15-16

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule closes the season for recreational spring Chinook, steelhead and shad on the Columbia River mainstem downstream of Bonneville Dam beginning at 11:59 pm Friday, April 8, 2016. All other regulations as published in the 2016 Oregon Sport Fishing Regulations pamphlet remain in effect. Modifications are consistent with action taken by the Departments of Fish and Wildlife for the States of Oregon and Washington on April 7, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0125

Spring Sport Fishery

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) The Columbia River recreational salmon and steelhead fishery downstream of Bonneville Dam is open from the mouth at Buoy 10 upstream to Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline from Tuesday, March 1 through Friday, April 8, 2016, except closed Tuesday, March 29, Tuesday and Tuesday, April 5, 2016 (38 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) The upstream boat boundary at Beacon Rock is defined as: “a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.”

(c) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

(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; DFW 29-2016(Temp), f. 4-7-16, cert. ef. 4-8-16 thru 6-15-16

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Rule Caption: Clarification of Rules for Two-Rod Usage in the Willamette Angling Zone.

Adm. Order No.: DFW 30-2016(Temp)

Filed with Sec. of State: 4-8-2016

Certified to be Effective: 4-8-16 thru 9-30-16

Notice Publication Date:

Rules Amended: 635-017-0090

Rules Suspended: 635-017-0090(T)

Subject: This amended rule clarifies new regulations for usage of a Two-Rod Validation in the Willamette angling zone. Modifications allow the use of two fishing rods while fishing for both game and non-game fish species, except sturgeon, in areas of the Willamette River and its tributaries, including flowing waters that are open to angling for hatchery Chinook, hatchery steelhead, trout, or warmwater gamefish.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-017-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Willamette 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) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

ADMINISTRATIVE RULES

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Foster Reservoir: 5 hatchery trout or kokanee per day, 8 inch minimum length.

(4) Willamette River from the Highway 20 bridge upstream to the Highway 99 bridge:

(a) Open all year for hatchery Chinook;

(b) Open all year for hatchery steelhead;

(c) Open all year for trout, 2 trout per day, 8 inch minimum length;

(d) Open for retention of white sturgeon, 1 per day and 2 per year, 38 inch minimum and 54 inch maximum fork lengths; and

(e) Use of bait allowed.

(5) Beginning April 1 through July 31, 2016, the following rules apply:

(a) In all areas of the Willamette River and tributaries, including flowing waters, that are open to angling for hatchery Chinook, hatchery steelhead, trout, or warmwater gamefish, anglers with a valid 2016 Two-Rod Angling Validation may use up to two fishing rods while fishing for any game fish or non-game fish species except sturgeon. Youth anglers under 12 years of age may use two rods in these areas without purchasing the Two-Rod Angling Validation.

(b) Angling for sturgeon remains restricted to the use of one rod per angler.

(c) All other rules and licensing requirements specified in the 2016

Oregon Sport Fishing Regulations remain in effect.

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 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f.

8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 100-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12; DFW 99-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 67-2013(Temp), f. 7-3-13, cert. ef. 7-11-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 62-2014(Temp), f. & cert. ef. 6-10-14 thru 10-31-14; DFW 70-2014(Temp), f. & cert. ef. 6-13-14 thru 6-30-14; DFW 73-2014(Temp), f. 6-20-14, cert. ef. 6-23-14 thru 10-31-14; DFW 141-2014(Temp), f. 9-25-14, cert. ef. 9-26-14 thru 12-31-14; DFW 150-2014(Temp), f. 10-14-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 49-2015(Temp), f. & cert. ef. 5-27-15 thru 11-22-15; DFW 66-2015(Temp), f. 6-10-15, cert. ef. 6-12-15 thru 11-22-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 152-2015(Temp), f. 11-6-15, cert. ef. 11-17-15 thru 12-31-15; DFW 154-2015(Temp), f. 11-12-15, cert. ef. 11-23-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 30-2016(Temp), f. & cert. ef. 4-8-16 thru 9-30-16

Rule Caption: Two Youngs Bay Select Area Commercial Salmon and Shad Fishing Periods Rescinded.

Adm. Order No.: DFW 31-2016(Temp)

Filed with Sec. of State: 4-11-2016

Certified to be Effective: 4-13-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: This amended rule rescinds two previously authorized 4-hour commercial salmon and shad fishing periods scheduled for the Youngs Bay Select Area of the Columbia River. These fishing periods had been scheduled to occur on April 13 and April 17, 2016 from the first powerlines downstream of the Walluski River, upstream to the confluence of the Youngs and Klaskanine rivers (Walluski Area). Rule revisions are consistent with action taken April 11, 2016 by the Oregon Department of Fish and Wildlife, Columbia River management team.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0145

Youngs Bay Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods in waters of Youngs Bay as described below. Retention and sale of white sturgeon is prohibited.

(a) The 2016 open fishing periods are established in three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: Open Mondays, Wednesdays, and Thursdays from February 8 through March 28. Beginning March 14 through March 28 the following open periods apply:

Monday, March 14, 12:00 noon–4:00 p.m. (4 hours);
Wednesday, March 16, 2:00 p.m.–6:00 p.m. (4 hours);
Thursday, March 17, 3:00 p.m.–7:00 p.m. (4 hours);
Monday, March 21, 7:00 p.m.–11:00 p.m. (4 hours);
Wednesday, March 23, 8:00 p.m.–midnight (4 hours);
Thursday, March 24, 8:00 p.m.–midnight (4 hours); and
Monday, March 28, 10:00 a.m.–2:00 p.m. (4 hours).

Beginning April 6 through April 10 the following open periods apply:

Wednesday, April 6, 6:30 p.m.–10:30 p.m. (4 hours);
Sunday, April 10, 9:30 a.m.–1:30 p.m. (4 hours);

(B) Spring Season: Open during the following periods:

Thursday, April 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

ADMINISTRATIVE RULES

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) The fishing areas for the winter fisheries, the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers including the lower Walluski River upstream to the Highway 202 Bridge are open, with the exception of March 28 through April 17 when the open area boundaries are from the first powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers including the lower Walluski River upstream to the Highway 202 Bridge (Walluski Area). Those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River) are closed. For the spring and summer fisheries the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers and includes the lower Walluski River upstream to Highway 202 Bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the 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; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-

04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; FWC 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 119-2006(Temp), f. & cert. ef. 10-18-06 thru 7-31-06; Administrative correction 1-16-07; FWC 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; FWC 9-2007, f. & cert. ef. 2-14-07; FWC 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; FWC 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; FWC 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; FWC 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; FWC 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; FWC 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; FWC 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; FWC 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; FWC 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; FWC 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; FWC 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; FWC 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; FWC 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; FWC 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; FWC 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; FWC 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; FWC 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; FWC 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; FWC 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; FWC 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; FWC 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; FWC 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; FWC 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; FWC 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; FWC 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; FWC 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; FWC 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; FWC 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; FWC 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; FWC 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; FWC 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; FWC 23-2011, f. & cert. ef. 3-21-11; FWC 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; FWC 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; FWC 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; FWC 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; FWC 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; FWC 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; FWC 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction 11-18-11; FWC 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; FWC 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; FWC 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; FWC 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; FWC 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; FWC 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; FWC 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; FWC 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; FWC 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; FWC 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; FWC 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; FWC 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; FWC 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; FWC 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; FWC 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; FWC 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; FWC 109-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction 11-22-13; FWC 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; FWC 18-2014(Temp), f. 3-7-14, cert. ef. 3-10-14 thru 7-30-14; FWC 25-2014(Temp), f. 3-13-14, cert. ef. 3-17-14 thru 7-31-14; FWC 32-2014(Temp), f. 4-21-14, cert. ef. 4-22-14 thru 7-31-14; FWC 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; FWC 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; FWC 45-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; FWC 51-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; FWC 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; FWC 104-2014(Temp), f. 8-4-14, cert. ef. 8-5-14 thru 10-31-14; Administrative correction 11-24-14; FWC 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; FWC 17-2015(Temp), f. 3-5-15, cert. ef. 3-9-15 thru 7-30-15; FWC 21-2015(Temp), f. & cert. ef. 3-24-15 thru 7-30-15; FWC 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; FWC 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; FWC 42-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; FWC 50-2015(Temp), f. & cert. ef. 5-27-15 thru 7-31-15; FWC 58-2015(Temp), f. & cert. ef. 6-2-15 thru 7-31-15; FWC 63-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 7-31-15; FWC 98-2015(Temp), f. 7-30-15, cert. ef. 8-4-15 thru 10-31-15; FWC 110-2015(Temp), f. 8-18-15, cert. ef. 8-24-15 thru 10-31-15; FWC 117-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 10-31-15; Administrative correction 11-20-15; FWC 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; FWC 20-2016(Temp), f. 3-25-16, cert. ef. 3-28-16 thru 7-31-16; FWC 26-2016(Temp), f. 4-5-16, cert. ef. 4-6-16 thru 7-31-16; FWC 31-2016(Temp), f. 4-11-16, cert. ef. 4-13-16 thru 7-31-16

**Department of Human Services,
 Aging and People with Disabilities and
 Developmental Disabilities
 Chapter 411**

Rule Caption: Homecare Workers Enrolled in the Consumer-Employed Provider Program
Adm. Order No.: APD 6-2016(Temp)
Filed with Sec. of State: 3-23-2016
Certified to be Effective: 3-23-16 thru 8-28-16

ADMINISTRATIVE RULES

Notice Publication Date:

Rules Amended: 411-031-0020, 411-031-0040, 411-031-0050

Rules Suspended: 411-031-0020(T), 411-031-0040(T), 411-031-0050(T)

Subject: The Department of Human Services (Department) is immediately amending OAR 411-031 to bring the rules into compliance with new federal and state law and collective bargaining requirements in regards to homecare workers by accurately reflecting terms of the collective bargaining agreement that were not accounted for in the temporary rulemaking. The Department is making additional updates in the language to:

- Update the language on the trusts process;
- Delete language in regards to benefits;
- Change language in the new travel rules; and
- Change “union” representation to “legal” representation in the rule on terminating home care workers provider numbers.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-031-0020

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 031:

- (1) “AAA” means “Area Agency on Aging” as defined in this rule.
- (2) “Ability or Willingness to Maintain Consumer-Employer Confidentiality” means a homecare worker is able and willing to keep personal information about a consumer-employer private.
- (3) “Abuse” means abuse as defined by OAR 411-020-0002, 407-045-0260, and 943-045-0260.
- (4) “Activities of Daily Living (ADL)” mean those personal, functional activities required by an individual for continued well-being, which are essential for the individual’s health and safety. Activities include eating, dressing, grooming, bathing, personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition and behavior as defined in OAR 411-015-0006.
- (5) “ADL” means “activities of daily living” as defined in this rule.
- (6) “Administrative Review” means the internal process the Department uses to review a decision to terminate or not to terminate a homecare worker’s provider enrollment.
- (7) “Adult” means any person at least 18 years of age.
- (8) “Adult Protective Services” mean the services provided in response to the need for protection from abuse described in OAR chapter 411, division 020, OAR chapter 407, division 045, and OAR chapter 943, division 045.
- (9) “Aging and People with Disabilities” means the program area of Aging and People with Disabilities, within the Department of Human Services.
- (10) “APD” means “Aging and People with Disabilities”.
- (11) “Area Agency on Aging (AAA)” means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to older adults and adults with disabilities in a planning and service area. The terms AAA and Area Agency on Aging are inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210 to 410.300.
- (12) “Base Pay Rate” means the hourly wage to be paid to homecare workers, without any differentials, established in the Collective Bargaining Agreement.
- (13) “Burden of Proof” means the existence or nonexistence of a fact is established by a preponderance of evidence.
- (14) “Career Homecare Worker” means a homecare worker with an unrestricted provider enrollment. A career homecare worker has a provider enrollment that allows the homecare worker to provide services to any eligible in-home services consumer.
- (15) “Case Manager” means an employee of the Department or Area Agency on Aging who assesses the service needs of individuals, determines eligibility, and offers service choices to eligible individuals. The case manager authorizes and implements an individual’s service plan and monitors the services delivered as described in OAR chapter 411, division 028.
- (16) “Collective Bargaining Agreement” means the ratified Collective Bargaining Agreement between the Home Care Commission and the Service Employees International Union, Local 503. The Collective Bargaining Agreement is maintained on the Department’s website: (<http://www.dhs.state.or.us/spd/tools/cm/homecare/index.htm>). Printed copies may be obtained by calling (503) 945-6398 or writing the

Department of Human Services, Aging and People with Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon 97301.

(17) “Community Transportation” means non-medical transportation a homecare worker provides to a consumer-employer:

- (a) Using the homecare worker’s personal vehicle; and
- (b) Provided in accordance with the consumer-employer’s authorized service plan.

(18) “Consumer” or “Consumer-Employer” means an individual eligible for in-home services.

(19) “Consumer-Employed Provider Program” refers to the program wherein a provider is directly employed by a consumer to provide either hourly or live-in in-home services. In some aspects of the employer and employee relationship, the Department acts as an agent for the consumer-employer. These functions are clearly described in OAR 411-031-0040.

(20) “Department” means the Department of Human Services.

(21) “Disability” means a physical, cognitive, or emotional impairment, which for an individual, constitutes or results in a functional limitation in one or more of the activities of daily living defined in OAR 411-015-0006.

(22) “Enhanced Homecare Worker” means a homecare worker who is certified by the Oregon Home Care Commission to provide services for consumers who require assistance with certain medically-driven services and supports.

(23) “Established Work Schedule” means the work schedule established by the consumer-employer to best meet the consumer’s assessed needs and agreed to by the homecare worker employed by the consumer. A homecare worker adheres to the established work schedule by arriving to work on time, requesting absence from work in a timely manner, and notifying the consumer-employer of unscheduled absences in a timely manner.

(24) “Evidence” means testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.

(25) “Fiscal Improprieties” means a homecare worker committed financial misconduct involving a consumer’s money, property, or benefits.

(a) Fiscal improprieties include, but are not limited to:

- (A) Financial exploitation;
- (B) Borrowing money from a consumer;
- (C) Taking a consumer’s property or money;
- (D) Accepting or receiving items or services purchased for the homecare worker by a consumer-employer;
- (E) Forging a consumer’s signature;
- (F) Falsifying payment records;
- (G) Claiming payment for hours not worked;
- (H) Claiming hours for ADL, IADL or 24-hour availability care during the same time hours are claimed for travel;
- (I) Repeatedly working or claiming to work hours not prior authorized on a consumer-employer’s service plan;
- (J) Claiming hours worked for a consumer-employer while taking time off or when a relief care worker is paid for providing services; or
- (K) Intentional acts committed for financial gain.

(b) Fiscal improprieties do not include the exchange of money, gifts, or property between a homecare worker and a consumer-employer with whom the homecare worker is related unless an allegation of financial exploitation, as defined in OAR 411-020-0002 or 407-045-0260, has been substantiated based on an adult protective services investigation.

(26) “Homecare Worker” means a provider, as described in OAR 411-031-0040, that is directly employed by a consumer to provide either hourly or live-in services to the consumer.

(a) The term homecare worker includes:

- (A) A consumer-employed provider in the Spousal Pay and Oregon Project Independence Programs;
- (B) A consumer-employed provider that provides state plan personal care services; and
- (C) A relative providing Medicaid in-home services to a consumer living in the relative’s home.

(b) The term homecare worker does not include an Independent Choices Program provider or a personal support worker enrolled through Developmental Disabilities Services or the Addictions and Mental Health Division.

(27) “Hourly Services” mean the in-home services, including activities of daily living and instrumental activities of daily living, that are provided by homecare workers to consumer-employers at regularly scheduled times.

(28) “IADL” means “instrumental activities of daily living” as defined in this rule.

ADMINISTRATIVE RULES

(29) "Imminent Danger" means there is reasonable cause to believe an individual's life or physical, emotional, or financial well-being is in danger if no intervention is immediately initiated.

(30) "Individual" means an older adult or an adult with a disability applying or eligible for services.

(31) "In-Home Services" mean the activities of daily living and instrumental activities of daily living that assist an individual to stay in his or her own home or the home of a relative.

(32) "Instrumental Activities of Daily Living (IADL)" mean those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in IADL are identified in OAR 411-015-0007.

(33) "Live-In Services" mean services provided when an individual requires and receives assistance with activities of daily living and instrumental activities of daily living throughout a 24-hour work period by one homecare worker.

(34) "Mandatory Reporter" means an individual who is required under ORS 124.050-060 to report the abuse or suspected abuse of a child, an older adult, or the resident of a nursing facility, to the Department or to a law enforcement agency.

(35) "Medically-Driven Services and Supports" means medical or behavioral treatments, assessed by a case manager and included in a consumer's service plan, which a consumer requires in addition to assessed ADL, IADL and live-in services.

(36) "Non-Motorized Transportation" means traveling on foot, riding a bicycle, traveling in a wheelchair or scooter, or other similar means of transportation.

(37) "Office of Administrative Hearings" means the Office described in ORS 183.605-690 established within the Employment Department to conduct contested case proceedings, and other such duties, on behalf of designated state agencies.

(38) "Older Adult" means any person at least 65 years of age.

(39) "Oregon Homecare Commission" means the commission established and operated pursuant to Article XV, Section 11, of the Oregon Constitution, and ORS 410.595-625.

(40) "Oregon Project Independence" means the program of in-home services described in OAR chapter 411, division 032.

(41) "Time Off" means time where a homecare worker is not providing services to a consumer during a normally scheduled work time.

(42) "Personal Support Worker" has the meaning given in OAR 411-375-0010(23).

(43) "Preponderance of the Evidence" means that one party's evidence is more convincing than the other party's.

(44) "Provide Services as Required" means a homecare worker provides services to a consumer as described in the consumer's service plan.

(45) "Provider" means the person who renders the services.

(46) "Provider Enrollment" means a homecare worker's authorization to work as a provider employed by a consumer for the purpose of receiving payment for authorized services provided to consumers of the Department. Provider enrollment includes the issuance of a Medicaid provider number.

(47) "Provider Number" means an identifying number issued to each homecare worker who is enrolled as a provider through the Department.

(48) "Relative" means a person, excluding an individual's spouse, who is related to the individual by blood, marriage, or adoption.

(49) "Relief Homecare Worker" means a homecare worker who works for a consumer-employer when the consumer-employer's regularly scheduled homecare worker is absent.

(50) "Representative" or "Consumer-Employer's Representative" means any of the following:

(a) A person appointed by a consumer-employer to participate in service planning on the consumer-employer's behalf.

(b) A consumer-employer's natural support with longstanding involvement in assuring the consumer-employer's health, safety, and welfare.

(c) A person, other than the consumer, who, on the consumer's behalf, assumes or is given any of the employer responsibilities listed in OAR 411-030-0040(8).

(51) "Restricted Homecare Worker" means the Department or Area Agency on Aging has placed restrictions on a homecare worker's provider enrollment as described in OAR 411-031-0040.

(52) "Self-Management Tasks" means "Instrumental Activities of Daily Living" as defined in this rule.

(53) "Skills, Knowledge, and Ability to Adequately or Safely Perform the Required Work" means a homecare worker possesses the physical,

mental, or emotional skills or abilities necessary to perform services and meet the needs of consumers.

(54) "State Minimum Wage" or "Minimum Wage" means the rate of pay set forth in ORS 653.025.

(55) "These Rules" mean the rules in OAR chapter 411, division 031.

(56) "Unacceptable Background Check" means a check that produces information related to a person's background that precludes the person from being a homecare worker for the following reasons:

(a) The person applying to be a homecare worker has been disqualified under OAR 407-007-0275;

(b) A homecare worker enrolled in the Consumer-Employed Provider Program for the first time, or after any break in enrollment, after July 28, 2009 has been disqualified under OAR 407-007-0275; or

(c) A background check and fitness determination has been conducted resulting in a "denied" status, as defined in OAR 407-007-0210.

(57) "Unwelcome Nuisance to the Workplace" means unwelcome guests or pets invited by a homecare worker into a consumer's home, resulting in the consumer's dissatisfaction or a homecare worker's inattention to the consumer's required service needs.

(58) "Violates the Protective Service and Abuse Rules" means, based on a substantiated allegation of abuse, a homecare worker was found to have violated the protective service and abuse rules described in OAR chapter 411, division 020, OAR chapter 407, division 045, or OAR chapter 943, division 045.

(59) "Violated the Requirement to Maintain a Drug-Free Workplace" means there was a substantiated complaint against a homecare worker for:

(a) Being intoxicated by alcohol, inhalants, prescription drugs, or other drugs, including over-the-counter medications, while responsible for the care of a consumer, while in the consumer's home or care setting, or while transporting the consumer; or

(b) Manufacturing, possessing, selling, offering to sell, trading, or using illegal drugs while providing authorized services to a consumer or while in the consumer's home or care setting.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SPD 17-2004, f. 5-28-04, cert.ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 10-2005, f. & cert. ef. 7-1-05; SPD 15-2005(Temp), f. & cert. ef. 11-16-05 thru 5-15-06; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 28-2006(Temp), f. 10-18-06, cert. ef. 10-23-06 thru 4-20-07; SPD 4-2007, f. 4-12-07, cert. ef. 4-17-07; SPD 3-2010, f. 5-26-10, cert. ef. 5-30-10; SPD 4-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; SPD 26-2010, f. 11-29-10, cert. ef. 12-1-10; SPD 13-2012(Temp), f. & cert. ef. 9-26-12 thru 3-25-13; SPD 4-2013, f. 3-25-13, cert. ef. 3-26-13; SDP 18-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 47-2013, f. 12-13-13, cert. ef. 12-15-13; ADP 2-2016(Temp), f. & cert. ef. 3-2-16 thru 8-28-16; APD 6-2016(Temp), f. & cert. ef. 3-23-16 thru 8-28-16

411-031-0040

Consumer-Employed Provider Program

The Consumer-Employed Provider Program contains systems and payment structures to employ both hourly and live-in providers. The live-in structure assumes a provider is required for activities of daily living (ADLs), instrumental activities of daily living (IADLs), and twenty-four hour availability. The hourly structure assumes a provider is required for ADLs and IADLs during specific substantial periods. Except as indicated, all of the following criteria apply to both hourly and live-in providers:

(1) EMPLOYMENT RELATIONSHIP. The relationship between a provider and a consumer is that of employee and employer. A homecare worker shall not be a representative. (see OAR 411-031-0020(50)), for a consumer-employer for whom the homecare worker currently provides paid services.

(2) CONSUMER-EMPLOYER JOB DESCRIPTIONS. A consumer-employer or consumer-employer's representative is responsible for creating and maintaining a job description for a potential provider in coordination with the services authorized by the consumer's case manager.

(3) HOMECARE WORKER LIABILITIES. The only benefits available to homecare workers are those negotiated in the Collective Bargaining Agreement and as provided in Oregon Revised Statute. This Agreement does not include participation in the Public Employees Retirement System or the Oregon Public Service Retirement Plan. Homecare workers are not state employees.

(4) CONSUMER-EMPLOYER ABSENCES. When a consumer-employer is absent from his or her home due to an illness or medical treatment and is expected to return to the home within a 30 day period, the consumer's live-in provider may be retained to ensure the live-in provider's presence upon the consumer's return or to maintain the consumer's home for up to 30 days at the rate of pay immediately preceding the consumer's absence.

(5) SELECTION OF HOMECARE WORKER. A consumer-employer or consumer-employer's representative carries primary responsibility for

ADMINISTRATIVE RULES

locating, interviewing, screening, and hiring his or her own employees. The consumer-employer or consumer-employer's representative has the right to employ any person who successfully meets the provider enrollment standards described in section (8) of this rule. The Department or AAA office determines whether a potential homecare worker meets the enrollment standards needed to provide services authorized and paid for by the Department.

(6) **EMPLOYMENT AGREEMENT.** A consumer-employer or consumer-employer's representative retains the full right to establish an employer-employee relationship with a person at any time after the person's Bureau of Citizenship and Immigration Services papers have been completed and identification photocopied. Payment for services is not guaranteed until the Department has verified that a person meets the provider enrollment standards described in section (8) of this rule and notified both the employer and homecare worker in writing that payment by the Department is authorized.

(7) **TERMS OF EMPLOYMENT.** A consumer-employer or consumer-employer's representative must establish terms of an employment relationship with an employee at the time of hire. The terms of employment may include dismissal or resignation notice, work scheduling, absence reporting, and any sleeping arrangements or meals provided for live-in or hourly employees. Termination and the grounds for termination of employment are determined by a consumer-employer or consumer-employer's representative. A consumer-employer or consumer-employer's representative has the right to terminate an employment relationship with a homecare worker at any time and for any reason.

(8) PROVIDER ENROLLMENT.

(a) **ENROLLMENT STANDARDS.** A homecare worker must meet all of the following standards to be enrolled with the Department's Consumer-Employed Provider Program:

(A) The homecare worker must maintain a drug-free work place.

(B) The homecare worker must complete the background check process described in OAR 407-007-0200 to 407-007-0370 with an outcome of approved or approved with restrictions. The Department or AAA may allow a homecare worker to work on a preliminary basis in accordance with OAR 407-007-0315 if the homecare worker meets the other provider enrollment standards described in this section of the rule.

(C) The homecare worker must have the skills, knowledge, and ability to perform, or to learn to perform, the required work.

(D) The homecare worker's U.S. employment authorization must be verified.

(E) The homecare worker must be 18 years of age or older. The Department may approve a restricted enrollment, as described in section (8)(d) of this rule, for a homecare worker who is at least 16 years of age.

(F) The homecare worker must complete an orientation as described in section (8)(e) of this rule.

(G) The homecare worker must have a tax identification number or social security number that matches the homecare worker's legal name, as verified by the Internal Revenue Service or Social Security Administration.

(b) **DENIAL OF PROVIDER ENROLLMENT.** The Department or AAA may deny an application for provider enrollment in the Consumer-Employed Provider Program when the applicant:

(A) Has violated the requirement to maintain a drug-free workplace;

(B) Has an unacceptable background check;

(C) Lacks the skills, knowledge and ability to adequately or safely perform the required work;

(D) Violates the protective service and abuse rules in OAR chapter 411, division 020, OAR chapter 407, division 045, and OAR chapter 943, division 045;

(E) Commits fiscal improprieties;

(F) Fails to provide services as required;

(G) Lacks the ability or willingness to maintain consumer-employer confidentiality;

(H) Introduces an unwelcome nuisance to the workplace;

(I) Fails to adhere to an established work schedule;

(J) Has been sanctioned or convicted of a criminal offense related to a public assistance program;

(K) Fails to perform the duties of a mandatory reporter;

(L) Has been excluded by the Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare, and all other Federal Health Care Programs; or

(M) Fails to provide a tax identification number or social security number that matches the homecare worker's legal name, as verified by the Internal Revenue Service or Social Security Administration.

(c) BACKGROUND CHECKS.

(A) When a homecare worker is approved without restrictions following a background check fitness determination, the approval must meet the homecare worker provider enrollment requirement statewide whether the qualified entity is a state-operated Department office or an AAA operated by a county, council of governments, or a non-profit organization.

(B) Background check approval is effective for two years unless:

(i) Based on possible criminal activity or other allegations against a homecare worker, a new fitness determination is conducted resulting in a change in approval status; or

(ii) Approval has ended because the Department has inactivated or terminated a homecare worker's provider enrollment for one or more reasons described in this rule or OAR 411-031-0050.

(C) Prior background check approval for another Department provider type is inadequate to meet background check requirements for homecare worker enrollment.

(D) Background rechecks are conducted at least every other year from the date a homecare worker is enrolled. The Department or AAA may conduct a recheck more frequently based on additional information discovered about a homecare worker, such as possible criminal activity or other allegations.

(d) RESTRICTED PROVIDER ENROLLMENT.

(A) The Department or AAA may enroll an applicant as a restricted homecare worker. A restricted homecare worker may only provide services to one specific consumer.

(i) Unless disqualified under OAR 407-007-0275, the Department or AAA may approve a homecare worker with a prior criminal record under a restricted enrollment to provide services to a specific consumer who is a family member, neighbor, or friend after conducting a weighing test as described in OAR 407-007-0200 to 407-007-0370.

(ii) Based on an applicant's lack of skills, knowledge, or abilities, the Department or AAA may approve the applicant as a restricted homecare worker to provide services to a specific consumer who is a family member, neighbor, or friend.

(iii) Based on an exception to the age requirements for provider enrollment approved by the Department as described in subsection (a)(E) of this section, a homecare worker who is at least 16 years of age may be approved as a restricted homecare worker.

(B) To remove restricted homecare worker status and be designated as a career homecare worker, the restricted homecare worker must complete a new application and background check and be approved by the Department or AAA.

(e) **HEMOCARE WORKER ORIENTATION.** Homecare workers must participate in an orientation arranged through a Department or AAA office. The orientation must occur within the first 30 days after the homecare worker becomes enrolled in the Consumer-Employed Provider Program and prior to beginning work for any specific Department or AAA consumers. When completion of an orientation is not possible within those timelines, orientation must be completed within 90 days of being enrolled. If a homecare worker fails to complete an orientation within 90 days of provider enrollment, the homecare worker's provider number is inactivated and any authorization for payment of services is discontinued.

(f) **INACTIVATED PROVIDER ENROLLMENT.** A homecare worker's provider enrollment may be inactivated when --

(A) The homecare worker has not provided any paid services to any consumer in the last 12 months;

(B) The homecare worker's background check results in a closed case pursuant to OAR 407-007-0325;

(C) The homecare worker informs the Department or AAA the homecare worker is no longer providing services in Oregon;

(D) The homecare worker fails to participate in an orientation arranged through a Department or AAA office within 90 days of provider enrollment;

(E) The homecare worker, who at the time is not providing any paid services to consumers, is being investigated by Adult Protective Services for suspected abuse that poses imminent danger to current or future consumers; or

(F) The homecare worker's provider payments, all or in part, have been suspended based on a credible allegation of fraud pursuant to federal law under 42 CFR 455.23.

(g) **ENHANCED HEMOCARE WORKER ENROLLMENT.** A homecare worker who meets the enhanced homecare worker criteria in OAR 411-031-0020(22) may receive payment at the enhanced hourly rate for providing ADL and IADL services as set forth in the Collective Bargaining Agreement when:

ADMINISTRATIVE RULES

(A) The homecare worker is employed by a consumer whose service plan indicates the need for medically-driven services and supports;

(B) The consumer's service plan specifically authorizes the homecare worker to provide the medically driven services and supports; and

(C) The homecare worker provides the medically driven services and supports as set forth in the service plan.

(h) **EFFECTIVE DATE OF ENHANCED HOMECARE WORKER RATE PAYMENT.** A homecare worker who meets the enhanced homecare worker criteria identified in section (g)(A) through (C) of this rule may receive the enhanced rate effective the first day of the month following the month in which the homecare worker began providing medically-driven services and supports to the consumer.

(9) **TIME OFF.**

(a) A homecare worker scheduling time off must notify the consumer-employer's APD or AAA case manager before taking time off.

(b) The decision to approve or deny a homecare worker's request to schedule time off is made by the homecare worker's consumer-employer or the consumer-employer's representative.

(c) When a homecare worker schedules time off, the APD or AAA office will make reductions to the homecare worker's authorized hours commensurate with the number of hours the homecare worker plans to take as scheduled time off.

(d) Under no circumstances will a homecare worker be required to secure a relief homecare worker or ensure that services are provided to a consumer-employer during the homecare worker's scheduled time off.

(e) When a homecare worker plans to provide services as a relief homecare worker, the relief homecare worker must contact the consumer-employer's APD or AAA case manager for authorization prior to providing relief services and payment for the scheduled relief care hours.

(10) **DEPARTMENT FISCAL AND ACCOUNTABILITY RESPONSIBILITY.**

(a) **DIRECT SERVICE PAYMENTS.** The Department makes payment to a homecare worker on behalf of a consumer for all in-home services. The payment is considered full payment for the Medicaid home and community-based services rendered. A homecare worker shall not demand or receive additional payment for Medicaid home and community-based services from a consumer or any other source. Additional payment to homecare workers for the same home and community-based services covered by Medicaid is prohibited.

(b) **TIMELY SUBMISSION OF CLAIMS.** In accordance with OAR 410-120-1300, all claims for services must be submitted within 12 months of the date of service.

(c) **ANCILLARY CONTRIBUTIONS.**

(A) **FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA).** Acting on behalf of a consumer-employer, the Department applies applicable FICA regulations and:

(i) Withholds a homecare worker-employee contribution from payments; and

(ii) Submits the consumer-employer contribution and the amounts withheld from the homecare worker-employee to the Social Security Administration.

(B) **BENEFIT FUND ASSESSMENT.** The Workers' Benefit Fund pays for programs that provide direct benefits to injured workers and the workers' beneficiaries and assist employers in helping injured workers return to work. The Department of Consumer and Business Services sets the Workers' Benefit Fund assessment rate for each calendar year. The Department calculates the hours rounded up to the nearest whole hour and deducts an amount rounded up to the nearest cent. Acting on behalf of the consumer-employer, the Department:

(i) Deducts a homecare worker-employees' share of the Benefit Fund assessment rate for each hour or partial hour worked by each paid homecare worker;

(ii) Collects the consumer-employer's share of the Benefit Fund assessment for each hour or partial hour of paid services received; and

(iii) Submits the consumer-employer's and homecare worker-employee's contributions to the Workers' Benefit Fund.

(C) The Department pays the consumer-employer's share of the unemployment tax.

(d) **ANCILLARY WITHHOLDINGS.** For the purpose of this subsection of the rule, "labor organization" means any organization that represents employees in employment relations.

(A) The Department deducts a specified amount from the homecare worker-employee's monthly salary or wages for payment to a labor organization.

(B) In order to receive payment, a labor organization must enter into a written agreement with the Department to pay the actual administrative costs of the deductions.

(C) The Department pays the deducted amount to the designated labor organization monthly.

(e) **STATE AND FEDERAL INCOME TAX WITHHOLDING.**

(A) The Department withholds state and federal income taxes on all payments to homecare workers, as indicated in the Collective Bargaining Agreement.

(B) A homecare worker must complete and return a current Internal Revenue Service W-4 form to the Department or AAA's local office. The Department applies standard income tax withholding practices in accordance with 26 CFR 31.

(11) **REIMBURSEMENT FOR TRANSPORTATION.**

(a) A homecare worker is reimbursed at the mileage reimbursement rate established in the Collective Bargaining Agreement when the homecare worker uses his or her own personal motor vehicle for transporting a consumer, if prior authorized by a consumer's case manager. If unscheduled transportation needs arise during non-office hours, the homecare worker must explain the need for the transportation to the consumer-employer's case manager, and the transportation must be approved by the consumer-employer's case manager before reimbursement.

(A) A homecare worker who travels directly between the home or care setting of one consumer-employer and the home or care setting of another consumer-employer will be paid at the base pay rate for the time spent traveling directly between the homes or care settings. For the purposes of this rule, "Travel Directly" means a homecare worker's travel from one consumer-employer's home or care setting to another consumer-employer's home or care setting is not interrupted other than to:

(i) Eat a meal;

(ii) Purchase fuel for the vehicle being used for the travel;

(iii) Use a restroom; or

(iv) Change buses, trains or other modes of public transit.

(B) The total time spent traveling directly between all of a homecare worker's consumer-employers may not exceed 10 percent of the total work time the homecare worker claims during a pay period. Unless otherwise specified in statute or rule, the amount of time a homecare worker may take to travel directly from one consumer-employer's home or care setting to another consumer-employer's home or care setting may not exceed one hour unless an exception has been granted by the Department.

(C) When a homecare worker uses the homecare worker's own vehicle to travel directly between two consumer-employers the Department shall determine the time needed for a homecare worker to travel directly based on a time estimate published in a common, publicly-available, web-based mapping program.

(D) When a homecare worker uses public transportation to travel directly, payment for travel time shall be based on the public transportation providers' scheduled pick-up and drop-off times for the stops nearest the consumer-employers' homes or care settings.

(E) When a homecare worker uses non-motorized transportation to travel directly, payment for travel time shall be based on a time estimate published in a common, publicly-available, web-based mapping program.

(F) Claims for travel time exceeding the Department's time estimates may require a written explanation from the homecare worker prior to the Department paying the claim. Time claimed in excess of the Department's time estimate may not be paid.

(G) A homecare worker shall not be paid for time spent in transit to or from the homecare worker's own residence.

(b) Medical transportation through the Division of Medical Assistance Programs (DMAP), volunteer transportation, and other transportation services included in a consumer's service plan is considered a prior resource.

(c) The Department is not responsible for vehicle damage or personal injury sustained when a homecare worker uses his or her own personal motor vehicle for DMAP or community transportation, except as may be covered by workers' compensation.

(d) Except as set forth in (a) of this section, homecare workers shall not receive any mileage reimbursement.

(12) **BENEFITS.** Workers' compensation, and unemployment are available to eligible homecare workers as described in the Collective Bargaining Agreement. In order to receive homecare worker workers' compensation, a consumer-employer must consent and provide written authorization to the Department for the provision of workers' compensation insurance for the consumer-employer's employee.

ADMINISTRATIVE RULES

(13) OVERPAYMENTS. An overpayment is any payment made to a homecare worker by the Department that is more than the homecare worker is authorized to receive.

(a) Overpayments are categorized as follows:

(A) ADMINISTRATIVE ERROR OVERPAYMENT. The Department failed to authorize, compute, or process the correct amount of in-home service hours or wage rate.

(B) PROVIDER ERROR OVERPAYMENT. The Department overpays the homecare worker due to a misunderstanding or unintentional error.

(C) FRAUD OVERPAYMENT. "Fraud" means taking actions that may result in receiving a benefit in excess of the correct amount, whether by intentional deception, misrepresentation, or failure to account for payments or money received. "Fraud" also means spending payments or money the homecare worker was not entitled to and any act that constitutes fraud under applicable federal or state law (including 42 CFR 455.2). The Department determines, based on a preponderance of the evidence, when fraud has resulted in an overpayment. The Department of Justice, Medicaid Fraud Control Unit determines when to pursue a Medicaid fraud allegation for prosecution.

(b) Overpayments are recovered as follows:

(A) Overpayments are collected prior to garnishments, such as child support, Internal Revenue Service back taxes, or educational loans.

(B) Administrative or provider error overpayments are collected at no more than 5 percent of the homecare worker's gross wages.

(C) The Department determines when a fraud overpayment has occurred and the manner and amount to be recovered.

(D) When a person is no longer employed as a homecare worker, any remaining overpayment is deducted from the person's final check. The person is responsible for repaying an overpayment in full when the person's final check is insufficient to cover the remaining overpayment.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020, 410.070, 410.612 & 410.614

Hist.: SPD 17-2004, f. 5-28-04, cert. ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 10-2005, f. & cert. ef. 7-1-05; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 28-2006(Temp), f. 10-18-06, cert. ef. 10-23-06 thru 4-20-07; SPD 4-2007, f. 4-12-07, cert. ef. 4-17-07; SPD 18-2007(Temp), f. 10-30-07, cert. ef. 11-1-07 thru 4-29-08; SPD 6-2008, f. 4-28-08, cert. ef. 4-29-08; SPD 16-2009(Temp), f. & cert. ef. 12-1-09 thru 5-30-10; SPD 3-2010, f. 5-26-10, cert. ef. 5-30-10; SPD 4-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; SPD 26-2010, f. 11-29-10, cert. ef. 12-1-10; SPD 13-2012(Temp), f. & cert. ef. 9-26-12 thru 3-25-13; SPD 4-2013, f. 3-25-13, cert. ef. 3-26-13; SPD 18-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 47-2013, f. 12-13-13, cert. ef. 12-15-13; ADP 2-2016(Temp), f. & cert. ef. 3-2-16 thru 8-28-16; APD 6-2016(Temp), f. & cert. ef. 3-23-16 thru 8-28-16

411-031-0050

Termination, Administrative Review, and Hearing Rights

(1) EXCLUSIONS TO APPEAL AND HEARING RIGHTS. The following are excluded from the administrative review and administrative hearing rights process described in this rule:

(a) Terminations based on a background check. The homecare worker has the right to a hearing in accordance with OAR 407-007-0200 to 407-007-0370.

(b) Homecare workers who have not worked in the last 12 months. The provider enrollment may become inactivated, but may not be terminated. To activate the provider enrollment number, the homecare worker must complete an application and background check.

(c) Homecare workers who fail to complete a background recheck.

(d) Homecare workers who are denied a provider enrollment number at the time of initial application.

(e) Homecare workers who are not currently providing services to any consumers and whose provider enrollment is inactivated while an Adult Protective Services investigation is being completed.

(f) Homecare workers who have been excluded by Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare, and all other federal programs.

(2) REFERRAL OF POTENTIAL VIOLATIONS TO APD CENTRAL OFFICE. When an APD or AAA office has reason to believe a homecare worker has committed one or more of the violations listed in section (3) of this rule, the APD or AAA office shall refer the alleged violation to APD central office using the Department-approved referral form. The homecare worker who allegedly committed the violation shall be provided a copy of the completed referral form.

(3) VIOLATIONS RESULTING IN TERMINATION OF PROVIDER ENROLLMENT. APD central office may terminate a homecare worker's provider enrollment when a homecare worker:

(a) Has violated the requirement to maintain a drug-free work place;

(b) Has an unacceptable background check;

(c) Lacks the skills, knowledge, and ability to adequately or safely perform the required work;

(d) Violates the protective service and abuse rules in OAR chapter 411, division 020, OAR chapter 407, division 045, and OAR chapter 943, division 045;

(e) Commits fiscal improprieties;

(f) Fails to provide services as required;

(g) Lacks the ability or willingness to maintain consumer-employer confidentiality;

(h) Introduces an unwelcome nuisance to the workplace;

(i) Fails to adhere to an established work schedule;

(j) Has been sanctioned or convicted of a criminal offense related to that individual's involvement in any program established under any public assistance program;

(k) Fails to perform the duties of a mandatory reporter;

(l) Has been excluded by the Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare, and all other federal health care programs; or

(m) Fails to provide a tax identification number or social security number that matches the homecare worker's legal name, as verified by the Internal Revenue Service or Social Security Administration.

(4) ADMINISTRATIVE REVIEW. Upon receiving an APD or AAA office's referral of an alleged violation listed in section (3)(a) or (3)(c)-(m) of this rule, APD central office shall complete an administrative review within 30 days.

(a) The administrative review provides an opportunity for APD central office to review the local office's referral and decide whether to terminate a homecare worker's provider enrollment.

(b) The administrative review may include the provision of new evidence, either by the homecare worker or by the APD or AAA office, which APD central office may consider in reaching its decision.

(c) As a part of the administrative review, the homecare worker and a representative may take part in an administrative review conference with APD central office.

(d) After an administrative review conference, APD central office will conclude the administrative review within 10-business days. The administrative review process is concluded when APD central office sends the homecare worker a written notice. If, based on the administrative review, APD central office determines a homecare worker did not violate one or more of the subsections of section (3) of this rule, APD central office shall send a written notice of this determination to the APD or AAA office and to the homecare worker.

(e) Upon agreement of both parties, an extension of the 10-business day deadline may occur.

(5) NOTICE OF PROPOSED TERMINATION OF HOMECARE WORKER PROVIDER ENROLLMENT. When APD central office proposes to terminate a homecare worker's provider enrollment, the homecare worker shall be provided with a written Notice of Proposed Termination of Homecare Worker Provider Enrollment. The notice must:

(a) Include a short and plain explanation of the reason for the proposed termination;

(b) Indicate the date the Notice of Proposed Termination of Homecare Worker Provider Enrollment was sent to the homecare worker;

(c) Cite the rules supporting the decision to issue the Notice of Proposed Termination of Homecare Worker Provider Enrollment;

(d) List the effective date of the proposed termination; and

(e) Inform the homecare worker of the homecare worker's appeal rights, including:

(A) The right to legal representation;

(B) How to request a contested case hearing; and

(C) The right to continue working until a final order resolves the contested case.

(f) For terminations based on substantiated protective service allegations, complainants, witnesses, the name of the alleged victim and protected health information are not to be disclosed in or with the notice.

(6) NOTICE OF EMERGENCY TERMINATION OF HOMECARE WORKER PROVIDER ENROLLMENT. When an alleged violation presents imminent danger to current or future consumers, APD central office may issue a Notice of Emergency Termination of Homecare Worker Provider Enrollment. A Notice of Emergency Termination of Homecare Worker Provider Enrollment must:

(a) Include a short and plain explanation of the reason for the emergency termination;

(b) Indicate the date the Notice of Emergency Termination of Homecare Worker Provider Enrollment was sent to the homecare worker;

ADMINISTRATIVE RULES

(c) Cite the rules that support APD central office's decision to issue the Notice of Emergency Termination of Homecare Worker Provider Enrollment;

(d) List the effective date of the Notice of Emergency Termination of Homecare Worker Provider Enrollment; and

(e) Inform the homecare worker of the homecare worker's appeal rights, including:

(A) The right to legal representation;

(B) How to request a contested case hearing; and

(C) The right to continue working until a final order resolves the contested case.

(7) ADMINISTRATIVE HEARINGS. If APD central office sends a homecare worker a Notice of Proposed Termination of Homecare Worker Provider Enrollment or an Emergency Termination of Homecare Worker Provider Enrollment, the homecare worker may complete a request for an administrative hearing.

(a) The homecare worker's request for an administrative hearing must:

(A) Be in writing;

(B) Be postmarked no later than 14 days after the date of the Notice of Proposed Suspension of Homecare Worker Provider Enrollment or Emergency Suspension of Homecare Worker Provider Enrollment was sent; and

(C) Specify the issues or decisions being appealed and the reasons for the appeal.

(b) The Department shall refer the homecare worker's administrative hearing request to the Office of Administrative Hearings as described in OAR chapter 137, division 003.

(c) When the Department refers an administrative hearing request, under these rules, to the Office of Administrative Hearings, the Department shall indicate on the referral whether the Department is authorizing a proposed order, a proposed and final order, or a final order.

(d) A homecare workers who completes an administrative hearing request may take part in an informal conference with a Department hearing representative before the administrative hearing.

(e) No additional hearing rights have been granted to homecare workers by this rule other than the right to a hearing on the issue of Department's decision to terminate the homecare worker's provider enrollment.

(8) TERMINATION IF NO ADMINISTRATIVE HEARING REQUEST FILED. If a homecare worker is sent a Notice of Proposed Termination of Provider Enrollment or a Notice of Emergency Termination of Provider Enrollment and does not request an administrative hearing within 14 days of the date the Notice of Proposed Termination of Provider Enrollment or a Notice of Emergency Termination of Provider Enrollment was sent, APD central office shall send the homecare worker a Final Order by Default in accordance with OAR 137-003-0670. Once the time period for appeal has expired, the provider enrollment is terminated by the Department.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.070

Hist.: SPD 17-2004, f. 5-28-04, cert. ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; Administrative correction 7-20-05; SPD 15-2005(Temp), f. & cert. ef. 11-16-05 thru 5-15-06; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 3-2010, f. 5-26-10, cert. ef. 5-30-10; SPD 4-2013, f. 3-25-13, cert. ef. 3-26-13; SPD 47-2013, f. 12-13-13, cert. ef. 12-15-13; ADP 2-2016(Temp), f. & cert. ef. 3-2-16 thru 8-28-16; APD 6-2016(Temp), f. & cert. ef. 3-23-16 thru 8-28-16

Rule Caption: Quality and Efficiency Incentive Program

Adm. Order No.: APD 7-2016(Temp)

Filed with Sec. of State: 3-30-2016

Certified to be Effective: 4-1-16 thru 9-27-16

Notice Publication Date:

Rules Amended: 411-070-0437, 411-070-0442

Subject: The Department of Human Services (DHS), Aging and People with Disabilities (APD) is temporarily amending the Medicaid Nursing Facility rules set forth within OAR chapter 411, division 070 to comply Senate Bill 1585, which revises the Quality and Efficiency Incentive Program (QEIP) for Oregon Medicaid nursing facilities.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-070-0437

Quality and Efficiency Incentive Program

(1) ESTABLISHMENT. Effective October 7, 2013 through June 30, 2016, the Department establishes the Quality and Efficiency Incentive Program (Program) in order to implement Enrolled House Bill 2216

(Chapter 608, 2013 Oregon Laws) and Enrolled Senate Bill 1585 (2016). The Program is designed to reimburse quality nursing facilities that voluntarily reduce bed capacity that increases occupancy levels and enhances efficiency with the goal of slowing the growth of system-wide costs. The Department may provide additional compensation to nursing facilities who qualify for the legislatively approved Program. Such compensation may not exceed \$9.75 per resident day and may not exceed four years from the date of eligibility. Eligibility to participate in this Program sunsets on June 30, 2016.

(2) CAPACITY REDUCTION DISCUSSIONS. If two or more providers wish to initiate discussions concerning reduction of bed capacity in a community, the providers must notify the Department. The notice must identify the community and state that the parties wish to discuss reduction of bed capacity in that market pursuant to the Program.

(a) Upon receipt of a notice to discuss reduction of bed capacity, the Department shall review the notice and either approve or disapprove the proposed preliminary discussion. The Department shall approve the preliminary discussion if the community is one in which the proposed capacity reduction is consistent with the goals of the Program.

(b) If the Department approves the preliminary discussion, the Department shall notify the providers who requested approval and shall schedule a meeting at which a Department representative shall be made available to supervise the discussion. Providers in the affected market may attend the meeting and may discuss capacity reduction for that market under the supervision of the Department.

(c) The Department shall determine the time, place, and mechanism to discuss the reduction of bed capacity. The discussions may be held in-person or by means of conference call, video conference, or such other means that allow for each participant to hear and be heard by the other participant at the same time.

(d) Notice to the Department is not required for two providers who wish to discuss a specific transfer of bed capacity.

(3) CAPACITY REDUCTION TRANSACTIONS. Prior to any purchase of bed capacity under the Program, the parties to the transaction must notify the Department.

(a) The notice must describe the parties, the specific facilities, the proposed transaction, and the acquisition plan for the transaction.

(b) The acquisition plan must include documentation demonstrating that:

(A) The purchasing operator is able to meet or arrange for the needs of the individuals residing in the selling facility and meet all change of ownership or operator and closure criteria as described in OAR 411-085-0025;

(B) The selling operator meets the eligibility criteria described in section (5) of this rule and meets the criteria for nursing facility closure described in OAR 411-085-0025;

(C) Bed capacity in the community shall be reduced as a result of the transaction; and

(D) The transaction does not compromise care or health status of residents.

(c) The Department may approve the acquisition plan, disapprove the acquisition plan, or request further information or changes in the acquisition plan. The Department shall approve the transaction upon finding that the acquisition plan is expected to satisfy conditions (A) through (D) in subsection (b) of this section. If the Department approves or disapproves the transaction, the Department shall issue an order approving or disapproving the transaction and explaining how conditions (A) through (D) in subsection (b) of this section are satisfied or not satisfied.

(d) The purchasing operator may receive incentives under the Program only if the Department approves the transaction and the purchasing and selling operators complete the transaction as described in the acquisition plan. Upon meeting the qualifying conditions, eligibility for the incentives will be effective on the date the operator submitted the acquisition plan to the Department. The purchasing operator and selling operator are entitled to state action antitrust immunity for the transaction only if the Department approves the transaction.

(e) Once approved for participation in the Program, the selling facility must provide all notices and meet the other requirements of a facility closure under OAR 411-085-0025, including limiting admissions of residents to the facility.

(4) COMMUNITY TRANSITION MEETING.

(a) The Department, in consultation with the Long Term Care Ombudsman, shall convene a regional planning meeting in communities in which a facility plans to surrender the facility's license under these rules. The meeting shall engage the community in:

ADMINISTRATIVE RULES

(A) Planning to promote the safety and dignity of residents who shall be impacted by the surrender;

(B) A discussion regarding the local need for more home and community-based settings; and

(C) Assessing opportunities for more residential programs and supporting residential capacity.

(b) The Community Transition Meeting is initiated by the Department upon approval of an acquisition as described in this rule.

(5) ELIGIBILITY. The eligibility requirements for participation in the Program are:

(a) The nursing facility bed capacity being sold (the "selling facility") is not an Essential Nursing Facility or from a facility operated on behalf of the Oregon Department of Veteran's Affairs; and

(b) The selling facility's entire bed capacity is purchased and the seller agrees to surrender the nursing facility's license on the earlier of the date that:

(A) The last resident is transferred from the facility; or

(B) 180 days after the effective date of the sale of the facility bed capacity.

(c) A Program applicant (the "purchasing operator") must meet all of the following criteria at the time of the acquisition plan submission:

(A) Operate one or more facilities licensed by the Department as a nursing facility;

(B) Must be determined to be in substantial compliance from the annual licensing and recertification survey at the date of the acquisition plan submission; and

(C) Have no substantiated facility abuse meeting the criteria in ORS 441.715(2)(c) within six months of the date of the acquisition plan submission.

(d) The selling facility must provide all notices and meet the requirements of a facility closure under OAR 411-085-0025.

(6) ANTITRUST PROVISION.

(a) The Department declares its intent to exempt from state antitrust laws and provide state action immunity from federal antitrust laws individuals and entities that engage in transactions, meetings, or surveys described in sections (2) and (3) of this rule that might otherwise be constrained by such laws.

(b) The following activities are not immunized from antitrust liability:

(A) Agreements among competing providers to reduce the number of beds they operate outside of a sale;

(B) Provider meetings to discuss bed reduction strategies outside of the negotiation of a specific sale and where no Department representative is in attendance; or

(C) Collateral agreements between competing providers that involve their pricing strategies, how to respond to requests for proposals, or other discussions outside the sale of facilities.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070 & 2013 OL Ch. 608

Hist.: SPD 37-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14; APD 2-2014, f. 3-13-14, cert. ef. 4-1-14; APD 7-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16

411-070-0442

Calculation of the Basic Rate and Complex Medical Add-on Rate

(1) The rates are determined annually and referred to as the Rebasing Year.

(a) The basic rate is based on the statements received by the Department by October 31 for the fiscal reporting period ending on June 30 of the previous year. For example, for the biennium beginning July 1, 2013, statements for the period ending June 30, 2012 are used. The Department desk reviews or field audits these statements and determines the allowable costs for each nursing facility. The costs include both direct and indirect costs. The costs and days relating to pediatric beds are excluded from this calculation. The Department only uses financial reports of facilities that have been in operation for at least 180 days and are in operation as of June 30.

(b) For each facility, its allowable costs, less the costs of its self-contained pediatric unit (if any), are inflated by the DRI Index, or its successor index. The DRI table as published in the fourth quarter of the year immediately preceding the beginning of the payment year will be used. Costs will be inflated to reflect projected changes in the DRI Index from the mid-point of the fiscal reporting period to the mid-point of the payment year (e.g., for the July 1, 2014 rebase, the midpoint of the fiscal reporting period is December 31, 2012 and the mid-point of the payment year is December 31, 2014).

(c) For each facility, its allowable costs per Medicaid day is determined using the allowable costs as inflated and resident days, excluding pediatric days as reported in the statement.

(d) The facilities are ranked from highest to lowest by the facility's allowable costs, per Medicaid day.

(e) The basic rate is determined by ranking the allowable costs per Medicaid day by facility and identifying the allowable cost per day at the applicable percentage. If there is no allowable cost per day at the applicable percentage, the basic rate is determined by interpolating the difference between the allowable costs per day that are just above and just below the applicable percentage to arrive at a basic rate at the applicable percentage. The applicable percentage for the period beginning July 1, 2013 is at the 63rd percentile.

(2) The Department provides an augmented rate to nursing facilities who qualify under the Quality and Efficiency Incentive Program as described in OAR 411-070-0437. An acquisition plan must be submitted to the Department on or after October 7, 2013 and on or before June 30, 2016. The purchasing operator must meet all requirements in OAR 411-070-0437(3) in order to receive the augmented rate. The qualifying nursing facility is paid the augmented rate for each Medicaid-eligible resident.

(3) Nursing facility bed capacity in Oregon shall be reduced by 1,500 beds by December 31, 2015, except for bed capacity in nursing facilities operated by the Department of Veteran's Affairs and facilities that either applied to the Oregon Health Authority for a certificate of need between August 1, 2011 and December 1, 2012, or submitted a letter of intent under ORS 442.315(7) between January 15, 2013 and January 31, 2013. An official bed count measurement shall be determined and issued by the Department prior to July 1, 2016 and each quarter thereafter if the goal of reducing the nursing facility bed capacity in Oregon by 1,500 beds is not achieved.

(a) For the period beginning July 1, 2013 and ending June 30, 2016, the Department shall reimburse costs as set forth in section (1) of this rule at the 63rd percentile.

(b) For each three-month period beginning on or after July 1, 2016 and ending June 30, 2020, in which the reduction in bed capacity in licensed facilities is less than the goal described in this section, the Department shall reimburse costs at a rate not lower than the percentile of allowable costs according to the following schedule:

(A) 63rd percentile for a reduction of 1,500 or more beds.

(B) 62nd percentile for a reduction of 1,350 or more beds but less than 1,500 beds.

(C) 61st percentile for a reduction of 1,200 or more beds but less than 1,350 beds.

(D) 60th percentile for a reduction of 1,050 or more beds but less than 1,200 beds.

(E) 59th percentile for a reduction of 900 or more beds but less than 1,050 beds.

(F) 58th percentile for a reduction of 750 or more beds but less than 900 beds.

(G) 57th percentile for a reduction of 600 or more beds but less than 750 beds.

(H) 56th percentile for a reduction of 450 or more beds but less than 600 beds.

(I) 55th percentile for a reduction of 300 or more beds but less than 450 beds.

(J) 54th percentile for a reduction of 150 or more beds but less than 300 beds.

(K) 53rd percentile for a reduction of 1 to 149 beds.

(4) The complex medical add-on rate is 40 percent of the basic rate.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070, 2003 OL Ch. 736, 2007 OL Ch. 780, 2009 OL Ch. 827, 2011 OL Ch. 630 & 2013 OL Ch. 608

Hist.: SPD 36-2004, f. 12-23-04, cert. ef. 12-28-04; SPD 15-2007(Temp), f. & cert. ef. 9-10-07 thru 3-8-08; SPD 2-2008, f. 2-29-08, cert. ef. 3-1-08; SPD 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 15-2009, f. 11-30-09, cert. ef. 12-1-09; SPD 17-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 22-2011, f. 10-7-11, cert. ef. 11-1-11; SPD 10-2012, f. 7-31-12, cert. ef. 8-1-12; SPD 37-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14; SPD 39-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14; APD 2-2014, f. 3-13-14, cert. ef. 4-1-14; APD 20-2014, f. & cert. ef. 7-1-14; APD 7-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16

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

ADMINISTRATIVE RULES

Adm. Order No.: CWP 4-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 413-100-0800, 413-100-0810, 413-100-0820, 413-100-0830

Rules Repealed: 413-100-0840, 413-100-0850

Subject: The Department is updating 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 made. Specifically:

 OAR 413-100-0800 about the purpose of the child support referral is amended in its entirety to state the general provisions of child support referrals including when a parent may be required to make monthly child support payments; exceptions that apply when there is no existing child support order (previously address in OAR 413-100-0830 described below); treatment of adoption assistance payments; and Department notification requirements (previously addressed in OAR 413-100-0820 described below).

 OAR 413-100-0810 about definitions is being amended in its entirety to address the treatment of child support arrears owed to the Department. (These definitions will be moved into OAR 413-100-0000.)

 OAR 413-100-0820 about informing parents of financial obligations is amended in its entirety to address how the Department may obtain and handle information relating to child support cases. (Information previously in this rule is moved into OAR 413-100-0800 described above.)

 OAR 413-100-0830 about referrals to the child support program is being revised in its entirety to state that the Department will refer cases to the Department of Justice Division of Child Support (DCS) for establishment of parentage when only one parent is listed on a child's birth record or when the Department has not begun the parentage establishment process through genetic testing. (Information previously in this rule is moved into OAR 413-100-0800 described above.)

 OAR 413-100-0840 about existing support orders and OAR 413-100-0850 about notifications of changes are being repealed because the rules are no longer needed.

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

Rules Coordinator: Kris Skaro—(503) 945-6067

413-100-0800

Child Support Referrals

(1) The parents of a child in a paid substitute care placement may be required to make monthly child support payments to the state until one of the following occurs:

- (a) The child is reunified with the parent.
- (b) The child turns 18 or as long as the child is attending school as defined in ORS 107.108.
- (c) Parental rights have been terminated or relinquished.

(2) If there is an active child support case in which one parent is paying the other, the Department will refer the case to the Division of Child Support (DCS) to assign support payments to the Department.

(3) If there is not an existing child support order, the Department will refer the case to the DCS to establish a child support order unless one of the following applies:

- (a) The Post Adoption Program determined not to initiate a referral to DCS.
- (b) The parent is deceased.
- (c) The parent is receiving Supplemental Security Income (SSI) benefits.
- (d) The parent is a Social Security Disability or Retirement beneficiary.
- (e) The parent is under the age of 18.

(f) The parent has a developmental disability and is incapable of supporting the child or themselves.

(g) The parent has significant mental health issues that prevent gainful employment.

(h) The parent is homeless and incapable of supporting the child or themselves.

(i) The parent is receiving Temporary Assistance for Needy Families (TANF) benefits.

(j) The parent is or will be incarcerated for more than six months.

(k) The parent is compliant with the reunification plan and the Department caseworker believes enforcement of a support order would negatively impact the plan.

(l) The parent is actively participating in a treatment program.

(m) There is a prior finding of "good cause" as defined under OAR 461-120-0350, and after re-evaluation remains in effect.

(n) If reunification is no longer the plan and the plan changes to relinquishment or termination of parental rights.

(o) The parents would be unable to comply with the permanency plan of reunification due to the financial hardship caused by paying child support.

(p) The child is expected to be in paid substitute care for only a short period of time.

(q) The noncustodial parent is a potential resource.

(r) Other appropriate circumstances determined by the Department.

(4) If a child enters paid substitute care following adoption in Oregon or another state or country and is receiving an adoption assistance payment:

(a) The Department must review the payment and may discuss renegotiation with the parent; and

(b) The Post Adoptions Program Manager or designee has authority to determine whether the Department would initiate a referral for child support. The following factors must be considered:

- (A) Reason the child entered care;
- (B) Amount of adoption assistance payment;
- (C) Parent involvement in the permanency plan; and
- (D) Any other considerations involving the best interests of the child.

(5) A determination to not refer a parent to DCS does not prohibit the Department from making a referral in a subsequent episode of Department custody.

(6) A determination to not refer a parent to DCS does not prohibit the Department from re-evaluating intermittently during the same episode of care.

(7) The Department must inform a parent that the parent may be required to pay child support.

(8) The Department must notify DCS when:

- (a) The child or young adult exits paid substitute care; or
- (b) Parental rights have been terminated or relinquished.

Stat. Auth.: ORS 412.024, 418.005

Stats. Implemented: ORS 109.010, 109.015, 180.320, 412.024, 418.005, 418.032

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 4-2016, f. & cert. ef. 4-1-16

413-100-0810

Child Support Arrears Owed to Department

(1) Child support arrears resulting from nonpayment during an episode of Department custody will be assigned and payments disbursed as prescribed by law.

(2) Any child support arrears owed to the Department after termination of assignment to the Department will be collected by DCS and payments disbursed to the Department until the debt for past paid substitute care is fulfilled, or until the legal time frame for collection of the debt expires whichever is earlier. The legal time frame for collection of the debt expires 35 years from the judgment date.

(3) With approval of the Child Permanency Program Manager or designee or the Federal Compliance Program Manager or designee, DCS may grant:

(a) A file credit, wherein the child support arrears are not actively pursued, but will remain on file, and the agency reserves the right to collect the arrears at a later date; or

(b) A satisfaction on the arrears, wherein the child support arrears are forgiven through the court and the agency may not attempt to collect from the parent.

Stat. Auth.: ORS 412.024, 418.005

Stats. Implemented: ORS 109.010, 109.015, 180.320, 412.024, 418.005, 418.032

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 4-2016, f. & cert. ef. 4-1-16

ADMINISTRATIVE RULES

413-100-0820

Handling DCS Case Information

(1) The Department may obtain an absent parent's place of residence and demographic information from a child support case to be used for the administration of Department programs. This information may be entered in the Department's electronic information system when verified. However, child support case screens may not be printed or reproduced.

(2) The Department may make application through the Federal Parent Locate Service for the purpose of establishing paternity and enforcement when an absent parent's whereabouts are not readily available through an existing paternity establishment or child support case.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370, 419B

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 4-2016, f. & cert. ef. 4-1-16

413-100-0830

Paternity and Parentage Establishment

The Department will refer substitute care cases to DCS for establishment of parentage under any of the following circumstances:

(1) Only one parent is listed on the child's birth record; or

(2) The Department has not begun the parentage establishment process through genetic testing.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 4-2016, f. & cert. ef. 4-1-16

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Rule Caption: Amending rules about child abuse reporting

Adm. Order No.: CWP 5-2016(Temp)

Filed with Sec. of State: 4-11-2016

Certified to be Effective: 4-11-16 thru 10-7-16

Notice Publication Date:

Rules Amended: 413-015-0215

Subject: OAR 413-015-0215 about notifications and reports to specific agencies or entities is being amended to state that DHS child abuse report screeners must report to the Office of Adult Abuse Prevention and Investigation (OAAPI) when a report involves a child with intellectual or developmental disabilities in a home licensed or certified by the Office of Developmental Disabilities Services (ODDS). The previous rule required reporting to OAAPI only when the report involved a residential group home licensed by ODDS. The rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm.

Rules Coordinator: Kris Skaro—(503) 945-6067

413-015-0215

Notifications to Specific Agencies or Entities

(1) Law Enforcement Agency (LEA). The screener must cross report to LEA as required by OAR 413-015-0305(1).

(2) Office of Child Care, Department of Education, Early Learning Division. The screener must notify the Office of Child Care when a report involves a day care facility, as required by ORS 419B.020(1). If the report is closed at screening, a copy of the completed screening report form must be sent to the Compliance Unit of the Office of Child Care after information related to the reporter's identity and other confidential information is removed.

(3) Office of Adult Abuse Prevention and Investigation (OAAPI). The screener must report to the OAAPI when:

(a) A report involves a Children's Care Provider as outlined in OAR 413-015-0205(4)(b); or

(b) A report involves a child with intellectual or developmental disabilities in a home licensed or certified by the Office of Developmental Disabilities Services.

(4) Indian Tribes. If the screener knows or has reason to know that the child is an Indian child, the screener must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted.

(5) Teacher Standards and Practices Commission (TSPC). The screener must notify the TSPC when a teacher or school administrator, as defined in OAR 413-015-0115, is identified as an alleged perpetrator in a report. A copy of the report must be sent to the TSPC after information related to the reporter's identity and other confidential information is removed.

(6) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The screener must make

a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the screener has reasonable cause to believe:

(a) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the screener comes into contact while the screener is acting in an official capacity, has suffered abuse; or

(b) That any person with whom the screener comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, developmental disability, or physical disability, or any person 65 years of age or older.

Stat. Auth.: ORS 418.005 & 419B.017

Stats. Implemented: ORS 418.005, 419B.015 & 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 5-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16

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Department of Human Services,

Self-Sufficiency Programs

Chapter 461

Rule Caption: Amending rules relating to APD (Aging and People with Disabilities) programs

Adm. Order No.: SSP 13-2016

Filed with Sec. of State: 3-21-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 2-1-2015

Rules Amended: 461-125-0370, 461-135-0750, 461-180-0010, 461-180-0090, 461-180-0140

Rules Repealed: 461-125-0370(T), 461-135-0750(T), 461-180-0010(T), 461-180-0090(T), 461-180-0140(T)

Subject: OAR 461-125-0370 about disability as the basis of need is being amended to state that an individual may request free assistance with Social Security disability applications and administrative appeals from the Department when the individual meets the requirements listed below. This will assist these individuals in meeting the requirement to pursue assets under OAR 410-200-0220 and makes permanent temporary changes adopted on October 5, 2015 and March 1, 2016. To qualify for free assistance, the individual must be:

- Determined to have a disability under OAR 461-125-0370(1)(c);

- Receiving benefits from one of the OCCS Medical Programs (see OAR 461-001-0000);

- Receiving SNAP benefits; and

- Served by the Aging and People with Disabilities (APD) or Area Agency on Aging (AAA) Office in Albany, Baker City, Bend, Brookings, Burns, Canby, Coos Bay, Cottage Grove, Enterprise, Estacada, Eugene, Florence, Gold Beach, Hermiston, John Day, La Grande, La Pine, Madras, Milwaukie, North Bend, Ontario, Pendleton, Prineville, Redmond, Reedsport, Roseburg, The Dalles, or Toldeo, Oregon.

To align with changes to the State Medicaid Plan, the Department of Human Services is changing the start date for some APD assistance programs as described below. These changes were effective December 1, 2015, and make permanent temporary rules adopted on December 15, 2015 and January 22, 2016.

- OAR 461-135-0750 about Oregon Supplemental Income Program Medical (OSIPM) eligibility for certain individuals in long-term care or home and community based care is being amended to state that OSIPM eligibility is not effective prior to the first day of the month that includes the effective date for long-term care (the effective date for long-term care is determined in accordance with OAR 461-180-0040). Currently OSIPM is not effective until the effective date for long-term care.

- 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. Currently eligibility is effective on the DOR if all eligibility requirements are met on the DOR,

ADMINISTRATIVE RULES

and if they are not eligible on the DOR, eligibility is effective on the date that all eligibility requirements are met.

- OAR 461-180-0090 about the effective date for initial month medical benefits is being amended to state that GAM, OSIPM, and Qualified Medicare Beneficiary Disabled Worker (QMB-DW) medical benefits are effective on the first day of the month that includes the DOR if the individual is eligible on the DOR. If the individual is not eligible on the DOR, but meets all eligibility requirements within the application processing time frames of OAR 461-115-0190, eligibility is effective on the first day of the month that includes the date that all eligibility requirements are met. Limitations and exceptions to this change are included for certain residents of public institutions and state psychiatric institutions, inmates (including inmates with suspended benefits), and individuals moving to Oregon from another state. Currently eligibility is effective on the DOR if all eligibility requirements are met on the DOR, and if all eligibility requirements are not met on the DOR, eligibility is effective on the date that all eligibility requirements are met.

- OAR 461-180-0140 about the effective dates for retroactive medical benefits is being amended to state that for OSIPM the earliest date of eligibility for retroactive medical is the first day of the third month before the month that includes the DOR and, after the earliest date is established, eligibility is determined on a month-by-month basis starting on the earliest date and ending on the last day of the month prior to the month that includes the DOR. Limitations and exceptions to this change are included for certain inmates, and individuals moving to Oregon from another state. Currently the earliest date of eligibility is three months before the DOR.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-125-0370

Disability as the Basis of Need

(1) In the OSIP and OSIPM programs (except OSIP-EPD and OSIPM-EPD), an individual meets the eligibility requirement to have a disability if the requirements of one of the following subsections are met:

(a) The individual is receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) based on disability. Eligibility continues as long as the individual remains eligible for SSDI or SSI.

(b) The individual was eligible for and received Aid to the Disabled benefits in Oregon in December 1973. These grandfathered cases continue to be eligible as long as they are continuously disabled as defined by Oregon requirements that were in effect in 1973.

(c) The Department has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(d) The Social Security Administration (SSA) has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(2) If the Department finds the individual eligible for OSIPM in the absence of a disability determination by SSA, the individual remains eligible, provided that the individual continues to meet the disability criteria for eligibility for OSIPM, until SSA denies the disability claim in a final administrative decision.

(3) For OSIP and OSIPM, a disability determination made by SSA that is unfavorable to an individual is binding on the Department unless the requirements of at least one of the following subsections are met (see 42 C.F.R. 435.541(c)(1) and (c)(4)):

(a) SSA made the determination for a reason other than disability.

(b) The individual alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(c) More than 12 months after the most recent SSA determination denying disability, the individual alleges that his or her condition has changed or deteriorated since that SSA determination, and the individual has not made application to SSA based on these allegations.

(d) The individual alleges less than 12 months after the most recent SSA determination denying disability that the condition which SSA evalu-

ated has changed or deteriorated since that SSA determination; and one or both of the following apply:

(A) The individual has requested reconsideration or reopening of the most recent SSA determination denying disability and SSA has declined to consider the new allegations.

(B) It is clear that the individual no longer meets SSI eligibility requirements unrelated to disability status but may satisfy comparable Medicaid eligibility requirements.

(4) If a binding SSA disability determination is not in place, the determination of disability to qualify for OSIPM is made by the Presumptive Medicaid Disability Determination Team (PMDDT), composed of a medical or psychological consultant and another individual who is qualified to interpret and evaluate medical reports, other evidence relating to the individual's physical or mental impairments, and (as necessary) to determine the capacities of the individual to perform substantial gainful activity, as specified in 20 C.F.R. Part 416, Subpart J (see 42 C.F.R. 435.541(f)(2)).

(5) The Presumptive Medicaid Disability Determination Team (PMDDT) obtains and reviews medical reports and other non-medical evidence pertaining to the individual and the claimed disability. The medical report and non-medical evidence must include diagnosis and other information in accordance with the requirements for evidence applicable to disability determinations under the SSI program specified in 20 CFR Part 416, Subpart I. The PMDDT then makes a decision about medical eligibility and whether and when a redetermination will be made (see 42 C.F.R. 435.541(f)(1) and (3)).

(6) In the OSIP-EPD and OSIPM-EPD programs, an individual is disabled (see OAR 461-001-0035) or has a disability (see OAR 461-001-0035) if the individual has a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determining eligibility for SSI or SSDI under 20 C.F.R. Part 404. The determination is made as follows:

(a) A determination by SSA that the individual is disabled or has a disability is accepted by the Department.

(b) If the individual was determined to have a disability by SSA and lost their SSDI eligibility due to their own income, the SSA determination remains effective for one year from the date that the individual loses eligibility for SSDI.

(c) If there is no currently effective SSA determination finding the individual has a disability, the case is referred to the Department's central office for a disability determination (see OAR 461-001-0035) using the standards of 20 C.F.R. Parts 404 and 416 and considering all relevant medical and vocational information.

(d) For OSIPM-EPD, an individual is engaging in substantial gainful activity (SGA, see OAR 461-001-0035) if the earnings of the individual are at or above the EPD Income Standard.

(e) For OSIPM-EPD, any work activity engaged in during the OSIPM-EPD application process or certification period is not evaluated as past relevant work (PRW, see OAR 461-001-0035).

(7) An individual who is served by a branch office (see OAR 461-001-0000) and who has been determined by the Presumptive Medicaid Disability Determination Team (PMDDT) to have a disability (see section (1) of this rule) may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 461-120-0330.

(8) An individual may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 410-200-0220 if the individual:

(a) Is determined to have a disability under subsection (1)(c) of this rule;

(b) Receives benefits from one of the OCCS Medical Programs (see OAR 461-001-0000);

(c) Receives SNAP benefits; and

(d) Is served by the AAA (Area Agency on Aging) or APD (Aging and People with Disabilities) office in Albany, Baker City, Bend, Brookings, Burns, Canby, Coos Bay, Cottage Grove, Enterprise, Estacada, Eugene, Florence, Gold Beach, Hermiston, John Day, La Grande, La Pine, Madras, Milwaukie, North Bend, Ontario, Oregon City, Pendleton, Prineville, Redmond, Reedsport, Roseburg, The Dalles, or Toledo, Oregon.

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

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 411.060, 411.070, 411.121, 411.404, 411.704, 411.706, 411.816, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 9-2003(Temp), f. & cert. ef. 4-11-03 thru 6-30-

ADMINISTRATIVE RULES

03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 20-2014(Temp), f. & cert. ef. 8-1-14 thru 1-28-15; SSP 22-2014(Temp), f. 8-29-14, cert. ef. 9-1-14 thru 1-28-15; SSP 27-2014(Temp), f. & cert. ef. 10-1-14 thru 1-28-15; SSP 31-2014(Temp), f. & cert. ef. 12-8-14 thru 1-28-15; SSP 5-2015, f. & cert. ef. 1-29-15; SSP 26-2015(Temp), f. 9-29-15, cert. ef. 10-5-15 thru 4-1-16; SSP 9-2016(Temp), f. 2-23-16, cert. ef. 3-1-16 thru 4-1-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16

461-135-0750

Eligibility for Individuals in Long-Term Care or Home and Community-Based Care; OSIPM

An individual who meets the requirements of all of the following sections is eligible for OSIPM:

(1) Meets the eligibility requirements for the OSIPM program except that income is above the OSIPM adjusted income standard for a one person need group (see OAR 461-155-0250(3)).

(2) Has countable (see OAR 461-001-0000) income at or below 300 percent of the full SSI standard for a single individual; has established a qualifying trust as specified in OAR 461-145-0540(10)(c); or is eligible for the OSIPM-EPD program.

(3) Meets one of the following eligibility standards:

(a) The criteria in OAR 411-015-0100 (except subsection (1)(b)) regarding eligibility for nursing facility care or home and community-based care (see OAR 461-001-0030).

(b) The level-of-need criteria for an ICF/MR.

(c) The service eligibility standards for medically fragile children in OAR 411-350-0010.

(d) The service eligibility standards for the CHS (Children's Intensive In-Home Services) behavioral program in OAR 411-300-0100 to 411-300-0220.

(e) The service eligibility standards for the Medically Involved Children's Waiver in OAR chapter 411, division 355.

(4) Resides in or will reside in one of the following locations for a continuous period of care (see OAR 461-001-0030) and is applying for or receiving long-term care services authorized by the Department (eligibility for OSIPM is not effective prior to the first day of the month that includes the effective date for long-term care under OAR 461-180-0040):

(a) A Medicaid-certified nursing facility.

(b) An intermediate care facility for the mentally retarded (ICF/MR).

(c) A home and community-based care setting.

(5) An individual in a home and community-based care setting must receive Title 1915(c) waived services.

Stat. Auth.: ORS 411.060, 411.070, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; 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 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 10-2008(Temp), f. & cert. ef. 4-7-08 thru 9-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16

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) 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 461-110-0310 and 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).

(d) 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).

(e) 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.

(f) 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.

(g) 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 copy, 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 copy, 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; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16

461-180-0090

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

(1) 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 eli-

ADMINISTRATIVE RULES

gible 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, 413.085, 414.685, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685, 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; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16

461-180-0140

Effective Dates; Retroactive Medical Benefits

(1) 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; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16

Rule Caption: Amending rules relating to the time limit for ABAWD clients in the SNAP program

Adm. Order No.: SSP 14-2016(Temp)

Filed with Sec. of State: 3-24-2016

Certified to be Effective: 4-1-16 thru 9-27-16

Notice Publication Date:

Rules Adopted: 461-180-0135

Rules Amended: 461-135-0521, 461-160-0410

Subject: OAR 461-135-0521 about job quit for SNAP applicants is being amended to include ABAWD (able-bodied adults without dependents) as clients subject to the rule which states that applicants are not eligible for SNAP benefits if they quit a job or reduced work

ADMINISTRATIVE RULES

hours in the 30 days prior to applying for SNAP or at any time while receiving SNAP.

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

OAR 461-180-0135 about restoring benefits for ABAWD clients is being adopted to allow the Department to restore benefits to ABAWD clients in the month after they reach the time limit without reapplying in certain circumstances.

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

461-135-0521

Job Quit by Applicants; SNAP

(1) An applicant who is required to meet the SNAP employment and training requirements in OAR 461-130-0305 and 461-130-0315, who voluntarily and without good cause (see OAR 461-130-0327) quits a job or reduces the weekly number of hours of work to below 30, is ineligible for SNAP benefits.

(2) For purposes of this rule, a person quits a job upon quitting a job of at least 30 hours a week or the equivalent of 30 hours a week multiplied by the federal minimum wage.

(3) The period of ineligibility is determined as follows. If the filing date falls within the 30-day period following a job quit or work reduction described in sections (1) and (2) of this rule, the person who quit the job or reduced work hours will be ineligible during the month in which the filing date falls and for the appropriate disqualification of one, three or six calendar months (see OAR 461-130-0330(4)).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 10-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 10-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 14-2016(Temp), f. 3-24-16, cert. ef. 4-1-16 thru 9-27-16

461-160-0410

Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP

When a member of the filing group (see OAR 461-110-0310 and 461-110-0370) is not in the need group (see OAR 461-110-0630), benefits in the SNAP program are calculated as follows:

(1) If the member is a qualified non-citizen (see OAR 461-120-0125(1)(a)–(g)) who does not meet the alien status requirements, the following procedure is used:

(a) Benefits are calculated as if the qualified non-citizen is eligible. Benefits are then calculated as if the qualified non-citizen is not a member of the filing group. Any income received by another member of the filing group from the qualified non-citizen is counted as income of the filing group. No expenses paid by the qualified non-citizen are deducted from gross income.

(b) The household's benefits are the lesser of the amounts calculated in subsection (a) of this section.

(2) The process described in sections (3) and (4) of this rule is used if the member is:

(a) A non-citizen but not a qualified non-citizen;

(b) Disqualified for failing to obtain or provide a Social Security Number;

(c) Unwilling to disclose alien status; or

(d) An ABAWD (see OAR 461-135-0520) who is ineligible because of the time limit in OAR 461-135-0520.

(3) If the member is in a group described in section (2) of this rule:

(a) The member's countable (see OAR 461-001-0000) income is prorated among the members in the filing group.

(b) The pro rata share of each individual not in the benefit group (see OAR 461-110-0750) is excluded.

(c) The rest of the prorated income is countable income for the filing group.

(4) An ineligible or disqualified member covered by section (2) of this rule is entitled to all income deductions for which the member qualifies. When paid by the member, or billed to the member and unpaid, deductions for shelter, child support, medical costs, and dependent care are calculated as follows:

(a) The deductions, except deductions for the utility standard, are prorated among the members of the filing group.

(b) The prorated share of the members of the benefit group is deducted.

(c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.

(5) The countable income of the following financial group (see OAR 461-110-0530) members, subject to allowable deductions, is used to determine benefits:

(a) A client disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.

(b) A client:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

(B) Violating a condition of probation or parole imposed under a federal or state law.

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.837

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 20-1991, f. & cert. ef. 10-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; 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 10-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 10-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 6-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 20-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 14-2016(Temp), f. 3-24-16, cert. ef. 4-1-16 thru 9-27-16

461-180-0135

Effective Dates; Restoring SNAP Benefits for ABAWD Following Counting Month (Not Regaining)

(1) In the SNAP program, benefits may be restored effective the first of the month when SNAP benefits for an ABAWD (see OAR 461-135-0520) end following the third countable month when all of the following requirements are met:

(a) Benefits ended as of the last calendar day of the prior month or were reduced as of the first day of the current month.

(b) The reason for the closure or reduction was the ABAWD lost eligibility (see OAR 461-001-0000) due to the time limit in OAR 461-135-0520.

(c) The client contacted the Department within the first calendar month following the closure or reduction and provided information that the client met one of the following in at least one of the first three countable months (see OAR 461-135-0520):

(A) An exemption in OAR 461-130-0310(3)(a)(A)–(J).

(B) The work requirements in OAR 461-135-0520(3)(d) or (e).

(d) There is at least one month remaining in the certification period (see OAR 461-001-0000).

(2) This policy does not include regaining eligibility (see OAR 461-135-0520(5)) or to the month following closure or reduction following receipt of six countable months or any month thereafter.

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Hist.: SSP 14-2016(Temp), f. 3-24-16, cert. ef. 4-1-16 thru 9-27-16

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Rule Caption: Amending rules relating to public assistance programs

Adm. Order No.: SSP 15-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 12-1-2015, 2-1-2016, 3-1-2016

Rules Adopted: 461-135-0071, 461-135-0073, 461-135-1270, 461-190-0500

Rules Amended: 461-001-0000, 461-001-0020, 461-001-0025, 461-110-0210, 461-110-0630, 461-110-0750, 461-115-0016, 461-120-0210, 461-120-0340, 461-130-0310, 461-130-0315, 461-130-0327, 461-130-0330, 461-130-0335, 461-135-0070, 461-135-0075, 461-135-0475, 461-135-0485, 461-135-0506, 461-135-0520, 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-

ADMINISTRATIVE RULES

175-0200, 461-175-0210, 461-175-0300, 461-180-0050, 461-190-0310, 461-190-0360, 461-190-0406

Rules Repealed: 461-115-0016(T), 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, 461-130-0310(T), 461-135-0087, 461-135-0506(T), 461-135-0520(T), 461-155-0150(T), 461-190-0360(T), 461-190-0500(T)

Subject: 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. The rule is also amended to clarify the definition of “parent” to state that it includes the biological mother or father of an unborn child or the biological, step, or adoptive mother or father of a child.

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 (see new rule OAR 461-190-0500 described below).

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 461-115-0016 about the ERDC application process and reservation list is being amended to permanently adopt a temporary rule that went into effect on January 1, 2016. The change exempts participants in the Early Head Start Child Care Partnership provider sites contracted with the Department from the ERDC reservation list. The ERDC reservation list is used to keep the ERDC caseload within the legislatively mandated cap. The list was activated on January 4, 2016.

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. The rule is also 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 461-130-0315 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 461-130-0330 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 461-135-0070 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 or voluntarily reduced work

ADMINISTRATIVE RULES

hours without good cause is applicable at initial application, recertification, and is a condition on 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 or voluntarily reduced work hours.

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 461-135-0506 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. The federal time limit is also stated more clearly to avoid confusion, which makes permanent temporary changes adopted on March 2, 2016.

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 eli-

gibility 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:

- Implement rate increases negotiated between the Department and union representatives of child care providers and funded by the Legislature. This makes permanent temporary rate increases adopted on January 1, 2016 and March 1, 2016.

- Implement incentive payments for providers who achieve a three star or higher rating with the Quality Rating Improvement System (QRIS). The payment for three, four, and five star ratings is \$54, \$72, or \$90 respectively.

- 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 reflect changes to the 2016 Federal Poverty Level (FPL) and the 2016 State Median Income (SMI). Additionally, sections that are not applicable to DHS Self-Sufficiency Programs are being removed (133, 150, and 163 percent FPL) and sections for 130 and 350 percent FPL are being added. The 130 percent FPL applies to SNAP and 350 percent FPL 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, JPI benefits, 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

ADMINISTRATIVE RULES

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.

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 SNAP clients served by APD or AAA 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 were 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.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDDS), or any other agency formerly part of the Department of Human Services means the Department of Human Services (DHS), except:

(a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.

(b) OCCS medical program eligibility rules are in OAR chapter 410, division 200.

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence (see section (25) of this rule), sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable (see section (18) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a decision notice (see section (21) of this rule) mailed no later than the date of action given in the notice.

(7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) "Budgeting" means the process of calculating the benefit level.

(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility (see section

(28) of this rule) and benefit level for the payment month (see section (50) of this rule).

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise (see section (43) of this rule), either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child (see section (15) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means a caretaker (see section 12 of this rule) who meets the requirements of one of the following subsections:

(a) Is one of the following relatives of the dependent child (see section (23) of this rule):

(A) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(B) Stepfather, stepmother, stepbrother, and stepister.

(C) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(b) Is or was a spouse (see section (63) of this rule) of an individual listed in subsection (a) of this section.

(c) Met the definition of "caretaker relative" under subsection (a) or (b) of this section before the child was adopted (notwithstanding the subsequent adoption of the child).

(14) "Certification period" means the period for which an individual is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.

(a) In the ERDC program, a "child" need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a "child" is an individual under the age of 18.

(c) In the OSIPM and QMB programs, "child" means an unmarried individual living with a parent (see section (49) of this rule) who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full-time secondary, postsecondary or vocational-technical training designed to prepare the individual for employment.

(d) In the REF and REFM programs, a "child" is:

(A) An individual under the age of 18; or

(B) An individual who is 18 years of age and attending secondary school full-time or pursuing a GED full-time.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — Individuals living in their home receiving services determined necessary by the Department.

ADMINISTRATIVE RULES

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(17) “Continuing benefit decision notice” means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) “Countable” means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) “Cover Oregon” means Oregon Health Insurance Exchange Corporation.

(20) “Custodial parents” mean parents who have physical custody of a child. “Custodial parents” may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) “Decision notice” means a written notice of a decision by the Department regarding an individual’s eligibility for benefits in a program.

(22) “Department” means the Department of Human Services (DHS).

(23) “Dependent child” in the TANF program means the following:

(a) An individual who is not a caretaker relative (see section (13) of this rule) of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent (see section (44) of this rule) whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(24) “Disability” means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual’s ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) “Domestic violence” means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.

(b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(e) As used in this section, “family members” and “household members” mean any of the following:

(A) Spouse;

(B) Former spouse;

(C) Individuals related by blood, marriage (see section (43) of this rule), or adoption;

(D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

(F) Unmarried parents of a child.

(26) “Domestic violence shelters” are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(27) “Electronic application” is an application electronically signed and submitted through the Internet.

(28) “Eligibility” means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(29) “Equity value” means fair market value (see section (30) of this rule) minus encumbrances.

(30) “Fair market value” means the amount an item is worth on the open market.

(31) “Family stability” in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(32) “Family stability activity” in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability (see section (31) of this rule).

(33) “Financial institution” means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(34) “Homeless” in the ERDC program means lacking a fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.

(35) “Income producing property” means:

(a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the financial group (see OAR 461-110-0530). Examples of “income producing property” are:

(A) Livestock, poultry, and other animals.

(B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, and condominiums.

(b) In the OSIP, OSIPM, and QMB programs, “income-producing property” means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the financial group. “Income-producing property” includes:

(A) Livestock, poultry, or other animals that produce marketable products sold by the financial group.

(B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the financial group.

(C) Real property other than the home (including vacation homes and condominiums), that is rented out.

(c) In the OSIP, OSIPM, and QMB programs, “income-producing property” does not include:

(A) Rooms or other space for rent in the home (see OAR 461-145-0220).

(B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).

(36) “Initial month” of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) For a new applicant to the GA, GAM, OSIP, or OSIPM program applying for care in a nonstandard living arrangement (see section (45) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of assets (see section (5) of this rule).

(e) For a current recipient of the GA, GAM, OSIP, or OSIPM program receiving or applying for care in a nonstandard living arrangement, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:

(A) The month the disqualifying transfer occurred.

ADMINISTRATIVE RULES

(B) The month of application for long-term care (see section (40) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of assets.

(37) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(38) "Legally married" means a marriage uniting two individuals according to:

(a) The statutes of the state where the marriage occurred;

(b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

(39) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the financial group purchases a "life estate" interest in the home of another individual.

(40) "Lodger" means a member of the household group (see OAR 461-110-0210) who:

(a) Is not a member of the filing group (see OAR 461-110-0310); and

(b) Pays the filing group:

(A) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, for room and board.

(B) In the GA, GAM, OSIP, OSIPM, and QMB programs, for room with or without board.

(41) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(42) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(43) "Marriage" means the union of two individuals who are legally married (see section (37) of this rule).

(44) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(45) "Minor parent" in the ERDC and TANF programs means a parent under the age of 18.

(46) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the individual receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or domestic violence shelter.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(47) "OCCS" is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program eligibility policy, community outreach, OCCS Medical Program eligibility determinations, and the OHA Customer Service Call Center.

(48) "OCCS Medical Programs" refers to programs for which eligibility policy can be found in OAR chapter 410, division 200, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

(a) MAGI Adult;

(b) MAGI Child;

(c) MAGI Parent or Other Caretaker Relative;

(d) MAGI Pregnant Woman; and

(e) MAGI CHIP.

(49) "Ongoing month" means one of the following:

(a) For all programs except the SNAP program, any month following the initial month (see section (35) of this rule) of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the SNAP program, any month in the certification period (see section (14) of this rule) following the initial month of eligibility.

(50) "Parent" for all programs except JPI (see OAR 461-135-1260) and the SNAP program means the biological mother or father of an unborn child or the biological, step, or adoptive mother or father of a child. For JPI and the SNAP program, "parent" means the biological or legal mother or father of an individual.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent has given up care, control, and supervision of the child.

(51) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(52) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(53) "Periodic income" means income received on a regular basis less often than monthly.

(54) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The "primary person" for individual programs is as follows:

(a) For the TANF program, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, QMB, REF, and REFM programs: the client or client's spouse.

(55) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(56) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".

(57) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(58) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(59) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

ADMINISTRATIVE RULES

(60) “Shelter in kind” means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs (see section (58) of this rule) of the financial group. “Shelter-in-kind” does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(61) “Sibling” means the brother or sister of an individual. “Blood related” means they share at least one biological or adoptive parent. “Step” means they are not related by blood, but are related by the marriage of their parents.

(62) “Spousal support” means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group.

(63) “Spouse” means an individual who is legally married to another individual.

(64) “Stable income” means income that is the same amount each time it is received.

(65) “Standard living arrangement” means a location that does not qualify as a nonstandard living arrangement.

(66) “Teen parent” means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(67) “Timely continuing benefit decision notice” means a decision notice that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(68) “Trust funds” mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(69) “USDA meal reimbursements” mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(70) “Variable income” means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685

Hist.: AFS 28-1978, f. & cert. ef. 7-13-78; AFS 54-1984, f. 12-28-84, cert. ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 18-2014(Temp), f. & cert. ef. 7-1-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16; SSP 36-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-001-0020

Definitions; SNAP Employment and Training Components and Activities

The SNAP Employment and Training program consists of three types of employment programs: the Oregon Food Stamp Employment Transition (OFSET) program, the 50 percent (50/50) reimbursement program, and the able-bodied adults without dependents (ABAWD) employment program. For limitations in the SNAP Employment and Training programs, see OAR 461-190-0310. The following definitions apply to rules about the SNAP Employment and Training programs in OAR chapter 461:

(1) “Assessment” means an activity that involves gathering information to identify a client’s strengths, interests, family circumstances, status in the Employment and Training programs, goals, and vocational aptitudes and preferences and to mutually determine an employment goal, the level of the client’s participation in the Employment and Training programs, and which support services are needed to be able to participate in the components and activities.

(2) “Case plan”, also called a personal plan or personal development plan, means a written outline, developed together by the client and Department staff or contractor staff listing activities for the client. The components and activities are identified during the assessment (see section (1) of this rule) and are intended to reduce the effect of barriers to the client’s self-sufficiency, employment, job retention, and wage enhancement. The

“case plan” also identifies the support services the Department will make available to help the client complete the plan.

(3) “Case management” means the ongoing provision by the contractor to the participant of encouragement, advocacy, and resource referrals for issues and barriers to eventual successful employment as those issues and barriers arise or may be anticipated.

(4) “Education” means a component that improves basic skills or employability and has a direct link to employment. “Education” includes a wide range of activities including, but not limited to, English as a second language (ESL) instruction, high school attendance, and, for individuals 21 and over, high school or equivalent educational programs. In the 50/50 program only, this activity could also include post-secondary education.

(5) “Job search” means a component that focuses on clients looking for and obtaining employment.

(6) “Job skills training” means a component that includes training designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes and receiving instruction in interviewing skills.

(7) “Other employment-related activities” means a component composed of other activities related to employment, including:

(a) Participation in a program of the Workforce Innovation and Opportunity Act (WIOA).

(b) A program authorized by section 236 of the Trade Act of 1974 (19 U.S.C. 2296).

(c) Sheltered work or supported work: A component that gives clients intensive staff support, skill training, intervention, and counseling that will enable them to function independently at work.

(d) Vocational training: An education component that is designed to provide classroom training in vocational and technical skills or equivalent knowledge and abilities in a specific job area. Examples are Project Independence, Women in Transition, and Nurses Aid certification.

(e) Workfare: See OAR 461-190-0500.

(f) Work experience: A component designed to improve the employability of participants through actual work experience or training. This component is available in the 50/50 program only.

(g) Job retention: A component intended to provide support services for up to 90 days to clients who have secured employment. This component is available in the 50/50 program only.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 15-2016, f. & cert. ef. 4-1-16

461-001-0025

Definitions of Terms, Components, and Activities; JOBS, Pre-TANF, Post-TANF, TANF

In the JOBS, Pre-TANF, Post-TANF, and TANF programs, the following definitions apply to rules in OAR chapter 461 unless the context indicates otherwise.

(1) “Activity” means an action or set of actions to be taken by an individual, as specified in the case plan (see section (6) of this rule). An “activity” is intended to reduce barriers and:

(a) Increase the likelihood of self-sufficiency, employment, job retention, wage enhancement, and financial independence; or

(b) Promote family stability (see OAR 461-001-0000).

(2) “Adult Basic Education (ABE)” means an activity (see section (1) of this rule) in the basic education (see section (5) of this rule) component (see section (8) of this rule) that involves remedial education coursework intended to ensure functional literacy.

(3) “Assessment” means an activity of the program entry (see section (30) of this rule) component that involves gathering information to identify the strengths, interests, family circumstances, status in the JOBS program, and vocational aptitudes and preferences of the individual and to mutually determine an employment goal, the level of participation of the individual in the JOBS program, and which support services (see section (37) of this rule) are needed. This activity includes providing screenings and evaluations (if appropriate) to determine the level of participation, accommodation, and modification for the individual in the JOBS program. The screenings include, but are not limited to, physical and mental health needs, substance abuse, domestic violence, and learning needs.

(4) “Barrier” means a personal condition or circumstance that reduces the likelihood the individual will become employed or the ability of the individual to participate in an activity listed in the case plan.

(5) “Basic education” means a component of non-core activities (see section (25) of this rule) intended to ensure functional literacy for all JOBS clients. “Basic education” activities are high school attendance, English as a second language (ESL) (see section (15) of this rule) instruction, job skills

ADMINISTRATIVE RULES

training (see section (21) of this rule), adult basic education (ABE) (see section (2) of this rule) instruction, and services that result in obtaining a general equivalency diploma (GED). The component is discussed in OAR 461-190-0171 and 461-190-0181.

(6) "Case plan" (formerly also known as an employment development plan (EDP), a personal plan, or personal development plan) means a written outline, developed in partnership by the individual and case manager, with input from partners as appropriate, listing activities and goals for the individual. The "case plan" also identifies the support service payments, accommodations, and modifications to help the individual complete the plan. The DHS 1543 - Domestic Violence Assistance Agreement - is the "case plan" for individuals with safety concerns about domestic violence (see OAR 461-001-0000).

(7) "Community service program" means an activity in the unpaid employment (see section (39) of this rule) component in which the individual works without pay at a job site to enhance the likelihood the individual will become employed and perform work for the direct benefit of the community. This activity is available through nonprofit organizations or public agencies.

(8) "Component" means a set of one or more activities of the JOBS program including paid unsubsidized employment (see section (28) of this rule), paid subsidized employment (see section (27) of this rule), unpaid employment, vocational training (see section (41) of this rule), job search and readiness (see section (20) of this rule), and basic education activities.

(9) "Core activities" means federally defined countable work activities including paid unsubsidized employment; paid subsidized employment; work experience (see section (42) of this rule); on-the-job training (see section (26) of this rule); job search and readiness; community service program (see section (7) of this rule); vocational training; and providing child care services to a community service program participant (see section (32) of this rule).

(10) "Crisis intervention" means short-term services to address an immediate crisis need.

(11) "Degree Completion Initiative (DCI)" means an activity in which a limited number of TANF recipients may participate for up to 12 months to complete an educational degree at a two- or four-year educational institution.

(12) "Drug and alcohol services" means an activity in the job search and readiness component that provides substance abuse screenings and evaluations, outpatient or resident treatment, and support groups such as AA or NA.

(13) "Employer contact" means client communication with an employer or employer's representative through a visit, phone call, or mail to request consideration for employment.

(14) "Employment Payments" means three transitional payments totaling \$225.00 paid as provided in OAR 461-135-1270 to a benefit group (see OAR 461-110-0750) with employment income to help transition families off TANF program services.

(15) "English as a second language (ESL)" means an activity in the basic education component. "ESL" classes are designed to give individuals with limited English proficiency better working skills in the language.

(16) "Fair Labor Standards Act (FLSA)" means the law that applies to subject employers with individuals working in the unpaid employment component. "FLSA" requires that individuals engaged in unpaid employment, in effect, may not "work off" their SNAP and TANF benefits at an hourly rate less than the state minimum wage.

(17) "Federally required participation rates" means the participation rates required by section 407 of the Social Security Act (42 USC 607).

(18) "High School or GED Completion Attendance" means an activity in the basic education component that involves attendance at a secondary school or in a course of study that leads to the completion of the GED.

(19) "Job search (initial or regular)" means an activity in the job search and readiness component that focuses on clients looking for and obtaining employment designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes, receiving instruction in interviewing skills, and participating in group and individual "job search". There are two categories of "job search": "initial job search" and "regular job search". "Initial job search" may occur during the Pre-TANF program. "Regular job search" begins not later than the day after the Department finds the individual eligible for TANF benefits.

(20) "Job search and readiness" means a component designed to prepare individuals to compete in the local labor market. Job search (see section (19) of this rule), life skills (see section (23) of this rule), drug and alcohol services (see section (12) of this rule), mental health services (see

section (24) of this rule), and rehabilitation activities (see section (33) of this rule) are the activities of the "job search and readiness" component.

(21) "Job skills training" means an activity in the basic education component designed to provide classroom training in vocational and technical skills or equivalent knowledge and abilities in a specific job area.

(22) "JOBS Plus program (JOBS Plus)" means an activity in the paid subsidized employment component that provides TANF clients with on-the-job training and pays their benefits as wages (see OAR 461-190-0401 to 461-190-0426).

(23) "Life skills" means an activity of the job search and readiness component. The activity develops employment-preparation skills and skills and attitudes that are commonly found in the workplace.

(24) "Mental health services" means an activity in the job search and readiness component that provides mental health screenings and assessments, counseling, medication management, and support groups.

(25) "Non-core activities" means federally defined countable work activities that include job skills training directly related to employment; education directly related to employment; and satisfactory school attendance at a secondary level or leading to a GED.

(26) "On-the-job training (OJT)" means an activity in the paid subsidized employment component in which an individual works for an employer for a contracted period. The employer trains the individual and is reimbursed by the Department, usually at 50 percent of the wages of the participant, for those training costs.

(27) "Paid subsidized employment" means a component in which individuals are employed in a subsidized public or private sector job. JOBS Plus (see section (22) of this rule), work supplementation (see section (43) of this rule), and on-the-job training are the activities in the "paid subsidized employment" component.

(28) "Paid unsubsidized employment" means a component in which individuals are employed full- or part-time in an unsubsidized job and receiving TANF benefits. Unsubsidized employment is a job that is not subsidized by TANF or any other public program. The UN work program (see section (40) of this rule) and microenterprise (see OAR 461-001-0000) are the activities in the paid unsubsidized employment component.

(29) "Parents as Scholars (PAS)" means a JOBS program component that assists TANF parents who are or will be undergraduates to begin or continue their education at a two- or four-year educational institution (see OAR 461-190-0199).

(30) "Program entry" means an activity that includes all the activities that prepare an individual to actively participate in the JOBS program including, but not limited to, assessment (see section (3) of this rule) and writing the initial case plan.

(31) "Progress (good or satisfactory)" means, for federal reporting purposes, an individual participating in an education or training activity makes "good progress" or "satisfactory progress" by receiving a passing grade or progressing toward completion of high school or GED completion at no less than the normal rate of a half-time student.

(32) "Providing child care services to a community service program participant" means an activity in the unpaid employment component.

(33) "Rehabilitation activities" means an activity in the job search and readiness component that provides medical or therapeutic screenings, assessments, and treatment. This activity also includes medical management and support groups.

(34) "Self-initiated training (SI)" means a JOBS program component that is training needed to be competitive in the job market. Participation in this component is limited to six months. The component may be used to extend an approved vocational training activity.

(35) "Supported work" means an activity in the unpaid employment component that gives individuals intensive staff support, skill training, intervention, and counseling that will enable them to function independently at work.

(36) "Stabilization, intervention, and other activities" means activities that are non-countable for federal participation purposes including child health and development, crisis intervention (see section (10) of this rule), domestic violence services, family stability activities, medical services, retention services, services to child welfare families, social security application, and stabilized living services.

(37) "Support services" means services that case-managed clients need to participate successfully in activities outlined in their case plan, seek and maintain employment, or remove barriers.

(38) "Transition services" means services included in an individual's case plan when the individual becomes employed or becomes ineligible for cash benefits because of an increase in income or resources.

ADMINISTRATIVE RULES

(39) "Unpaid employment" means a component in which an individual is placed in an unpaid job to develop good work habits, training, and knowledge to obtain employment. Employment may be in the private or public sector or through a work simulation program. Work experience, community service program, providing child care services to a community service program participant, and supported work (see section (35) of this rule) are the activities of the "unpaid employment" component.

(40) "UN work program" means an activity in the paid unsubsidized employment component in which TANF clients work in unsubsidized employment and may also participate in another JOBS work site training activity.

(41) "Vocational training" means an activity and component of the JOBS program that provides JOBS participants with up to 12 months access to specific "vocational training" that will lead to a career with an appropriate wage level and opportunity for employment.

(42) "Work experience" means an activity in the unpaid employment component in which the individual works without pay at a job site to develop good work habits and basic vocational skills that enhance the likelihood the individual will become employed. "Work experience" is available through private for-profit businesses, nonprofit organizations, or public agencies.

(43) "Work supplementation" means an activity in the unpaid employment component that is up to six months of work-site training provided by an employer. The component and activity are both called "work supplementation". In "work supplementation", the Department subsidizes the wages of the participant by providing up to \$200 per month to the employer.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.878, 412.006, 412.009, 412.016, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.878, 412.001, 412.006, 412.016, 412.009, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 10-1991, f. & cert. ef. 4-19-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; 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 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; Renumbered from 461-190-0110, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 34-2011, f. 12-27-11, cert. ef. 12-29-11; SSP 18-2015(Temp), f. 6-30-15, cert. ef. 7-1-15 thru 12-27-15; SSP 34-2015, f. 12-22-15, cert. ef. 12-28-15; SSP 15-2016, f. & cert. ef. 4-1-16

461-110-0210

Household Group

(1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling. For homeless individuals, the household group consists of the individuals who consider themselves living together.

(2) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.

(3) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.

(4) For all programs except the SNAP program, a separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:

(a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value (see OAR 461-001-0000) for housing.

(b) The tenant lives independently from the landlord.

(c) The tenant:

(A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or

(B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.

(5) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:

(a) In the ERDC program, if a child (see OAR 461-001-0000) lives with different caretakers during the month, the child is considered a member of both household groups.

(b) In the TANF program:

(A) If a parent (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the dependent child (see OAR 461-001-0000), the parent is in the same household group as the dependent child.

(B) A dependent child is included in the household group with the caretaker relative (see OAR 461-001-0000), who usually has the major responsibility for care and control of the dependent child, if the dependent child lives with two household groups in the same calendar month for at least one of the following reasons:

(i) Education.

(ii) The usual caretaker relative is gone from the household for part of the month because of illness.

(iii) A family emergency.

(c) In the SNAP program:

(A) The individual is a member of the household group that provides the individual more than half of his or her 21 weekly meals. If the individual is a child, the child is a member of the household group credited with providing the child more than half of his or her 21 weekly meals. A household group is credited with providing breakfast and lunch for each day the child departs that group's home for school, even if the child eats no breakfast or lunch at that home.

(B) During the month in which a resident of a domestic violence shelter (see OAR 461-001-0000) enters the domestic violence shelter, the resident may be included both in the household group he or she left and in a household group in the domestic violence shelter.

(6) In the OSIPM program, individuals receiving or applying for home and community-based care (see OAR 461-001-0030) or nursing facility care are each an individual household group regardless of others living in the individual's dwelling or facility.

(7) Individuals absent from the household for 30 days or more are no longer part of the household group, except for the following:

(a) In all programs except the SNAP program, an individual in an acute care medical facility remains in the household group unless the individual enters long-term care (see OAR 461-001-0000).

(b) In the ERDC and TANF programs:

(A) A caretaker relative who is absent for up to 90 days while in a residential alcohol or drug treatment facility is in the household group.

(B) A child who is absent for 30 days or more is in the household group if the child is:

(i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons;

(ii) In foster care, but expected to return to the household within the next 30 days.

(c) In the ERDC, REF, and REFM programs, an individual in the household group who is--

(A) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;

(B) Absent to care for an emergent need of an individual related to illness, injury, or death; or

(C) Absent but reasonably anticipated to return within 90 days.

(d) In the TANF program, when a filing group (see OAR 461-110-0310 and 461-110-0330) includes more than one caretaker relative, a caretaker relative in the household group who is absent:

(A) Because of education, training, or employment -- including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; or

(B) 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 but who would otherwise be included in the household group.

(e) In the TANF program, the Department may approve one or more 30-day extensions of this time period if the Department receives sufficient information to assure the Department that the absent individual will return within the extension period.

(8) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.006, 412.049, 413.085, 414.025, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 5-1999(Temp), f. & cert. ef. 4-1-99 thru 6-30-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-

ADMINISTRATIVE RULES

09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; 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 15-2014, f. & cert. ef. 7-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 15-2016, f. & cert. ef. 4-1-16

461-110-0630

Need Group

(1) The “need group” consists of the individuals whose basic and special needs are used in determining eligibility (see OAR 461-001-0000) and benefit level.

(2) In the EA, REF, and REFM programs, the need group consists of the members of the financial group (see OAR 461-110-0530) who meet all nonfinancial eligibility requirements, except that members disqualified for an intentional program violation (see OAR 461-195-0601) are not in the need group.

(3) In the ERDC, OSIPM-EPD, and QMB programs, the need group consists of each member of the financial group.

(4) In the GA and GAM programs, the need group consists of each member of the financial group except that the following individuals may not be in the need group:

(a) A fleeing felon under OAR 461-135-0560.

(b) An individual in violation of a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(c) An individual not complying with social security number requirements under OAR 461-120-0210.

(5) In the OSIPM (except OSIPM-EPD) program:

(a) If a child (see OAR 461-001-0000) is applying, the need group consists of the child.

(b) In all other situations, the need group consists of each member of the financial group.

(6) In the Pre-TANF and TANF programs, the need group consists of all the members of the financial group except:

(a) A parent (see OAR 461-001-0000) who is in foster care and for whom foster care payments are being made.

(b) An unborn child.

(7) In the SNAP program, the need group consists of the members of the financial group who meet all nonfinancial eligibility requirements, except the following individuals are not in the need group:

(a) A member disqualified for an intentional program violation.

(b) A fleeing felon under OAR 461-135-0560.

(c) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(d) An individual who becomes ineligible due to the time limit in OAR 461-135-0520.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049 & 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831 & 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 6-1991(Temp), f. & cert. ef. 2-8-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; 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 9-1997, f. & cert. ef. 7-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; 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 17-2008, f. & cert. ef. 7-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2016, f. & cert. ef. 4-1-16

461-110-0750

Benefit Group

(1) A “benefit group” consists of the individuals who receive benefits.

(2) Except as provided in sections (4) and (5) of this rule, for an individual not assumed eligible for medical programs (see OAR 461-135-0010), the benefit group consists of each individual from the need group (see OAR 461-110-0630) requesting benefits who meets all financial and nonfinancial eligibility (see OAR 461-001-0000) requirements.

(3) For an individual assumed eligible for medical programs (see OAR 461-135-0010), the benefit group consists of the individuals who are in the benefit group of the program used to assume eligibility.

(4) In the GA and GAM programs, the following individuals are not in the benefit group:

(a) An individual receiving or deemed to be receiving SSI or SSDI benefits.

(b) An individual who meets the non-disability eligibility requirements under Title II of the Social Security Act.

(5) In the TANF program, the following individuals are not in the benefit group:

(a) An individual who may not be in the benefit group because of a disqualification penalty (see OAR 461-130-0330 and 461-135-0085).

(b) An individual disqualified for an intentional program violation (see OAR 461-195-0601).

(c) An individual who may not be in the benefit group because the individual has reached the time limit in OAR 461-135-0071 and does not meet any of the extension criteria in OAR 461-135-0073 or exemption criteria in OAR 461-135-0075.

(d) A fleeing felon (see OAR 461-135-0560).

(e) An individual violating a condition of state or federal parole, probation, or post-prison supervision (see OAR 461-135-0560).

(f) An individual who does not meet the citizenship and alien status requirements in OAR 461-120-0110 and 461-120-0125.

(g) An individual who chooses not to receive benefits.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 15-2016, f. & cert. ef. 4-1-16

461-115-0016

Application Process; Reservation List for ERDC

Notwithstanding any other rule in OAR chapter 461, in the ERDC program:

(1) Eligibility (see OAR 461-001-0000) is subject to the availability of funds. The Department may implement a Child Care Reservation List whenever the Department determines that sufficient funding is not available to sustain benefits for all of the applicants requesting assistance.

(2) Except as provided in section (3) of this rule, the following applicants are subject to placement on the Child Care Reservation List when the Child Care Reservation List is in effect:

(a) New applicants for ERDC when no member of the ERDC filing group (see OAR 461-110-0310 and 461-110-0350) meets the requirements of one or more of the following paragraphs:

(A) Received a partial or full month of REF, SFPSS, or TANF program cash benefits from the state of Oregon in at least one of the preceding three months; and no member of the ERDC program filing group may be concurrently receiving TANF program benefits except as allowed under OAR 461-165-0030.

(B) Is eligible for and being placed in a current opening in a Head Start program contracted slot under OAR 461-135-0405, an Oregon Program of Quality contracted slot under OAR 461-135-0407, or an Early Head Start Child Care Partnership contracted slot.

(C) The caretaker (see OAR 461-001-0000) is currently working with Child Welfare as part of a CPS assessment or open case, an ongoing safety plan is in place, and Child Welfare has determined the use of child care as part of an ongoing safety plan will:

(i) Prevent removal of the child (see OAR 461-001-0000) from their home;

(ii) Allow a child to be returned home; or

(iii) Allow for placement of the child with a relative or with an adult whom the child or the family of the child has an established relationship.

(D) Determined eligible for TA-DVS program benefits (see OAR 461-135-1225) from the state of Oregon in the current month or at least one of the preceding three months.

(b) Individuals who are reapplying for ERDC after a break in ERDC benefits of two consecutive, calendar months or more.

(3) Except as allowed under OAR 461-165-0030, no member of an ERDC program filing group may be concurrently receiving TANF program benefits. When concurrent benefits are not allowed, the Department sends a decision notice (see OAR 461-001-0000) of ineligibility for the ERDC program and the filing group is not placed on the Child Care Reservation List.

(4) When the Child Care Reservation List is in effect, the Department must place all applicants who are subject to the Child Care Reservation List under section (2) of this rule on the Child Care Reservation List for future selection. The Department sends these applicants a decision notice of ineligibility for the ERDC program.

ADMINISTRATIVE RULES

(5) Each month, on the basis of an estimate of available funds, an appropriate number of individuals from the Child Care Reservation List are randomly selected and invited to apply for ERDC.

(6) After an individual is selected from the Child Care Reservation List, the individual must contact the Department to establish a date of request (see OAR 461-115-0030) no later than 30 days after the date on the selection letter. The individual may request child care benefits from the Department:

(a) Without completing a new application, when the previous application is within 45 days of its date of request; or

(b) By submitting a new application for child care benefits to the Department.

(7) The processing time frame for the ERDC application is the same as that specified in OAR 461-115-0190, except that:

(a) An individual who requests benefits after the 30 day deadline to apply (see section (6) of this rule) will be returned to the Child Care Reservation List.

(b) If the Department does not receive a request for benefits within the deadline to apply, the individual is dropped from the Child Care Reservation List.

Stat. Auth.: ORS 409.050, 411.060 & 411.116

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.116, 411.121, 411.122 & 411.135

Hist.: SSP 23-2011(Temp), f. & cert. ef. 8-1-11 thru 1-27-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 29-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 25-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; SSP 10-2015, f. 3-12-15, cert. ef. 3-31-15; SSP 39-2015(Temp), f. 12-30-15, cert. ef. 1-1-16 thru 6-28-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-120-0210

Requirement to Provide Social Security Number (SSN)

(1) In the CAWEM, ERDC, REF, and REFM programs, a member of a need group (see OAR 461-110-0630) or a benefit group (see OAR 461-110-0750) is not required to provide or apply for a social security number (SSN). In these programs, the Department may request that a member of the filing group (see OAR 461-110-0310) or need group provide an SSN on a voluntary basis.

(2) In the EA and TA-DVS programs, an individual must provide his or her SSN if the individual can.

(3) Except as provided in section (5) of this rule, in the OSIPM and QMB programs:

(a) An individual is not required to apply for or provide an SSN;

(A) If the individual does not have an SSN; and

(B) May only be issued an SSN for a valid non-work reason in accordance with 20 CFR 422.104.

(b) When subsection (a) does not apply, to be included in the benefit group, an individual must:

(A) Provide a valid SSN for the individual; or

(B) Apply for a number if the individual does not have a valid one and provide the SSN when it is received.

(4) Except as provided in sections (6) to (8) of this rule, in the SNAP program, to be included in the need group, an individual (other than an unborn) must:

(a) Provide a valid SSN for the individual; or

(b) Apply for a number if the individual does not have one and provide the SSN when it is received.

(5) In the TANF program, to be included in the benefit group, an individual must:

(a) Provide a valid SSN for the individual; or

(b) Provide verification of application for a SSN if the individual does not have one and provide the SSN within six months of the individual's initial TANF approval or by the end of the certification period (see OAR 461-001-0000), whichever is sooner.

(6) In the GA, GAM, OSIPM, QMB, and SNAP programs, an individual is not required to apply for or provide an SSN if the individual is:

(a) A member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950; and

(b) Adheres to its tenets or teachings that prohibit applying for or using an SSN.

(7) The requirement to apply for or provide the SSN is delayed as follows:

(a) In the SNAP program:

(A) An applicant eligible for expedited services may receive his or her first full month's allotment without meeting the SSN requirement but must meet the requirement before receiving a second full month's allotment.

(B) Before applying for or providing an SSN, a newborn may be included in a benefit group (see OAR 461-110-0750) for six months fol-

lowing the date the child is born or until the group's next recertification, whichever is later.

(b) In the TANF program, a child born in an Oregon hospital may be added to the benefit group for six months following the child's date of birth or until the next redetermination of eligibility (see OAR 461-001-0000) of the filing group (see OAR 461-110-0310 and 461-110-0330), whichever is sooner.

(8) In the SNAP program:

(a) An individual who refuses or fails without good cause to provide or apply for an SSN when required by this rule is ineligible to participate. This period of ineligibility continues until the individual provides the SSN to the Department.

(b) An individual may participate in SNAP for one month in addition to the month of application, if the individual can show good cause why the application for an SSN has not been completed. To continue to participate, the individual must continue to show good cause each month until the application for an SSN is complete with Social Security Administration.

(c) An individual meets the good cause requirement in subsections (a) and (b) of this section if the individual provides evidence or collateral information that the individual applied for or made every effort to supply the Social Security Administration with the necessary information to complete the application process. Delays due to illness not associated with a disability (see OAR 461-001-0015), lack of transportation, or temporary absence do not qualify as good cause under this rule.

(9) This rule authorizes or requires the collection of an SSN for each of the following purposes.

(a) The determination of eligibility for benefits. The SSN is used to verify income and other assets, and match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits, and unemployment benefits.

(b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits.

(c) The operation of the program applied for or providing benefits.

(d) Conducting quality assessment and improvement activities.

(e) Verifying the correct amount of payments, recovering overpaid benefits, and identifying any individual receiving benefits in more than one household.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 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 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; 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 18-2010, f. & cert. ef. 7-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 12-2013(Temp), f. & cert. ef. 5-29-13 thru 11-25-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 15-2016, f. & cert. ef. 4-1-16

461-120-0340

Client Required To Help Department Obtain Support From Noncustodial Parent; TANF

In the TANF program:

(1) To be eligible for program benefits, except as permitted in section (2) of this rule, a caretaker relative (see OAR 461-001-0000) must make a good faith effort (see section (3) of this rule) to help the Department:

(a) Establish paternity of each needy child (see OAR 461-001-0000); and

(b) Locate and obtain support payments from the noncustodial parent of each needy child.

(2) A caretaker relative is excused from the requirements of section (1) of this rule:

(a) For good cause under OAR 461-120-0350;

(b) If the caretaker relative is a participant in the JOBS Plus, Post-TANF, or SFPSS programs or is receiving Employment Payments (see OAR 461-001-0025) under OAR 461-135-1270; or

(c) If the filing group (see OAR 461-110-0310 and 461-110-0330) is a two-parent family.

(3) A good faith effort includes taking such actions as:

(a) Supplying "sufficient information" for the Division of Child Support (DCS) to proceed with appropriate actions to establish paternity of a dependent child (see OAR 461-001-0000), to locate noncustodial parents, or to establish a support order with respect to the child. "Sufficient information" includes, but is not limited to, the time and place of each child's

ADMINISTRATIVE RULES

conception (if paternity is not established) and the following information, if known to the caretaker relative, regarding any noncustodial parent of a needy child:

- (A) Full legal name and nicknames.
- (B) Social Security Number.
- (C) Current or last known address.
- (D) Current or last known employer, including name and address.
- (E) If a student, current or last known school.
- (F) Criminal record, including where and when incarcerated.
- (G) Date of birth, or age.
- (H) Race.
- (I) Any known group or organizational affiliations.
- (J) Names and addresses of close friends or relatives.
- (K) Any other information the Department or DCS requests to help locate or identify an absent parent (see OAR 461-001-0000) of any children in the benefit group (see OAR 461-110-0750).

(b) Supplying documentation or an explanation of the client's efforts to obtain information requested by the Department or DCS (if unable to provide any necessary information listed in subsection (a) of this section).

(c) Keeping appointments with the Department and DCS related to establishing paternity.

(d) Returning telephone calls and responding to correspondence when requested to do so by the Department or DCS.

(4) If a client who has not been excused under section (2) of this rule has the opportunity to make a good faith effort to help the Department establish paternity of a needy child or locate or obtain support payments from the noncustodial parent of a needy child (and is unable to show he or she has good cause under OAR 461-120-0350), the Department applies penalties for failure to comply with requirements of section (1) of this rule in the following manner until the client meets the requirements of this rule:

(a) For a benefit group not currently receiving TANF, if the failure to comply occurs while an application for TANF is pending the filing group is ineligible.

(b) For a benefit group receiving TANF benefits, if a failure to comply occurs, the net monthly TANF benefit, after reductions for the client's failure to comply with requirements of the JOBS program are made, is reduced by:

(A) 25 percent for the first month following the month in which failure to comply is determined.

(B) 50 percent for the second month following the month in which failure to comply is determined.

(C) 75 percent for the third month following the month in which failure to comply is determined.

(D) 100 percent (total ineligibility for the benefit group) for the fourth and subsequent months following the month in which failure to comply is determined.

(c) Once a penalized client complies with the requirements and benefits are no longer reduced under this rule, a subsequent penalty is imposed without regard to any prior penalty.

(d) If the TANF payment is affected by the penalty imposed under this rule, eligibility (see OAR 461-001-0000) for and the level of SNAP benefits are determined as if the client were receiving cash benefits without reduction due to the penalty.

(5) The penalty provided by this rule ends when the client meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 412.024 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.024 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; 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 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 24-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-28-12; SSP 36-2012, f. 12-28-12, cert. ef. 12-29-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 15-2016, f. & cert. ef. 4-1-16

461-130-0310

Participation Classifications: Exempt, Mandatory, and Volunteer

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:

(a) The Department assigns an individual to one or more employment program participation classifications—exempt, mandatory, and volunteer (see OAR 461-130-0305 for definitions of all three terms).

(b) In the Post-TANF program or while receiving Employment Payments (see OAR 461-001-0025) under OAR 461-135-1270, an individual is classified as a volunteer.

(2) In the Pre-TANF, REF, and TANF programs:

(a) An individual is exempt from employment program participation and disqualification if the individual meets the requirements of at least one of the following paragraphs. The individual is:

(A) Pregnant and in the last month of the pregnancy.

(B) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

(C) A parent (see OAR 461-001-0000) during the first six months after the birth of the parent's dependent child (see OAR 461-001-0000) except that the Department may require the parent to participate in parenting classes or a family stability activity (see OAR 461-001-0000). An exemption allowed under this paragraph may apply only to one mandatory participant in each filing group (see OAR 461-110-0310, 461-110-0330, and 461-110-0430).

(D) Under 20 years of age during the first 16 weeks after giving birth except that the individual may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activity.

(E) A parent providing care for a family member who is an individual with a disability (see OAR 461-001-0000) and is in the household group (see OAR 461-110-0210) with the parent. Medical documentation to support the need for the care is required.

(F) An REF client 65 years of age or older.

(G) A TANF client 60 years of age or older.

(H) A noncitizen who is not authorized to work in the United States.

(I) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.

(J) A caretaker relative (see OAR 461-001-0000) who is non-needy.

(K) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the dependent child or needy caretaker relative.

(L) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.

(M) A VISTA volunteer.

(b) A caretaker relative of a dependent child or unborn who receives TANF program benefits is mandatory if the caretaker relative is in the same filing group with the dependent child or unborn (even if the caretaker relative is not in the TANF program benefit group under OAR 461-110-0750), unless the caretaker relative is otherwise exempt from participation under subsection (a) of this section.

(3) In the SNAP program:

(a) An individual is exempt from employment program participation and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is:

(A) Working a minimum of 30 hours a week or earning money equal to at least the federal minimum wage multiplied by 30 hours per week multiplied by 4.3 weeks. An individual who is self-employed with allowable costs must meet the earnings threshold after allowing the 50 percent deduction. This includes migrant and seasonal farm workers (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.

(B) An individual with a physical or mental condition that prevents performance of any work.

(C) Responsible for the care of a child (see OAR 461-001-0000) in the household under 6 years of age or an individual in the household with a disability (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(D) Providing care for at least 30 hours a week for an individual in another household with a disability that substantially reduces or eliminates the individual's ability to care for himself or herself.

(E) Enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. An individual remains exempt during normal periods of class attendance, vacation, and recess but no longer qualifies for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion, or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).

(F) Receiving REF or TANF program benefits under Title IV of the Social Security Act.

(G) In receipt of unemployment insurance benefits, has completed an application for unemployment insurance benefits and is waiting for an initial decision on the claim, or is participating in at least one of the following Employment Department training programs:

ADMINISTRATIVE RULES

- (i) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.
- (ii) The Training Unemployment Insurance (TUI) program.
- (iii) The Self-Employment Insurance (SEA) program.
- (iv) The Apprenticeship Program (APT).
- (H) Participating in a drug or alcohol treatment and rehabilitation program.
- (I) Pregnant.
- (J) Chronically homeless. For purposes of this rule, an individual is chronically homeless if the individual is currently homeless (see OAR 461-001-0015) and one of the following applies:
 - (i) The individual has been homeless for more than six months.
 - (ii) The individual has been homeless more than one time in the last 12 months.
 - (iii) The individual states that the individual is unable to meet the basic necessities of everyday life.
- (K) Lacking adequate dependent care.
- (L) Without adequate transportation available.
- (M) Experiencing a barrier to employment, such as being homeless or having a short-term physical or mental limitation or a serious family problem.

(b) A mandatory client is an individual in the need group (see OAR 461-110-0630); who is 16 or 17 years of age and a primary person (see OAR 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not exempt under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049
Stats. Implemented: ORS 409.010, 409.750, 411.060, 411.070, 411.816, 411.837, 412.006, 412.009, 412.014, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 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 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; 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 13-2013, f. & cert. ef. 7-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 1-2016(Temp), f. & cert. ef. 1-1-16 thru 6-28-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-130-0315

Requirements for Mandatory Employment Program Clients; Pre-TANF, REF, SNAP, TANF

The following provisions apply to a mandatory (see OAR 461-130-0305) client:

- (1) A mandatory client selected by the Department to participate in an employment program of the Pre-TANF, REF, SNAP, or TANF program must do all of the following:
 - (a) Accept a bona fide offer of employment, whether temporary, permanent, full time, part time, or seasonal.
 - (b) Schedule and keep required employment-related appointments and interviews.
 - (c) Notify the Department's case manager or the JOBS contractor of the reason for not keeping employment-related appointments and interviews, not attending scheduled classes and activities, or not completing case management activities. Notification must be made within three working days from the date of a missed appointment, interview, class, or activity.
 - (d) Provide the Department, in the manner the Department requires, with verifiable documentation of JOBS participation hours, including paid work, job search, and educational participation hours.
 - (e) In the REF and TANF programs, complete all activities (see OAR 461-001-0025) specified on the case plan (see OAR 461-001-0025).
 - (f) In the SNAP program:
 - (A) Complete all work activities and components specified on the case plan (see OAR 461-001-0020).
 - (B) Maintain employment.
 - (i) A client meeting the requirements of subparagraph (iii) of this paragraph fails to maintain employment when the criteria in at least one of the following sub-subparagraphs is met:
 - (I) Voluntarily leaving a job 30 days or less prior to the date of application for SNAP benefits or at any time thereafter;
 - (II) Being dismissed for striking while a federal, state, or county employee; or
 - (III) Reducing hours of work to less than 30 each week.
 - (ii) The following changes in employment status do not constitute failure to maintain employment:
 - (I) An employer reduces a client's hours of work;
 - (II) An employer fires a client from a job;

- (III) A client terminates a self employment enterprise; and
- (IV) A client resigns from a job at the demand of the employer.
- (iii) Subparagraph (i) of this paragraph applies only if the client meets at least one of the following requirements. The client --
 - (I) Is required to register for work;
 - (II) Is exempt from participating in the employment program due to employment under OAR 461 130 0310(3)(a)(A);
 - (III) Had a job that averaged not less than 30 hours each week or had provided average weekly earnings not less than the federal minimum wage multiplied by 30 hours, and the client quit the job; or
 - (IV) Quits working under a JOBS Plus agreement more than twice (see OAR 461 190 0426).

(2) In the Pre-TANF, REF, and TANF programs a mandatory client who fails to meet a participation requirement without good cause (see OAR 461-130-0327) is subject to disqualification in accordance with OAR 461-130-0330 only after the re-engagement process under OAR 461-190-0231 has been completed.

Stat. Auth.: ORS 411.060, 418.045, 412.049

Stats. Implemented: ORS 411.060, 418.045, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 15-2016, f. & cert. ef. 4-1-16

461-130-0327

Good Cause

In a Department program administered under OAR 461-130-0305 to 461-130-0335 and 461-135-0085 and 461-135-0089:

(1) The Department does not require a client to provide verification of good cause if providing the verification would expose the client to increased risk of domestic violence (see OAR 461-001-0000).

(2) If in making a determination under this rule a client's physical or mental impairment is in question, the Department may require the client to provide documentation from a qualified and appropriate medical professional.

(3) A client is excused for good cause from a failure to comply with a program requirement, including an activity in a case plan (both terms defined in OAR 461-001-0025) in the following circumstances:

(a) Participation in a required activity in a case plan would have an adverse effect on or risk to the client's physical or mental health or would expose the client to increased risk of domestic violence (see OAR 461-001-0000).

(b) Except in the SNAP program, participation is likely to cause undue hardship for the dependent child (see OAR 461-001-0000) or the client.

(c) Appropriate child care, or day care for an individual in the household who has a disability (see OAR 461-001-0000 and 461-001-0015 as applicable) that substantially reduces or eliminates the individual's ability to care for himself or herself, cannot be obtained. "Appropriate child care" means that:

(A) Both the provider and the place where care is provided meet health, safety, and provider requirements as required in OAR 461-165-0180;

(B) The care accommodates the parent's work schedule; and

(C) The care meets the specific needs of the dependent child, such as age and special-needs requirements.

(d) The work attachment position or employment offered is vacant due to a strike, lockout, or other labor dispute.

(e) The work attachment position or employment requires the client to join a union, and the client has religious objections to unions.

(f) The client belongs to a union and the employment violates the conditions of the client's membership in the union.

(g) The wage for the client's current or potential job is:

(A) Less than applicable minimum wage; or

(B) If minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.

(h) The client's prospective employer engages in employment practices that are illegally discriminatory on the basis of age, sex, race, religious or political belief, marital status, disability, sexual orientation, or ethnic origin.

(i) The client's participation in a required activity in a case plan would prevent or interfere with the client's participation in an activity of the Grande Ronde Tribe's NEW program.

(j) The client's failure to participate is due to a circumstance beyond his or her reasonable control.

ADMINISTRATIVE RULES

(k) When the failure to comply is caused by an aspect of the client's disability, including the Department's failure to provide a reasonable accommodation.

(l) The client quits a job to accept another job with a monthly income at least equal to the monthly income of the first job.

(m) The Department determines there are no appropriate activities or necessary support services (see OAR 461-001-0025) to support an activity (see OAR 461-001-0025) in order for the client to participate.

(4) In the SNAP program, a client is excused from not accepting employment or for leaving a job under the following circumstances:

(a) The hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.

(b) The client accepts employment or enrolls at least half-time in any recognized school, training program, or institution of higher education that requires the client to quit a job.

(c) A client accepts employment or enrolls in school in another county, requiring the benefit group (see OAR 461-110-0750) to move and the client to quit a job.

(d) A client less than 60 years of age resigns, and the employer recognizes the resignation as retirement.

(e) The client leaves a job to follow a type of employment that moves from one area to another, such as migrant labor or construction.

(f) The client accepts a job that, for reasons beyond the control of the client, does not materialize or results in fewer work hours or a lower wage than the client's previous job.

(g) Work demands or conditions, such as not being paid for work or not being paid on schedule, make employment unreasonable.

(h) The wage for the client's current or potential job is less than applicable minimum wage or, if minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.

(i) The work schedule for the job in question does not conform to hours customary to the occupation or the hours worked each week are more than those customary to the occupation.

(j) The client is not obligated to accept a job during the first 30 days of registration for employment if the job is not in the client's field of experience.

(k) The client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. The client must make a good-faith effort to secure the needed transportation.

(l) Lack of adequate child care for a child who is six years of age or older and less than 12 years of age.

Stat. Auth.: ORS 411.060, 411.816, 412.006, 412.009, 412.049
Stats. Implemented: ORS 411.060, 411.117, 411.816, 412.006, 412.009, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 34-2011, f. 12-27-11, cert. ef. 12-29-11; SSP 15-2016, f. & cert. ef. 4-1-16

461-130-0330

Disqualifications; Pre-TANF, REF, SNAP, TANF

(1) In the Pre-TANF, REF, SNAP, and TANF programs, the Department may not disqualify from program benefits a client who is a volunteer (see OAR 461-130-0305 and 461-130-0310) participant in an employment program.

(2) In the Pre-TANF, REF, and TANF programs, a mandatory (see OAR 461-130-0305) client who fails to comply with an employment program participation requirement and does not have good cause (see OAR 461-130-0327) for the failure to comply is subject to disqualification under this rule only after the requirements of all of the following subsections are met:

(a) The client has had the opportunity to participate in the re-engagement process under OAR 461-190-0231;

(b) The Department has determined the client is willfully non-compliant and does not have good cause for failing to comply with a requirement of the program;

(c) The Department has offered (and the client has refused) or conducted screenings (and assessed if appropriate) for physical or mental health needs, substance abuse, domestic violence, and learning needs;

(d) The Department has determined the client has no barriers (see OAR 461-001-0025) or refuses to take appropriate steps to address identified barriers;

(e) The Department has determined the client has not met federally required participation rates (see OAR 461-001-0025); and

(f) The Department has assessed for any risk of harm posed to the children by a reduction in cash assistance.

(3) In the REF and TANF programs, the effects of a JOBS disqualification are progressive. There are two levels of disqualification. Once a disqualification is imposed, it affects benefits according to the following schedule until the disqualification ends in accordance with OAR 461-130-0335:

(a) At the first level, the penalty is removal of the disqualified client from the need group (see OAR 461-110-0630) for up to three months or until the client has completed the two-consecutive week cooperation period.

(b) At the second level, the need group receives no cash benefit in the program for one month.

(c) At the first or second level of disqualification, the penalty may cause the need group to be over income for REF or TANF program benefits (see OAR 461-160-0100).

(d) At the end of the second level, program benefits are closed and the filing group (see OAR 461-110-0310, 461-110-0330, and 461-110-0430) may not receive program benefits for the following two consecutive months. This may be prevented if the disqualified client:

(A) Contacts a representative of the Department in order to re-engage in the JOBS program prior to the end of the second level; and

(B) Begins the two consecutive weeks of cooperation as outlined in OAR 461-130-0335(3)(b) prior to the end of the second level; or

(C) Is no longer a member of the household group (see OAR 461-110-0210 and 461-130-0335(2)); or

(D) Is unable to participate because there is no appropriate activity (see OAR 461-001-0025) or support services (see OAR 461-001-0025) necessary to support the activity.

(4) In the SNAP program:

(a) A mandatory client not covered under subsection (b) of this section who fails to comply with the requirements of an employment program without good cause (see OAR 461-130-0327) is subject to disqualification. A disqualified client is removed from the need group until he or she meets the employment program requirements and serves the applicable progressive disqualification under the following subsections:

(A) One calendar month for the first failure to comply.

(B) Three calendar months for the second failure to comply.

(C) Six calendar months for the third and subsequent failures to comply.

(b) A mandatory client who is an ABAWD (see OAR 461-135-0520) residing in Multnomah or Washington County or a mandatory client who is served by an office that does not offer OFSET (see OAR 461-190-0310) who fails to comply with the requirement to maintain employment in OAR 461-130-0330(1)(f)(B) is subject to disqualification as provided in subsection (a) of this section. See OAR 461-135-0520 for additional employment participation requirements for ABAWD clients.

(c) A client who is exempt (see OAR 461-130-0305) from participation in the SNAP employment program because he or she is a mandatory participant in the JOBS program, receiving unemployment compensation benefits, or has applied for unemployment compensation benefits and is waiting on an initial decision must comply with the requirements of those programs. If the client fails to comply with the requirements of the applicable program the client is disqualified from receiving SNAP benefits, unless he or she can show good cause under OAR 461-130-0327.

Stat. Auth.: ORS 411.060, 411.816, 412.009, 412.049
Stats. Implemented: ORS 411.060, 411.816, 411.837, 412.009, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; 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 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-130-0335

Removing Disqualifications and Effect on Benefits

(1) An applicant who would be subject to an employment program disqualification under OAR 461-130-0330 but withdraws the application before benefits are approved is not subject to disqualification.

(2) In the REF, SNAP, and TANF programs, a filing group (see OAR 461-110-0330, 461-110-0370, and 461-110-0430) is not subject to the impact of a disqualification for a disqualified member who has left the household group (see OAR 461-110-0210). If the member joins another filing group, that group is subject to the member's most recent disqualification.

ADMINISTRATIVE RULES

(3) In the REF and TANF programs, an individual disqualified for failure to meet the requirements of an employment program under division 190 of these rules:

(a) At the first level of disqualification must cooperate for two consecutive weeks with each activity (see OAR 461-001-0025) specified in the individual's current or revised case plan (see OAR 461-001-0025) before the Department may remove the disqualification. Cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.

(b) When the second level of disqualification ends, TANF program benefits are closed for two consecutive months, unless the individual begins two consecutive weeks of cooperation with each activity specified in the individual's current or revised case plan before the end of the second level. If the individual completes the two consecutive weeks of cooperation, cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.

(c) Cash benefits are restored effective the date it is determined, by the Department, there are no appropriate activities or support services (see OAR 461-001-0025) necessary to support the activity available in order for the individual to demonstrate participation.

(4) In the REF and TANF programs, a disqualification ends when:

(a) The Department changes the participation classification of the disqualified individual to exempt (see OAR 461-130-0305);

(b) The individual complies with the requirements of the employment program (see section (3) of this rule); or

(c) REF or TANF program benefits are closed for a reason other than described in OAR 461-130-0330(3)(d).

(5) In the SNAP program:

(a) The disqualification ends the first day of the month following the month in which information is provided to the Department justifying the change in the individual's participation classification (see OAR 461-130-0310), even if the date falls within the disqualification period provided in OAR 461-130-0330(4).

(b) A mandatory (see OAR 461-130-0305) individual disqualified under OAR 461-130-0330(4) for failure to meet the requirements of a SNAP employment program must show compliance with the employment and training program for 30 days. The local DHS branch will determine the activities as either work search activities or cooperation with the OFSET contractor.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.009, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 412.009, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 15-2016, f. & cert. ef. 4-1-16

461-135-0070

Specific Requirements; TANF

(1) To be eligible for TANF program benefits:

(a) An individual must be one of the following:

(A) A dependent child (see OAR 461-001-0000). However, a dependent child for whom foster care payments are made for more than 30 days is not eligible while the payments are being made for the dependent child.

(B) A caretaker relative (see OAR 461-001-0000) of an eligible dependent child. However, a caretaker relative to whom foster care payments are made for more than 30 days is not eligible while the payments are being made to the caretaker relative.

(C) A caretaker relative of a dependent child, when the dependent child is ineligible for TANF program benefits because of one of the following reasons:

(i) The child is receivingSSI.

(ii) The child is in foster care, but is expected to return home within 30 days.

(D) An essential person. An essential person is a member of the household group (see OAR 461-110-0210) who:

(i) Is not required to be in the filing group (see OAR 461-110-0310 and 461-110-0330);

(ii) Provides a service necessary to the health or protection of a member of the benefit group (see OAR 461-110-0750) who has a mental or physical disability; and

(iii) Is less expensive to include in the benefit group than the cost of purchasing this service from another source.

(E) A parent (see OAR 461-001-0000) of an unborn, as follows:

(i) For the TANF program, any parent whose only child is an unborn child once the mother's pregnancy has reached the calendar month before the month in which the due date falls.

(ii) For the TANF program, the parent of an unborn child, if there is another dependent child in the filing group.

(b) Unless the individual is exempt from JOBS participation and JOBS disqualification under OAR 461-130-0310(2), an individual must demonstrate two-consecutive weeks of cooperation in appropriate activities (see OAR 461-001-0025) if:

(A) TANF program benefits had closed within the prior three consecutive calendar months from the date of request (see OAR 461-115-0030) for TANF with an active level 1 through level 4 TANF program disqualification (see OAR 461-130-0330 and 461-135-0085); or

(B) The date of request for TANF program benefits is within the prior three consecutive calendar months after the end of a two consecutive month period of TANF ineligibility according to OAR 461-130-0330(3)(d).

(2) As used in this rule:

(a) Except as provided otherwise in this section, "good cause" means a reasonable person of normal sensitivity, exercising ordinary common sense under similar circumstances, would have:

(A) Quit work, including in anticipation of discharge;

(B) Participated in behavior leading to the individual's discharge; or

(C) Voluntarily reduced work hours.

(b) For an individual with a physical or mental impairment (as defined at 29 CFR 1630.2(h)), except as provided otherwise in subsection (c) of this section, "good cause" for leaving work means that a reasonable person with the characteristics and qualities of such individual under similar circumstances would have:

(A) Quit work, including in anticipation of discharge;

(B) Participated in behavior leading to the individual's discharge; or

(C) Voluntarily reduced work hours.

(c) There is no "good cause" if the reason for separation from employment is a labor dispute.

(3) Except as provided under section (4) of this rule, a need group (see OAR 461-110-0630) is not eligible for TANF program benefits for 120 days from the date a caretaker relative was separated from or voluntarily reduced work hours at his or her last employment in which the caretaker relative in the need group was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours in the last full calendar month of employment. This applies at initial certification, recertification, and is a condition of ongoing eligibility (see OAR 461-001-0000).

(4) A need group (see OAR 461-110-0630) may not be reduced or denied TANF program benefits based on section (3) of this rule if the caretaker relative is one of the following:

(a) A Parents as Scholars (PAS) participant who temporarily becomes ineligible for TANF program benefits for four months or less due to income from a paid work experience (see OAR 461-190-0199).

(b) A teen parent (see OAR 461-001-0000) returning to high school or equivalent.

(c) An individual fleeing from or at risk of domestic violence (see OAR 461-001-0000).

(d) An individual who is pregnant and in the last month of the pregnancy.

(e) An individual who is pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

(f) An individual unable to work due to a disability or medical condition documented by a qualified and appropriate professional, and which is expected to last for 30 days or more from the date of request for TANF program benefits.

(g) An individual who was separated from employment for a reason the Department determines is good cause as defined in section (2) of this rule.

(h) An individual who was separated from employment as a result of a layoff.

(5) A family is ineligible for TANF program benefits if the family meets the requirements of all of the following subsections:

(a) The family lives in Klamath County.

(b) The family meets any of the following conditions:

(A) The family has a single custodial parent who is a member of the Klamath Tribes, or the single custodial parent is not a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members;

(B) The family has two custodial parents (see OAR 461-001-0000) who are members of the Klamath Tribes, or only one of the two custodial

ADMINISTRATIVE RULES

parents is a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members; or

(C) The family has a caretaker relative who is not the custodial parent and at least 50 percent of the dependent children are Klamath Tribes members.

(c) The family is eligible for the Klamath Tribes TANF program or would be eligible for the Klamath Tribes TANF program if not for the failure of the family to cooperate with program requirements.

(6) A family is ineligible for TANF program benefits if all of the following subsections apply to the family:

(a) A parent, caretaker relative, or child is a member of the Siletz Tribe (Confederated Tribes of Siletz Indians of Oregon) and lives in one of the eleven service area counties: Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, or Yamhill counties.

(b) The family includes members who are living in the same household and at least one of the following paragraphs applies:

(A) A two-parent family with one enrolled Siletz tribal member with a shared dependent.

(B) A single-parent family with one enrolled Siletz tribal member.

(C) A non-needy caretaker relative or essential person with one enrolled Siletz tribal member who is a minor.

(D) A pregnant enrolled Siletz tribal member in her eighth month of pregnancy.

(c) The family is eligible for the Siletz Tribes TANF program or would be eligible for the Siletz Tribes TANF program if not for the failure of the family to cooperate with Siletz TANF program requirements.

(7) If a parent or caretaker relative covered by section (5) or (6) of this rule fails to follow through with a Department referral to the Klamath or Siletz Tribal TANF program, the entire filing group is ineligible for TANF program benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049 & 412.124
Stats. Implemented: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049, 412.064, 412.124 & 2011 OL 604 & 2012 OL 107
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1997(Temp), f. 12-31-97, cert. ef. 1-1-98 thru 4-30-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 26-1998(Temp), f. 12-30-98, cert. ef. 1-1-99 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 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 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 19-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 10-28-09; SSP 33-2009, f. & cert. ef. 10-29-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2016, f. & cert. ef. 4-1-16

461-135-0071

TANF Time Limit; General Provisions

(1) Except as provided in OAR 461-135-0073 and 461-135-0075, a minor parent (see OAR 461-001-0000) head of household or needy caretaker relative (see OAR 461-001-0000) may not receive a TANF grant in Oregon if the minor parent head of household or needy caretaker relative has received a TANF grant in any state or states in excess of 60 months.

(2) Each minor parent head of household and needy caretaker relative who qualifies for a TANF grant under OAR 461-135-0073 and 461-135-0075 must also meet all other TANF eligibility (see OAR 461-001-0000) requirements and cooperate with the requirements of his or her case plan (see OAR 461-001-0025), unless good cause (see OAR 461-130-0327) exists.

(3) A minor parent head of household or a needy caretaker relative who reaches the 60-month time limit and does not meet any of the extension criteria in OAR 461-135-0073 or exemption criteria in OAR 461-135-0075 is removed from the benefit group (see OAR 461-110-0750). The remaining need group (see OAR 461-110-0630) members may continue to receive TANF benefits.

(4) If a minor parent head of household or needy caretaker relative is removed from the benefit group under section (3) of this rule, any disqualifications or sanctions that are accrued or have been accrued remain in place.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 412.006, 412.049, 412.064, 412.079
Hist.: SSP 15-2016, f. & cert. ef. 4-1-16

461-135-0073

TANF Time Limit; Extension Criteria

(1) Effective April 1, 2016, a minor parent (see OAR 461-001-0000) head of household or needy caretaker relative (see OAR 461-001-0000)

who has reached the 60-month time limit in OAR 461-135-0071 may receive an extension of benefits if the individual is unable to obtain or maintain employment that provides earnings in excess of income limits established by the Department because the minor parent head of household or needy caretaker relative:

(a) Is a victim of domestic violence (see OAR 461-001-0000);

(b) Has a learning disability;

(c) Has a mental health condition or an alcohol or drug abuse problem;

(d) Has a disability (see OAR 461-001-0000);

(e) Has a child (see OAR 461-001-0000) with a disability;

(f) Is deprived of needed medical care; or

(g) Is subjected to battery or extreme cruelty. For purposes of this rule, an individual is subjected to battery or extreme cruelty if the individual has been subjected to one or more of the following:

(A) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(B) Sexual abuse.

(C) Sexual activity involving a dependent child (see OAR 461-001-0000).

(D) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(E) Threats of, or attempts at, physical or sexual abuse.

(F) Mental abuse.

(G) Neglect or deprivation of medical care.

(2) When a minor parent head of household or needy caretaker relative receiving TANF reaches 60 months of receipt of TANF benefits, benefits may be temporarily continued past 60 months if the individual is otherwise eligible and:

(a) Is completing a previously approved JOBS Plus agreement; or

(b) Is experiencing a situation that is expected to last less than 12 months and the Department has determined it is not reasonable for the individual to obtain or maintain employment while the situation is continuing.

(3) Extensions granted based on a condition described in subsections (1)(b) to (1)(e) of this rule require documentation from a licensed or certified professional qualified to make such a determination (see OAR 461-125-0830).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 412.001, 412.006, 412.049, 412.064, 412.079, 412.084
Hist.: SSP 15-2016, f. & cert. ef. 4-1-16

461-135-0075

TANF Time Limit; Exemptions

(1) The following months do not count toward the accrual of the time limit in OAR 461-135-0071:

(a) Months prior to July 1, 2003 in which a minor parent (see OAR 461-001-0000) head of household or an adult received a TANF grant in Oregon or another state.

(b) Months between July 1, 2003 and September 30, 2007 in which a minor parent head of household or adult received TANF in Oregon; and

(A) Participated in required JOBS activities or other education, employment, or job training program including teen parent (see OAR 461-001-0000) programs; or

(B) Was not required to participate in JOBS activities or other education, employment, or job training program including teen parent programs.

(c) Months between October 1, 2007 and June 30, 2009 and months between October 1, 2011 and April 30, 2012 in which the filing group (see OAR 461-110-0330) is a two-parent family receiving cash assistance in Oregon for which deprivation is based on unemployment or underemployment.

(d) Months beginning October 1, 2007 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Degree Completion Initiative (DCI) activity (see OAR 461-001-0025) enrolled in an educational institution.

(e) Months beginning October 1, 2008 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Parents as Scholars (PAS) activity (see OAR 461-001-0025) enrolled in an educational institution consistent with OAR 461-190-0199.

(f) Months between October 1, 2007 and March 31, 2016 in which the individual is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) because the individual:

(A) Was a victim of domestic violence (see OAR 461-001-0000);

(B) Had a certified learning disability;

(C) Had a verified alcohol and drug or mental health condition;

ADMINISTRATIVE RULES

(D) Had a child (see OAR 461-001-0000) with a disability (see OAR 461-001-0000), which prevented the parent (see OAR 461-001-0000) from obtaining or keeping employment;

(E) Was an individual with a disability;

(F) Was providing care for a family member who lived in the home and was an individual with a disability;

(G) Was deprived of needed medical care; or

(H) Was subjected to battery or extreme cruelty. For purposes of this rule, an individual was subjected to battery or extreme cruelty if the individual was subjected to one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(g) Months beginning July 1, 2003 in which the family resided in Indian Country (as defined in 18 U.S.C. 1151) and 50 percent or more of the adult residents of that area were unemployed.

(h) Months beginning October 1, 2007 in which the minor parent head of household or adult is a participant in the JOBS Plus, Pre-TANF, Post-TANF, or SFPSS program.

(i) Months beginning October 1, 2007 in which the individual who is now a parent or pregnant was in that month a minor child and neither the head of a household nor married to the head of a household.

(j) Months beginning October 1, 2011 in which the minor parent head of household or adult is a participant in the JPI program.

(k) Months in which the minor parent head of household or adult is a recipient of Employment Payments (see OAR 461-001-0025 and 461-135-1270) unless a TANF payment was issued in the same month.

(l) Months between July 1, 2008 and April 30, 2012 in which the individual did not qualify for any other TANF time-limit exemption under this rule, and was unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) when Oregon's statewide average unemployment rate as published by the Oregon Employment Department was equal to or greater than seven percent. For purposes of this rule, this determination:

(A) Through December 31, 2011 is calculated based on a six-month period as follows:

(i) The time period during July 1, 2008 through June 30, 2009 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period July 1, 2008 through December 31, 2008.

(ii) In each six-month period, starting July 1, 2009 and ending December 31, 2011:

(I) The time period during January 1 through June 30 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30 of the preceding year.

(II) The time period during July 1 through December 31 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period October 1 through December 31 of the preceding year and January 1 through March 31 of the current year.

(B) From January 1, 2012 through April 30, 2012 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30, 2011.

(2) Months that did not count toward the time limit based on a condition described in paragraphs (1)(f)(B) to (1)(f)(F) of this rule require documentation from a licensed or certified professional qualified to make such a determination.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 412.049, 412.079

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 15-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 15-2016, f. & cert. ef. 4-1-16

461-135-0475

Specific Requirements; Pre-TANF Program

(1) This rule explains specific requirements for the Pre-TANF program. The eligibility (see OAR 461-001-0000) criteria of the Pre-TANF program are the same as the TANF program. It is not the intent of the Pre-TANF program to delay the start of TANF program benefits. The purposes of the Pre-TANF program are:

(a) To help individuals find employment or other alternatives;

(b) To assess the employment potential of individuals;

(c) To help individuals determine the service level needed to enhance their employability and their likelihood of becoming self-sufficient;

(d) To determine if a needy caretaker relative (see OAR 461-001-0000) has or may have a barrier (see OAR 461-001-0025) to employment or to family stability (see OAR 461-001-0000).

(e) To develop an individualized case plan (see OAR 461-001-0025), when appropriate, that establishes goals and identifies suitable activities (see OAR 461-001-0025) that promote family stability and financial independence.

(f) To provide basic living expenses, as described in section (5) of this rule, immediately to families in need.

(2) Applicants for the TANF program whose unverified application indicates the client meets the TANF eligibility requirements participate in the Pre-TANF program. Their applications for the TANF program are also considered applications for the Pre-TANF program. The Pre-TANF program is open for not longer than 45 days following the date of request (see OAR 461-115-0030).

(3) Individuals in the Pre-TANF program are subject to the requirements of the JOBS program, described in divisions 130 and 190 of this chapter of rules, and they are subject to the requirements of OAR 461-135-0085 pertaining to substance abuse and mental health.

(4) During the Pre-TANF program, each caretaker relative in the need group (see OAR 461-110-0630) must complete an employability screening (see OAR 461-135-0485). At least one caretaker relative in the need group must participate in an overview of the JOBS program (see OAR 461-135-0485). If the employability screening indicates there is or may be a barrier, the individual must be offered additional screenings, at no cost to the individual, by a person with relevant expertise or specialized training. When appropriate, per OAR 461-190-0211, the individual and the Department prepare a case plan that lists the activities of the client and support services (see OAR 461-001-0025) payments if available.

(5) The Department may provide the client with basic living expenses necessary to stabilize the household so the client can accomplish the activities in the case plan. Basic living expenses covered by this section are limited to the current need of the client for personal incidentals that the client cannot meet with other, immediately available resources. Payments under this section are limited to 100 percent of the payment standard in OAR 461-155-0030 for the benefit group (see OAR 461-110-0750). Payment for "past expenses" is made only when the need of the client cannot be adequately met by a less expensive alternative.

(6) During the Pre-TANF program, an individual may receive support services payments listed in the case plan pursuant to OAR 461-190-0211.

(7) The Pre-TANF program is closed, at any point during the 45 days following the date of request for TANF program benefits, in any of the following circumstances:

(a) The client is unlikely to become employed due to the employability of the client, the circumstances affecting the family, or other causes.

(b) The client fails without good cause (see OAR 461-130-0327) to comply with a requirement of an employment program or the case plan.

(c) In any circumstance that would make a client ineligible for TANF.

(d) Upon starting a JOBS Plus assignment.

(e) Upon employment and enrollment in Employment Payments (see OAR 461-001-0025) under OAR 461-135-1270 or the Post-TANF program.

(8) If Pre-TANF benefits are closed pursuant to subsection (7)(a) or (b) of this rule, TANF benefits may be opened if all TANF eligibility requirements are met.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.064

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 412.064.

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 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 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 16-2009(Temp), f. & cert. ef. 7-1-09 thru 9-28-09; Administrative correction 10-22-09; SSP 20-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 27-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-28-11; SSP 34-2011, f. 12-27-11, cert. ef. 12-29-11; SSP 15-2016, f. & cert. ef. 4-1-16

ADMINISTRATIVE RULES

461-135-0485

Requirement to Complete an Employability Screening and Overview of the Job Opportunity and Basic Skills (JOBS) program; TANF

(1) As used in this rule:

(a) "Employability screening" means the DHS 7823A — Employability Screening Tool.

(b) "Overview of the JOBS program" means a discussion with the caretaker relative (see OAR 461-001-0000) in the need group (see OAR 461-110-0630) about the requirements and services provided under the JOBS program.

(2) To be eligible for Pre-TANF and TANF benefits, the following must be completed prior to the end of the application processing time frames in OAR 461-115-0190:

(a) Each caretaker relative in the need group must complete an employability screening (see section (1) of this rule); and

(b) At least one caretaker relative in the need group must participate in an overview of the JOBS program (see section (1) of this rule).

(3) The employability screening and overview of the JOBS program must be offered during the initial eligibility intake for Pre-TANF and TANF program benefits.

Stat Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.124

Stats Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 412.064, 412.124

Hist.: SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 15-2016, f. & cert. ef. 4-1-16

461-135-0506

Transitional Benefit Alternative (TBA) in the SNAP Program

(1) This rule establishes the transitional benefit alternative (TBA). A client participating in TBA continues to receive SNAP benefits without reduction during the transition period. The transition period is five months. If the filing group (see OAR 461-110-0310 and 461-110-0370) separates into two groups during the TBA period, only the group containing the head of household continues in the TBA.

(2) In the SNAP program, a client who receives a cash grant from the Department in the SFPSS or TANF programs may participate in TBA when the benefits are stopped, except as provided in section (4) of this rule.

(3) The benefit level for the transition period is based on countable (see OAR 461-001-0000) income for SNAP during the last month before TBA begins, but the Title IV-A grant is not counted as income. Once it is established, the TBA benefit level is changed only when:

(a) The filing group submits a new application in the SNAP program and will receive more SNAP benefits if they are not using the TBA reporting system;

(b) A member of the filing group leaves and applies for SNAP benefits as a member of another household; or

(c) The Department initiates a change identified in OAR 461-170-0200.

(4) A household may not participate in TBA in each of the following situations:

(a) A member of the filing group is receiving benefits of the TANF program.

(b) The TANF benefits are stopped because the household does not reside in Oregon.

(c) The TANF benefits are stopped because of a change that results in ineligibility for TANF and the household failed to complete a timely report or to complete a required action on time.

(d) As of the date the TANF case closed, an individual in the household was serving a penalty imposed in the TANF program.

(e) The TANF benefits are stopped at the request of the household after the household is informed of an impending disqualification in the TANF program.

(f) The head of household becomes ineligible for the SNAP program because he or she lives in an institution or in a facility that provides at least 50 percent of the meals.

(g) A member of the financial group (see OAR 461-110-0530) is subject to a penalty in the SNAP program because of the individual's conduct, for instance, because the individual:

(A) Was excluded from the need group under OAR 461-110-0630(7);

(B) Was penalized for failure to meet a requirement of an employment program;

(C) Was ineligible for SNAP benefits under OAR 461-105-0410; or

(D) Was ineligible for or disqualified from participation in the SNAP program because of a failure to comply with a requirement of the program to provide complete and accurate information to the Department.

(h) A member of the financial group becomes ineligible for the SNAP program because of the time limit imposed under OAR 461-135-0520.

(5) Once the TBA benefits have ended, a client's eligibility for the SNAP program is determined on the basis of a new application.

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

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Hist.: SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 4-2005, f. & cert. ef. 4-1-05; 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 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 23-2008, f. & cert. ef. 10-1-08; SSP 1-2016(Temp), f. & cert. ef. 1-1-16 thru 6-28-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.

(1) An able-bodied adult without dependents (ABAWD) means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no child (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).

(2) Except as provided otherwise in this rule, an ABAWD who resides in Multnomah or Washington County is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2016 to December 31, 2018.

(3) "Countable months" means months within the 36-month period of January 1, 2016 to December 31, 2018 in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:

(a) The individual resided for any part of the month in a county identified in a waiver approved by United States Department of Agriculture on the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)). Under the waiver, the time limit in section (2) of this rule does not apply to residents of the following counties: Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Marrow, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler, and Yamhill.

(b) Benefits were prorated for the month.

(c) The individual was exempt (see OAR 461-130-0305) for any part of the month under OAR 461-130-0310(3)(a)(A) to (J).

(d) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged monthly. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)

(A) Work for pay, in exchange for goods or services, or as a volunteer.

(i) Work in exchange for goods and services includes bartering and in-kind work.

(ii) Voluntary work hours must be verified by the employer.

(ii) For self-employed individuals, countable income after deducting the costs of producing income must average at least the federal minimum wage times 20 hours per week.

(B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105 220, 112 Stat. 936 (1998).

(C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93 618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).

(D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.

(e) The individual complied with the Workfare requirements in OAR 461-190-0500.

(4) An ABAWD must submit evidence to the Department on the issue of whether a month is countable within 90 days following the last day of the month in question.

(5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met.

(a) The individual becomes exempt under OAR 461-130-0310(3)(a)(A) to (J). Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met.

ADMINISTRATIVE RULES

(b) The individual, during a consecutive 30-day period during which the individual is ineligible, meets the requirements of subsection (3)(d) or (3)(e) of this rule.

(A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(d) or (3)(e) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met.

(B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2016 to December 31, 2018.

(c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section.

(6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(d) or (3)(e) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows:

(a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual he or she is no longer meeting the work requirement.

(b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department he or she is no longer meeting the work requirement.

(c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred.

(d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the Department notifies the individual he or she must meet the work requirement.

(e) An individual may only receive benefits without meeting the requirements of subsection (3)(d) or (3)(e) of this rule for a total of six countable months during January 1, 2016 to December 31, 2018.

(7) 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.

(8) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) of this rule or an activity listed in the individual's case plan (see OAR 461-001-0020) is eligible for support service payments necessary for transportation or other costs related to completing the activity as allowed by OAR 461-190-0360.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

Hist.: AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 8-2001, f. & cert. ef. 5-1-01; AFS 8-2002, f. & cert. ef. 5-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 6-2016(Temp), f. & cert. ef. 2-5-16 thru 8-2-16; SSP 10-2016(Temp), f. & cert. ef. 3-2-16 thru 8-2-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-135-1250

Specific Requirements: Post-TANF

(1) This rule explains specific requirements for the Post-TANF program. Through September 30, 2010, the Post-TANF program provides \$100 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the Federal Poverty Level (FPL), whichever comes first, as long as the client meets JOBS federally required participation rates (see OAR 461-001-0025) in combined unsubsidized paid work and JOBS activities.

(2) Effective October 1, 2010, the Post-TANF program provides \$50 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the FPL, whichever comes first, as long as the client meets JOBS federally required participation rates in combined unsubsidized paid work and JOBS activities.

(3) To enroll in the Post-TANF program, a client must:

(a) Have obtained unsubsidized paid employment;

(b) Have become ineligible for the Pre-TANF, TANF or SFPSS programs due to earnings; and

(c) Be a Work Eligible Individual as defined by federal regulations.

(4) To remain eligible for the monthly Post-TANF payment, the client must meet the requirements of all of the following subsections:

(a) Meet all TANF eligibility requirements, except the client need not meet the following requirements:

(A) OAR 461-120-0310 and 461-120-0340 (child support assignment and cooperation);

(B) OAR 461-120-0330 (pursuing assets);

(C) OAR 461-155-0030 (income limits); and

(D) OAR 461-160-0015 (resource limits).

(b) Report and meet the monthly JOBS federal participation requirements with unsubsidized paid work and, if necessary, other JOBS activities.

(c) Provide the Department with employer-produced documents of paid, unsubsidized work hours within 45 days after Pre-TANF, TANF, or SFPSS has ended.

(d) The client must also provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department or no later than the last day of the sixth month following the date the client provides the verification of work hours in accordance with subsection (c) of this section.

(e) Report all changes in residency and household group (see OAR 461-110-0210) affecting Post-TANF eligibility within 10 days of the occurrence.

(f) Changes reported for another program that affect Post-TANF eligibility are considered reported for Post-TANF.

(5) A client failing to comply with subsection (4)(c) of this rule but then providing documents after 45 days is eligible for Post-TANF payments only in the month the local Department office receives the documents and the months thereafter.

(6) Household income for the Post-TANF program is calculated in accordance with all TANF financial rules.

(7) Each parent (see OAR 461-001-0000) of a two-parent family is entitled to a monthly Post-TANF payment if both parents meet all Post-TANF enrollment and eligibility requirements.

(8) Monthly payments in the Post-TANF program begin the month after the last regular TANF benefit payment; or for Pre-TANF clients, the month after the Department verifies that the client meets TANF eligibility requirements.

(9) A client in the Post-TANF program is entitled to support services in accordance with OAR 461-190-0241. Additional support services may be granted with manager approval.

(10) A client is no longer eligible for a Post-TANF payment when the client does not meet JOBS federal participation requirements due to:

(a) Loss of employment;

(b) A reduction in work hours, and the client chooses not to participate in required JOBS activities offered by the Department; or

(c) A reduction in JOBS activity hours without good cause (see OAR 461-130-0327) that when combined with work hours does not meet the JOBS federally required participation rates.

(11) Notwithstanding any other administrative rule in Chapter 461, effective April 30, 2012 the Post-TANF program funding ends. Continuation of Post-TANF benefits is not authorized after April 30, 2012, regardless of whether a hearing request on Post-TANF is submitted or pending.

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.009, 412.049, 412.124

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.049, 412.124

Hist.: 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 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 29-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; [SSP 13-2011(Temp), f. & cert. ef. 6-15-11 thru 12-12-11; Suspended by SSP 14 2011(Temp), f. & cert. ef. 6-29-11 thru 12-12-11]; SSP 14-2012(Temp), f. & cert. ef. 4-12-12 thru 10-9-12; SSP 15-2012(Temp), f. & cert. ef. 4-13-12 thru 10-9-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 15-2016, f. & cert. ef. 4-1-16

461-135-1270

Specific Requirements: Employment Payments

(1) Effective April 1, 2016, a benefit group (see OAR 461-110-0630) that includes an individual who meets the requirements in section (2) of this rule is eligible to receive \$225 in Employment Payments (see OAR 461-001-0025) paid over three months as provided in section (3) of this rule.

(2) To be eligible for three months of Employment Payments, an individual in the benefit group (see OAR 461-110-0750) or an individual not in the benefit group due to the time limit in OAR 461-135-0071 must meet all of the following requirements:

(a) Have obtained unsubsidized paid employment and reported it timely.

(b) Have been a JOBS mandatory (see OAR 461-130-0310) individual who closed TANF for one of the following reasons:

ADMINISTRATIVE RULES

(A) Became ineligible for the Pre-TANF, SFPSS or TANF programs due to income above the applicable income standard in OAR 461-155-0030.

(B) Voluntarily closed TANF to avoid accruing time toward the time limit in OAR 461-135-0071.

(C) Voluntarily closed TANF to be eligible for TBA (see OAR 461-135-0506).

(c) Meet the TANF residency requirements in OAR 461-120-0010.

(d) Remain at or below 350 percent FPL in OAR 461-155-0180.

(3) Employment Payments begin the month following the month in which Pre-TANF, SFPSS, or TANF benefits close. Payments are limited to one payment per month per benefit group. Payments may not be prorated and are paid in the following amounts and order:

(a) \$100 the first month after benefits close.

(b) \$75 the second month after benefits close.

(c) \$50 the third month after benefits close.

(4) An individual receiving Employment Payments is not eligible for JOBS Plus or JPI (see OAR 461-135-1260).

(5) Employment Payments end when an individual is approved for REF, Pre-TANF, SFPSS, or TANF program benefits or when the loss of unsubsidized paid employment is reported and verified.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049, 412.124

Stats. Implemented: ORS 409.050, 411.060, 411.070, 412.049, 412.124

Hist.: SSP 15-2016, f. & cert. ef. 4-1-16

461-145-0410

Program Benefits

(1) EA and TA-DVS payments are treated as follows:

(a) In the ERDC and SNAP programs, a payment made directly to the client is counted as unearned income. Dual payee and provider-direct payments are excluded.

(b) In all programs except the ERDC and SNAP programs, these payments are excluded.

(2) Employment Payments (see OAR 461-001-0025 and 461-135-1270) are treated as follows:

(a) In the REF, REFM, SNAP, and TANF programs, these payments are counted as unearned income in the month received.

(b) In all programs not covered in subsection (a) of this section, these payments are excluded.

(3) Payments from ERDC and TANF child care are excluded unless the client is the provider.

(4) Payments from the GAM, OCCS medical programs, OSIPM, QMB, and REFM programs are excluded.

(5) Payments from JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded.

(6) SNAP payments are treated as follows:

(a) The value of an SNAP benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310 and 461-110-0370).

(b) OFSET service payments are excluded.

(7) Benefits from the GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF programs are treated as follows:

(a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a benefit group (see OAR 461-110-0750) whose emergent need is the result of domestic violence (see OAR 461-001-0000).

(b) In the ERDC program:

(A) Post-TANF payments are excluded.

(B) All other payments are counted as unearned income.

(c) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, these payments are excluded.

(d) In the SNAP program:

(A) These payments are treated as unearned income.

(B) An amount received as a late processing payment is treated as lump-sum income (see OAR 461-001-0000 and 461-140-0120).

(C) Payments made to correct an underpayment are treated as lump-sum income.

(D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.

(e) In all programs except the EA, ERDC, QMB-BAS, QMB-SMB, QMB-SMF, and SNAP programs:

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.

(B) Payments made to correct an underpayment are excluded.

(f) In all programs:

(A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.

(B) For the treatment of JOBS Plus income, see OAR 461-145-0130.

(C) REF and TANF client incentive payments are treated as follows:

(i) Except in the TANF program, the cooperation incentive payment (see OAR 461-135-0210) is counted as unearned income.

(ii) Progress and outcome incentive payments other than in-kind payments are counted as lump-sum income (see OAR 461-140-0120). All other incentives are excluded.

(8) Payments from OSIP-IC are treated as follows:

(a) In the SNAP program, these payments are counted as unearned income and assets held in a contingency fund (see OAR 411-030-0020) are counted as a resource.

(b) In all other programs, these payments and funds held in a contingency fund are excluded.

(9) Pre-TANF program payments are treated as follows:

(a) In the SNAP program, a payment for basic living expenses, made directly to the client, is counted as unearned income. All other payments are excluded.

(b) In all programs except the SNAP program, these payments are excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 5-1991, f. & cert. ef. 2-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1992(Temp), f. 7-31-92, cert. ef. 8-1-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; 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 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; 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 23-2008, f. & cert. ef. 10-1-08; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-155-0020

Prorated Standards; Adjusted Number in Household

(1) Prorated standards are used only in the no-adult tables and the non-SSI OSIP and OSIPM table.

(2) In the OSIP and OSIPM programs:

(a) Prorated standards only apply when an individual or a couple receives free food and shelter from others living in the household, and the individual or couple does not have an ownership interest or rental liability in the residence.

(b) Prorated standards are not applied to cases in which an individual receives services described in OAR chapter 411, division 015.

(c) Shelter-in-kind (see OAR 461-145-0470) may apply when prorated standards are not used.

(3) In the TANF program, the no-adult tables are used when there are no adults in the TANF benefit group (see OAR 461-110-0750).

(4) In all programs except the TANF program, prorated standards are based on the number of people in the need group, compared to the adjusted number in the household group (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the need group:

(a) Unborns.

(b) Individuals receiving long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030).

(c) Foster children.

(d) Children receiving adoption assistance.

(e) Live-in attendants who live with the filing group (see OAR 461-110-0310) solely to provide necessary medical or housekeeping services and are paid to provide these services.

(f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at fair market value (see OAR 461-001-0000) for housing and if:

(A) The filing group lives independently from the landlord or tenant;

(B) The filing group has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and

ADMINISTRATIVE RULES

(C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for fair market value compensation.

(g) In the OSIP and OSIPM programs only:

(A) The biological and adoptive children of either spouse (see OAR 461-001-0000).

(B) Recipients of GA, OCCS Medical Programs (see OAR 461-001-0000), OSIP, OSIPM, QMB, or TANF.

(5) In the TANF program, prorated standards are based on the number of people in the benefit group (see OAR 461-110-0750), compared to the adjusted number in the household group (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the benefit group:

(a) Unborns.

(b) Individuals receiving long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030).

(c) Foster children.

(d) Children receiving adoption assistance.

(e) Live-in attendants who live with the filing group (see OAR 461-110-0310 and 461-110-0330) solely to provide necessary medical or house-keeping services and are paid to provide these services.

(f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at fair market value (see OAR 461-001-0000) for housing and if:

(A) The filing group lives independently from the landlord or tenant;

(B) The filing group has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and

(C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for fair market value compensation.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.402, 411.404, 411.706, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.402, 411.404, 411.706, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1998, f. & cert. ef. 10-1-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 21-2015, f. & cert. ef. 7-1-15; SSP 15-2016, f. & cert. ef. 4-1-16

461-155-0030

Income and Payment Standards; JOBS, REF, TANF

(1) In the REF and TANF programs, the standards in this rule are applied to determine eligibility (see OAR 461-001-0000) and benefit amount as provided in OAR 461-160-0100.

(2) The Countable Income Limit Standards in this section apply to all individuals applying for or receiving REF or TANF benefits who are not eligible for the Exit Limit Increase (ELI) Standards in section (3) of this rule.

(a) For each need group (see OAR 461-110-0630) containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) For each need group containing no adult, the following table is used: [Table not included. See ED. NOTE.]

(c) In the TANF program, a caretaker relative (see OAR 461-001-0000) other than a parent (see OAR 461-001-0000) who chooses not to be included in the need group is subject to the "non-needy caretaker relative countable income limit standard" for the filing group which is set at 185 percent of the federal poverty level (see OAR 461-155-0180).

(3) The ELI Standards in this section apply to an open REF or TANF benefit group with income (must include earned income) above the standards in section (2) of this rule or upon restoring benefits to a REF or TANF benefit group after closure due to earned income over the standards in section (2) or (3) of this rule within the previous 30 days.

(a) For each need group containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) For each need group containing no adult, the following table is used:

(4) The Adjusted Income Limit Standards in this section apply to all individuals applying for or receiving REF or TANF benefits who are not eligible for the ELI Standards in section (3) of this rule.

(a) For each need group containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) For each need group containing no adult, the following table is used: [Table not included. See ED. NOTE.]

(5) The Payment Standards in this section are used to calculate benefit amounts for individuals receiving REF or TANF benefits.

(a) For each benefit group containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) For each benefit group containing no adult, the following table is used: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.124

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 412.006, 412.049, 412.124
Hist.: AFS 80-1989, f. & cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 6-2007(Temp), f. 6-29-07, cert. ef. 7-1-07 thru 9-30-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 3-2012(Temp), f. & cert. ef. 1-26-12 thru 3-31-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 38-2015, f. 12-25-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral, or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

ADMINISTRATIVE RULES

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.

(h) The Certified Center Rate applies to child care provided in a center that is certified by the Office of Child Care.

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and

(B) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(h) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS) subject to all of the following provisions.

(A) The incentive payment is in addition to the Department maximum rate.

(B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).

(C) Providers who are contracted for child care services through the ERDC program are not eligible to receive incentive payments.

(D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.

(E) The incentive payment amount is based on the provider's star QRIS rating as follows: [Table not included. See ED. NOTE.]

(4) The following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

(a) [Table not included. See ED. NOTE.]

(b) [Table not included. See ED. NOTE.]

(c) [Table not included. See ED. NOTE.]

(5) Except to the extent provided otherwise in sections (12) and (13) of this rule or for children in contracted child care (see OAR 461-135-0405 and 461-135-0407), this section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) At initial certification, the ERDC eligibility standard is met for a need group (see OAR 461-110-0630) of eight or less if monthly countable income (see OAR 461-001-0000) for the need group is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180(4). The eligibility standard for a need group of eight applies to any need group larger than eight.

(b) During the certification period (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180(6) and (8). The eligibility standard for a need group of eight applies to any need group larger than eight.

(c) The minimum monthly ERDC copay is \$25.

(d) For a filing group (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5

percent of the filing group's monthly countable income, whichever is greater.

(e) For a filing group whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Divide the filing group's countable income by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.

(B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's countable income and round to the nearest whole dollar.

(f) The 2007 federal poverty level used to determine copay amounts under subsections (d) and (e) of this section is set at the following amounts: [Table not included. See ED. NOTE.]

(6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (4) of this rule.

(b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.

(7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

(8) The number of payable billed hours of care for a child is limited as follows:

(a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed the amounts in paragraphs (A) or (B) of this subsection:

(A) 125 percent of the number of child care hours authorized:

(i) Under OAR 461-160-0040(2) and (5); or

(ii) To participate in activities included in a case plan (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client.

(B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.

(b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).

(c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.

(9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:

(a) The amount billed by the provider or providers; or

(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training required to keep current employment, not including self-employment. This is limited to the following situations:

(a) The commute time to and from work exceeds two hours per day.

(b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.

ADMINISTRATIVE RULES

(c) The caretaker works a split shift and it is not feasible to care for the child between shifts.

(d) The caretaker consistently works more than 40 hours per week.

(11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(12) Starting May 1, 2012:

(a) The minimum monthly ERDC copay is \$27.

(b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.

(13) Effective April 1, 2016, the ERDC copay is \$27 for no more than three months after closure of Pre-TANF, SFPSS, or TANF benefits when:

(a) The closure is because an individual in the need group had earned income that led to the TANF closure;

(b) An ERDC date of request (see OAR 461-115-0030) is established within 90 days of closure; and

(c) The individual is eligible for ERDC.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, OL 2015, ch 698
Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006, 412.049, 418.485, Or Laws 2015, ch 698
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 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 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 13-2012(Temp), f. & cert. ef. 4-10-12 thru 10-7-10; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 31-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 35-2013, f. & cert. ef. 11-1-13 thru 3-30-14; SSP 8-2014, f. & cert. ef. 3-31-14; SSP 14-2015(Temp), f. & cert. ef. 3-23-15 thru 9-18-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 33-2015(Temp), f. 12-18-15, cert. ef. 1-1-16 thru 6-28-16; SSP 7-2016(Temp), f. 2-17-16, cert. ef. 3-1-16 thru 6-28-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-155-0180

Income Standards; Not OSIP, OSIPM, QMB

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level or state median income. The standards in this rule are effective as of March 1, 2016.

(2) A monthly income standard set at 100 percent of the 2016 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(3) A monthly income standard set at 130 percent of the 2016 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(4) A monthly income standard set at 185 percent of the 2016 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(5) A monthly income standard set at 200 percent of the 2016 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(6) A monthly income standard set at 250 percent of the 2016 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(7) A monthly income standard set at 350 percent of the 2016 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(8) A monthly income standard set at 85 percent of the 2016 state median income is set at the following amounts: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.816, 412.014, 412.049

Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 4-2010, f. & cert. ef. 3-31-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2011(Temp), f. & cert. ef. 1-20-11 thru 7-19-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 2-2012, f. & cert. ef. 1-25-12; SSP 3-2013, f. & cert. ef. 1-30-13; SSP 5-2013(Temp), f. & cert. ef. 2-1-13 thru 7-31-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 2-2014, f. 1-31-14, cert. ef. 2-1-14; SSP 7-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 15-2016, f. & cert. ef. 4-1-16

461-160-0100

How Income Affects Eligibility and Benefits; REF, SFPSS, TANF

(1) In the REF and TANF programs, countable (see OAR 461-001-0000) income and adjusted income (see OAR 461-001-0000) are compared to the standards in OAR 461-155-0030 to determine eligibility (see OAR 461-001-0000) and benefit amount.

(2) This section applies to filing groups that do not include an ineligible noncitizen with income. For filing groups that include an ineligible noncitizen with income, see section (3) of this rule.

(a) For individuals not eligible for the Exit Limit Increase (ELI) Standards in OAR 461-155-0030(3), compare the countable income of the financial group (see OAR 461-110-0530) to the applicable Countable Income Limit Standard for the need group (see OAR 461-110-0630) in OAR 461-155-0030(2).

(A) If countable income equals or exceeds the applicable standard, the need group is not eligible.

(B) If countable income is less than the applicable standard, compare the adjusted income of the financial group to the Adjusted Income Limit Standard for the need group in OAR 461-155-0030(4):

(i) If the adjusted income equals or exceeds the applicable standard, the filing group is not eligible.

(ii) If the adjusted income is less than the applicable standard, determine the benefit amount as provided in subsection (c) of this section.

(b) For individuals eligible for the ELI in OAR 461-155-0030(3), compare the countable income of the financial group to the ELI for the need group in OAR 461-155-0030(3).

(A) If countable income equals or exceeds the applicable ELI standard, the need group is not eligible.

(B) If countable income is less than the applicable ELI standard, determine the benefit amount as provided in subsection (c) of this section.

(c) Subtract adjusted income from the applicable Payment Standard for the benefit group (see OAR 461-110-0750) in OAR 461-155-0030(5). The remainder is the benefit amount except as provided in OAR 461-165-0060.

(3) Income of an ineligible noncitizen in a financial group is prorated as provided in subsection (d) of this section. Income received by all other members of the financial group who meet the citizenship requirements in OAR 461-120-0110 is not prorated. The combined countable income is treated as provided in this section:

(a) For individuals not eligible for the ELI in OAR 461-155-0030(3), compare the countable income of the financial group to the applicable Countable Income Limit Standard for the need group in OAR 461-155-0030(2).

(A) If countable income equals or exceeds the applicable standard, the filing group is not eligible.

(B) If countable income is less than the applicable standard, compare the adjusted income of the financial group to the applicable Adjusted Income Limit Standard for the need group in OAR 461-155-0030(4):

(i) If adjusted income equals or exceeds the applicable standard, the filing group is not eligible.

(ii) If adjusted income is less than the applicable standard, determine the benefit amount as provided in subsection (c) of this section.

(b) For individuals eligible for the ELI in OAR 461-155-0030(3), compare the countable income of the financial group to the need group in OAR 461-155-0030(3).

(A) If countable income equals or exceeds the ELI, the need group is not eligible.

ADMINISTRATIVE RULES

(B) If countable income is less than the ELI, determine the benefit amount as provided in subsection (c) of this section.

(c) Subtract the total of the prorated income (see subsection (d) of this section) of all ineligible noncitizens and adjusted income of all other members of the filing group from the applicable Payment Standard in OAR 461-155-0030(5) for the benefit group. The remainder is the benefit amount except as provided in OAR 461-165-0060.

(d) Prorate adjusted income used in subsection (c) of this section that belongs to an ineligible noncitizen by dividing it by the number in the need group and multiplying it by the number in the benefit group.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.009, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.009, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; 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 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2016, f. & cert. ef. 4-1-16

461-165-0030

Concurrent and Duplicate Program Benefits

(1) Except as noted in this rule, an individual may not receive benefits from the Department of the same type (that is, cash, medical, or SNAP benefits) for the same period as a member of two or more different benefit groups (see OAR 461-110-0750) or from two or more separate programs. Except as allowed in subsection (g) of this section, this provision includes a prohibition against an individual receiving TANF concurrently with another cash assistance program funded under Title IV-E of the Social Security Act.

(a) An individual may receive EA, HSP, and TA-DVS benefits and cash payments from other programs for the same time period.

(b) If a GA recipient becomes eligible for the TANF program, benefits are supplemented during the first month of eligibility (see OAR 461-001-0000) for TANF to the TANF payment standards.

(c) A TANF recipient may receive ERDC for a child (see OAR 461-001-0000) in the household group (see OAR 461-110-0210), but who may not be included in the TANF filing group (see OAR 461-110-0310 and 461-110-0330).

(d) A child who is a member of an ERDC benefit group may also be a member of one of the following benefit groups:

(A) An OSIP-AB benefit group.

(B) A TANF benefit group when living with a nonneedy caretaker relative (see OAR 461-001-0000), if the caretaker relative is not the parent (see OAR 461-001-0000) of the child.

(C) A TANF benefit group when living with a needy caretaker relative receiving SSL.

(e) An individual in the SNAP program who leaves a filing group (see OAR 461-110-0310 and 461-110-0370) that includes an individual who abused them and enters a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000) for victims of domestic violence (see OAR 461-001-0000) may receive SNAP benefits twice during the month the individual enters the domestic violence shelter or safe home.

(f) A QMB recipient may also receive medical benefits from OSIPM, REFEM, or an OCCS medical program with the exception of OHP-OPC, OHP-OPU, OHP-OP6, OHP-CHIP, MAGI Adult, and MAGI CHIP.

(g) An individual may receive Chafee (see OAR 413-030-0400 to 413-030-0455) and TANF benefits during the same time period. As of January 1, 2013, receipt of both Chafee and TANF benefits will not result in an overpayment.

(h) An individual receiving Employment Payments (see OAR 461-001-0025 and 461-135-1270) who becomes eligible for TANF in the same month may receive both benefits in the same month.

(i) An individual receiving JPI (see OAR 461-135-1260) who becomes eligible for Pre-TANF or TANF in the same month may receive both benefits in the same month.

(2) An individual may not receive benefits of the same type (that is, cash, medical, or SNAP benefits) for the same period from both Oregon and another state or tribal food distribution program, except as follows:

(a) Medical benefits may be authorized for an eligible individual if the individual's provider refuses to submit a bill to the Medicaid agency of another state and the individual would not otherwise receive medical care.

(b) Cash benefits may be authorized for an individual in the Pre-TANF program if benefits from another state will end by the last day of the month in which the individual applied for TANF.

(3) In the SNAP program, each individual who has been included as a member of the filing group in Oregon or another state is subject to all of the restrictions in section (2) of this rule.

(4) An REF or TANF filing group may not receive REF or TANF benefits for the same period of time that an individual in the REF or TANF filing group receives assistance from the Office of Refugee Resettlement Matching Grant Program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 412.124, 414.025, 414.826, 414.839

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 412.124, 414.025, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; 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 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 29-2014(Temp), f. & cert. ef. 11-3-14 thru 5-1-15; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15; SSP 38-2015, f. 12-25-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-170-0011

Changes That Must Be Reported

(1) A change in employment status is considered to occur as follows:

(a) For a new job, the change occurs the first day of the new job.

(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(a) For earned income, the change occurs upon the receipt by the individual of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the individual receives the new or changed payment.

(3) An individual must report, orally or in writing, the following changes:

(a) In the ERDC program, an individual must report the following changes within 10 days of occurrence:

(A) A change in child care provider.

(B) A change in employment status.

(C) A change in mailing address or residence.

(D) A change in membership of the filing group (see OAR 461-110-0350).

(E) A member of the filing group is discharged from the U.S. military and returning from active duty in a military war zone.

(F) A change in income above the ERDC income limit as defined in OAR 461-155-0150(5)(b) that is expected to continue.

(b) In the SNAP program:

(A) An ABAWD (see OAR 461-135-0520) assigned to CRS or SRS who resides in Multnomah or Washington County and is employed must report a change in work hours when work hours are below 20 hours per week.

(B) An individual assigned to CRS must report any of the following changes within 10 days of occurrence:

(i) A change in earned income of more than \$100.

(ii) A change in unearned income of more than \$50.

(iii) A change in source of income.

(iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.

(v) A change in residence and the shelter costs in the new residence.

(vi) A change in the legal obligation to pay child support.

(vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.

(viii) Acquisition or change in ownership of a non-excluded vehicle.

(C) An individual assigned to SRS must report when the monthly income of the filing group exceeds the SNAP countable (see OAR 461-001-0000) income limit by the tenth day of the month following the month of occurrence.

(D) An individual assigned to TBA is not required to report any changes.

(c) For JPI (see OAR 461-135-1260), an individual must follow the same reporting requirements as a SNAP client assigned to CRS, SRS, or TBA reporting systems (see OAR 461-170-0010).

(d) In the GA, GAM, OSIP, OSIPM, and QMB programs, an individual must report all changes that may affect eligibility (see OAR 461-001-0000) within 10 days of occurrence, including any of the following changes:

(A) A change in employment status.

(B) A change in health care coverage.

ADMINISTRATIVE RULES

(C) A change in membership of the household group (see OAR 461-110-0210).

(D) A change in marital status.

(E) A change in residence.

(F) Except for QMB-BAS, QMB-SMB, and QMB-SMF, a change in resources.

(G) A change in source or amount of income.

(e) In the REF, SFPSS, and TANF programs, an individual assigned to CRS must report any of the following changes within 10 days of occurrence:

(A) Acquisition or change in ownership of a non-excluded vehicle.

(B) A change in earned income more than \$100.

(C) Employment separation.

(D) A change in membership of the household group (see OAR 461-110-0210).

(E) A change in marital status or other changes in membership of the filing group.

(F) A change in mailing address or residence.

(G) A change in pregnancy status of any member of the filing group.

(H) A change in source of income.

(I) A change in unearned income more than \$50.

(J) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(K) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(f) In the REFM program, an individual must report the following changes within 10 days of occurrence:

(A) A change in membership of the household group (see OAR 461-110-0210).

(B) A change in residence.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 411.825, 412.014, 412.049, 413.085, 414.685, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; 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 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; 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 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-175-0200

Notice Situations; General Information

(1) In the EA program, a basic decision notice (see OAR 461-001-0000) is sent for all situations.

(2) In the SNAP program, a basic decision notice is sent for all actions on applications for assistance.

(3) In the JOBS program:

(a) A basic decision notice is sent whenever a request for a support service payment is denied.

(b) No decision notice is required if request for a support service is approved.

(4) A basic decision notice is sent to close JPI benefits when the filing group (see OAR 461-110-0310) reports a change during the reporting period in which SNAP benefits do not decrease.

(5) In the TANF program, a notice approving benefits informs the client, within one month following eligibility determination, of the opportunity to volunteer for JOBS participation and of the procedure for JOBS program entry.

(6) In the Pre-TANF program, a basic decision notice is sent when payment for basic living expenses is denied or when payment for other sup-

port services in the JOBS program is denied. No other notices are required for this program.

(7) In the TA-DVS program, a basic decision notice (see OAR 461-001-0000) is sent to a safe mailing address or hand delivered for all situations. This includes when the program is approved, denied, or closed (prior to the end of the 90 day eligibility period) and when a payment under the program is denied.

(8) In all programs except the Pre-TANF program, unless stated differently in this rule or another rule, the Department mails or otherwise provides the client with (sends) a decision notice (see OAR 461-001-0000) as follows:

(a) A basic decision notice is sent whenever an application for assistance, including retroactive medical assistance, is approved or denied or a request for a support service payment in the JOBS program is denied.

(b) A timely continuing benefit decision notice (see OAR 461-001-0000) is sent whenever benefits or support service payments authorized by OAR 461-190-0211 are reduced or closed, or the method of payment changes to protective, vendor, or two-party.

(c) A decision notice is sent whenever the Department adjusts previously underissued cash assistance or SNAP benefits.

(9) In all programs:

(a) Notwithstanding any rule in Chapter 461, to the extent permitted by OAR 137-003-0530, the Department may take any of the following actions:

(A) Amend a decision notice with another decision notice or a contested case notice.

(B) Amend a contested case notice.

(C) Delay a reduction or closure of benefits as a result of a client's request for hearing.

(D) Extend the effective date on a decision notice or contested case notice.

(b) Except as provided in subsection (a) of this section or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not initiated on the date stated on the notice. If the notice is void, a new notice is sent to inform the financial group (see OAR 461-110-0530) of a new date on which their benefits will be reduced or closed.

(c) No decision notice is required in each of the following situations:

(A) Benefits are ended because there is no living person in the benefit group (see OAR 461-110-0750).

(B) A notice was sent, the client requested a hearing, and either the hearing request is dismissed or a final order is issued.

(C) The client has signed a voluntary agreement that qualifies as a final order, including a signed IPV waiver, under ORS 183.417(3)(b) (see OAR 461-175-0340(2)).

(D) To end Employment Payments (see OAR 461-001-0025 and 461-135-1270) or JPI benefit (see OAR 461-135-1260) when the individual has applied for and been found eligible for Pre-TANF, SFPSS, or TANF.

(E) No decision notice is required in OAR 461-175-0300 based on prior notice.

(d) When the Department amends a decision notice with another decision notice under subsection (a) of this section, the date of the amended notice restarts the client's deadlines to request a hearing or continuing benefits, or both.

(e) When a contested case notice extends an effective date or delays a reduction or closure, the date of the amended notice restarts a client's timeline to request continuing benefits.

(f) When a client has a pending hearing request or is receiving continuing benefits, and the Department amends a notice under this section, the client need not re-file the hearing request or renew the request for continuing benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231
Stats. Implemented: ORS 183.415, 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; 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 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; 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 27-2001, f. 12-21-01, cert. ef. 1-1-02; 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 21-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 16-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 11-2008(Temp), f. & cert. ef. 4-7-08 thru 9-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 3-2010(Temp), f. & cert. ef. 2-23-10 thru 8-22-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14;

ADMINISTRATIVE RULES

SSP 27-2015(Temp), f. 9-29-15, cert. ef. 10-1-15 thru 3-28-16; SSP 2-2016, f. & cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-175-0210

Notice Situation; Client Moved or Whereabouts Unknown

(1) To end benefits for an individual who has moved out of Oregon, the Department sends the following decision notice (see OAR 461-001-0000):

(a) In the ERDC, GA, GAM, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:

(A) The Department sends a timely continuing benefit decision notice (see OAR 461-001-0000) to the individual who has moved out of Oregon.

(B) The Department sends a basic decision notice (see OAR 461-001-0000) if the individual becomes eligible for benefits in another state.

(b) For Employment Payments (see OAR 461-001-0025 and 461-135-1270), JPI (see OAR 461-135-1260), and the SNAP program, no decision notice is required if the Department determines that the benefit group (see OAR 461-110-0750) has moved out of Oregon.

(2) If Department mail or benefits have been returned with no forwarding address, the Department gives the individual the benefits if the individual's whereabouts become known during the period covered by the returned benefits. See OAR 461-165-0130 for when SNAP benefits may be sent out of Oregon. If the individual's whereabouts are unknown, the Department ends benefits by sending the following decision notice to their last known address:

(a) Except for Employment Payments, JPI, and the SNAP program, a basic decision notice.

(b) For Employment Payments, JPI, and the SNAP program, no decision notice is required.

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.095, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-29-12; SSP 22-2012, f. 6-29-12, cert. ef. 6-30-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 33-2013(Temp), f. & cert. ef. 10-3-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 30-2014(Temp), f. & cert. ef. 11-14-14 thru 5-12-15; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15; SSP 15-2016, f. & cert. ef. 4-1-16

461-175-0300

Notice Situation; Prior Notice

(1) Except as provided in section (5) of this rule, when benefits in any Department program except a medical program and the SNAP program will end or be reduced after a specific period of time, the Department may issue a decision notice (see OAR 461-001-0000) informing the benefit group (see OAR 461-110-0750) of the date benefits will end or be reduced, and no further decision notice is required.

(2) Except as provided in section (5) of this rule, in any Department program except a medical program and the SNAP program, if the benefit group was informed in writing when the benefits began that the benefit group would receive benefits only for a specific period of time a basic decision notice (see OAR 461-001-0000) may be used to:

(a) Deny an application to start or continue benefits after the completion of a certification period (see OAR 461-001-0000) or to approve benefits at a level lower than the prior certification period.

(b) Indicate that benefits have been ended or reduced when no timely application is submitted.

(3) A basic decision notice is used when a special need allowance granted for a specific period of time is removed at the end of the specified period and the benefit group was informed of this in writing when the allowance began. A timely continuing benefit decision notice (see OAR 461-001-0000) is required if stopping the special need allowance results in benefit closure.

(4) In the JOBS Plus program, a basic decision notice is used if:

(a) An employer submits a wage reimbursement billing and the Department calculates a supplement (see OAR 461-190-0416 about supplements);

(b) The benefit group received a timely continuing benefit decision notice that the method of payment would be changed from cash to employer-paid wages; and

(c) The notice specified the period of time that benefits would be diverted.

(5) No additional decision notice is required when:

(a) Notwithstanding OAR 461-115-0010(6), when a benefit group submits an application for a program from which they currently are receiving benefits.

(b) In the OSIPM program:

(A) A client's liability returns to the previous higher level after the Department sent the client a continuing benefit decision notice for a decrease in the client liability due to an allowable deduction and that notice also specified when the deduction no longer would apply causing the client liability to return to the previous higher level; or

(B) A client's benefits are being closed or reduced and the Department sent the client a basic decision notice of eligibility and a simultaneous continuing benefit decision notice because the client's circumstances changed between the date of the client's application and the date of the Department's eligibility decision and the change caused the client's benefits to be reduced or closed.

(c) In the ERDC program when a filing group (see OAR 461-110-0310 and 461-110-0350) is receiving priority processing (see OAR 461-170-0150(2)) but does not return postponed verification to the Department by the last day of the month in which the application period ends (see OAR 461-115-0190).

(d) A decision notice that included the eligibility begin and end dates for the three consecutive months of Employment Payments (see OAR 461-001-0025 and 461-135-1270) was given and the three month eligibility period ends.

(e) A decision notice that informed the JPI benefit group in writing, when their benefits began, that they would receive JPI (see OAR 461-135-1260) benefits only for a specific period of time.

(f) A decision notice that included the eligibility begin and end dates was given for the reduced ERDC copay described in OAR 461-155-0150(13) and the three-month eligibility period ends.

(g) A decision notice that included the eligibility begin and end dates was given for TA-DVS program benefits and the 90-day eligibility period ends.

(6) In the SNAP program:

(a) A basic decision notice is used to close benefits if the benefit group was informed in writing, when their benefits began, that they would receive benefits only for a specific period of time.

(b) No decision notice is required if the client is provided a decision notice at the time of application or redetermination that:

(A) The allotment of the benefit group would vary from month to month and listed the anticipated changes;

(B) In the case the client applied at the same time for both cash assistance and SNAP benefits, the SNAP benefits would be reduced or closed upon approval of the cash assistance; or

(C) In the case of a benefit group receiving benefits under expedited services with postponed verification:

(i) The expedited services benefits would close if the Department did not receive the postponed verification within the timeframe established under OAR 461-115-0690.

(ii) The expedited services benefits may be adjusted beyond the timeframe established under OAR 461-115-0690 based on the verified information provided to the Department without further notice.

Stat. Auth.: ORS 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 414.231, 414.826
Stats. Implemented: ORS 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 414.231, 414.826
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 25-1994, f. & cert. ef. 11-1-94; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 3-2005(Temp), f. & cert. ef. 3-2-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16; SSP 36-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-180-0050

Effective Dates; Suspending or Closing Benefits and JOBS Support Service Payments

(1) This rule explains the effective date for closing or suspending benefits for the entire benefit group (see OAR 461-110-0750) and the effective date for ending JOBS support service payments.

(2) In all programs except the ERDC program, when the only individual in a benefit group dies, the effective date of the closure is:

(a) In the REF, SNAP, and TANF programs, the last day of the month in which the death occurred.

(b) In all other programs, the date of the death.

(3) For all closures and suspensions not covered by section (2) of this rule, the effective date is determined as follows:

(a) When prospective eligibility is used, the effective date for closing or suspending benefits is the last day of the month in which the notice period ends.

(b) When retrospective eligibility or budgeting is used, the effective date for closing or suspending benefits is the last day of the budget month.

(c) For a pregnant female receiving benefits of the OSIPM program, the effective date for closing benefits is no earlier than the last day of the

ADMINISTRATIVE RULES

calendar month in which the 60th day after the last day of pregnancy falls, except at the client's request.

(d) For a client who is receiving medical assistance and becomes incarcerated with an expected stay of a year or less, the effective date for suspending medical benefits is the effective date on the decision notice (see OAR 461-001-0000).

(e) The effective date for ending support service payments authorized under OAR 461-190-0211 is the earlier of the following:

(A) The date the related JOBS activity is scheduled to end.

(B) The date the client no longer meets the requirements of OAR 461-190-0211.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; 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 36-1996, f. 10-31-96, cert. ef. 11-1-96; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 18-2004, f. & cert. ef. 7-12-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2016, f. & cert. ef. 4-1-16

461-190-0310

Limits to SNAP Employment and Training Components and Activities

(1) The OFSET Program in Multnomah and Washington Counties ends effective November 30, 2015.

(2) The OSFET Program is not offered to clients served by APD or AAA offices.

(3) In the OFSET program:

(a) The case plan (see OAR 461-001-0020) may not require more than 120 hours of activities each month.

(b) The client may not be required to participate in only job search (see OAR 461-001-0020) activities for more than eight weeks a year.

(4) For an ABAWD (see OAR 461-135-0520) residing in Multnomah or Washington County:

(a) The case plan may not require more than 20 hours of activities per week.

(b) Except for Workforce Innovation and Opportunity Act (WIOA) (see OAR 461-001-0020) and Workfare (see OAR 461-190-0500), a client may not be required to participate in job search activities more than nine hours per week. The balance of the 20 hours per week must be in work-related or training (not job search) activities.

(c) The client may participate in a Workfare program under OAR 461-190-0500.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 15-2016, f. & cert. ef. 4-1-16

461-190-0360

Special Payments; SNAP Employment and Training Programs

(1) The Department may authorize special payments to clients participating in one of the three SNAP Employment and Training programs described in OAR 461-001-0020 for transportation and other costs identified in the client's case plan (see OAR 461-001-0020) subject to the provisions of this rule.

(a) Costs must be directly related to an approved component in the case plan and be reasonable and necessary.

(b) The Department must consider lower cost alternatives.

(c) The Department may deny, reduce, or close special payments when costs exceed the local district's budget for employment and training.

(d) Special payments are not intended to replace other funding available in the community. The Department or the Employment and Training contractor and the client must seek resources reasonably available to the client in order to comply with the requirements in the case plan.

(e) When this rule authorizes a special payment for transportation, and public transportation is available, the Department may issue bus passes or tickets to the client sufficient to enable the client to participate in the program activities identified in the case plan.

(2) In the 50 percent (50/50) reimbursement program:

(a) Funds may be used to pay for tuition and mandatory school fees charged to the general public. Funds may not be used to pay for state or local education entitlements.

(b) Special payments for job retention (see OAR 461-001-0020) is only available if the individual was participating in a component other than job retention prior to securing employment.

(3) In the OFSET program, the Department may authorize payment of not more than \$80 over the eight week participation period for transportation and other costs identified in the client's case plan. If necessary, the case plan is adjusted to ensure that OFSET program participation requirements may be fulfilled at no cost to the client.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.121, 411.816, 411.825, 411.837

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 31-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; SSP 15-2016, f. & cert. ef. 4-1-16

461-190-0406

Eligibility of Clients

(1) Any client not excluded from participation by law, if eligible for the TANF program, may volunteer to participate in the JOBS Plus program. If there are no volunteers available to participate, the Department may select participants from among eligible clients. Recipients of SSI and teenage parents who remain in high school, if they are making progress toward receiving a diploma, are exempt from participation in the JOBS Plus program.

(2) Clients remain eligible to participate as long as they would, except for participating in the JOBS Plus program, be eligible for TANF.

(3) The benefits of participants remain suspended until the first day of the month following the month in which they last perform work under a JOBS Plus agreement. TANF clients cannot receive TANF cash benefits and a JOBS Plus supplement for the same month.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 15-2016, f. & cert. ef. 4-1-16

461-190-0500

Workfare; SNAP

(1) Workfare is a voluntary employment program to meet the work requirements in OAR 461-135-0520 for ABAWD (see OAR 461-135-0520) clients who reside in Multnomah or Washington County.

(2) 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.

(3) 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.

(4) Individuals in a Workfare job site placement must complete an average of five hours per week (at least 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.

(5) 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; SSP 15-2016, f. & cert. ef. 4-1-16

Rule Caption: Amending rule relating to exemptions to the ABAWD time limit

Adm. Order No.: SSP 16-2016(Temp)

Filed with Sec. of State: 4-5-2016

Certified to be Effective: 4-5-16 thru 4-30-16

Notice Publication Date:

Rules Amended: 461-135-0520

Subject: OAR 461-135-0520 about the time limit and special requirements for ABAWD (able-bodied adults without dependents) clients is being amended to allow the Department to grant discretionary exemptions to the federal three-month time limit on SNAP benefits to an ABAWD in the month of April 2016 if the ABAWD did not receive timely or adequate notice that their benefits were ending due to the time limit. Oregon's statewide waiver of the federal time limit expired on December 31, 2015. ABAWD clients who

ADMINISTRATIVE RULES

reside in Multnomah or Washington County who do not meet work requirements or who are not otherwise exempt are ineligible for SNAP benefits as of April 1, 2016.

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

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.

(1) An able-bodied adult without dependents (ABAWD) means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, “without dependents” means there is no child (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).

(2) Except as provided otherwise in this rule, an ABAWD who resides in Multnomah or Washington County is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2016 to December 31, 2018.

(3) “Countable months” means months within the 36-month period of January 1, 2016 to December 31, 2018 in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:

(a) The individual resided for any part of the month in a county identified in a waiver approved by United States Department of Agriculture on the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)). Under the waiver, the time limit in section (2) of this rule does not apply to residents of the following counties: Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Marrow, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler, and Yamhill.

(b) Benefits were prorated for the month.

(c) The individual was exempt (see OAR 461-130-0305) for any part of the month under OAR 461-130-0310(3)(a)(A) to (J).

(d) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged monthly. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)

(A) Work for pay, in exchange for goods or services, or as a volunteer.

(i) Work in exchange for goods and services includes bartering and in-kind work.

(ii) Voluntary work hours must be verified by the employer.

(ii) For self-employed individuals, countable income after deducting the costs of producing income must average at least the federal minimum wage times 20 hours per week.

(B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105 220, 112 Stat. 936 (1998).

(C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93 618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).

(D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.

(e) The individual complied with the Workfare requirements in OAR 461-190-0500.

(4) An ABAWD must submit evidence to the Department on the issue of whether a month is countable within 90 days following the last day of the month in question.

(5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met.

(a) The individual becomes exempt under OAR 461-130-0310(3)(a)(A) to (J). Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met.

(b) The individual, during a consecutive 30-day period during which the individual is ineligible, meets the requirements of subsection (3)(d) or (3)(e) of this rule.

(A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(d) or (3)(e) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met.

(B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2016 to December 31, 2018.

(c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section.

(6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(d) or (3)(e) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows:

(a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual he or she is no longer meeting the work requirement.

(b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department he or she is no longer meeting the work requirement.

(c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred.

(d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the Department notifies the individual he or she must meet the work requirement.

(e) An individual may only receive benefits without meeting the requirements of subsection (3)(d) or (3)(e) of this rule for a total of six countable months during January 1, 2016 to December 31, 2018.

(7) The Department will grant a discretionary exemption to ABAWD who are ineligible in the month of April 2016 only if the ABAWD meets one of the following criteria:

(a) The ABAWD did not receive a timely notice to end benefits due to the SNAP time limit; or

(b) The ABAWD did not receive notice that benefits were ending in the language they told the Department was their preferred notice language.

(8) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) of this rule or an activity listed in the individual’s case plan (see OAR 461-001-0020) is eligible for support service payments necessary for transportation or other costs related to completing the activity as allowed by OAR 461-190-0360.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

Hist.: AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 8-2001, f. & cert. ef. 5-1-01; AFS 8-2002, f. & cert. ef. 5-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 6-2016(Temp), f. & cert. ef. 2-5-16 thru 8-2-16; SSP 10-2016(Temp), f. & cert. ef. 3-2-16 thru 8-2-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 16-2016(Temp), f. & cert. ef. 4-5-16 thru 4-30-16

Department of Justice Chapter 137

Rule Caption: Updating the maximum allowable child care costs.

Adm. Order No.: DOJ 5-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

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

ADMINISTRATIVE RULES

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 25.270 - 25.290, 180.345

Stats. Implemented: ORS 25.270 to 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; DOJ 5-2016, f. & cert. ef. 4-1-16

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Adds requirements for private investigators regarding advertising and contracts per HB 3487 and legislative direction.

Adm. Order No.: DPSST 1-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 3-1-2016

Rules Amended: 259-061-0018, 259-061-0300

Subject: House Bill 3487, which was introduced by Representative Huffman at the request of a constituent, restores language in Oregon Revised Statute (ORS) that requires that private investigators list their DPSST license number in all advertisements for private investigator services. This bill was signed by the Governor on June 2, 2015. Additionally, a question was raised by a legislator during a public hearing for HB 3487 regarding the lack of a requirement that all contracts for private investigation also contain the investigator's legal name and DPSST license number. DPSST was asked to proceed with an administrative rule change addressing this issue. This proposed rule change amends OAR 259-061-0018 and OAR 259-061-0300 to comply with the provisions of HB 3487 and adds the requirement that all contracts for investigatory service contain the name and DPSST number as requested by the legislature. It also clarifies the private investigator conduct requirements (ORS 703.450) and provides housekeeping.

Rules Coordinator: Jennifer Howald—(503) 378-2432

259-061-0018

Private Investigator Responsibilities

(1) A person may not act as an investigator or represent themselves as an investigator unless they are licensed as described in ORS 703.430 and these rules.

(2) A licensed investigator must abide by all the requirements of conduct found in ORS 703.450.

(3) All contracts signed by private investigators to provide private investigation services must include the investigator's legal name and DPSST-issued license number.

(4) Exemptions: Persons described in ORS 703.411 are exempt from regulation as private investigators.

(5) For the purposes of ORS 703.411(1), a person is "employed exclusively by one employer in connection with the affairs of that employer only" when;

(a) The person has one, exclusive employer; and

(b) The person conducts investigations on behalf of that employer only. This subsection does not apply to a person who conducts investigations on behalf of the employer's clients.

(c) Section (5) of this rule applies as of August 9, 2011.

Stat. Auth.: ORS 703.430, 703.450, 703.480

Stats. Implemented: ORS 703.430, 703.450, 703.480

Hist.: DPSST 1-2012(Temp), f. & cert. ef. 2-6-12 thru 7-31-12; DPSST 16-2012, f. & cert. ef. 7-2-12; DPSST 1-2016, f. & cert. ef. 3-22-16

259-061-0300

Denial/Suspension/Revocation

(1) It is the responsibility of the Board, through the Private Security and Investigator Policy Committee, to set the standards, and of the Department to uphold them, to ensure the highest level of professionalism and discipline. The Board will uphold these standards at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

(2) Mandatory Grounds for Denying, Suspending or Revoking Private Investigator Licensure. The Department must deny or revoke the license of any applicant or private investigator after written notice and hearing, if requested, upon finding that the applicant or private investigator has been convicted of a person felony as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on February 3, 2014 or any crime with similar elements in any other jurisdiction;

(3) Emergency Suspension Order: The Department may issue an emergency suspension order pursuant to OAR 137-003-0560 immediately suspending a private investigator's licensure upon finding that a person has been charged with any of the mandatory disqualifying crimes listed in section (2) of this rule. The report may be in any form and from any source.

(a) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license.

(b) The sole purpose of the emergency suspension hearing will be to determine whether the individual was charged with a mandatory disqualifying crime. Upon showing that an individual was not charged with a mandatory disqualifying crime, the suspension of the individual's license will be rescinded, otherwise the suspension will remain in effect until final disposition of the charges.

(4) Discretionary Grounds for Denying, Suspending or Revoking Private Investigator Licensure. The Department may deny or revoke the licensure of any applicant or private investigator after written notice and hearing, if requested, upon finding that an applicant or private investigator:

(a) Fails to meet the minimum standards for licensure as a private investigator as defined in OAR 259-061-0040;

(b) Has falsified any information submitted on the application for licensure, including failing to disclose any criminal convictions, or any other documents submitted to the Department pertaining to private investigator licensure;

(c) Has violated any of the conditions of a temporary or provisional license as described in ORS 703.401-703.995 and these rules;

(d) Has failed to submit properly completed forms or documentation in a time frame as designated by the Department;

(e) Has failed to pay a civil penalty or fee imposed by the Department when due;

(f) Has failed to comply with any provisions found in ORS 703.401-703.995 or these rules;

(g) Has failed to abide by any of the requirements of conduct found ORS 703.450; or

(h) Lacks moral fitness. For the purposes of this standard, the Department, through the Policy Committee and Board, has defined lack of moral fitness as:

(A) Lack of Character. Lack of character includes, but is not limited to, being disrespectful, failing to be faithful and diligent to an investigative charge, and failing to use discretion or compassion;

(B) Dishonesty. Lack of honesty includes, but is not limited to, untruthfulness, dishonesty by admission or omission, deception, misrepresentation or falsification;

ADMINISTRATIVE RULES

(C) Failure to strive for justice. Failing to strive for justice includes, but is not limited to, unjust treatment or being partial, unfair or discriminatory;

(D) Lack of Public Trust. Failure to maintain public trust and confidence includes, but is not limited to, acting in an unlawful manner or not adhering to industry standards; or

(E) Lack of Respect for the Laws of this State or Nation. Lack of respect for the laws of this state and nation includes behavior which leads to an arrest or conviction within a ten-year period prior to application or during licensure.

(5) Procedure for Denial or Revocation of Licensure. Scope of Revocation. Whenever the Department revokes the licensure of a private investigator under the provisions of this rule, the revocation will encompass all private investigator licenses the Department has issued to that person.

(6) Denial and Revocation Procedure.

(a) Department Initiated Review: Upon receipt of factual written information from any source the Department may request that the Board deny, revoke or suspend the private investigator's licensure.

(b) Department Staff Review: When the Department receives information from any source that a private investigator may not meet the established standards for Oregon private investigators, the Department will review the request and supporting factual information to determine if a sufficient factual basis exists to support the request for denial, suspension or revocation of a private investigator license under ORS 703.401-703.995 and these rules.

(A) If the Department determines that a private investigator may have engaged in discretionary disqualifying misconduct:

(i) The Department will seek input from the affected private investigator by allowing the individual to provide, in writing, information for review.

(ii) The Department may take action upon discovery of discretionary disqualifying misconduct when consensus is reached that the nature of the discretionary disqualifying misconduct is appropriate for summary staff disposition or administrative closure.

(iii) If Department staff believes that a private investigator may have engaged in discretionary disqualifying misconduct, Department staff will review the conduct, including aggravating and mitigating circumstances. If Department staff is unable to reach a consensus to summarily dispose of or administratively close the case, the case will be presented to the Board, through the Private Investigator Subcommittee and the Policy Committee.

(B) In making a decision to authorize initiation of proceedings under section (4) of this rule based on discretionary disqualifying misconduct, Department staff, the Private Investigator Subcommittee, the Policy Committee and Board will consider mitigating and aggravating circumstances.

(c) Initiation of Proceedings: Upon determination that a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private investigator license under ORS 703.401-703.995 or these administrative rules, the Department will prepare and serve a contested case notice on the private investigator.

(A) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the private investigator prior to Board review. If the Board disapproves the Policy Committee's recommendation, the Department will withdraw the contested case notice.

(C) Applicants who choose to withdraw their application forfeit their application fees.

(d) Response Time:

(A) A party who has been served with an Emergency Suspension Order has 90 days from the date of mailing or personal service of the Order in which to file a written request for hearing with the Department.

(B) A party who has been served with a Contested Case Notice of Intent to Deny Licensure has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing or a written request withdrawing their application from consideration with the Department.

(C) A party who has been served with a Contested Case Notice of Intent to Revoke Licensure has 20 days from the date of the mailing or personal service in which to file a written request for hearing with the Department.

(e) Default Orders:

(A) If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking licensure pursuant to OAR 137-003-0672.

(B) If a timely request for a hearing is not received in cases heard by a policy committee, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672, pending Board affirmation.

(f) Final Order:

(A) A final order will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015 if a private investigator fails to file exceptions and arguments within 20 days of issuance of the proposed order.

(B) Department-proposed amendments to the proposed order in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order is issued.

(g) Stipulated Order Revoking Licensure: The Department may enter a stipulated order revoking licensure of a private investigator upon the person's voluntary agreement to terminate an administrative proceeding to revoke a license, or to surrender a license, under the terms and conditions provided in the stipulated order.

(7) Appeals, Ineligibility Period and Reconsideration. Appeal Procedure: Applicants and private investigators aggrieved by the findings and Order of the Department may file an appeal with the Court of Appeals from the Final Order of the Department, as provided in ORS 183.480.

(8) Upon denial or revocation of a licensure, an individual is ineligible to reapply for future licensure for a period of three years from the date of the final order issued by the Department.

(a) Any applicant reapplying for licensure must reapply in accordance OAR 259-061-0020.

(b) Pursuant to ORS 703.465(4), an applicant reapplying for licensure must prove by a preponderance of the evidence that the grounds for the denial or revocation no longer exist.

(c) In reconsidering the application of an applicant whose certification or licensure was previously denied or revoked for discretionary grounds, the Department, the Policy Committee and the Board may consider mitigating and aggravating circumstances.

(d) The Board's decision to deny an application for reconsideration will be subject to the contested case procedure described under subsection (6) of this rule.

Stat. Auth.: ORS 703.480

Stats. Implemented: 703.480

Hist.: DPSST 11-2014, f. & cert. ef. 5-5-14; DPSST 20-2014, f. & cert. ef. 7-30-14; DPSST 5-2015, f. & cert. ef. 3-24-15; DPSST 1-2016, f. & cert. ef. 3-22-16

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

Adm. Order No.: DPSST 2-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 3-1-2016

Rules Amended: 259-060-0060, 259-060-0120, 259-060-0135

Subject: 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. At the request of the Armed Subcommittee, the rules have been updated to clarify that the certification of armed private security professionals and firearms private security instructors who fail to complete the required annual training within 90 days of their certification anniversary date will be subject to revocation.

The rule change also clarifies that armed professionals and firearms instructors who fail to complete the annual training will be required to complete basic training in its entirety. Following the Subcommittee meeting, the language in OAR 259-060-0135 (7) (d) was further amended to show that firearms private security instructors who fail to complete the annual firearms instructor marksmanship requalification within 90 days of their instructor certification anniversary date will be required to complete the firearms private security instructor course only. The previous language stated that failure to

ADMINISTRATIVE RULES

complete the annual firearms instructor marksmanship requalification would require completion of the entire basic course. This is reflective of the intent of the subcommittee.

On September 3, 2015, it was determined that the proposed rule change approved by the PSIPC on August 18, 2015, did not address the issue that armed providers and instructors are not precluded from serving as an armed provider or instructor if they do not complete the armed annual training. Due to this concern, the PSIPC's recommendation to approve filing to the Board was withdrawn so the Armed Subcommittee can review the proposed rule language. Following the Subcommittee meeting, the language in OAR 259-060-0120 and OAR 259-060-0135 was further amended to show that armed providers and instructors are precluded from serving as an armed provider or instructor if they do not complete the armed annual training. This is reflective of the intent of the subcommittee.

Rules Coordinator: Jennifer Howald—(503) 378-2432

259-060-0060

Minimum Standards for Training

(1) All private security courses and examinations will be based upon a curriculum approved by the Board.

(2) All required training and testing must be conducted by a certified private security instructor as defined in OAR 259-060-0010 or by a Department designee.

(3) All required firearms courses must be administered by a certified private security firearms instructor.

(4) Only the Department or a designee will deliver instructor courses, firearms private security instructor courses and manager courses.

(5) All training must be delivered in English and assessments and written exams must be completed in English, without assistance.

(6) The Department website will provide names of instructors who have requested on a Department-approved form that their names be available to applicants.

(7) Only a certified private security instructor delivering the training on-site may sign a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(8) It is the responsibility of the applicant or private security provider to submit the original Form PS-6 to the Department upon completion of courses as specified in these rules. The Form PS-6 must be signed by the certified instructor who administered the course.

(9) To satisfy the training requirements for private security certification or licensure, training must be submitted to the Department within 180 days of the training being completed.

(10) Private Security Course Descriptions.

(a) Basic Classroom Instruction. Basic classroom consists of live classroom instruction which may include use of a subject matter expert, audio and visual instruction. Instructors must provide individuals with a manual of the basic curriculum. Applicants must complete a closed-book written examination.

(b) Assessments. Assessments are hands-on, practical exercises given to private security professionals that will reinforce the knowledge and techniques presented during classroom instruction. Assessments consist of evaluations and include, but are not limited to, scenarios requiring application of task-related skills learned in the basic classroom instruction.

(c) Basic Firearms Course. Basic Firearms course must include:

(A) A minimum of 24 hours of instruction and an open-book written examination covering firearms instruction materials;

(B) A safe gun handling test; and

(C) A marksmanship qualification using firearms qualification standards and targets.

(d) Instructor Course. The instructor course teaches curriculum, instructing techniques, and Department policies and procedures. The course includes classroom instruction, assessments and a written examination. Instructor applicants must use a Board-approved manual to review the course in a self-study environment; and

(e) Firearms Private Security Instructor Course. The firearms private security instructor course teaches armed professional curriculum instruction, instructing techniques, practical application and Department policies and procedures. The course includes classroom instruction, marksmanship qualification, safe handgun handling and a written examination. Instructor applicants must use a Board-approved manual to review the course in a self-study environment.

(f) Manager Course. The manager course trains on Department policies and procedures. The course includes classroom instruction, assessments and a written examination.

(11) Private Security Certification and Licensure Maintenance Course Descriptions.

(a) Annual Firearms Marksmanship Requalification and Refresher Course includes an annual firearms marksmanship requalification and the annual armed 4-hour classroom refresher course and closed-book written examination.

(b) Biennial Renewal Training includes a four-hour biennial renewal course related to the current level of certification and in accordance with OAR 259-060-0120, 259-060-0130, and 259-060-0135.

(c) Annual Firearms Instructor Marksmanship Qualification includes an annual firearms marksmanship requalification.

(12) Applicants must achieve a score of 100 percent on all examinations and assessments with remediation in accordance with OAR 259-060-0135(9).

(13) Notwithstanding section (14), all individuals who have previously been certified or licensed by the Department as a private security provider who have not held certification or licensure for over four years must complete basic training in its entirety.

(14) Individuals who have previously been certified by the Department as an armed private security professional or firearms private security instructor, 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.

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

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.870

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 8-2015, f. & cert. ef. 3-24-15; DPSST 2-2016, f. & cert. ef. 3-22-16

259-060-0120

Private Security Professional Certification and Responsibilities

(1) All private security professional applicants must complete an application in accordance with OAR 259-060-0025.

(2) All private security professionals must be in compliance with the minimum standards for certification as listed in OAR 259-060-0020.

(3) Alarm Monitor Private Security Professional.

(a) A certified private security alarm monitor professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) Basic training consists of successful completion of eight hours of alarm monitor basic classroom instruction and exam and a four-hour alarm monitor assessment.

(c) Biennial alarm monitor renewal training consists of a four-hour alarm monitor renewal course and exam.

(4) Unarmed Private Security Professional.

(a) A certified unarmed private security professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) Basic training consists of successful completion of 14 hours of unarmed basic classroom instruction, exam and assessments.

(c) Biennial unarmed renewal training consists of a four-hour unarmed renewal course and exam.

(5) Armed Private Security Professional.

(a) A certified armed private security professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) In addition to the minimum standards for unarmed certification, armed professionals must also be in compliance with the firearms standards listed in OAR 259-060-0020.

(c) Basic training consists of successful completion of:

(A) Fourteen hours of unarmed basic classroom instruction, exam and assessments; and

(B) Basic firearms course as defined in OAR 259-060-0060 which consists of a minimum 24 hours of basic armed instruction, a written examination, safe gun handling test and marksmanship qualification.

(d) The annual firearms marksmanship requalification and refresher course must be completed annually and consists of a minimum of four hours, including the armed refresher course, exam and firearms marksmanship requalification.

ADMINISTRATIVE RULES

(A) The armed certification of any armed private security professional who fails to complete the annual firearms marksmanship requalification and refresher course by the anniversary date of their armed certification is subject to revocation pursuant to OAR 259-060-0300.

(B) 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.

(C) 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 as described in (5)(c)(B).

(e) In addition to the annual firearms marksmanship requalification and refresher course, armed private security professionals must complete an unarmed renewal training biennially.

(6) Department-accredited courses may satisfy the training requirements listed above.

(7) Failure to complete any training requirements as prescribed by this rule may result in denial or revocation of private security certification or licensure as prescribed in OAR 259-060-0300 and civil penalties as prescribed in OAR 259-060-0450.

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

Stat. Auth.: ORS 181A.870

Stats. Implemented: 181A.870

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 3-2005(Temp), f. 4-25-05, cert. ef. 5-1-05 thru 10-28-05; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 14-2014, f. & cert. ef. 6-24-14; DPSST 8-2015, f. & cert. ef. 3-24-15; DPSST 2-2016, f. & cert. ef. 3-22-16

259-060-0135

Private Security Instructor Certification and Responsibilities

(1) The Department will certify instructors deemed qualified to instruct any required private security professional training courses.

(2) All private security instructor applicants must complete an application in accordance with OAR 259-060-0025.

(3) All private security instructor applicants must be in compliance with the minimum standards for certification as listed in OAR 259-060-0020. In addition, applicants must:

(a) Have a minimum three years of work experience in private security services, military police, or law enforcement fields; and

(b) Applicants for certification as a firearms private security instructor must be in compliance with the firearms standards listed in OAR 259-060-0020.

(4) Private security instructors are authorized to instruct and deliver private security professional courses based on the approved or accredited private security professional course content and materials provided by the Department.

(a) Private security instructors must remediate or fail applicants as necessary.

(b) Private security instructors must provide all applicants with appropriate printed training manuals for the applicant to retain upon completion of the course.

(c) Only a certified private security instructor delivering the training on-site may sign a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(d) Certified private security instructors are responsible for verifying the identity of all applicants using government-issued identification.

(e) Only private security firearms instructors are authorized to instruct and administer basic and renewal firearms courses.

(f) All private security instructors must instruct courses in a manner that is consistent with the minimum requirements of the Department, including safety provisions. Training facilities must be an environment conducive to learning.

(5) Alarm monitor private security instructor.

(a) Basic training consists of the successful completion of:

(A) Alarm monitor basic classroom instruction and exam;

(B) Alarm monitor assessment; and

(C) Alarm monitor private security instructor course.

(b) Biennial alarm monitor private security instructor renewal training consists of the successful completion of:

(A) Alarm monitor private security instructor course; and

(B) A minimum of eight hours of coursework relating to any of the specific subjects being taught or a minimum of eight hours of coursework relating to improving instructor skills. Coursework must be submitted on a form PS-8 (Private Security Instructor Continuing Education), including proof of at least eight hours of continuing education taken within the last certification period. Proof can be in the form of a grade or certificate, minutes, a roster, or receipt of course payment.

(6) Unarmed private security instructor.

(a) Basic training consists of the successful completion of:

(A) Unarmed basic classroom instruction and exam;

(B) Unarmed assessments; and

(C) Unarmed private security instructor course and exam.

(b) Biennial unarmed private security instructor renewal training consists of the successful completion of:

(A) Unarmed private security instructor course and exam; and

(B) A minimum of eight hours of coursework relating to any of the specific subjects being taught or a minimum of eight hours of coursework relating to improving instructor skills. Coursework must be submitted on a form PS-8 (Private Security Instructor Continuing Education), including proof of at least eight hours of continuing education taken within the last certification period. Proof can be in the form of a grade or certificate, minutes, a roster, or receipt of course payment.

(7) Firearms Private Security Instructor.

(a) Basic training consists of the successful completion of:

(A) Basic unarmed classroom instruction and exam;

(B) Basic unarmed assessments;

(C) Basic firearms course;

(D) Department-administered firearms private security instructor course and Department-approved marksmanship qualification; and

(E) Proof of successful completion of training from one or more of the following sources no more than five years prior to the time of application:

(i) The National Rifle Association Law Enforcement Firearms Instructor Development School;

(ii) A firearms instructor through the Federal Law Enforcement Training Center;

(iii) A Department-certified law enforcement or criminal justice firearms instructor course;

(iv) A firearms instructor through the Federal Bureau of Investigation;

(v) A private security firearms instructor through the Washington Criminal Justice Training Center; or

(vi) A qualified instructor certification course as determined by the Department.

(b) The annual firearms instructor marksmanship qualification must be completed annually. Instructors must qualify on a target authorized by the Department, within three attempts in one day.

(c) The firearms instructor certification of any firearms private security instructor who fails to complete the annual firearms instructor marksmanship qualification by the anniversary date of their firearms private security instructor certification is subject to revocation pursuant to OAR 259-060-0300.

(d) Firearms private security instructors who fail to complete the annual firearms instructor marksmanship qualification by the anniversary date of their firearms private security instructor certification are prohibited from performing as a firearms private security instructor until the required training is successfully completed.

(e) Firearms private security instructors who fail to complete the annual firearms instructor marksmanship qualification within 90 days of their instructor certification anniversary date will be required to complete the firearms private security instructor course as described in OAR 259-060-0060(10)(e).

(f) Biennial renewal consists of:

(A) Successful completion of the firearms private security instructor course, written exam, and marksmanship qualification; and

(B) A minimum of eight hours of coursework relating to any of the specific subjects being taught or a minimum of eight hours of coursework relating to improving instructor skills. Coursework must be submitted on a form PS-8 (Private Security Instructor Continuing Education), including proof of at least eight hours of continuing education taken within the last certification period. Proof can be in the form of a grade or certificate, minutes, a roster, or receipt of course payment.

(8) Certified private security instructors who simultaneously hold certification as a private security professional are exempt from the required private security professional renewal training if they deliver the basic cur-

ADMINISTRATIVE RULES

riculum of the discipline for which they are certified at least one time per year.

(9) Applicant Remediation/Failure. When an applicant fails to successfully complete any portion of the required training the instructor must remediate or fail the applicant as follows:

(a) If a test score is between 85 and 99 percent, the instructor must remediate the incorrect test responses by reviewing each incorrect test question with the applicant, explaining the principle behind the question, the correct answer, and the basis for the correct answer. The instructor must assess whether oral responses from the applicant indicate that the applicant understands the underlying principles. An inappropriate answer may result in the termination of training and indication on the training affidavit that the applicant has failed to successfully complete the required training.

(b) If a test score is below 85 percent correct, the instructor must fail the applicant or require the applicant repeat the deficient section missed of the curriculum and retake the exam.

(c) The instructor may remediate and re-test an applicant who fails to score 100% on the firearms marksmanship qualification course. Re-qualification attempts are limited to three in a single session.

(d) An applicant who is unable to successfully achieve a training standard must be failed. Any instructor who fails an applicant must:

(A) Fully document the reason for failure;

(B) Retain documentation of failure in the instructor's file for a minimum period of two years; and

(C) Notify the Department within 48 hours of the failure by submitting a Form PS-6 indicating that an individual has failed.

(10) Instructors may terminate training if, in the instructor's opinion, the applicant is unfit to proceed, taking into consideration the applicant's poor judgment, unsafe practices, abnormal behavior or other relevant factors. The instructor must immediately notify the applicant of the reason for termination of training and must also notify the Department within 48 hours in writing, using a Form PS-6.

(11) Training Records.

(a) Instructors must maintain the following documents in separate class files for a period of two years:

(A) A Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results) for each applicant;

(B) All written exams, assessments and any applicable qualification records;

(C) A training outline for the curriculum used, including any references to any resources used; and

(D) A class roster, including the name and address of each applicant.

(b) Upon successful completion of all requirements, the instructor must provide the applicant the accurately-completed, original Form PS-6. The instructor will also supply the applicant with a colored carbon copy of the Form PS-6.

(c) Instructors will provide additional copies of the Form PS-6 to applicants at any time during the life of their training at reasonable expense to the applicant.

(12) Failure to complete any training requirements as prescribed by this rule may result in denial or revocation or private security certification or licensure as prescribed in OAR 259-060-0300 and civil penalties as prescribed in OAR 259-060-0450.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 26-2014, f. & cert. ef. 10-1-14; DPSST 8-2015, f. & cert. ef. 3-24-15; DPSST 2-2016, f. & cert. ef. 3-22-16

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Rule Caption: Amends the current rule language to clarify the statutory requirements regarding private investigator inactive status.

Adm. Order No.: DPSST 3-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 3-1-2016

Rules Amended: 259-061-0010, 259-061-0160

Rules Repealed: 259-061-0170, 259-061-0250

Subject: 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: Jennifer Howald—(503) 378-2432

259-061-0010

Fees

(1) Payments to the Department are due at the time of application. All payments are non-refundable and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted.

(2) The Department will charge the following fees:

(a) The fee of \$79 for the application for licensure as a private investigator. This fee includes the cost of a criminal background check and private investigator examination;

(b) The fee of \$550 for the issuance of a two-year license as a private investigator;

(c) The fee of \$50 for application of reactivation from inactive status as described in OAR 259-061-0160;

(d) The fee of \$125 for the issuance of a temporary license as private investigator;

(e) The fee of \$550 for the renewal of a two-year private investigator license;

(f) A late submission fee of \$25 will be added to the fees for licensure renewal if the private investigator fails to complete the application process by the expiration date of the license; and

(g) The fee of \$20 for the issuance of a duplicate or replacement card or license.

(3) In the event a non-sufficient check is received for payment, an additional \$25 administrative fee will be assessed.

Stat. Auth.: ORS 703.480

Stats. Implemented: ORS 703.480

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06; DPSST 1-2013, f. & cert. ef. 1-2-13; DPSST 3-2016, f. & cert. ef. 3-22-16

259-061-0160

Applying for Inactive Status

(1) Licensed investigators may apply to have their license inactivated at any time during a licensure period by submitting a DPSST Inactive and Reactive Application (PI-17). Investigators whose licenses are on an inactive status may not work as an investigator.

ADMINISTRATIVE RULES

(2) License reactivation may be applied for at any time during a licensure period by submitting a PI-17, along with payment of the license reactivation fee.

(3) Entering into inactive status does not affect the expiration date of an investigator's license or the application or reapplication timelines found in OAR 259-061-0010.

Stat. Auth.: ORS 703.480

Stats. Implemented: ORS 703.445 & 703.480

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06; DPSST 3-2016, f. & cert. ef. 3-22-16

Rule Caption: Adds reserve officer to definition of public safety officer (SB 239); Requires background checks.

Adm. Order No.: DPSST 4-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 259-008-0005, 259-008-0010, 259-008-0015, 259-008-0020

Subject: 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: Jennifer Howald—(503) 378-2432

259-008-0005

Definitions

(1) "Academy Training Division" means the division of the Department which coordinates and facilitates criminal justice training courses to include the development, evaluation, and validation of curriculum and training.

(2) "Assistant Department Head" means a public safety officer employed in the first position subordinate to a Department Head who is primarily responsible for supervision of middle managers and supervisors.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Casual employment" means employment that is occasional, irregular, or incidental for which the employee does not receive seniority rights or fringe benefits.

(5) "Certified Reserve Officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181A.410.

(6) "Commissioned" means being authorized to perform various acts or duties of a police officer, certified reserve officer or reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(7) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including, but not limited to, vocational or technical education programs or lower division collegiate programs.

(8) "Corrections Officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles;

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers as described in paragraph (a) of this subsections; or

(c) Is any full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.520.

(9) "Department" and "DPSST" means the Department of Public Safety Standards and Training.

(10) "Department Head" means the chief of police, sheriff, or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit or agency.

(11) "Director" means the Director of the Department of Public Safety Standards and Training.

(12) "Educational Credits" are credits earned for studies satisfactorily completed at an accredited post-secondary education institution recognized under OAR 259-008-0045.

(13) "Emergency Medical Dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(14) "First-Level Supervisor" means a public safety officer employed in a position between the operational level and the middle manager, who is primarily responsible for the direct supervision of subordinates. A first level supervisor position does not include a position with limited or acting supervisory responsibilities.

(15) "Full-time employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for more than 80 hours per month for a period of more than 90 consecutive calendar days. For purposes of this rule, any employment that meets the definition of seasonal, casual, or temporary employment is not considered full-time employment as a public safety professional.

(16) "High School" is a school accredited as a high school by the Oregon Department of Education, a school accredited as a high school by the recognized regional accrediting body, or a school accredited as a high school by the state university of the state in which the high school is located.

(17) "Instructor" means an individual who has completed the requisite training and certification requirements prescribed by statute, rule, and policy and has been certified by the Department. The Department will only certify instructors who instruct mandated courses.

(18) "Law Enforcement Officers" means police, corrections, parole and probation officers and regulatory specialists as described in the Public Safety Standards and Training Act.

(19) "Law Enforcement Unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal governments as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance, or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control, or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision, and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to regulatory specialists; or

(e) A humane investigation agency as defined in ORS 181.433.

(20) "Leave" means an authorized absence granted to a public safety professional by their employing public or private safety agency.

(21) "Limited Duration, Administrative Position" means a non-elected, certifiable public safety position where the primary duties relate to the administration, operation, and accountability of a public safety agency, including, but not limited to, the responsibility for command assignments and the supervision of subordinate managers.

ADMINISTRATIVE RULES

(a) Primary duties are regular or recurring supervisory or managerial duties that are performed in a continuous manner and are the foundation of a limited duration, administrative position.

(b) Non-supervisory or non-managerial public safety duties, such as patrol, criminal investigations, or enforcement actions are not primary duties of a limited duration, administrative position.

(22) "Middle Manager" means a public safety officer working in a position that is between a first-level supervisor and a department head, who is primarily responsible for management and command duties. A middle manager position does not include a position with limited or acting middle management duties.

(23) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for 80 hours or less per month for a period of more than 90 consecutive calendar days.

(24) "Parole and Probation Officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(c) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181A.520.

(25) "Police Officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;

(c) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;

(d) A humane special agent commissioned under ORS 181.443;

(e) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647; or

(f) Any full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.490.

(26) "Public or private safety agency" means:

(a) A law enforcement unit; or

(b) A unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, police, ambulance or emergency medical services.

(27) "Public Safety Personnel" and "Public Safety Officer" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, reserve officers, telecommunicators and regulatory specialists.

(28) "Public Safety Professional" includes public safety personnel, public safety officers, and instructors.

(29) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.

(30) "Regulatory Specialist" means a full-time employee of the Oregon Liquor Control Commission (OLCC) who is authorized to act as an agent of the OLCC in conducting inspections or investigations, making

arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing Chapter 471, ORS 474.005 to 474.095 and 474.115, OLCC rules and any other statutes the OLCC considers related to alcoholic liquor or marijuana.

(31) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181A.665, to a law enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

(32) "Reserve Officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor, or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(33) "Seasonal Employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year, with defined starting and ending dates based on a seasonally determined need.

(34) "Staff" means those employees occupying full-time, part-time, or temporary positions with the Department.

(35) "Standards and Certification" means the division of the Department which implements and regulates compliance with Board-established, statewide standards for public safety professionals. Standards and Certification oversees the issuance, maintenance, denial, suspension or revocation of public safety certifications.

(36) "Suspension" means the administrative inactivation of a certificate issued by the Department until maintenance requirements or other administrative requirements for certification are met and certification is restored.

(37) "Telecommunicator" means:

(a) A person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105; or

(b) A full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.520.

(38) "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.

(39) "The Act" refers to the Public Safety Standards and Training Act (ORS 181A.355 to 181A.265).

(40) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0010, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 3-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-2000, f. & cert. ef. 9-29-00; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 6-2012, f. & cert. ef. 3-27-12; DPSST 24-2012, f. & cert. ef. 10-26-12; DPSST 31-2012, f. & cert. ef. 12-27-12; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15; DPSST 18-2015, f. 12-22-15, cert. ef. 1-1-16; DPSST 4-2016, f. 3-22-16, cert. ef. 4-1-16

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer or Utilization as a Reserve Officer

(1) Citizenship.

(a) A person may not be employed as a corrections officer for more than one year unless the person is a citizen of the United States.

(b) A person may not be employed as a police officer, parole and probation officer or a regulatory specialist for more than 18 months unless the person is a citizen of the United States.

(c) The citizenship requirement found in (b) does not apply to a person employed as a regulatory specialist on March 16, 2012, who continues full-time employment as a regulatory specialist without a lapse.

ADMINISTRATIVE RULES

(2) Age. No law enforcement unit in this state may employ or utilize any person under the age of 21 years as a police officer, corrections officer, parole and probation officer, regulatory specialist or reserve officer.

(3) Fingerprints. Within 90 days of the date of employment in a certifiable position, each law enforcement officer must be fingerprinted on a standard applicant fingerprint card.

(a) The hiring agency is responsible for fingerprinting and must forward one card to the Oregon State Police Identification Services Section for processing and the assignment of an identification number.

(b) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department must comply with the most current requirements.

(c) Applications for certification will not be processed until an applicant's fingerprints have cleared Oregon State Police Identification Services.

(4) Criminal Records. No law enforcement officer may have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(5) Notification of Conviction:

(a) A law enforcement officer who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency must notify the agency head within 72 hours of the conviction.

(b) When an agency receives notification of a conviction from its employee, or another source, they must notify the Department within five business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(6) Moral Fitness (Professional Fitness). All law enforcement officers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(b) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by an accredited, degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Academic Proficiency Standard. Before beginning basic training or beginning the career officer development course, each applicant must provide evidence to DPSST that the applicant possesses the academic tools necessary to successfully complete basic training.

(A) The hiring agency is responsible for ensuring a law enforcement proficiency test or validated written test designed to evaluate predictors of job-related skills and behaviors has been administered. The hiring agency must verify the completion of the test and report the date of completion to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic training.

(B) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by the Department under the provisions of OAR 259-008-0045 are exempt from this testing requirement.

(C) Individuals who have successfully completed training resulting in the award of certification in the discipline they are applying for training are exempt from this testing requirement. Individuals must submit proof of training and certification.

(8) Physical Standards.

(a) Prior to admittance into a basic training course, as described in OAR 259-008-0025, all law enforcement officers or applicants must demonstrate the physical abilities to perform the critical and essential tasks of a law enforcement officer.

(A) The critical and essential tasks for law enforcement officers have been determined by the following:

(i) The 2015 DPSST Job Task Analysis for Police Officers;

(ii) The 2011 DPSST Job Task Analysis for Parole & Probation Officers;

(iii) The 2012 DPSST Job Task Analysis for Corrections Officers; and

(iv) The 2013 Job Task Analysis for Liquor Enforcement Inspectors.

(b) The following minimum physical standards are required for all law enforcement officers:

(A) Visual Acuity.

(i) Monocular vision must be at least 20/30 (Snellen) corrected in each eye and not worse than 20/100 (Snellen) uncorrected in either eye.

(ii) Binocular vision must be at least 20/20 (Snellen) corrected.

(iii) Officers or applicants whose uncorrected vision is worse than 20/100 must wear soft contact lenses to meet the corrected vision requirement.

(B) Color Vision.

(i) Law enforcement officers or applicants must be able to distinguish red, green, blue, and yellow, as determined by the HRR Test, 4th Edition.

(ii) Red or green deficiencies may be acceptable, providing the officer or applicant can read at least nine of the first 13 plates of the Ishihara Test.

(iii) Officers 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 physician or surgeon.

(C) Depth Perception. Random Stereo Test equal to 60 seconds of arc or better.

(D) Peripheral Vision. Visual Field Performance must be 140 degrees in the horizontal meridian combined.

(E) Hearing.

(i) Law enforcement officers or applicants must have no average hearing loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db.

(ii) Law enforcement officers 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.

(iii) An amplification device may be used to meet the hearing standard, if a licensed audiologist or otorhinolaryngologist determines an amplification device will allow the officer or applicant to meet the hearing standard.

(F) Cardiovascular.

(i) Resting blood pressure must be less than or equal to 160 mmHg systolic and 100 mmHg diastolic.

(ii) Law enforcement officers or applicants who fail to meet the cardiovascular standards must be examined by a general practitioner to address the issue.

(iii) Law enforcement officers or applicants who have a history of organic cardiovascular disease will necessitate further medical evaluation.

(G) Pulmonary Capacity. Officers and applicants with obstructive or restrictive spirometry (FVC or FEV1 less than 80% or FVC/FEV1 ratio of less than 70%) require further evaluation.

(H) Medications. The side effects of any prescribed medication must not interfere with the law enforcement officer's or applicant's ability to perform the critical and essential tasks of the job.

(I) Medical Recommendations.

(i) It is recommended that officers or applicants with a history of seizures or diabetes be evaluated following American College of Occupational and Environmental Medicine's Guidance for the Medical Evaluation of Law Enforcement Officers, to include post-employment monitoring.

(ii) It is recommended that officers or applicants with a history of hypertension (resting blood pressure exceeding 160 mmHg systolic and 100 mmHg diastolic (160/100)) have post-employment medical monitoring.

(9) Medical Examinations.

ADMINISTRATIVE RULES

(a) To ensure that law enforcement officers and applicants meet the minimum physical standards listed in section (8) of this rule, all officers and applicants must be examined by a licensed physician or surgeon.

(A) The licensed physician or surgeon performing the medical examination must be provided with a current DPSST Medical Examination Report (Form F-2) for completion at the time of the examination.

(B) The medical examination must conform to applicable standards of the Americans with Disabilities Act (ADA) Title 42 USC 1210.

(C) The medical examination must be completed within 180 days prior to the start of employment as a law enforcement officer.

(D) Upon completion of the medical examination, the examining licensed physician or surgeon must sign the final page of the Form F-2 (Form F-2A) attesting that the officer or applicant has met or has not met the minimum physical standards listed in section (8) of this rule.

(E) The Form F-2A must be submitted to the Department no later than 90 days after the start of employment.

(F) Law enforcement officers and applicants will not be admitted into a basic course until the Department receives a Form F-2A attesting that the minimum physical standards have been met or a physical standard waiver has been granted, as described in section (10) of this rule.

(G) DPSST may require that a law enforcement officer or applicant take a subsequent examination by a licensed physician or surgeon of the Department's choice at the expense of the officer, the applicant or the hiring agency.

(H) Certified individuals who are hired into a discipline they are not certified for are required to successfully complete a new physical examination.

(I) A law enforcement officer whose certification has lapsed will be required to complete a new medical examination prior to re-applying for certification.

(J) Individuals employed in a limited duration, administrative position, as described in OAR 259-008-0078, are exempt from the medical examination requirement.

(K) Regulatory Specialists employed by OLCC prior to July 1, 2015 who have previously completed OLCC basic training are exempt from completion of the physical examination.

(10) Physical Standard Waivers.

(a) An individual or department head may request a waiver of any physical standard in section (8) of this rule by:

(A) Submitting a request to the Department in writing; and

(B) Providing documentation or pertinent testimony that supports the physical standard waiver request.

(C) If further clarification is needed, the Department may require additional documentation or testimony from the individual or department head requesting the physical standard waiver.

(D) The requesting individual may be required to demonstrate the ability to perform the critical and essential job tasks.

(E) If the Department finds that the physical standard waiver request would not prohibit the requesting individual's ability to successfully complete training and the performance of the critical and essential tasks, the waiver will be granted.

(F) Any expense associated with providing physical standard waiver documentation or testimony will be the responsibility of the requesting individual or the requesting agency.

(G) If an individual requests and is granted a medical waiver, but does not obtain employment within one year from the date the waiver is granted, the waiver will be void.

(H) If the Department denies a request for a waiver of any physical standard in section (8) of this rule, the Department will issue Notice and proceed as provided in section (10)(b) of this rule.

(b) Contested Case Hearing Process for Denial of Physical Standard Waivers.

(A) Initiation of Proceedings: A contested case notice will be prepared when the Department denies a physical standard waiver after determining that factual data meeting the statutory and administrative rule requirements justifies the denial.

(B) Contested Case Notice: The contested case notice will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(C) Response Time: A party who has been served with a "Contested Case Notice of Intent to Deny a Waiver" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(D) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver pursuant to OAR 137-003-0672.

(E) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(F) Proposed and Final Orders: In cases where a hearing is requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

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

Stat. Auth.: ORS 181A.410, 183.341

Stats. Implemented: 181A.410, 183.341

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1987, f. & ef. 10-26-87; Renumbered from 259-010-0015, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 4-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 9-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 3-2001, f. & cert. ef. 8-22-01; BPSST 12-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-2002; BPSST 20-2002, f. & cert. ef. 11-21-02; DPSST 3-2003, f. & cert. ef. 1-22-03; DPSST 6-2003, f. & cert. ef. 4-11-03; DPSST 8-2003, f. & cert. ef. 4-18-03; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 3-2006, f. & cert. ef. 2-28-06; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 13-2007(Temp), f. & cert. ef. 11-1-07 thru 4-18-08; DPSST 1-2008(Temp), f. & cert. ef. 1-15-08 thru 4-18-08; DPSST 4-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 10-2009, f. & cert. ef. 9-21-09; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11; DPSST 18-2012, f. & cert. ef. 8-27-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 18-2013, f. & cert. ef. 7-23-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 13-2014, f. & cert. ef. 6-24-14; DPSST 32-2014, f. 12-29-14, cert. ef. 1-1-15; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15; DPSST 18-2015, f. 12-22-15, cert. ef. 1-1-16; DPSST 4-2016, f. 3-22-16, cert. ef. 4-1-16

259-008-0015

Background Investigation

(1) A background investigation must be conducted by a public or private safety agency on each individual being considered for employment or utilization as a public safety professional to determine if applicant is of good character.

(a) The background investigation must include, but is not limited to, investigation into the following:

(A) Criminal history and arrests;

(B) Department of Motor Vehicles (DMV) records;

(C) Drug and alcohol use;

(D) Education verification;

(E) Employment history;

(F) Military history verification;

(G) Personal and professional references. Personal and professional references may include, but are not limited to, friends, associates, family members, and neighbors;

(H) Personal Interview. The personal interview may occur before or after the investigation and may be used to clarify discrepancies in the investigation;

(I) Records checks, which may include, but are not limited to:

(i) Police records, district attorney, court and Oregon Judicial Information Network (OJIN) records;

(ii) Open sources or social media, as permitted by law;

(iii) Financial information, as permitted by law; and

(iv) Department of Public Safety Standards and Training Professional Standards records.

(J) Residential history; and

(K) Work eligibility.

(b) Each individual being considered for employment or utilization as a public safety professional must provide a notarized personal history statement. The statement must include, but is not limited to:

(A) Verification of the background information referred to in section (1)(a);

(B) A complete list of all public safety agencies an individual has applied with; and

(C) A signed release allowing background investigation information to be shared with other public or private safety agencies in which the applicant may become affiliated with.

(2) Results of the background investigation on all public safety professionals must be retained by the public or private safety agency in accordance with the Secretary of State's Record Retention Schedule and must be available for review at any reasonable time by the Department.

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Hist.: PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0021, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97;

ADMINISTRATIVE RULES

BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 1-2010, f. & cert. ef. 1-11-10; DPSST 2-2010, f. & cert. ef. 3-15-10; DPSST 31-2014, f. & cert. ef. 12-29-14; DPSST 4-2016, f. 3-22-16, cert. ef. 4-1-16

259-008-0020

Personnel Action Reports

(1) All public or private safety agencies and the Academy Training Division must submit the name and other pertinent information concerning any newly appointed public safety professional to Standards and Certification on a Personnel Action Report (DPSST Form F-4) within 10 business days after employment or utilization.

(a) A DPSST number will be established for each newly appointed employee identified on a Personnel Action Report if:

(A) The individual is employed in a certifiable position.

(B) The individual is employed or utilized as a reserve police officer;

or

(C) An individual's employer has submitted a written request identifying a demonstrated law enforcement need for an employee to obtain a DPSST number and the Department has approved the request. These positions may include, but are not limited to:

(i) A federal officer authorized by the Department to make arrests under ORS 133.245;

(ii) An individual who operates an Intoxilyzer or other law enforcement device for which a DPSST number is necessary; or

(iii) An individual who is required to file a police or other criminal justice report for which a DPSST number is necessary.

(b) No DPSST number will be assigned to an individual who has not been identified as a newly appointed public safety professional unless approved by the Department.

(2) Whenever a public safety officer resigns, retires, or terminates employment, is promoted, demoted, discharged, deceased, is on leave for 91 days or more, or transfers within a private or public safety agency, the agency must report this information to Standards and Certification on a Personnel Action Report within 10 business days of the action.

(3) Whenever a certified instructor resigns, retires, terminates employment, is discharged or deceased, the agency must report this information to Standards and Certification on a Personnel Action Report within 10 business days of the action.

(4) All applicable sections of the Personnel Action Report must be completed and signed by the department head or an authorized representative.

(5) All applicants will furnish their social security number on a Personnel Action Report. The social security number is used to accurately identify the applicant during computerized criminal history (CCH) and Department record checks and to verify information provided by a public safety professional.

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

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Hist.: PS 12, f. & cert. ef. 12-19-77; Renumbered from 259-010-0050, PS 1-1983, f. & cert. ef. 12-15-83; Renumbered from 259-010-0026, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 2-2001, f. & cert. ef. 2-8-01; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 6-2009, f. & cert. ef. 7-13-09; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14; DPSST 4-2016, f. 3-22-16, cert. ef. 4-1-16

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Rule Caption: Extensive housekeeping changes to clearly reflect minimum standards for training and mandated training courses.

Adm. Order No.: DPSST 5-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 3-1-2016

Rules Amended: 259-008-0025, 259-008-0085

Rules Repealed: 259-008-0030, 259-008-0035

Subject: 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.

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 exten-

sion 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 259-008-0085 - 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.

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

Rules Coordinator: Jennifer Howald—(503) 378-2432

259-008-0025

Minimum Standards for Training

(1) Basic Training.

(a) The prescribed basic training course and field training manual must be completed by all corrections officers no later than 12 months from the date of employment in a certifiable position.

(b) The prescribed basic training course and field training manual must be completed by all police officers, parole and probation officers, telecommunicators, emergency medical dispatchers and regulatory specialists no later than 18 months from the date of employment in a certifiable position.

(c) Corrections and police officers who have not completed the prescribed basic course must begin training within 90 days of their initial date of employment as a law enforcement officer.

(d) All prescribed field training will be conducted under the supervision of the employing agency. The employing agency must provide proof of completion prior to the award of basic certification.

(e) Regulatory specialists employed by OLCC prior to July 1, 2015, who have previously completed OLCC basic training may be exempted from completion of the basic regulatory specialist course.

(f) Law enforcement officers employed in a limited duration, administrative position, as described in OAR 259-008-0078, are exempted from these minimum training requirements.

(2) Additional Training Requirements.

(a) Law enforcement officers who have previously completed the prescribed basic course but have not been employed full-time as a law enforcement officer within the past five years will be required to satisfactorily complete the prescribed basic course and field training manual in its entirety prior to reactivation of certification.

(b) Law enforcement officers who have previously completed the prescribed basic course but have not been employed full-time as a law enforcement officer for over two and one-half years but less than five years must complete the prescribed career officer development course and field training manual prior to reactivation of certification.

(c) Telecommunicators and emergency medical dispatchers (EMD) who have previously completed the prescribed basic course but have not been employed as a telecommunicator or EMD within the past two and one-half years will be required to satisfactorily complete the prescribed basic course and field training manual in its entirety prior to reactivation of certification.

(d) Training timelines for career officer development courses will be established by the Department.

(3) Waivers of the Minimum Training Standards for Law Enforcement Officers.

(a) The Department may waive any portion of the minimum training standards upon finding that a law enforcement officer has the current knowledge, skills and abilities to perform as a law enforcement officer in Oregon. For the purposes of this standard, demonstration of current knowl-

ADMINISTRATIVE RULES

edge, skills and abilities as an Oregon law enforcement officer must include full-time employment within the past five years which demonstrates the individual has maintained a level of knowledge, skills and abilities comparable to those of an active law enforcement officer in Oregon, including the authorization to provide law enforcement services or the responsibility of enforcing criminal law.

(b) Reciprocity. Law enforcement officers who have been employed by a public or private safety agency in another state and have previously completed a basic training course deemed by the Department to meet or exceed Oregon's minimum training standards may be granted a waiver of the basic training course. These officers will be required to complete the prescribed career officer development course and field training manual.

(c) Waiver requests must be made in writing by the employing agency and must include any supporting documentation, to include a written request for a waiver from the officer's employing agency, a copy of any previously completed course including documentation of course content with hour and subject breakdown of the training, and the officer's employment history.

(d) The Department may request additional information. Any expenses associated with providing waiver documentation will be the responsibility of the requesting agency.

(e) Notwithstanding section (4), waivers are not available for the basic telecommunications course or basic emergency medical dispatcher course.

(4) Challenge of the Minimum Training Standards for Telecommunicators. Telecommunicators who have been employed by a public or private safety agency in another state within the past two and one-half years and have previously completed a basic training course deemed by the Department to meet or exceed Oregon's minimum training standards may challenge the basic telecommunications course.

(a) Challenge requests must be made by the department head of the telecommunicator's employing agency. Requests must include proof of successful completion of prior equivalent training including documentation of the course content with hour and subject breakdown of the training.

(b) The telecommunicator must obtain a minimum passing score on all written examinations for the basic course and demonstrate an acceptable performance level.

(c) Telecommunicators who fail the written examination or fail to demonstrate an acceptable performance level will be required to complete the basic telecommunications course and field training manual in its entirety.

(d) Telecommunicators will be given one opportunity to challenge the basic telecommunications course.

(5) Supervision Course. Public safety officers who are promoted, appointed or transferred to a first-level supervisory position must satisfactorily complete the Supervision course or equivalent training that complies with the requirements outlined in the DPSST Form F-21.

(a) The required training must be completed no later than 12 months after the promotion, appointment or transfer.

(b) Applicable training that occurred within five years prior to the promotion, appointment or transfer may be accepted by the Department as satisfying the Supervision training requirement.

(6) Middle Management Course. Public safety officers who are promoted, appointed or transferred to a middle management position must satisfactorily complete the Middle Management course or equivalent training that complies with the requirements outlined in the DPSST Form F-22.

(a) The required training must be completed no later than 12 months after the promotion, appointment or transfer.

(b) Applicable training that occurred within five years prior to the promotion, appointment or transfer may be accepted by the Department as satisfying the Middle Management training requirement.

(7) Time Extensions. The Department may grant a time extension upon presentation of evidence by a public or private safety agency that a public safety officer is unable to meet the timelines prescribed in sections (1), (5) and (6) due to an authorized leave of absence or any other reasonable cause as determined by the Department.

(a) Time extensions of the requirements found in sections (1)(a), (1)(b), (5) and (6) will not exceed one year.

(b) Time extensions of the requirements found in subsection (1)(c) will not exceed 30 days.

(c) Any delays caused by the inability of the Department to provide basic training for any reason will not be counted towards the time requirements found in subsections (1)(a), (b) or (c).

(8) Notwithstanding this rule, the Department may prescribe additional training for Basic certification, up to and including completion of the

full Basic course, in situations in which previous periods of employment have been limited.

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

Stat. Auth.: ORS 181A.410

Stats. Implemented: 181A.410

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 7-2-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 14-2008, f. & cert. ef. 10-15-08; DPSST 3-2009, f. & cert. ef. 4-8-09; DPSST 8-2009(Temp), f. & cert. ef. 9-15-09 thru 3-1-10; DPSST 15-2009, f. & cert. ef. 12-15-09; DPSST 3-2010, f. 4-12-10, cert. ef. 5-1-10; DPSST 2-2011, f. 3-23-11, cert. ef. 5-1-11; DPSST 13-2012(Temp), f. & cert. ef. 5-8-12 thru 10-1-12; DPSST 17-2012, f. & cert. ef. 8-24-12; DPSST 6-2013, f. & cert. ef. 3-8-13; DPSST 15-2013, f. & cert. ef. 6-25-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 2-2014, f. & cert. ef. 1-2-14; DPSST 10-2014, f. & cert. ef. 4-10-14; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15; DPSST 18-2015, f. 12-22-15, cert. ef. 1-1-16; DPSST 5-2016, f. & cert. ef. 3-22-16

259-008-0085

Minimum Standards for Mandated Courses

(1) Basic Police Course and Field Training.

(a) The curriculum for the Basic Police Course and field training manual will be based on the critical and essential job tasks identified in the 2015 DPSST Job Task Analysis for Police Officers.

(b) The Basic Police Course will consist of sufficient training hours to satisfy all Board-approved instructional goals (approximately 640 hours). Training will include, at a minimum:

(A) Training on law, theory, policies and practices related to pursuit driving;

(B) Vehicle pursuit exercises;

(C) Twenty-four hours of training in the recognition of mental illnesses as described in ORS 181A.440(2). At least one hour of mental health training will be dedicated to the appropriate use of the mental health database maintained by the Department of State Police within the Law Enforcement Data System;

(D) The investigation and reporting of cases of missing children and adults;

(E) The investigation, identification and reporting of crimes motivated by prejudice based on perceived race, color, religion, national origin, sexual orientation, marital status, political affiliation or beliefs, membership or activity in or on behalf of a labor organization or against a labor organization, physical or mental disability, age, economic or social status or citizenship of the victim;

(F) Investigation, identification and reporting of crimes constituting abuse, as defined in ORS 419B.005, or domestic violence;

(G) The requirements of the Vienna Convention on Consular Relations, including situations in which officers are required to inform a person of the person's rights under the convention; and

(c) Field training requires successful completion of the 2013 Police Officer Field Training Manual or DPSST-approved equivalent manual.

(2) Basic Corrections Local Course and Field Training.

(a) The curriculum for the Basic Corrections Local Course and field training manual will be based on the critical and essential job tasks identified in the 2012 Job Task Analysis for Corrections Officers.

(b) The Basic Corrections Local Course will consist of sufficient training hours to satisfy all Board-approved instructional goals (approximately 240 hours).

(c) Field training requires successful completion of the 2009 Corrections Officer Field Training Manual or DPSST-approved equivalent manual.

(3) Basic Parole and Probation Course and Field Training.

(a) The curriculum for the Basic Parole and Probation course and field training manual will be based on the critical and essential job tasks identified in the 2011 Job Task Analysis for Parole and Probation Officers.

(b) The Basic Parole and Probation course will consist of sufficient training hours to satisfy all Board-approved instructional goals (approximately 200 hours).

(c) Field training requires successful completion of the 2009 Parole & Probation Officer Field Training Manual or DPSST-approved equivalent manual.

(4) Basic Telecommunicator Course and Field Training.

(a) The curriculum for the Basic Telecommunicator Course and field training manual will be based on the critical and essential job tasks identified in the 2015 Job Task Analysis for Telecommunicators.

ADMINISTRATIVE RULES

(b) The Basic Telecommunicator Course will consist of sufficient training hours to satisfy all Board-approved instructional goals (approximately 80 hours).

(c) Field training requires successful completion of the 2014 Telecommunicator Field Training Manual or DPSST-approved equivalent manual.

(5) Basic Emergency Medical Dispatcher Course and Field Training.

(a) The curriculum for the Basic Emergency Medical Dispatcher course will be based on the 1996 National Highway Traffic Safety Administration (NHTSA) Emergency Medical Dispatcher standards.

(b) The Basic Emergency Medical Dispatcher course will consist of sufficient training hours to satisfy all NHSTA instructional goals (approximately 24 hours).

(c) Field training requires successful completion of the 2007 Emergency Medical Dispatcher Field Training Manual or DPSST-approved equivalent manual.

(d) The Basic Emergency Medical Dispatcher Course may be delivered by an approved third-party vendor or agency if the course has been certified as equivalent by Standards and Certification.

(A) Vendors or agencies must submit a Course Certification Request (Form F-20) to request an equivalency determination.

(B) Equivalency determinations will be valid for one year and will expire on December 31 of each year.

(6) Department of Corrections (DOC) Basic Corrections Course and Field Training.

(a) The curriculum for the DOC Basic Corrections Course will be based on the 2012 Job Task Analysis for Corrections Officers.

(b) The DOC Basic Corrections Course will consist of sufficient training hours to satisfy all Board-approved instructional goals (approximately 240 hours).

(c) The DOC Basic Corrections Course will incorporate the DPSST Basic Corrections 2012 Instructional Goals within each of the following sections:

(A) Section A — Legal Considerations (Approximately 20 hours);

(B) Section B — Security Procedures (Approximately 37 hours);

(C) Section C — Inmate Supervision (Approximately 43 hours);

(D) Section D — Inmate Health Care (Approximately 16 hours);

(E) Section E — Professional Skills (Approximately 16 hours);

(F) Section F — Personal Fitness (Approximately 27 hours);

(G) Section G — Defensive Tactics (Approximately 41 hours); and

(H) Section H — Firearms (Approximately 26 hours).

(d) Administrative time will make up approximately 14 hours.

(e) Eighty percent of the Basic Corrections Course must contain participatory learning activities. Participatory learning activities will include:

(A) A minimum of 51 hours of Reality Based Training;

(B) A minimum of three written incident reports that are complete, accurate, and demonstrate the report writing fundamentals of content, organization, and mechanics. Each report must be evaluated by an instructor to ensure the student's ability to accurately document an incident using report writing components; and

(C) A minimum of four Problem Based Learning activities consisting of at least eight hours.

(c) Field training requires successful completion of the 2009 Department of Corrections Officer Field Training Manual.

(7) Basic Oregon Liquor Control Commission Regulatory Specialist Course.

(a) The curriculum for the Basic Regulatory Specialist course will be based on the 2013 Job Task Analysis for Liquor Enforcement Inspectors.

(b) The Basic Regulatory Specialist Course will consist of sufficient training hours to satisfy all Board-approved instructional goals (approximately 160 hours);

(c) Field training requires successful completion of the 2015 Pilot Regulatory Specialist Field Training Manual.

(8) Basic Instructor Development Course. The Basic Instructor Development Course must include instruction on the theory and application of adult learning principles and presentation/facilitation skills.

(9) Supervision Course. The curriculum for the Supervision Course will be based on the 2000 Job Task Analysis for Oregon Public Safety Supervisors and a 2009 Survey of Incumbent Supervisors.

(10) Middle Management Course. The curriculum for the Middle Management Course will be based on the 2000 Job Task Analysis for Oregon Public Safety Middle Managers, a 2007 DACUM for Middle Management and a 2009 Survey of Incumbent Managers.

(11) Academy Police Career Officer Development Course (PCOD).

(a) The Academy PCOD will be based on the 2015 Job Task Analysis for Police Officers.

(A) The Academy PCOD will consist of sufficient training hours to satisfy all Board-approved instructional goals (approximately 80 hours); and

(B) Field training requires successful completion of the 2013 Police Officer Field Training Manual or DPSST-approved equivalent manual.

(12) Self-Study Police Career Officer Development Course (PCOD).

(a) The Self-Study PCOD will be based on the 2015 Job Task Analysis for Police Officers.

(A) The Self-Study PCOD will consist of sufficient training hours to satisfy all Board-approved instructional goals (approximately 80 hours); and

(B) Field training requires successful completion of the 2013 Police Officer Field Training Manual or DPSST-approved equivalent manual.

(13) Self-Study Corrections Career Officer Development Course (CCOD).

(a) The CCOD will be based on 2012 Job Task Analysis for Corrections Officers.

(b) Field training requires successful completion of the 2009 Corrections Officer Field Training Manual or DPSST-approved equivalent manual.

(14) All field training will be conducted under the supervision of the employing agency.

(15) The Department may waive the field training requirement for PCOD and CCOD Courses if the employing agency demonstrates that field training was previously completed.

(16) All course curriculums must be reviewed and approved by the Board on Public Safety Standards and Training prior to being delivered.

(17) All course curriculums will be reviewed following any update to the underlying standards adopted above.

(18) All instructors of mandated courses must be certified as an instructor as required by OAR 259-008-0080 prior to instructing.

(19) A public safety officer must have successfully completed the mandated course for which certification is being requested in order for the training to satisfy the minimum requirements for certification. No more than 10% of classroom hours may be missed without the approval of the Director. Non-classroom hours are required to have 100% attendance.

(20) Testing. All academic testing must consist of measures that are valid, rigorous, and require students to demonstrate knowledge and application of essential tasks. Successful completion of a mandated course requires the following:

(a) Basic Police Course students must:

(A) Obtain and maintain a minimum cumulative score of 75% by Quiz 4;

(B) Obtain a minimum score of 75% on the midterm exam and final exam;

(C) Achieve a passing score of 100% on use of force exams with remediation as necessary; and

(D) Effective January 1, 2007, successful completion of the Oregon Physical Abilities Test (OR-PAT).

(b) Basic Corrections Local course students must:

(A) Obtain a minimum cumulative score of 75% by Quiz 3;

(B) Obtain a minimum score of 75% on the final exam; and

(C) Achieve a passing score of 100% on use of force exams with remediation as necessary.

(c) Basic Parole and Probation Course students must:

(A) Obtain a minimum cumulative score of 75% by the third exam; and

(B) Achieve a passing score of 100% on use of force exams with remediation as necessary.

(d) Basic Telecommunicator Course Students must obtain a minimum score of 75% on the exam.

(e) Basic Emergency Medical Dispatcher Course student must:

(A) Obtain a minimum score of 75% on the exam; and

(B) Achieve a passing score of 100% on Emergency Medical Dispatcher Protocol Reference System (EMDPRS).

(f) DOC Basic Corrections Course students must:

(A) Obtain a minimum score of 75% on each academic test; and

(B) Achieve a passing score of 100% on all academic test questions relating to use of force topics with remediation as necessary.

(C) BCC students who fail to achieve a passing score on the final exam after two attempts will be required to complete the DOC Basic Corrections Course and field training manual pursuant to section (6) of this rule.

ADMINISTRATIVE RULES

- (g) Basic Regulatory Specialist students must:
- (A) Successfully complete course projects and assignments; and
 - (B) Achieve a passing score of 100% on use of force exams with remediation as necessary.
- (h) Basic Instructor Development Course student must successfully complete course projects and assignments.
- (i) Supervision Course students must successfully complete course projects and assignments.
- (j) Middle Management course students must successfully complete course projects and assignments.
- (k) Academy PCOD students must:
- (A) Obtain a minimum cumulative score of 75% by the second exam; and
 - (B) Achieve a passing score of 100% on use of force exams with remediation as necessary.
- (C) Individuals who do not achieve passing scores will be given one opportunity to remediate and re-test within 60 days of the initial failure.
- (D) Individuals who do not achieve a passing score will be required to complete the Basic Police Course and field training manual pursuant to section (1) of this rule.
- (l) Self-study PCOD students must:
- (A) Obtain a minimum cumulative score of 75% by the second exam; and
 - (B) Achieve a passing score of 100% on use of force exams with remediation as necessary.
- (C) Individuals who do not achieve passing scores will be given one opportunity to remediate and re-test within 60 days of the initial failure.
- (D) Individuals who fail to achieve passing scores after remediation will be required to attend the academy PCOD pursuant to section (11) of this rule.
- (m) Self-study CCOD students must:
- (A) Obtain a minimum score of 75% on the first exam; and
 - (B) Achieve a passing score of 100% on the use of force exam with remediation as necessary.
- (C) Individuals who do not achieve passing scores will be given one opportunity to remediate and re-test within 60 days of the initial failure.
- (D) Individuals who do not achieve passing scores after remediation will be required to complete the Basic Corrections Local Course and field training manual pursuant to section (2) of this rule or the DOC Basic Corrections Course and field training manual pursuant to section (6) of this rule.
- (20) Course Documentation. Prior to being recognized as meeting the minimum training standards required for certification, the following documentation must be submitted to Standards & Certification at the conclusion of each course:
- (a) A course attendance roster (Form F-6);
 - (b) An official record of actual course hours or attendance rosters;
 - (c) Absence reports with documentation of make-up training;
 - (d) Class schedule including subject hour breakdown;
 - (e) Curriculum, including master exams and answer sheets;
 - (f) Testing results, including individual test scores, individual final average and class average; and
 - (g) Deficiency reports and documentation of completion.
- (21) Course Certification. Each mandated course must be certified annually. All course certifications are valid for one year and will expire on December 31 of each year.
- (22) All mandated courses are subject to periodic audits by Standards and Certification to ensure compliance with the minimum training standards found in this rule.
- (a) Notwithstanding subsection (b), the anticipated training dates, training locations and training hours must be provided to Standards and Certification no later than 14 days prior to the training.
- (b) Standards and Certification will be notified of remediation training dates, training locations and training hours no later than 48 hours prior to the training or at the time of failure.
- (c) Standards and Certification will prepare an audit report for each audited course.
- (d) Issues of non-compliance will be forwarded to the appropriate department head or designee for resolution. Failure to respond to non-compliance issues may result in training not being recognized as meeting the minimum training requirements for certification.
- (e) Standards and Certification will provide observations made during audits for feedback and possible suggestions for course enhancements. Observations will not be indicative of non-compliance of courses.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 181A.410 & 181A.590

Stats. Implemented: ORS 181A.410 & 181A.590
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0065, PS 1-1990, f. & cert. 2-7-91; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 15-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 9-2002, f. & cert. ef. 4-3-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 5-2016, f. & cert. ef. 3-22-16

Rule Caption: Updates physical standards, F2-T Medical Form, and the physical standard wavier process for telecommunicators/EMD's.

Adm. Order No.: DPSST 6-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 259-008-0011

Subject: 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 recommended the proposed vision acuity standard be 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.

This rule change also alters the process for submitting a DPSST Medical Examination Report (Form F-2T) and eliminates the need for the policy committees and the Board to review and approve or deny physical standard waivers.

Rules Coordinator: Jennifer Howald—(503) 378-2432

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

(1) Fingerprints. Within 90 days of the date of employment in a certifiable position, each telecommunicator and emergency medical dispatcher must be fingerprinted on a standard applicant fingerprint card.

(a) If the hiring agency is a public agency, it is responsible for fingerprinting and forwarding one fingerprint card to the Oregon State Police Identification Services Section for processing and the assignment of an identification number.

(b) If the hiring agency is a private agency, it is responsible for fingerprinting and forwarding one fingerprint card to the Department along with the appropriate fee.

(c) Applications for certification will not be processed until an applicant's fingerprints have cleared Oregon State Police Identification Services.

(d) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department will comply with the most current requirements.

(2) Criminal Records. No telecommunicator or emergency medical dispatcher will have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(3) Notification of Conviction:

ADMINISTRATIVE RULES

(a) A telecommunicator or emergency medical dispatcher who is convicted of a crime as identified in OAR 259-008-0070 while employed by a public or private public safety agency must notify the agency head within 72 hours of conviction.

(b) When an agency receives notification of a conviction from its employee or another source, they must notify the Department within five (5) business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of conviction.

(4) Moral Fitness (Professional Fitness). All telecommunicators and emergency medical dispatchers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(b) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(5) Education:

(a) Applicants for the position of a telecommunicator or emergency medical dispatcher will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by a degree-granting college or university accredited by a recognized national or regional accrediting body, or recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(6) Academic Proficiency Standard. Before beginning basic telecommunicator or Emergency Medical Dispatcher (EMD) training or challenging basic telecommunicator training, each applicant must provide evidence to DPSST that the applicant possesses the academic tools necessary to successfully complete basic telecommunicator or EMD training.

(a) The hiring agency is responsible for ensuring a telecommunicator/EMD proficiency test or validated written test designed to evaluate predictors of job-related skills and behavior has been administered. The hiring agency must verify the completion of the test and report the date of completion to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic telecommunicator or EMD training.

(b) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by DPSST under the provisions of OAR 259-008-0045 are exempt from this testing requirement.

(c) Individuals who have successfully completed training resulting in the award of certification in the discipline they are applying for training are exempt from this testing requirement. Individuals must submit proof of training and certification.

(7) Physical Standards.

(a) Prior to admittance into a basic training course, as described in OAR 259-008-0025, all telecommunicators, emergency medical dispatchers and applicants must demonstrate the physical abilities to perform the critical and essential tasks of a telecommunicator or emergency medical dispatcher.

(A) The critical and essential tasks for telecommunicators have been determined by the 2010 DPSST Job Task Analysis for Telecommunicators.

(B) The critical and essential tasks for emergency medical dispatchers have been determined by the 1995 National Highway Traffic Safety Administration Emergency Medical Dispatcher (EMD) National Standards Curriculum.

(b) The following minimum physical standards are required for all telecommunicators and emergency medical dispatchers.

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

(B) Color Vision.

(i) Telecommunicators, emergency medical dispatchers and applicants must be able to distinguish red, green, blue, and yellow as determined by the HRR Test, 4th Edition.

(ii) Red or green deficiencies may be acceptable, providing the telecommunicator, emergency medical dispatcher or applicant can read at least nine of the first 13 plates of the Ishihara Test.

(iii) 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.

(C) Hearing.

(i) Telecommunicators, emergency medical dispatchers or applicants must meet National Emergency Number Association (NENA) hearing standard NENA-STA-007.2-2014 (June 14, 2014).

(ii) 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.

(iii) An amplification device may be used to meet the hearing standard, if a licensed audiologist or otorhinolaryngologist determines an amplification device will allow the telecommunicator, emergency medical dispatcher or applicant to meet the hearing standard.

(D) Medications. 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.

(8) Medical Examinations.

(a) To ensure that telecommunicators, emergency medical dispatchers, and applicants meet the minimum physical standards listed in section (7) of this rule, telecommunicators, emergency medical dispatchers, and applicants must be examined by a licensed health professional.

(A) The licensed health professional performing the medical examination must be provided with a current DPSST Medical Examination Report (Form F-2T) for completion at the time of the examination.

(B) The medical examination must conform to applicable standards of the Americans with Disabilities Act (ADA) Title 42 USC 1210.

(C) The medical examination must be completed within 180 days prior to the start of employment as a telecommunicator or emergency medical dispatcher.

(D) Upon completion of the medical examination, the examining licensed health professional must sign the final page of the Form F-2T (Form F-2TA) attesting that the telecommunicator, emergency medical dispatcher or applicant has met or has not met the minimum physical standards listed in section (7) of this rule.

(E) The Form F-2TA must be submitted to the Department no later than 90 days after the start of employment.

(F) Telecommunicators, emergency medical dispatchers or applicants will not be admitted into a basic course until the Department receives a Form F-2TA attesting that the minimum physical standards have been met or a physical standard waiver has been granted, as described in section (9) of this rule.

(G) The Department may require that a telecommunicator or emergency medical dispatcher take a subsequent examination by a licensed health professional of the Department's choice at the expense of the applicant or the hiring agency.

(H) Certified individuals who are hired into a discipline for which they are not certified are required to successfully complete a new physical examination.

(I) A telecommunicator or emergency medical dispatcher whose certification has lapsed will be required to complete a new medical examination prior to re-applying for certification.

(J) Individuals employed in a limited duration, administrative position, as described in OAR 259-008-0078, are exempt from the medical examination requirement.

(9) Physical Standard Waivers.

(a) An individual or department head may request a waiver of any physical standard in section (7) of this rule by:

(A) Submitting a request to the Department in writing; and

(B) Providing documentation or pertinent testimony that supports the physical standard waiver request.

(C) If further clarification is needed, the Department may require additional documentation or testimony from the individual or department head requesting the physical standard waiver.

(D) The requesting individual may be required to demonstrate the ability to perform the critical and essential job tasks.

ADMINISTRATIVE RULES

(E) If the Department finds that the physical standard waiver request would not prohibit the requesting individual's ability to successfully complete training and the performance of the critical and essential tasks, the waiver will be granted.

(F) Any expense associated with providing physical standard waiver documentation or testimony will be the responsibility of the requesting individual or the requesting agency.

(G) If an individual requests and is granted a physical standard waiver, but does not obtain employment within one year from the date the waiver is granted, the waiver will be void.

(H) If the Department denies a request for a waiver of any physical standard in section (7) of this rule, the Department will issue Notice and proceed as provided in section (9)(b) of this rule.

(b) Contested Case Hearing Process for Denial of Physical Standard Waivers.

(A) Initiation of Proceedings: A contested case notice will be prepared when the Department denies a physical standard waiver after determining that factual data meeting the statutory and administrative rule requirements justifies the denial.

(B) Contested Case Notice: All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(C) Response Time: A party who has been served with a "Contested Case Notice of Intent to Deny a Waiver" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(D) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver pursuant to OAR 137-003-0672.

(E) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(F) Proposed and Final Orders: In cases where a hearing was requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

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

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Hist.: BPSST 1-2002, f. & cert. ef. 2-6-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 5-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 6-2009, f. & cert. ef. 7-13-09; DPSST 9-2010(Temp), f. & cert. ef. 10-15-10 thru 4-12-11; DPSST 13-2010, f. & cert. ef. 12-23-10; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11; DPSST 5-2012, f. & cert. ef. 3-26-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 18-2013, f. & cert. ef. 7-23-13; DPSST 13-2014, f. & cert. ef. 6-24-14; DPSST 32-2014, f. 12-29-14, cert. ef. 1-1-15; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 10-2015, f. 6-23-15, cert. ef. 7-1-15; DPSST 6-2016, f. 3-22-16, cert. ef. 4-1-16

Department of Transportation Chapter 731

Rule Caption: Oregon Innovative Partnerships Program

Adm. Order No.: DOT 1-2016

Filed with Sec. of State: 3-22-2016

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Rules Amended: 731-070-0010, 731-070-0020, 731-070-0050, 731-070-0055, 731-070-0060, 731-070-0080, 731-070-0110, 731-070-0130, 731-070-0140, 731-070-0160, 731-070-0170, 731-070-0350

Rules Repealed: 731-070-0030, 731-070-0190, 731-070-0195, 731-070-0360

Rules Ren. & Amend: 731-070-0240 to 731-070-0042, 731-070-0245 to 731-070-0044, 731-070-0250 to 731-070-0046, 731-070-0260 to 731-070-0048

Subject: ORS 367.800 established the Oregon Innovative Partnerships Program to develop partnerships with private entities or units of local government for expedited project delivery and innovation in transportation projects. These rule revisions have been made to better reflect how ODOT administers the program and make certain technical clarifications intended to streamline the proposal process.

Rules Coordinator: Lauri Kunze—(503) 986-3171

731-070-0010

Definitions for the Oregon Innovative Partnerships Program

As used in OAR 731-070-0005 to 731-070-0360:

(1) "Agency" means any agency of the State of Oregon or any political subdivision thereof authorized by law to enter into public contracts, as defined in ORS 279A.010(1), and any public body created by intergovernmental agreement.

(2) "Commission" or "OTC" means the Oregon Transportation Commission created by ORS 184.612 and any person or persons authorized or directed by the Commission to take any action or make any decision authorized by these rules on the Commission's behalf.

(3) "Competing Proposal" means a written submission to the Department that a proposer submits in response to a notice issued by the Department under OAR 731-070-0130.

(4) "Department" or "ODOT" means the Oregon Department of Transportation created by ORS 184.615.

(5) "Detailed Proposal" means a written submission to the Department satisfying the requirements set forth in OAR 730-070-0195.

(6) "Director" means the Director of Transportation appointed under ORS 184.620 and any person or persons authorized or directed by the Director to take any action or make any decision authorized by these rules on the Director's behalf.

(7) "Key Persons" means key officials of the proposing entity who play a critical role in running the enterprise and whose loss or unavailability could jeopardize the success of the venture. Any change or addition of Key Persons is subject to the provisions of OAR 731-0080.

(8) "Local government" has the meaning given that term in ORS 174.116.

(9) "Major Partner" means, with respect to a limited liability company or joint venture, each firm, business organization or person that has an ownership interest therein in excess of 5%.

(10) "Major Subcontractor" is any subcontractor designated in the proposal to perform 10% or more of the scope of work for a proposed Project.

(11) "Program" or "OIPP" means the Oregon Innovative Partnerships Program established under ORS 367.800 to 367.826.

(12) "Public-Private Partnerships" or "PPP" means a nontraditional arrangement between the Department and one or more private or public entities that provides for the implementation of a Transportation Project that may include:

(a) Acceptance of a private contribution to a transportation system project or service in exchange for a public benefit concerning that project or service;

(b) Sharing of resources and the means of providing transportation system projects or services;

(c) Cooperation in researching, developing, and implementing transportation system projects or services;

(d) Use of innovative funding methods; or

(e) Expedited project delivery. The use of the word "partnership" to describe such an arrangement does not confer on the relationship formed any of the attributes or incidents of a partnership under common law or under ORS chapters 68 and 70.

(13) "Private Contribution" means resources supplied by a private entity to accomplish all or any part of the work on a transportation system project, including funds, financing, income, revenue, cost sharing, technology, staff, materials, equipment, expertise, data, or engineering, construction, or maintenance services, or other items of value.

(14) "Sensitive business, commercial or financial information that is not customarily provided to business competitors" includes records or information pertaining to activities of the proposer that are commercial in nature, are intended to be treated with a high degree of discretion and which would not be provided to the proposer's competitors.

(15) "Tollway" means any roadway, path, highway, bridge, tunnel, railroad track, bicycle path or other paved surface or structure specifically designed as a land vehicle transportation route, the construction, operation or maintenance of which is wholly or partially funded with toll revenues resulting from an agreement with the Department pursuant to ORS 383.005 or with a city, county, or other local government pursuant to ORS 810.010 or other law.

(16) "Transportation Project" or "Project" has the meaning given that term in ORS 367.802.

(17) Terms not otherwise defined herein shall have the meaning given them in ORS 367.800 to 367.826.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

ADMINISTRATIVE RULES

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0020

General Selection Policies

(1) The Department may exercise broad discretion, subject to the ultimate approval of the Commission, in evaluating proposals in accordance with the criteria stated in OAR 731-070-0010 to 731-070-0360. To conduct a meaningful evaluation of a proposal, ODOT may refine its examination of the proposal so that the features offered by a particular proposal are translated into, or examined in light of, the general criteria identified in section (3) of this rule.

(2) In light of the exemption from the public contracting requirements of ORS Chapters 279A, 279B and 279C contained in ORS 367.806(5), the Department may consider factors including public need, technical and financial feasibility, transportation efficiency, cost effectiveness, and acceleration of project delivery when evaluating proposals for Transportation Projects. The evaluation process must appreciate economy and potential savings to the public, but proposal selection will be determined on a best-value basis, taking into account the policies described in this rule and the applicable criteria identified in OAR 731-070-0110 and 731-070-0140, rather than on a lowest responsible bidder determination.

(3) In evaluating unsolicited proposals and in selecting projects for which to solicit proposals under OAR 731-070-0042, the Department may give precedence to proposals and projects that will satisfy one or more of the following policies:

(a) Projects that will address an urgent or state-identified transportation need in a manner that will materially advance the project delivery timeframe in light of current or anticipated levels of funding and existing transportation plans.

(b) Projects that use primarily rights-of-way and publicly-owned real property that already are owned or under the long-term control of ODOT or other public entities that have authority to put the real property to the use proposed.

(c) Projects for which planning, reliable feasibility determinations, comparable, successful prior projects or case studies demonstrate a strong potential to attract or generate a substantial contribution of non-state or non-tax resources to pay project cost items like capital, operation and maintenance, and provide a reasonable return on that investment in terms of:

(A) A private partner's investment, if any; and

(B) Transportation benefits to the public.

(d) Projects for which planning, reliable feasibility determinations, comparable, successful prior projects or case studies demonstrate a low risk of failure (in terms of the completion of infrastructure improvements), practicable means of mitigating the risk of failure, or a high reward-to-risk ratio (in terms both of the benefits to the public and the private partner's investment incentive).

(e) Proposals that identify specific, reliable, confirmable and economically-viable, non-state or non-traditional sources of funding that will be available to supplement or replace state funding or other state resources for the project.

(f) Projects for which there is a demonstration of clear and substantial public support.

(g) Proposals that identify innovative construction approaches that will result in shorter build time, reduced construction cost or improved function in comparison to conventional approaches.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0042

Commission Selection of Projects for Solicitation of Proposals

ODOT either may solicit proposals or, as approved by the Commission, enter into direct negotiations or competitive negotiations with a legal entity for a public-private partnership approach to planning, acquiring, financing, developing, designing, managing, constructing, reconstructing, replacing, improving, maintaining, repairing, leasing or operating a Transportation Project if the Commission has determined that such an approach has the potential to accelerate cost-effective delivery of the Project or promote innovative approaches to carrying out the Project.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 2-2009(Temp), f. & cert. ef. 7-29-09 thru 1-22-10; DOT 4-2009, f. & cert. ef. 12-22-09; Renumbered from 731-070-0240, DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0044

Negotiations

(1) Direct Negotiations When ODOT chooses to enter into direct negotiations for a public-private partnership approach, it may include a request for a proposal from the entity and may specify requirements for proposal content, as well as criteria and procedures under which the proposal will be evaluated and selected for further negotiations towards a final agreement.

(2) ODOT Authority to Elect Competitive Negotiations:

(a) ODOT may authorize, at its option, competitive negotiations with multiple proposers as a means of selecting from among Competing Proposals solicited under OAR 731-070-0130, or from among Detailed Proposals requested under OAR 731-070-0060. Negotiations under this section are part of the proposal evaluation process and do not constitute the negotiation of a Transportation Project agreement.

(b) The object of competitive negotiations, which ODOT may conduct concurrently with more than one proposer or serially, is to maximize ODOT's ability to obtain best value and to permit proposers to develop revised proposals. Therefore, the negotiations may include, but shall not be limited to:

(A) Informing proposers of deficiencies in their proposals;

(B) Notifying proposers of parts of their proposals for which ODOT would like additional information; and

(C) Otherwise allowing proposers to develop revised proposals that will permit ODOT to obtain the best proposal based on the requirements and evaluation criteria set forth in the notice or request for the scope, manner and extent of negotiations with any proposer are subject to the discretion of ODOT. To prevent the disclosure of proposal information to a proposer's competitors, ODOT may conduct negotiations with proposers before information about the subject proposals is shared with other government entities under ORS 367.804(5)(a).

(c) In conducting negotiations, ODOT:

(A) Shall treat all proposers fairly and shall not engage in conduct that favors any proposer over another;

(B) Shall not reveal to another proposer a proposer's unique technology, unique or innovative approaches to Transportation Project design, management or financing, or any information that would compromise the proposer's intellectual property, trade secrets or sensitive business information; or

(C) Shall not reveal to another proposer a proposer's price or pricing information, provided, however, that ODOT may inform a proposer that ODOT considers a proposer's price or pricing information to be too high or too low.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 2-2009(Temp), f. & cert. ef. 7-29-09 thru 1-22-10; DOT 4-2009, f. & cert. ef. 12-22-09; Renumbered from 731-070-0245, DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0046

Solicitation Documents

(1) In a solicitation for proposals, ODOT will specify requirements for proposal content, and for criteria and procedures under which the proposals will be evaluated and selected. These requirements, criteria and procedures will comply with the requirements of ORS 367.800 to 367.826.

(2) Nothing in this rule is intended to limit the scope of ODOT's discretion or authority to develop proposal and evaluation criteria and processes for any project as long as those criteria and processes comply with the requirements of ORS 367.800 to 367.826.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; Renumbered from 731-070-0250, DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0048

Public Notice of Solicitation

(1) Notice and Distribution Fee. ODOT will furnish notice to a sufficient number of entities for the purpose of fostering and promoting competition. The notice will indicate where, when, how, and for how long the Solicitation Document may be obtained and generally describe the work. The notice may contain any other appropriate information. ODOT may charge a fee or require a deposit for the Solicitation Document. ODOT may furnish notice using any method determined to foster and promote competition, including:

(a) Mail notice of the availability of Solicitation Documents ("notice") to Entities that have expressed an interest in ODOT's procurements;

ADMINISTRATIVE RULES

(b) Place notice on the Oregon the Department of Administrative Services' electronic procurement system known as the Oregon Procurement Information Network ("ORPIN"); or

(c) Place notice on ODOT's internet web site.

(3) Posting Advertisement for Proposals. ODOT will post a copy of each advertisement for proposals at the principal business office of ODOT. A proposer may obtain a copy of the advertisement for proposals upon request from Contractor Plans Unit, 3930 Fairview Industrial Drive SE, MS#2-2, Salem OR 97302 or on the Internet at www.oregon.gov/ODOT/CS/CONSTRUCTION.

(4) Minority, Women Emerging Small Business. ODOT will provide timely notice of all solicitations to the Advocate for Minority, Women and Emerging Small Business if the estimated Project cost exceeds \$5,000.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; Renumbered from 731-070-0260, DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0050

Submission of Unsolicited Proposal

(1) Any private entity or unit of government may submit an unsolicited Detailed Proposal for a Transportation Project to ODOT for consideration under the OIPP.

(2) A proposal review fee in the amount prescribed by OAR 731-070-0055(1)(c) must accompany any unsolicited Detailed Proposal submitted by a private entity or unit of government.

(3) The proposer shall submit 20 copies, individually identified, of any unsolicited proposal in addition to the proposal bearing the signature of the authorized representative. The original proposal, required copies and processing fee shall be delivered to the Director or his designee.

(4) ODOT will consider an unsolicited proposal only if the proposal:

(a) Is unique or innovative in comparison with and is not substantially duplicative of other transportation system projects included in the state transportation improvement program within the Department or, if it is similar to a project in the state transportation improvement program, the project has not been fully funded by ODOT or any other public entity as of the date the proposal is submitted, or the proposal offers an opportunity to materially advance or accelerate the implementation of the project. Unique or innovative features which may be considered by ODOT in evaluating such a proposal may include but are not limited to unique or innovative financing, construction, design, schedule or other project components as compared with other projects or as otherwise defined by ODOT rules or regulations; and

(b) Includes all information required by and is presented in the format set out in OAR 731-070-0060. Such information shall include a list of any proprietary information included in the proposal that the proposer considers protected trade secrets or other information exempted from disclosure under ORS 367.803(5) and (6) and OAR 731-070-0280 and 0290.

(5) ODOT will not consider an unsolicited proposal for a project involving another state or local government unit of another state unless ODOT and the appropriate representative of the other state or of the local government unit of the other state have entered into an agreement that permits the acceptance of unsolicited proposals for such a project.

(6) ODOT will not consider an unsolicited proposal for a project that has been incorporated in the Statewide Transportation Improvement Program (STIP) as approved by the Oregon Transportation Commission, and for which funding is fully committed, if the proposal is submitted later than July 1 of the design year designated in the STIP or, if no design year is designated, July 1 of the year that is two years prior to the construction year designated in the STIP.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 2-2013, f. & cert. ef. 6-21-13; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0055

Fees to Accompany Unsolicited Proposals

(1) The unsolicited proposal review fees required by OAR 731-070-0050(2) are as follows, unless otherwise specified in sections (2) or (3) of this rule:

(a) For Detailed Proposals, as defined in OAR 731-070-0010(6):

(A) A \$10,000 non-refundable fee for a project under \$100 million; and

(B) A \$40,000 non-refundable fee for a project \$100 million or more.

(b) If ODOT invites Competing Detailed Proposals as described in OAR 731-070-0130, each Competing Detailed Proposal shall be accompanied by the fees described in (1)(a).

(2) If the cost of evaluating an unsolicited proposal exceeds the fees assessed under section (1) of this rule, the Director may assess additional fees that reflect the reasonable expected costs to be incurred by ODOT in evaluating the unsolicited proposal that exceed the amount deposited in section (1) of this rule.

(3) The Director may waive the fees specified in sections (1) and (2) of this rule if the interests of the state or the specific merits of the project would warrant such a waiver. In considering whether to grant a waiver the Director will consider the magnitude of costs versus benefits of such a waiver.

Stat. Auth.: ORS 184.616, 184.619, 367.822 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 6-2004(Temp), f. & cert. ef. 8-26-04 thru 2-21-05; DOT 1-2005, f. & cert. ef. 1-20-05; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0060

Contents and Format of Conceptual or Competing Proposals

(1) A Detailed unsolicited or Competing Proposal shall include the following information, except as expressly waived by the Department, separated by tabs as herein described:

(a) TAB 1: Qualifications and Experience.

(A) Identify the legal structure of the private entity or consortium of private entities or of private and public entities (the "Team") submitting the proposal. Identify the organizational structure of the Team for the Project, the Team's management approach and how each Major Partner and Major Subcontractor identified as being a part of the Team as of the date of submission of the proposal fits into the overall Team.

(B) Describe the experience of each private entity involved in the proposed Project. Describe the length of time in business, business experience, public sector transportation experience, PPP experience, development experience, design-build experience and other similarly sized engagements of each Major Partner and Major Subcontractor. The lead entity must be identified.

(C) Provide the names, addresses and telephone numbers of persons within the Team who may be contacted for further information.

(D) Include the address, telephone number, and the name of a specific contact person at a public entity for which the private entity or the Team or the primary members of the Team have completed a development project, public-private partnership project or design-build project.

(E) Include the resumes for those managerial persons within the Team that will likely be associated in a significant way with the Project development and implementation.

(F) Provide financial information regarding the private entity or Team and each Major Partner that includes, if available, the most recent independently audited financial statement of the private entity or Team and of each Major Partner, and which demonstrates their ability to perform the work and Project as set forth in the Detailed Proposal, including ability to obtain appropriate payment and performance bonds.

(G) Submit executed conflict of interest disclosure forms, prescribed by ODOT, for the Team, each Major Partner and any Major Subcontractor.

(b) TAB 2: Project Characteristics.

(A) Provide a detailed description of the Transportation Project or Projects, including all proposed interconnections with other existing transportation facilities or known publicly identified projects. Describe the Project in sufficient detail so the type and intent of the Project, the general location of the Project, and the communities that may be affected by the Project are clearly identified. Describe the assumptions used in developing the Project.

(B) Identify any significant local, state or federal services or practical assistance that the proposer contemplates requesting for the Project. In particular, identify and describe any significant services that will need to be performed by the Department such as right-of-way acquisition or operation and maintenance of the completed Project.

(C) Include a preliminary list of all significant federal, state, regional and local permits and approvals required for the Project. Identify which, if any, permits or approvals are planned to be obtained by ODOT.

(D) List the critical factors for the Project's success.

(E) Identify the proposed preliminary schedule for implementation of the Project.

(F) Describe the assumptions related to ownership, law enforcement and operation of the Project and any facility that is part of the Project.

(G) Describe the payment and performance bonds and guarantees that the Team will provide for the Project.

(H) Identify any public improvements that will be part of the proposed Transportation Project that will constitute "public works" under ORS 279C.800(5), the workers on which must be paid in accordance with

ADMINISTRATIVE RULES

Oregon's Prevailing Rate of Wage Law, ORS 279C.800 to 279C.870, and any public improvements the workers on which must be paid in accordance with the federal Davis-Bacon Act, 40 USC sections 3141 to 3148.

(c) TAB 3: Project Financing.

(A) Provide a projected budget for the Project based on proposer's prior experience on other projects or other cost projection factors and information.

(B) Include a list and discussion of assumptions (e.g., user fees, toll rates and usage of the facility) underlying all major elements of the plan for the Project.

(C) Identify the proposed risk factors relating to the proposed Project financing and methods for dealing with these factors.

(D) Identify any significant local, state or federal resources that the proposer contemplates requesting for the Project. Describe the total commitment (financial, services, property, etc.), if any, expected from governmental sources; the timing of any anticipated commitment; and its impact on project delivery.

(E) Identify any aspect of the financial model for the Transportation Project that implicates or potentially implicates restrictions on the use of highway-related revenues under Article IX, section 3a of the Oregon Constitution, and explain how the financial model avoids conflicting with those restrictions.

(F) Identify the form of the Private Contribution and the members of the Team that will make the Private Contribution and the proposed compensation for such Private Contribution.

(G) Provide an explanation of how funds for the Transportation Project will be segregated, accounted for and expended in a manner that ensures that any moneys from the state highway fund will be expended exclusively for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in Oregon, as required by Article IX, section 3a(1), of the Oregon Constitution.

(H) Identify, to the extent possible, proposed financing Team members, including banks, investment banks, equity investors, credit enhancement providers, bond trustees and legal counsel to the same.

(d) TAB 4: Public Support/Project Benefit/Compatibility.

(A) Identify who will benefit from the Project, how they will benefit and how the Project will benefit the overall transportation system.

(B) Identify any anticipated government support or opposition, or general public support or opposition, for the Project.

(C) Explain the strategy and plans that will be carried out to involve and inform the agencies and the public in areas affected by the Project.

(D) Describe the significant social and economic benefits of the Project to the community, region or state and identify who will benefit from the Project and how they will benefit. Identify any state benefits resulting from the Project including the achievement of state transportation policies or other state goals.

(f) TAB 5: Special Deliverables.

(A) Provide a statement setting out the plan for securing all necessary real property, including proposed timeline for any necessary acquisitions.

(B) Provide proposed design, construction and completion guarantees and warranties.

(C) Include traffic studies, forecasts and related materials that establish Project revenue assumptions, including, if any, user fees or toll rates, and usage of the facility.

(D) Provide such additional material and information as ODOT may reasonably request.

(2) All pages of a proposal shall be numbered. Each copy of the proposal will be bound or otherwise contained in a single volume where practicable. All documentation submitted with the proposal will be contained in that single volume.

(3) A proposal submitted by a Private Entity must be signed by an authorized representative of the Private Entity submitting the proposal.

(4) The proposer shall include a list of any proprietary information included in the proposal which the proposer considers protected trade secrets or other information exempted from disclosure under ORS 367.804 and OAR 731-070-0280 and 731-070-0290.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0080

Additional Proposer Organizational Disclosure Requirements

(1) In addition to the disclosure requirements of OAR 731-070-0060(1)(a), the Director or the Director's designee may impose, after the

submission of a proposal, any other special disclosure requirements the Director determines to be reasonably necessary to evaluate the expertise, experience, financial backing, integrity, ownership and control of any proposer.

(2) All proposers must provide all the information required by this rule. All proposers and Key Persons must complete and submit the required disclosure form, prescribed by ODOT, within the deadlines set by the Director or the Director's designee. All proposers and Key Persons must provide any documents required in the disclosure process, or other documents as determined by the Director, or their proposals may be rejected by ODOT.

(3) ODOT may reject, or require the supplementation of, a proposal if the proposer has not provided all information required in the disclosure form or if any information provided is not accurate, current or truthful. The failure or refusal of any proposer to properly execute, fully complete, or accurately report any information required by the required disclosure shall be sufficient grounds for rejection of the proposal.

(4) Any change in the status of the proposer, in the identity of any of the Key Persons, or the addition of any Key Persons must be reported to the Department within 30 calendar days of the known change, and those whose status has changed or who have been added as Key Persons will be required to submit the required disclosure information. For purposes of this section, a "change in the status of a proposer" means a reorganization of the business structure or corporate structure of the proposer or a Major Partner, or a change in ownership of the proposer or a Major Partner amounting to a transfer of over twenty percent of the entity's ownership.

(5) The burden of satisfying ODOT's disclosure requirements, both in terms of producing the disclosures and assuring their accuracy and completeness, resides with each proposer.

(6) Each proposer, by submitting a proposal, thereby accepts all risk of adverse public notice, damages, financial loss, criticism or embarrassment that may result from any disclosure or publication of any material or information required or requested by the Department in connection with the proposer's submission of a proposal. In submitting a proposal, the proposer expressly waives, on behalf of itself, its partners, joint venturers, officers, employees and agents, any claim against the Director, the State of Oregon, the Oregon Transportation Commission, ODOT, and their officers and employees, for any damages that may arise therefrom.

(7) An Agency that submits a proposal may, prior to submission, request ODOT to waive the disclosure requirements of this rule with respect to the corporate public entity and its officers. However, if the Agency proposes to enter into or establish a partnership or joint venture with a private party to perform any substantial portion of the proposed Project (as opposed to the engagement of only a prime contractor or sub-contractors), then disclosure of the private party must be made as if the private party is a proposer, in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0110

Initial Review of Unsolicited Proposals

(1) An unsolicited proposal submitted under OAR 731-070-0050 will be reviewed by an Initial Review Committee (IRC), which shall be appointed by the Director from Department personnel.

(2) The IRC will assess:

(a) Whether the proposal is complete;

(b) Whether the proposer is qualified;

(c) If the proposal is submitted as a Detailed Proposal, whether the proposal appears to satisfy the requirement of OAR 731-070-0060 for Detailed Proposals;

(d) Whether the Project as proposed appears to be technically and financially feasible;

(e) Whether the Project as proposed appears to have the potential of enhancing the state transportation system; and

(f) Whether the Project as proposed appears to be in the public interest.

(3) The IRC will report the results of its assessment to the Director. Based on this assessment, the Director will determine whether the proposal satisfies the requirements of section (2) of this rule. If the Director determines that the proposal satisfies the requirements set out in section (2) of this rule, the Director will forward a recommendation concerning the proposal to the Commission for preliminary review and approval. The recommendation will not include sensitive business, commercial or financial information or trade secrets as described in 731-070-0290.

Stat. Auth.: ORS 184.616, 184.619, 367.824

ADMINISTRATIVE RULES

Stat. Implemented: ORS 367.800 - 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016,
f. & cert. ef. 3-22-16

731-070-0130

Competing Proposals

(1) Within 30 calendar days of the Commission's preliminary approval of an unsolicited proposal under OAR 731-070-0120, ODOT shall provide public notice of the proposed Project. This notice shall:

(a) Be published in a newspaper of general circulation and upon such electronic website providing for general public access as ODOT may develop for such purpose;

(b) Be provided to any county, city, metropolitan service district, or transportation district in which the Project will be located;

(c) Be provided to any person or entity that expresses in writing to ODOT an interest in the subject matter of the unsolicited proposal and to any member of the Legislature whose House or Senate district would be affected by such proposal;

(d) Outline the general nature and scope of the unsolicited proposal, including the location of the Transportation Project and the work to be performed on the Project;

(e) Specify the Competing Proposal must satisfy the requirements for a Detailed Proposal under OAR 731-070-0060; and

(f) Specify the address to which any Competing Proposal must be submitted.

(2) Any entity that elects to submit a Competing Proposal for the proposed Project shall submit a written letter of intent to do so not later than 30 calendar days after ODOT's initial publication of notice. Any letter of intent received by ODOT after the expiration of the 30-calendar day period shall not be valid and any Competing Proposal submitted thereafter by a private or governmental entity that has not submitted a timely letter of intent shall not be considered by ODOT.

(3) An entity that has submitted a timely letter of intent must submit its Competing Proposal to ODOT not later than 90 calendar days after ODOT's initial publication of notice under section (1) of this rule, or such other time as ODOT states in the notice. The Competing Proposal must:

(a) Be signed by an authorized representative of the proposer;

(b) If the notice issued under paragraph (1) specifies that the Competing Proposal must satisfy the requirements for a Detailed Proposal:

(A) Be accompanied by the processing fee for Detailed Proposals required under OAR 731-070-0055(1); and

(B) Include the information and be organized in the manner required of an unsolicited Detailed Proposal under OAR 731-070-0060.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016,
f. & cert. ef. 3-22-16

731-070-0140

Evaluation of Unsolicited and Competing Proposals

(1) Evaluation Panel. An Evaluation Panel shall be appointed by the Director and shall consist of not fewer than five nor more than nine members, at least three of whom shall be employees of the Department.

(2) Evaluation Panel Review. After expiration of the time to submit Competing Proposals to an unsolicited Proposal, the Evaluation Panel will review the Competing Proposals to determine whether they satisfy the requirements of OAR 731-070-0050 and qualify for full evaluation.

(3) Competing or Non-Competing Proposals. As part of its initial review of Competing Proposals under section (2) of this rule, the Evaluation Panel shall make a preliminary assessment whether any of the Competing Proposals differ from the original unsolicited proposal in such a significant and meaningful manner that they should be treated as an original unsolicited proposal. If the Evaluation Panel believes that a proposal submitted as a Competing Proposal should be treated as an original unsolicited proposal and that it satisfies the requirements of OAR 731-070-0050, the Evaluation Panel shall forward the proposal to the Director, who shall determine whether the proposal should be submitted to the Commission for preliminary review and approval under OAR 731-070-0120, and the proposal shall thereafter be processed under these rules in the same manner as an unsolicited Proposal.

(4) Proposer Presentations. At any time during this evaluation process, the Evaluation Panel may request proposers to make presentations to the Evaluation Panel. Proposers shall be afforded not less than 10 business days following written notification from the Evaluation Panel to prepare such presentations. The format of these presentations will include a formal presentation by the proposer, followed by any questions the Evaluation Panel may have pertaining to the Project, proposal or the pres-

entation. These meetings will allow the Evaluation Panel to seek clarification of Project elements and complete deliverable requirements, and provide proposers with the opportunity to further explain their proposed Projects. If there is an issue to which the proposer is unable to respond during the formal presentation, the Evaluation Panel may, at its discretion, grant the proposer a reasonable period of time in which to submit a written response.

(5) Evaluation Factors. When assessing any original unsolicited Proposal or qualifying Competing Proposal, the Evaluation Panel may take into consideration any or all of the following factors:

(a) Qualifications and Experience. Does the proposer propose a Team that is qualified, managed, and structured in a manner that will enable the Team to complete the proposed Project?

(A) Experience with Similar Infrastructure Projects. Have members of this Team previously worked together or in a substantially similar consortium or partnership arrangement constructing, improving or managing transportation infrastructure? Has the lead firm managed, or any of the member firms worked on, a similar privatization project?

(B) Demonstration of Ability to Perform Work. Does the Team possess the necessary financial, staffing, equipment, and technical resources to successfully complete the Project? Do the Team or member firms have competing financial or workforce commitments that may inhibit success and follow-through on the Project?

(C) Leadership Structure. Is one firm designated as lead on the Project? Does the organization of the Team indicate a well thought out approach to managing the Project? Is there an agreement/document in place between members?

(D) Project Manager's Experience. Is a Project Manager identified, and does this person work for the principal firm? If not, is there a clear definition of the role and responsibility of the Project Manager relative to the member firms? Does the Project Manager have experience leading this type and magnitude of project?

(E) Management Approach. Have the primary functions and responsibilities of the management team been identified? Have the members of the Team developed an approach to facilitate communication among the Project participants? Has the firm adequately described its approach to communicating with and meeting the expectations of the state?

(F) Financial Condition. Is the financial information submitted on the firms sufficient to determine the firms' capability to fulfill its obligations described in the proposal, and is that capability demonstrated by the submitted information?

(G) Project Ownership. Does the proposal identify the proposed ownership arrangements for each phase of the Project and clearly state assumptions on legal liabilities and responsibilities during each phase of the Project?

(H) Participation of Small Businesses and Businesses Owned by Women and Minorities. What is the level of commitment by the proposers to use small, minority-, and women-owned business enterprises in developing and implementing the Project?

(I) Competitive Subcontracting. To what extent have adequate and transparent procurement policies been adopted by the proposer to maximize opportunities for competitive procurement of work, services, materials and supplies that the proposer will outsource?

(b) Project Characteristics. Is the proposed transportation facility technically feasible?

(A) Project Definition. Is the Project described in sufficient detail to determine the type and size of the Project, the location, all proposed interconnections with other transportation facilities, the communities that may be affected, and alternatives (e.g. alignments) that may need to be evaluated?

(B) Proposed Project Schedule. Is the time frame for Project completion clearly outlined? Is the proposed schedule reasonable given the scope and complexity of the Project?

(C) Operation. Does the proposer present a reasonable statement setting forth plans for operation of the Project or facilities that are included in the Project?

(D) Technology. Is the proposal based on proven technology? What is the degree of technical innovation associated with the proposal? Will the knowledge or technology gained from the Project benefit other areas of the state or nation? Does the technology proposed maximize interoperability with relevant local and statewide transportation technology? Can the proposed Project upgrade relevant local technology?

(E) Conforms to Laws, Regulations, and Standards. Is the proposed Project consistent with applicable state and federal statutes and regulations, or reasonably anticipated modifications of state or federal statutes, regula-

ADMINISTRATIVE RULES

tions or standards? Does the proposed design meet applicable state and federal standards?

(F) Federal Permits. Is the Project outside the purview of federal oversight, or will it require some level of federal involvement due to its location on the National Highway System or Federal Interstate System or because federal permits are required? Does the proposal identify the primary federal permits and agencies that will be involved in review and oversight of the Project?

(G) Meets/Exceeds Environmental Standards. Is the proposed Project consistent with applicable state and federal environmental statutes and regulations? Does the proposed design meet applicable state environmental standards? Does the proposal adequately address air quality issues?

(H) State and Local Permits. Does the proposal list the required permits and provide a schedule for obtaining them? Are there known or foreseeable negative impacts arising from the Project? If so, is there a mitigation plan identified? Are alternatives to standards or regulations needed to avoid those impacts that cannot be mitigated?

(I) Right of Way. Does the proposal set forth a method or plan to secure all property interests required for the Transportation Project?

(J) Maintenance. Does the proposer have a plan to maintain any facilities that are part of the proposed Transportation Project in conformance with Department standards? Does the proposal clearly define assumptions or responsibilities during the operational phase including law enforcement, toll collection and maintenance? Under the proposal, will maintenance and operation of any new facilities be consistent with standards applied throughout the highway system and use the same work-forces and methods?

(c) Project Financing. Has the proposer provided a financial plan which will allow for access to the necessary capital to make a substantial contribution of non-state, private-sector, or other innovative financing resources to the financing of the facility or Project?

(A) Financing. Did the proposer demonstrate evidence of its experience, ability and commitment to provide a sufficient private-sector contribution or other innovative financing contribution of funds or resources to the Project as well as the ability to obtain the other necessary financing?

(B) Financial Plan. Does the financial plan demonstrate a reasonable basis for funding Project development and operations? Are the assumptions on which the plan is based well defined and reasonable in nature? Are the plan's risk factors identified and dealt with sufficiently? Are the planned sources of funding and financing realistic? Is the proposer prepared to make a financial contribution to the Project? Does the proposer adequately identify sources of non-state funding that it anticipates including in the Project financing, and does the proposer provide adequate assurance of the availability of those funds and the reliability of the funding sources?

(C) Estimated Cost. Is the estimated cost of the Project reasonable in relation to the cost of similar projects?

(D) Life Cycle Cost Analysis. Does the proposal include an appropriately conducted analysis of projected rate of return and life-cycle cost estimate of the proposed Project or facility?

(E) Business Objective. Does the proposer clearly articulate its reasons for pursuing the Project? Do its assumptions appear reasonable?

(d) Public Support. Has the proposer demonstrated sufficient public support for the proposed Project or proposed a reasonable plan for garnering that support?

(A) Community Benefits. Will the Project bring a significant transportation and economic benefit to the community, the region, or the state? Are there ancillary benefits to the communities because of the Project?

(B) Community Support. What is the extent of known support or opposition for the Project? Does the Project proposal demonstrate an understanding of the national and regional transportation issues and needs, as well as the impacts the Project may have on those needs? Is there a demonstrated ability to work with the community? Have affected local jurisdictions expressed support for the Project?

(C) Public Involvement Strategy. What strategies are proposed to involve local and state elected officials in developing the Project? What level of community involvement is contemplated for the Project? Is there a clear strategy for informing and educating the public and for obtaining community input throughout the development and life of the Project?

(e) Project Compatibility. Is the proposed Project compatible with, or can it be made compatible with state and local comprehensive transportation plans?

(A) Compatibility with the Existing Transportation System. Does the Project propose improvements that are compatible with, or that can be made compatible with, the present and planned transportation system?

Does the Project provide continuity with existing and planned state and local facilities?

(B) Fulfills Policies and Goals. Does the proposed Project help achieve performance, safety, mobility or transportation demand management goals? Does the Project improve connections among the transportation modes?

(C) Enhance Community-Wide Transportation System. Has the proposer identified the specific way in which the Project benefits affected community transportation systems? Does the Project enhance adjacent transportation facilities?

(D) Conformity with Local, Regional and State Transportation Plans. Does the Project conform with, or can it achieve conformity with, city and county comprehensive plans and regional transportation plans? Does the Project conform with, or can it achieve conformity with, plans developed by the Oregon Transportation Commission under ORS 184.618 and any applicable regional transportation plans or local transportation programs? If not, are the steps proposed under OAR 731-070-0060(1)(b) to achieve conformity with such plans adequate and appropriate to provide a high likelihood that the Project and the applicable plans can be brought into conformity?

(E) Economic Development. Will the proposed Project enhance the state's economic development efforts? Is the Project critical to attracting or maintaining competitive industries and businesses to the region, consistent with stated objectives?

(6) Factors for Proposals that Include Tolling. If the Project financing component of a proposal includes a plan to impose tolls, the Evaluation Panel shall specifically consider:

(a) The opinions and interests of units of government encompassing or adjacent to the path of the proposed Tollway Project in having the Tollway installed;

(b) The probable impact of the proposed Tollway Project on local environmental, aesthetic and economic conditions and on the economy of the state in general;

(c) The extent to which funding other than state funding is available for the proposed Tollway Project and the extent to which resources other than tolls would be required to be established or maintained as necessary security to support such a financing;

(d) The likelihood that the estimated use of the Tollway Project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the Tollway Project, including the repayment of any loans to be made from moneys in the State Tollway Account or other accounts;

(e) With respect to Tollway Projects, any portion of which will be financed with state funds or department loans or grants:

(A) The relative importance of the proposed Tollway Project compared to other proposed Tollways; and

(B) Traffic congestion and economic conditions in the communities that will be affected by competing Tollway Projects;

(f) The effects of Tollway implementation on other major highways in the state system and on community and local street traffic;

(g) The amount and classification of the traffic using, or anticipated to use, the Tollway;

(h) The amount of the toll proposed to be established for each class or category of Tollway user and, if applicable, the different amounts of the toll depending on time and day of use;

(i) The extent of the Tollway, including improvements necessary for Tollway operation and improvements necessary to support the flow of traffic onto or off of the Tollway;

(j) The location of toll plazas or toll collection devices to collect the toll for the Tollway;

(k) The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the Tollway;

(L) The amount of indebtedness incurred for the construction of the Tollway and debt service requirements, if any;

(m) The value of assets, equipment and services required for the operation of the Tollway;

(n) The period of time during which the toll will be in effect;

(o) The process for altering the amount of the toll during the period of operation of the Tollway;

(p) The method of collecting the toll;

(q) The rate of return that would be fair and reasonable for a private equity holder, if any, in the Tollway; and

(r) Tolling policies adopted by the Oregon Transportation Commission.

ADMINISTRATIVE RULES

(7) Evaluation Panel Recommendation For Detailed and Competing Proposals. For any Detailed Proposal that receives a favorable evaluation, the Evaluation Panel will prepare a written recommendation, based on facts and circumstances presented in the proposal or known to ODOT, that the proposal merits consideration for negotiation of a final agreement. The Evaluation Panel will report its assessments and recommendations to the Director. The Director will review the Evaluation Panel's assessments and recommendations and based on that review shall:

(a) Select one Detailed Proposal and forward the selection to the Commission with a recommendation that the Detailed Proposal constitutes an acceptable basis for an agreement to enter into a public-private partnership with the proposer; or

(b) Reject all Detailed Proposals.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0160

Use of a Process that Permits ODOT Feedback and Ability of Proponents to Supplement or Refine Proposals after Initial Submission

(1) For Original Unsolicited Proposals: ODOT reserves the right, to be exercised in its sole and absolute discretion, to require or to permit proposers to submit, at any time, revisions, clarifications to, or supplements of their previously submitted proposals. ODOT may, in the exercise of this authority, require proposers to add features, concepts, elements, information or explanations that were not included in their initial proposals, and may require them to delete features, concepts, elements, information or explanations that were included in their initial proposals. A proposer will not be legally bound to accept a request to add to or delete from a proposal any feature, concept, element or information, but its refusal to do so in response to a request by ODOT shall constitute sufficient grounds for ODOT to elect to terminate consideration of its proposal.

(2) For Competing Proposals:

(a) After ODOT's opening and review of Competing Proposals, ODOT may issue or post on its website an addendum to the request for Competing Proposals that:

(A) Requires proposers to address or add physical features or elements, and information or explanations that were not included in their initial proposals; or

(B) Requires proposers to delete physical features or elements that were included in their initial proposals.

(b) ODOT will send any such addendum that it issues by a method other than posting on its website to all proposers who are eligible to compete under the particular Competing Proposal process.

(c) ODOT will issue or electronically post an addendum issued under this section. The addendum will contain a deadline by which the proposers must submit to ODOT any additions to, modifications of or deletions from their proposals.

(d) A proposer will not be legally bound to accept a request to add to or delete from a proposal any feature, element or information or explanation, but its refusal to do so in response to an addendum issued by ODOT shall constitute sufficient grounds for ODOT to elect to terminate consideration of the proposer's Competing Proposal and also may be considered by ODOT in determining the proposer to be selected as the result of the Competing Proposals process.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0170

Commission Review and Selection of Proposals

The Commission shall review the Detailed or Competing Proposal selected and forwarded by the Director under OAR 731-070-0140(7)(d). Based on that review the Commission shall approve or disapprove the Detailed Proposal selected by the Director for negotiation of a final agreement under OAR 731-070-0200.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

731-070-0350

Discretionary Order Requiring the Prequalification of Proposers – Detailed Unsolicited or Competing Proposals

(1) ODOT may, at any time, issue a written order that requires any entity that wishes to submit a Detailed unsolicited or Competing proposal to apply for prequalification to submit a proposal. The order must describe the character or class of the Project or Projects, and the size of the Projects in terms of estimated implementation or construction cost, that are subject to the prequalification requirement. The order also must provide that each proposer must be prequalified by ODOT in order to submit a proposal for the kind or kinds of Project described in the order, and that ODOT will reject proposals received for the kind or kinds of Projects described in the order from proposers who are not prequalified.

(2) The prequalification order also shall contain:

(a) The location at which interested entities may obtain prequalification applications, information about prequalification criteria and other related documents, if any; and

(b) The name, title, and address of the person designated to receive the prequalification applications.

(3) Each prequalification application shall be in writing and must substantially comply with the instructions given by ODOT in a prequalification application questionnaire or prequalification form issued by ODOT.

(4) ODOT may establish the criteria used to evaluate prequalification applications in light of the features and demands of the kind or kinds of Project for which prequalification is required as a condition of an entity's ability to submit an unsolicited proposal. The criteria may include, but shall not be limited to:

(a) The applicant's financial resources, including:

(A) Bonding capacity;

(B) Solvency; and

(C) Past payment history with employees, suppliers and subcontractors;

(b) The applicant's equipment and technology available to perform the Project, including whether the applicant has or reasonably can obtain, either itself, through subcontractors, or otherwise, all licenses and registrations necessary for use and operation of any technology or equipment involved in the Project, and all licenses and permits necessary to the lawful completion of the Project;

(c) The applicant's key personnel available to work on the Project, including:

(A) The specific capabilities of the applicant and its key personnel, as demonstrated by work on past projects which are comparable in size, nature, and technical and managerial complexity to the Project and to the scope of any construction services that may be required by the Project; and

(B) The identity and experience of the key personnel planned to be assigned to the Project;

(d) The applicant's performance history on other projects or contracts, including the applicant's approach to comparable projects and the planning, phasing and scheduling techniques employed by the applicant in those projects in general, and to the extent possible, particularly as applicable to the kind or kinds of Project for which prequalification is required;

(e) The applicant's safety programs and safety record including, where applicable, evidence of the applicant's experience modifier issued by the Department of Consumer and Business Services, Workers' Compensation Division;

(f) The applicant's experience or ability to provide the services of key persons with experience in design-build projects and similar innovative approaches to project completion;

(g) References from owners, architects and engineers with whom the applicant has worked in the past;

(h) The histories of the applicant and its Major Partners concerning their involvement, within the five years immediately preceding the issuance date of the Department's prequalification order (or such shorter period as ODOT may specify in the order), in claims and litigation, including mediated or arbitrated construction claims and governmental administrative proceedings, arising out of past projects or under contracts to which they were parties in which the proceedings exceeded \$1,000,000 in liability exposure or claim amount;

(i) Information concerning whether the applicant, any Major Partner, and any key person of either has been, within the five years immediately preceding the issuance date of the Department's prequalification order (or such shorter period as ODOT may specify in the order):

(A) Convicted of any criminal offense as an incident in obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

ADMINISTRATIVE RULES

(B) Convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the person's responsibility as a contractor; or

(C) Convicted or determined to be liable under state or federal antitrust statutes.

(5) ODOT will, after receiving a prequalification application submitted in accordance with section (3) of this rule, notify the applicant whether the applicant is qualified to submit an unsolicited proposal for a Project of the kind or kinds described in ODOT's order issued under section (1) of this rule.

(6) If ODOT determines that the applicant is not qualified, ODOT shall provide the applicant written notice of that determination that contains a statement of the reason or reasons for that determination.

(7) An entity that ODOT determines not to be qualified may, within five (5) business days after its receipt of ODOT's written notice of that determination, submit to ODOT a written protest of the decision. The protest must state facts and argument to demonstrate that ODOT's decision was incorrect or constituted an abuse of ODOT's discretion.

(8) If an entity timely submits a protest that complies with section (7) of this rule, ODOT will issue a written decision that resolves the issues raised in the protest. ODOT's written decision under this subsection shall constitute a final order under ORS 183.484.

(9) Unless otherwise specified in ODOT's order issued under section (1) of this rule, an ODOT determination that an applicant is prequalified to submit proposals for any particular kind or kinds of Project shall have an effective term of three years from the date of ODOT's written notice of the determination.

(10) Notwithstanding any specification of a term during which an entity's prequalification is effective, ODOT may terminate or revise an entity's prequalified status upon ODOT's discovery of information that adversely reflects on the applicant's prequalified status. Prior to any termination or adverse revision of an applicant's prequalification, ODOT will provide the applicant written notice of that determination that contains a statement of the reason or reasons for that determination and advise that entity that it may protest the proposed action under section (7) of this rule.

(11) On the written request of an entity that previously has been prequalified for a Project or for kinds of Projects similar in size and character to the kind or kinds of Projects described in the order issued under section (1) of this rule (as determined in the discretion of ODOT), or on the written request of a unit of local government, ODOT may waive the requirement that the entity or unit of local government must submit a prequalification application under this rule.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 4-2009, f. & cert. ef. 12-22-09; DOT 1-2016, f. & cert. ef. 3-22-16

Land Conservation and Development Department Chapter 660

Rule Caption: Conform rules to Oregon Laws 2015, chapter 104 and update a data source.

Adm. Order No.: LCDD 6-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-24-16

Notice Publication Date: 2-1-2016

Rules Amended: 660-033-0020, 660-033-0030, 660-033-0100

Subject: The adopted amendments modify rules to conform to Oregon Laws 2015, chapter 104 regarding parcels split by urban growth boundaries (HB 2457). The adopted amendments also update the Natural Resources Conservation Service (NRCS) data source to reflect the most recent federal update.

Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-033-0020

Definitions

For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR chapter 660 shall apply. In addition, the following definitions shall apply:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

(2)(a) "Commercial Agricultural Enterprise" consists of farm operations that will:

(A) Contribute in a substantial way to the area's existing agricultural economy; and

(B) Help maintain agricultural processors and established farm markets.

(b) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. These are important factors because of the intent of Goal 3 to maintain the agricultural economy of the state.

(3) "Contiguous" means connected in such a manner as to form a single block of land.

(4) "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.

(5) "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.

(6) "Exception Area" means an area no longer subject to the requirements of Goal 3 or 4 because the area is the subject of a site specific exception acknowledged pursuant to ORS 197.732 and OAR chapter 660, division 4.

(7)(a) "Farm Use" as that term is used in ORS chapter 215 and this division means "farm use" as defined in ORS 215.203.

(b) As used in the definition of "farm use" in ORS 215.203 and in this division:

(A) "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and

(B) "Products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

(8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that are:

(A) Irrigated and classified prime, unique, Class I or II; or

(B) Not irrigated and classified prime, unique, Class I or II.

(b) In addition to that land described in subsection (a) of this section, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa;

(c) In addition to that land described in subsection (a) of this section, high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

ADMINISTRATIVE RULES

(B) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);

(C) Subclassification IVE, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

(D) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.

(d) In addition to that land described in subsection (a) of this section, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

(B) Subclassification IIIw, specifically, Brenner and Chitwood;

(C) Subclassification IVE, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and

(D) Subclassification IVw, specifically, Coquille.

(e) In addition to that land described in subsection (a) of this section, high-value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIw, specifically, Etersburg Silt Loam and Crofland Silty Clay Loam;

(B) Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and

(C) Subclassification IVw, specifically, Huffling Silty Clay Loam.

(f) Lands designated as “marginal lands” according to the marginal lands provisions adopted before January 1, 1993, and according to the criteria in former ORS 215.247 (1991), are excepted from this definition of “high-value farmlands”;

(9) “Irrigated” means watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is “irrigated” if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this division, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered “irrigated” even if the irrigation water was removed or transferred to another tract.

(10) “Lot” shall have the meaning set forth in ORS 92.010.

(11) “Manufactured dwelling” and “manufactured home” shall have the meaning set forth in ORS 446.003(26).

(12) “NRCS Web Soil Survey” means the official source of certified soils data available online that identifies agricultural land capability classes, developed and maintained by the Natural Resources Conservation Service as of January 1, 2016, for agricultural soils that are not high-value, and as of December 6, 2007, for high-value agricultural soils.

(13) “Parcel” shall have the meaning set forth in ORS 215.010.

(14) “Tract” means one or more contiguous lots or parcels under the same ownership.

(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.

(16) “Willamette Valley” is Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and that portion of Benton and Lane Counties lying east of the summit of the Coast Range.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283 & 215.700 - 215.710

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 5-1996, 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 1-2004, f. & cert. ef. 4-30-04; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 6-2016, f. 3-22-16, cert. ef. 3-24-16

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 sci-

entific 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, 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, except for changes made pursuant to subsection (a) of this section.

ADMINISTRATIVE RULES

(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 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; LCDD 6-2016, f. 3-22-16, cert. ef. 3-24-16

660-033-0100

Minimum Parcel Size Requirements

(1) Counties shall establish minimum sizes for new parcels for land zoned for exclusive farm use. For land not designated rangeland, the minimum parcel size shall be at least 80 acres. For land designated rangeland, the minimum parcel size shall be at least 160 acres.

(2) A county may adopt a minimum parcel size lower than that described in section (1) of this rule by demonstrating to the Commission that it can do so while continuing to meet the requirements of ORS 215.243 and that parcel sizes below the 80 or 160 acre minimum sizes are appropriate to maintain the existing commercial agricultural enterprise within an area. This standard is intended to prevent division of farmland into parcels that are too small to contribute to commercial agriculture in an area. This standard does not require that every new parcel created be as large as existing farms or ranches in an area. The minimum parcel size may allow creation of parcels smaller than the size of existing farms or ranches. However, the minimum parcel size shall be large enough to keep commercial farms and ranches in the area successful and not contribute to their decline. Lots or parcels used, or to be used, for training or stabling facilities shall not be considered appropriate to maintain the existing commercial agricultural enterprise in any area where other types of agriculture occur.

(a) To determine a minimum parcel size under this section, the county shall complete the following steps:

(A) Identify different agricultural areas within the county, if any;

(B) Determine the nature of the commercial agricultural enterprise in the county, or within areas of the county;

(C) Identify the type(s) and size(s) of farms or ranches that comprise this commercial agricultural enterprise; and

(D) Determine the minimum size for new parcels that will maintain this commercial agricultural enterprise.

(b) To determine whether there are distinct agricultural areas in a county, the county should consider soils, topography and land forms, land use patterns, farm sizes, ranch sizes and field sizes, acreage devoted to principal crops, and grazing areas and accepted farming practices for the principal crops and types of livestock.

(c) To determine the nature of the existing commercial agricultural enterprise within an area, a county shall identify the following characteristics of farms and ranches in the area: Type and size of farms and ranches, size of fields or other parts, acreage devoted to principal crops, the relative contribution of the different types and sizes of farms and ranches to the county's gross farm sales, and their contribution to local processors and established farm markets. The following sources may assist in a county's analysis: The most recent Census of Agriculture and special tabulations from the census developed by Oregon State University, the Oregon Department of Agriculture, the United States Department of Agriculture's Agricultural Stabilization and Conservation Service (AACCS), Soil and Water Conservation Districts, the Oregon State University Extension Service and the county assessor's office.

(d) To determine the minimum parcel size, a county shall evaluate available data and choose a size that maintains the existing commercial agricultural enterprise within the county or within each area of the county. In areas where the size of commercial farms and ranches is mixed, and the size of parcels needed to maintain those commercial farms and ranches varies, the county shall not choose a minimum parcel size that allows larger farms, lots or parcels to be divided to the size of the smallest farms, lots or parcels in the area. The activities of the larger as well as smaller holdings must be maintained.

(3) A minimum size for new parcels for farm use does not mean that dwellings may be approved automatically on parcels that satisfy the minimum parcel size for the area. New dwellings in conjunction with farm use shall satisfy the criteria for such dwellings set forth in OAR 660-033-0130(1).

(4) A minimum size for new parcels may be appropriate to maintain the existing agricultural enterprise in the area, but it may not be adequate to

protect wildlife habitat pursuant to Goal 5. When farmland is located in areas of wildlife habitat, the provisions of Goal 5 continue to apply.

(5) A county may choose to establish a different minimum parcel size for distinct commercial agricultural areas of the county. The appropriate minimum lot or parcel size for each area shall reflect the type of commercial agriculture in the area, consistent with section (2) of this rule.

(6) Counties may allow the creation of new parcels for nonfarm uses only as authorized by ORS 215.263. Such new parcels shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law except as required for the nonfarm dwellings authorized by section (7) of this rule.

(7)(a) Counties may allow the creation of new lots or parcels for dwellings not in conjunction with farm use pursuant to ORS 215.263(4) or (5), whichever is applicable.

(b) In the Willamette Valley, a new lot or parcel may be allowed if the originating lot or parcel is equal to or larger than the applicable minimum lot or parcel size, and:

(A) Is not stocked to the requirements under ORS 527.610 to 527.770;

(B) Is composed of at least 95 percent Class VI through VIII soils; and

(C) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and

(D) The new lot or parcel will not be smaller than 20 acres.

(c) No new lot or parcel may be created for this purpose until the county finds that the dwelling to be sited on the new lot or parcel has been approved under the requirements for dwellings not in conjunction with farm use in ORS 215.284(3) or (4), 215.236 and OAR 660-033-0130(4).

(8) The county governing body or its designate may not approve a land division or property line adjustment of a lot or parcel that separates a temporary hardship dwelling, relative farm help dwelling, home occupation or processing facility from the parcel on which the primary residential or other primary use exists.

(9) The county governing body or its designate may not approve a land division of a lot or parcel created before January 1, 1993, on which a nonfarm dwelling was approved pursuant to ORS 215.284(1).

(10) 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 agricultural uses and is smaller than the minimum parcel size, provided that:

(a) If the parcel contains a dwelling, the parcel must be large enough to support continued residential use.

(b) If the parcel does not contain a dwelling, it:

(A) Is not eligible for siting a dwelling, except as may be authorized under ROS 195.120;

(B) May not be considered in approving or denying an application for any other dwelling; and

(C) May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space or other natural resource use.

Stat. Auth.: ORS 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 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 1994, f. & cert. ef. 1994; LCDC 5-1996, 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 7-2012, f. & cert. ef. 2-14-12; LCDD 6-2016, f. 3-22-16, cert. ef. 3-24-16

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Landscape Contractors Board Chapter 808

Rule Caption: Amends CEH rules regarding teaching, the approval of courses and official transcripts

Adm. Order No.: LCB 1-2016

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Rules Amended: 808-040-0025, 808-040-0050, 808-040-0060

Subject: Amends CEH rules regarding teaching, the approval of courses and official transcripts

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

ADMINISTRATIVE RULES

808-040-0025

Continued Education Programs

In order to qualify for CEH credit under these rules, a CEH program must be a formal program or board approved program of learning that contributes directly to the professional competence of the licensee

(1) Eligible Programs and Activities. The following programs will qualify for CEH credit provided they also meet the requirements of section (2) through (5) of this rule:

(a) Programs presented by national, state or local landscape industry organizations.

(b) Programs offered by a business to licensees.

(c) Programs sponsored by organizations that provide professional educational programs.

(d) Correspondence courses or other individual independent study programs and activities do not qualify for CEH credit unless both the CEH sponsor and the specific CEH program or activity are approved by the Board prior to the offering of, presentation of, attendance of, or participation in the program or activity.

(e) Volunteering activities for industry related boards, commissions, and designated committees.

(f) Making presentations or teaching courses related to approved subjects for the CEH credit.

(2) Sponsored Program and Activity requirements. Sponsored CEH programs must meet the following requirements to qualify for CEH credit:

(a) An outline of the program is prepared in advance and preserved;

(b) The program must cover at least one of the topic areas listed in 808-040-0040;

(c) The program is at least one hour (fifty-minute period) in length;

(d) A record of attendance is maintained by the provider;

(e) The program is conducted by a qualified instructor or presenter whose background, training, education or experience qualifies the person to teach or lead a discussion on the subject matter of the particular program.

(f) Evidence of completion is provided to participating licensees in the form of a certificate that must include:

(A) Name of sponsoring institution, association or organization;

(B) Title of the presentation;

(C) Name of instructor or presenter;

(D) Date of presentation;

(E) Type of CEH;

(F) Number of approved CEH; and

(G) Signature of the instructor or presenter or official stamp of the sponsor signifying attendance and/or completion of the course.

(3) Correspondence and Independent Study courses. Correspondence courses or other individual independent study programs and activities must meet the following requirements to qualify for CEH credit:

(a) An outline of the program is prepared in advance and preserved;

(b) The program must cover at least one of the topic areas listed in 808-040-0040;

(c) The program is at least one hour (fifty-minute period) in length;

(d) A record of attendance is maintained by the provider; and

(e) The provider of the correspondence or independent study course is a qualified instructor or presenter whose background, training, education or experience qualifies the person to teach or lead a discussion on the subject matter of the particular course.

(4) Volunteering. Education opportunities that engage the licensee in volunteering must meet the following requirements to qualify for CEH credit:

(a) One CEH credit is allowed for every three hours of qualifying volunteer work;

(b) The maximum CEH credit allowed for volunteering under this section may not exceed 4 hour in a two year period;

(c) The volunteer activity must be directly related to the landscape construction industry, such as, but not limited to:

(A) serving on industry related boards, commissions or committees; or

(B) Providing a not-for-profit service to local or state entities for the enhancement and preservation of the environment to natural resources through landscape planning, installation and maintenance.

(5) Teaching and Presenting. Activities that engage the licensee in teaching and presenting courses must meet the following criteria to qualify for CEH credit:

(a) The licensee must be an actively licensed landscape construction professional;

(b) The licensee must have a minimum of five (5) years landscape related experience;

(c) An outline of the course is prepared in advance and preserved;

(d) The course must cover at least one of the topic areas listed in 808-040-0040;

(e) The course is at least one hour (fifty-minute period) in length;

(f) A record of attendance is maintained by the licensee;

(g) The course is presented for an education provider; a school, university or college; a landscape contracting business, or any industry related organization or association

(h) CEH credit is allowed for each 50 minute period completed as an instructor or discussion leader of the subject material;

(i) CEH credit for preparation and research time allowed for an instructor, discussion leader, or a speaker shall be calculated on the basis of two CEH hours of preparation and research in the CEH type of the presentation for each hour of presenting or teaching.

(j) The maximum CEH credit allowed for preparation and research under this section must not exceed one-half of the total number of CEH hours required for the renewal period;

(k) Preparation and research CEH may be available one time only for teaching a course or making a presentation. CEH credit may be allowed for additional preparation and research if the substantive content of the program was substantially changed and the licensee provides evidence that such change required significant additional study or research.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: Ch. 550 OL 2007

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 7-2011, f. & cert. ef. 6-17-11; LCB 2-2012, f. 3-30-12, cert. ef. 4-1-12; LCB 8-2012, f. & cert. ef. 12-4-12; LCB 1-2016, f. & cert. ef. 4-8-16

808-040-0050

Program Approval Process

(1) Pre-approval Process. Programs offered by any institution, agency, professional organization or association, which conducts educational meetings, workshops, symposiums, seminars and other such activities where a CEH credit is desired must be approved by the Board prior to the presentation of the program and prior to the attendance by a licensee. The written request for the issuance of CEH credit must:

(a) Be received on a form provided by the Board at least 30 calendar days prior to the presentation date (unless otherwise approved by the agency Administrator) and include:

(A) Name of sponsoring institution, association or organization;

(B) Title of the presentation;

(C) Date of presentation;

(D) Topic covered from list in 808-040-0040;

(E) A written outline of the program;

(F) The length of the program in hours;

(G) Name of instructor or presenter;

(H) Type of CEH requested;

(I) Copy of the certificate to be given to each attendee with the signature of the instructor or presenter or the official stamp of the sponsor on the certificate. If more than one presenter is authorized to sign, then the signatures of each presenter must be on the certificate or on copies of the certificate; and

(J) Contact information for the provider which must include the address, phone number, fax number and email (if available) for the provider.

(b) Upon receipt of all documentation required in subsection (1) of this rule the board will review the request and notify the provider by either email or regular mail the determination of the CEH allowed by the board.

(2) Other Approval Process. In the event a landscape construction professional attends a program that is not pre-approved as outlined in section (1) above, or claims credit for teaching/presenting or volunteering:

(a) The landscape construction professional may request approval of the attended program by submitting written documentation no later than 180 days after the date the program was attended that includes:

(A) Name of sponsoring institution, association or organization;

(B) Topic of the presentation;

(C) Title of the presentation;

(D) Name of instructor or presenter;

(E) Date of presentation;

(F) Length of presentation in hours;

(G) Type of CEH; and

(H) Number of CEH claimed.

(I) Signature of the instructor or presenter or official stamp of the sponsor signifying attendance and completion of the course.

(b) The agency, after reviewing the submitted documentation, will determine:

(A) If the program meets the conditions for the CEH requirement; and

ADMINISTRATIVE RULES

(B) The number of CEH allowed for the program, if any.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.676

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09; LCB 10-2009, f. & cert. ef. 10-28-09; LCB 1-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 9-28-12; LCB 7-2012, f. & cert. ef. 8-2-12; LCB 8-2012, f. & cert. ef. 12-4-12; LCB 1-2016, f. & cert. ef. 4-8-16

808-040-0060

Continuing Education: Audit, Required Documentation and Sanctions

(1) To ensure adequate proof of continuing education course completion is available for audit or investigation by the Landscape Contractors Board the licensees shall maintain a record of attendance for two years following renewal.

(2) The Landscape Contractors Board will audit a select percentage of renewals determined by the Board to verify compliance with continued education hour requirement at intervals determined by the Board.

(3) Licensees notified of selection for audit of continuing education verification shall submit to the agency within 21 calendar days from the date of issuance of the notification, satisfactory documentation of completing the required continuing education outlined in OAR 808-040-0020.

(4) Documentation for a preapproved program or preapproved course provided by any institution, agency, professional organization or association, must be a certificate issued by the program provider and approved by the Landscape Contractors Board which includes:

(a) Name of sponsoring institution/association or organization;

(b) Title of presentation;

(c) Date of attendance;

(d) Type of CEH;

(e) Number of approved CEH; and

(f) Instructor's, presenter's or sponsor's signature or official stamp signifying attendance and completion of the course.

(5) Documentation for independent study course, volunteering and other non-sponsored education must be an approval form issued pursuant to a CEH approval request made by the licensee under OAR 808-040-0050(2).

(6) Documentation for attending an accredited educational institution must be in the form of a transcript showing the length of the academic term.

(7) Documentation for programs that were not pre-approved or claims for credit for teaching/presenting or volunteering must be an approval form issued pursuant to a CEH approval request made by the licensee under OAR 808-040-0050(2).

(8) The Board may perform an audit on any licensee at any time the board determines necessary to maintain compliance with the CEH requirement.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: Ch. 550 OL 2007

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 1-2010, f. & cert. ef. 1-27-10; LCB 3-2010, f. & cert. ef. 6-1-10; LCB 8-2012, f. & cert. ef. 12-4-12; LCB 1-2016, f. & cert. ef. 4-8-16

Oregon Business Development Department Chapter 123

Rule Caption: Technical/housekeeping enhancements to rules language for Oregon Investment Advantage program (income tax exemption).

Adm. Order No.: OBDD 5-2016

Filed with Sec. of State: 3-28-2016

Certified to be Effective: 3-28-16

Notice Publication Date: 12-1-2015

Rules Amended: 123-635-0000, 123-635-0100, 123-635-0150, 123-635-0175, 123-635-0200, 123-635-0250, 123-635-0270, 123-635-0300, 123-635-0350

Subject: Proposed amendments to division 635 make a number of improvements for technical and reading purposes, including:

Potentially setting a new date for annual determination of eligible counties in light of earlier releases of economic data by county (pursuant to the conclusion of OR Laws 2005, ch. 595, section 3 no longer being operative after June 30, 2016.

Clarifying for timely preliminary application before the start of construction that construction does not include site preparation that does not represent an improvement.

Allowing preemptive local government support to obviate sending of application copies for vetting by local governments.

Better, more precise guidelines specification for the effect of:

the local objection process;

twenty-four month delay in annual certification and use of income tax exemption after commencement of business facility operations;

business's foregoing certification/exemption in certain years

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-635-0000

Purpose and Scope

This division of administrative rules:

(1) Specifies procedures and criteria for certification under the Oregon Investment Advantage Act to exempt the business income of qualified facilities from State income or corporate excise taxation under ORS 316.778 or 317.391, in order to spur investments in new Oregon operations with new full-time employees (earning minimum compensation levels) at qualifying facilities in counties exhibiting the worst per capita incomes and unemployment rates statewide.

(2) 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

Stats. Implemented: ORS 285C.495, 285C.500 - 285C.506, 316.778 & 317.391

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0000, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 4-2011, f. 8-31-11, cert. ef. 9-1-11; OBDD 5-2016, f. & cert. ef. 3-28-16

123-635-0100

Definitions

As used in this division of administrative rules, in addition to definitions in OAR 123-001 (Procedural Rules), unless the context dictates otherwise:

(1) "Business firm" means a person operating or conducting one or more trades or businesses for profit, and does not include any governmental agency, municipal corporation or nonprofit corporation, other than a people's utility district or a joint operating agency under ORS 262.005.

(2) "Facility" has the meaning under ORS 285C.500(4).

(3) "Municipal Corporation" means the following, with respect to the location of a Facility proposed by an application for preliminary certification in OAR 123-635-0200:

(a) The county government of the county, the territory of which contains the Facility, regardless of whether the location is incorporated or not;

(b) A city government, if the Facility will be located within the corporate limits or urban growth boundary of the city; and

(c) A Port for which the Facility will be located within the territorial limits of the port district.

(4) "Qualified Location" means a site for a Facility as described in OAR 123-635-0150.

(5) "Unique Operations" has the meaning described in OAR 123-635-0175.

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

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.500 & 285C.503

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0100, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 4-2011, f. 8-31-11, cert. ef. 9-1-11; OBDD 12-2012, f. & cert. ef. 8-15-12; OBDD 5-2016, f. & cert. ef. 3-28-16

123-635-0150

Qualified Locations

A proposed Facility must be inside a county as determined according to section (1) of this rule, and located at a site satisfying the requirements of section (2) of this rule, at the time when the Department receives the application for preliminary certification:

(1) With respect to county eligibility under ORS 285C.500(5)(b):

(a) Effective May 1 of each year, the Department shall determine the counties fulfilling the criteria related to county annual unemployment rates and per capita personal income levels for the three most recent years for which data are then available.

(b) This determination remains in effect for any proposed Facility, for which the Department receives the application for preliminary certification on or after that May 1, until and including April 30 of the next year, except when the determination is modified to reflect official revisions in the data occurring during that annual period at least one full month before receipt of the application, and for the operative expiration of section 3(2), chapter 595, Oregon Laws 2005.

(c) Subsequent revisions to data described in this section do not affect the county eligibility for a preliminary certification application received when the county was eligible.

ADMINISTRATIVE RULES

(2) The specific site of a proposed Facility must meet at least one of the following two requirements:

(a) The site is completely inside the urban growth boundary (UGB) of a city with a population of 15,000 or less (based on the most recent U.S. Census count or estimate available from the Portland State University Population Research Center); or

(b) Regardless of being inside or outside of any city's UGB, the site consists entirely of land zoned for industrial use:

(A) Pursuant to effective municipal zoning ordinances that expressly and generally permit permanent facilities and private operations for heavy or light manufacturing, energy production, fabrication, warehousing, distribution, mineral/agricultural processing or similarly intensive economic uses;

(B) In accordance with applicable state land-use laws, including but not limited to those for unincorporated communities, exceptions from state planning goals, or ORS 197.713, 197.714 or 197.719; and

(C) Such that the Facility's business operations must directly benefit a traded sector industry under ORS 285B.280, regardless of other uses permitted under the particular zoning code ordinance.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.500 & 285C.503

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0150, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 12-2012, f. & cert. ef. 8-15-12; OBDD 5-2016, f. & cert. ef. 3-28-16

123-635-0175

Unique Operations

Under ORS 285C.503(5)(e), a business firm's operations that comprise a Facility proposed for preliminary certification must be new business operations respective to the site of the Facility and to any other location in this state where the firm also operates, such that:

(1) In the case of the business firm itself, the business operations at the Facility must be categorically different from any operations in which that same firm has recently engaged. (As an example, a business firm may receive certification for a Facility that will manufacture or distribute certain products here for the first time, even if the firm's products were already for sale in this state)

(2) In the case where the business firm has 100-percent common equity interest or is under common control (by way of corporate, familial or similar affiliations) with one or more other business firms operating in this state, the business operations at the Facility must be significantly dissimilar from the operations in which any other such firm has recently engaged. (As an example, a corporate subsidiary is certifiable for a new, first-in-Oregon facility fabricating a laminated wood product, even if another wholly owned subsidiary of the same parent company already makes a similar product in this state, but the new operations utilize an advanced generation of technology with which the product has higher performance standards or weight-bearing specifications)

(3) Irrespective of section (1) or (2) of this rule, the acquisition of a preexisting Facility does not qualify as new business operations, unless both of the following are satisfied:

(a) The business firm invests appreciably in real property or extensively in terms of installing personal property at the Facility after applying for preliminary certification; and

(b) The operations that the firm will undertake pursuant to the new investment are significantly dissimilar from operations recently performed at the Facility.

(4) For purposes of this rule:

(a) "Categorically different" means that the existing, in-state business operations produce, render, deliver or provide essentially another type of good or service for a distinct market segment or customer base.

(b) "Recently" means during the 12 months before the date, on which the Department received the application for preliminary certification.

(c) "Significantly dissimilar" means that the existing, in-state business operations, or the goods or services arising from them, utilize different technology, processes, delivery methods, points in supply chain, marketing, brand names or the like.

(5) How much a Facility's proposed operations are like those of any other business (even one with partially shared ownership), anywhere in Oregon, does not matter, except as provided under ORS 285C.503(4)(b)(A) and (5)(f) to the extent that the operations will compete with other employers in the local area as addressed in OAR 123-635-0270(4)(b) and (5).

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.500 & 285C.503

Hist.: EDD 9-2005, f. & cert. ef. 11-4-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09; Renumbered from 123-155-0175, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 4-2011, f. 8-31-11, cert. ef. 9-1-11; OBDD 5-2016, f. & cert. ef. 3-28-16

123-635-0200

Preliminary Certification Application

For purposes of ultimately seeking the exemption under ORS 316.778 or 317.391:

(1) A business firm must complete an application for preliminary certification and send it to the Department, as follows:

(a) Using the form prescribed by the Department; and

(b) Before the following:

(A) Commencement of construction, installation or similar activities with respect to any new property or improvements, which excludes site work or preparation other than appreciable improvements to the land, that constitute any part of the proposed Facility; and

(B) Hiring of any employee, who will constitute the five or more required employees at that location.

(2) The preliminary certification application must include a fee of \$500 in the form of a check or money order payable to the Department.

(3) Applications are available at and shall be submitted to: Business Development, Business Oregon, State Lands Building Suite 200, 775 Summer Street NE, Salem OR 97301-1280, see www.oregon4biz.com.

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

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.503

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0200, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 4-2011, f. 8-31-11, cert. ef. 9-1-11; OBDD 5-2016, f. & cert. ef. 3-28-16

123-635-0250

Determination of Preliminary Certification

Pursuant to a filing of a preliminary certification application as described in OAR 123-635-0200:

(1) The Department shall:

(a) Review the application for completeness; and

(b) Determine whether the business firm and the applicant's proposed Facility:

(A) Is at a Qualified Location;

(B) Represents Unique Operations; and

(C) May be reasonably expected to satisfy the employment and other applicable requirements under ORS 285C.503(5).

(2) After receipt of the application, the Department shall do the following:

(a) Notify the applicant in writing whether it is complete; and

(b) Send a copy of the application to the Municipal Corporations, in such a way that the date of sending is recorded, unless officials of the Municipal Corporation have already formally expressed support for the proposed Facility's use of this program comparable to subsection (3)(b) of this rule.

(3)(a) The Department shall complete the determination described in subsection (1)(b) of this rule, after receiving any additional information requested from the applicant; but

(b) The determination shall not be final sooner than 60 days from the date, on which the Department sent the copy of the application to the Municipal Corporations, unless they all have provided sufficient response, such as a written confirmation of "no objection" from local officials based on communication with governing body members.

(4) After fulfillment of section (3) of this rule, the Department shall notify the applicant in writing of its decision, which shall include but is not limited to the following, in the event that the Department:

(a) Denies preliminary certification, it shall send the applicant either notice consistent with OAR 123-001-0725 or only a written statement of explanation if the denial results from an objection as described in OAR 123-635-0270(2).

(b) Approves the preliminary certification, it shall send a letter conferring preliminary certification.

(5) The Department shall send notification of the final determination on preliminary certification to relevant staff of the Department of Revenue.

(6) Subject again to the criteria and procedures in this rule, a preliminary certified business firm may refile in order to renew and advance the date of its preliminary certification for purposes of OAR 123-635-0350(3).

(7) The Department may issue an amended preliminary certification as appropriate, pursuant to revised information about the proposed Facility as formally received from the business firm before the end of the tax year, for which the first filing may be made according to OAR 123-635-0350(2). In determining whether to issue the amended preliminary certification, the Department shall consider:

(a) Issues described in OAR 123-635-0350(6); and

ADMINISTRATIVE RULES

(b) Material implications in terms of ORS 285C.503(4)(b), consulting with the Municipal Corporations beforehand as warranted.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.503
Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0250, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 5-2016, f. & cert. ef. 3-28-16

123-635-0270

Local Objection and Relevant Requirements

Respective to a proposed Facility:

(1) For purposes of section (2) of this rule, a Municipal Corporation may object to preliminary certification through a formal submission to the Department, but the Department must receive the objection, a copy of an adopted resolution, and any requisite information, within 60 days from the date the Department sent a copy of the application for preliminary certification to the governing body of the Municipal Corporation in OAR 123-635-0250(2)(b). Otherwise, the Municipal Corporation is deemed to agree to preliminary certification.

(2) In order for the objection to be automatic and not subject to appeal in a contested case, the objection must take the form of a resolution:

(a) Adopted by the governing body during the 60-day period, in accordance with applicable local laws, government charter and practices; and

(b) Containing a statement of the reason(s) for objection under ORS 285C.503(4)(b) and accompanied by information, as described in subsection (5)(b) or section (6) of this rule.

(3) Irrespective of sections (1) and (2) of this rule or the adoption of a resolution, every Municipal Corporation is encouraged and expected to furnish timely evidence to the Department, if local officials believe that the proposed Facility does not satisfy a requirement under ORS 285C.503(5).

(4) Besides entries in the application, the Department shall rely especially on the Municipal Corporations in determining whether:

(a) Health insurance coverage of all Facility employees will be at least equivalent to that of Municipal Corporation employees, if applicable under ORS 285C.503(5)(d)(B).

(b) Business operations will meaningfully compete with one or more existing businesses operating locally and employing persons, who reside in the city, port or county, including competition for:

(A) Local customers;

(B) Skilled workers or managers within the local labor pool;

(C) Other resources or inputs, for which local supplies and accessibility are critical but scarce or problematic; or

(D) Comparable circumstances, which always exclude general inter-firm rivalry within the broader marketplace.

(5) If local competition as described in subsection (4)(b) of this rule is indicated, then it must be either:

(a) Supported with clear evidence furnished by the Municipal Corporation, based on which the Department can independently make a determination under ORS 285C.503(5)(f); or

(b) Identified by type or basic nature in the formal statement of objection with a resolution in accordance with sections (1) and (2) of this rule.

(6) In order for the Department to deny an application for preliminary certification based on incompatibility with local growth or development standards, the Municipal Corporation must make a formal submission in accordance with sections (1) and (2) of this rule that includes a resolution and information documenting the relevant standards and showing that they were established in municipal ordinances already in effect when the business firm submitted the application to the Department.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.503
Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0270, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 5-2016, f. & cert. ef. 3-28-16

123-635-0300

Annual Certification

For purposes of annual certification of a Facility for each tax year of the business firm, as allowed under ORS 285C.506:

(1) A preliminarily certified business firm that owns or leases and operates the Facility must file the application for annual certification with the Department:

(a) On or before the 30th day after the end of the income or corporate excise tax year, for which it is seeking to claim or exercise the exemption under ORS 316.778 or 317.391; and

(b) Using the form prescribed by and available from the Department: Business Development, Business Oregon, State Lands Building Suite 200, 775 Summer Street NE, Salem OR 97301-1280, see www.oregon4biz.com.

(2) Each application must include a fee of \$100 in the form of a check or money order payable to the Department.

(3) Within 30 days after the date of filing, Department staff shall review the application, consider potential fact-finding about the Facility under ORS 285C.506(5) to (8), as feasible and appropriate, and determine whether it satisfies the applicable requirements for annual certification, then if the Department:

(a) Denies annual certification, it shall send notice consistent with OAR 123-001-0725.

(b) Approves the annual certification, it shall send a letter conferring certification for the just concluded tax year.

(4) The Department shall also copy relevant staff at the Department of Revenue with items as described in section (3) of this rule.

(5) Requirements for annual compensation under ORS 285C.503(5)(d) apply only to a Facility that received preliminary certification on or after January 1, 2011.

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

Stat. Auth.: ORS 285A.075 & 285C.506(4)

Stats. Implemented: ORS 285C.506

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0300, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 12-2012, f. & cert. ef. 8-15-12; OBDD 5-2016, f. & cert. ef. 3-28-16

123-635-0350

Issues of Initial and Subsequent Annual Certifications

For purposes of annual certification as described in OAR 123-635-0300:

(1) The preliminarily certified business firm may file the first such application for annual certification with the Department only after:(a) The business firm has fully acquired Facility property, and completed it in terms of the construction, reconstruction, modification and installation of proposed improvements for purposes of subsection (c) of this section;

(b) Relevant employees have been hired; and

(c) Business operations have commenced at the Facility.

(2) Relative to the date, during the income tax year of the business firm, on which operations commenced and so forth as described in section (1) of this rule, this first filing may occur:

(a) For and within 30 days following the end of that tax year, if the firm applied for preliminary certification on or before June 30, 2011.

(b) Not less than 24 months after that date, if the firm applied for preliminary certification on or after July 1, 2011, such that the exemption on taxable income may not begin at the earliest until:

(A) Two years later than it would as described in subsection (a) of this section (allowing no more than eight consecutive years of exemption); or

(B) Only one tax year later (with up to nine consecutive years of exemption), but only if that date lies within the first 30 days of the tax year.

(3) For purposes of this first filing, the application shall show that after the date, on which the Department approved the preliminary certification:

(a) Business operations commenced at the Facility within:

(A) Six months, if only acquiring existing buildings or structures; or

(B) Eighteen months, if involving substantial construction or reconstruction; and

(b) Facility property did not remain in an unfinished state of construction, reconstruction, modification or installation for more than six months without significant progress toward completion of such activities.

(4) In order for the Department to certify the Facility with the first filing:

(a) Information in the application needs to indicate satisfaction of section (3) of this rule, except as allowed by Department staff through a written finding that any delay or interruption was reasonable and not excessive, given the complexity or extent of the business firm's investment in the Facility or of inadvertent circumstances.

(b) The location and nature of the Facility's business operation need to conform to that represented in the application for preliminary certification, including but not limited to any amendment according to OAR 123-635-0250(7).

(5) For purposes of an application for annual certification:

(a) Its approval shall not depend on any current issue of actual competition with other local businesses, Qualified Location or Unique Operations.

(b) The Department may deny the application if discovering that at the time of application for preliminary certification, the Facility was not at a Qualified Location or did not represent Unique Operations, including but not limited to the case where the preliminary certification application contained false or incomplete information.

ADMINISTRATIVE RULES

(c) The Department may approve the application, even if the nature of the Facility or the business firm/ownership changes after the first filing, including but not limited to changes in:

- (A) The composition of Facility property or its exact location; or
- (B) The corporate or ownership structure or organization of the business.

(6) To allow a change described in subsection (5)(c) of this rule depends on:

- (a) Direct, ongoing continuity with the original facility;
- (b) Business operations remaining materially the same; and
- (c) Relative to the location identified in the application for preliminary certification, the Facility is located at what was likewise a Qualified Location inside the same urban growth boundary or at a similarly proximate location.

(7) The business firm does not need to make its first filing as soon as permissible according to section (2) of this rule, or it might miss or skip any subsequent opportunity, for which it is allowed to apply for annual certification, such that the firm may still use the exemption for any remaining, eligible tax year that is not more than nine consecutive tax years after the year, in which operations commenced and so forth as described in section (1) of this rule; however:

(a) Neither postponement of the first filing nor failure to apply in any subsequent tax year shall affect the period for which certification is otherwise allowed.

(b) The business firm may not claim or exercise the exemption under ORS 316.778 or 317.391 for any such tax year, pursuant to which it does not directly make application for annual certification as described in OAR 123-635-0300.

(8) If an application for annual certification is timely filed but denied by the Department, then the exemption is disallowed not only for that year, but also for all other remaining, eligible tax years (but without retroactive effect on any prior exemption).

Stat. Auth.: ORS 285A.075 & 285C.506(6) & (7)
Stats. Implemented: ORS 285C.506, 316.778 & 317.391
Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0350, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 12-2012, f. & cert. ef. 8-15-12; OBDD 5-2016, f. & cert. ef. 3-28-16

Rule Caption: These rules relate to the Credit Enhancement Fund.
Adm. Order No.: OBDD 6-2016(Temp)

Filed with Sec. of State: 4-11-2016

Certified to be Effective: 4-11-16 thru 10-7-16

Notice Publication Date:

Rules Amended: 123-021-0010, 123-021-0015, 123-021-0020, 123-021-0050, 123-021-0080, 123-021-0090, 123-021-0110

Subject: Senate Bill 1589 was passed during the 2016 Legislative session changing the definition of a qualified business for the Credit Enhancement Fund. The bill also had an emergency clause. As a result, changes to the definition of Qualified Business allows for many more counties and businesses to become eligible for the program.

The amendments reflect what a Qualified Business is and eligibility requirements have been updated.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-021-0010

Definitions

For the purposes of these rules, additional definitions may be found in OAR chapter 123, division 1. The following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) “Authorized loan amount” means the amount of a loan authorized by the Department to be under the CEF Program pursuant to a loan insurance authorization issued by the Department to the financial institution making the loan.

(2) “CEF Program” means the Credit Enhancement Fund Insurance Program established under ORS 285B.200 to 285B.218.

(3) The “deficiency” of a loan means the amount of principal outstanding upon default, accrued interest and the financial institution’s reasonable costs of collection, exclusive of costs attributable to environmental problems, remaining unpaid after liquidation of collateral and collection of guarantees.

(4) “Financial institution” has the meaning set forth in ORS 706.008.

(5) “Fund” means the Credit Enhancement Fund created by ORS 285B.215.

(6) “Loan insurance authorization” means a letter from the director or deputy director or designee to a financial institution agreeing to insure a loan to a borrower on the terms and conditions and subject to the requirements stated therein.

(7) “Loan insurance agreement” means the agreement between the financial institution and the Department required by OAR 123-021-0100.

(8) “Principal” in regards to a borrower is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each managing partner and each partner who is a natural person and holds a twenty percent (20%) or more ownership interest in the partnership; and,

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(9) “Principal” in regards to a financial institution is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each partner; and

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(10) “Substantial benefit” may include, but is not limited to:

(a) Job creation or retention.

(b) Increased sales or profit, or higher revenue paid to the State of Oregon.

(c) Access to new markets for the borrower’s product or service

(d) Diversification of the local or regional economy.

(e) Revitalization of a neighborhood or community.

(11) “SSBCI Funds” means U.S. Treasury funds allocated to the Department under the State Small Business Credit Initiative Act of 2010 (title III of the Small Business Jobs Act of 2010, P.L. 111-240, 124 Stat. 2568, 2582).

(12) “Working capital loan” means any loan, the proceeds of which are to be used for operating, maintenance and other costs and expenses, or for purposes other than acquiring real property, production equipment, or other capital assets.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 12-1997(Temp), f. & cert. ef. 10-7-97; EDD 11-1998, f. & cert. ef. 5-22-98; EDD 8-1999, f. & cert. ef. 10-1-99; EDD 4-2007(Temp), f. & cert. ef. 8-28-07 thru 2-22-08; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16

123-021-0015

Qualified Business

(1) An existing or proposed business without an existing or about to be without an existing revolving line of credit is a Qualified business for the Evergreen Entrants Insurance.

(2) An existing or proposed business with an existing revolving line of credit is a Qualified business for the Evergreen Plus Insurance.

(3) Any existing or proposed business is a Qualified business for the Conventional Insurance, First Loss Insurance, or Collateral Support Insurance.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16

123-021-0020

Eligibility

(1) In order for a loan to a Qualified business to be eligible for insurance, the project must be expected to result in a substantial benefit that is realized primarily in Oregon and the project must meet one or more of the following purposes: the acquisition, improvement, or rehabilitation of real or personal property; or working capital for operations, export transactions, maintenance and other business costs and expenses which are used for purposes other than acquiring real or personal property. Eligible purposes do not include:

ADMINISTRATIVE RULES

(a) Any personal, family, or household expenses of the Qualified business or any owner or guarantor;

(b) Construction financing; however, permanent term financing after completion of construction of real property for business use may be insured;

(c) Purchase or construction of residential housing;

(d) A loan made primarily to pay off or refinance an existing debt to a creditor whose loan is inadequately secured or who is in danger of sustaining a loss;

(e) Repayment of delinquent federal or state income taxes unless the Qualified Business has a payment plan in place with the relevant taxing authority;

(f) Repayment of taxes held in trust or escrow;

(g) Finance lobbying activities (as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended); or,

(h) Acquiring or holding passive investments such as commercial real estate for future use or the purchase of securities; this does not include acquisitions of businesses through 100% stock transfer.

(i) Reimbursement or payment of funds to any owner or borrower, including any equity injection or injection of business capital for the business' continuance, or the purchase of assets from any owner;

(j) (For loans insured by SSBCI Funds) Purchase of any portion of the ownership interest of any owner of the business;

(k) Purchase an existing Qualified business, except for:

(A) Expansions where the majority of loan proceeds are used to support expansion improvements;

(B) Purchase of all or substantially all of the assets of a Qualified business,

(C) (For loans not insured by SSBCI Funds) Purchase of 100% of the stock of a Qualified business, including stock held by employee stock ownership plans, where jobs will be created or retained; provided that the Department's liability for any loss resulting from a loan made for such purchase shall not exceed \$500,000.

(2) The Department will consider, on a case by case basis, requests to insure loans where proceeds are used to pay down or pay off an existing debt of the Qualified business. In evaluating such requests, the Department will consider the financial benefits to the borrower, the prospects for success, the expected resulting public benefit, the extent to which financial institutions agree to extend terms or provide other favorable financing to a borrower, and the extent to which collateral securing an insured loan is improved. The Department's maximum liability for any loss resulting from an insured loan used to refinance debt will be limited to no more than \$500,000 and no more than 75% of the authorized loan amount. Unless specifically waived by the Department, all business and personal assets securing a refinance may require an appraisal or other third party valuation to determine liquidation values at the time of application. The Department reserves the right to set the enrollment terms at the time of approval for loan insurance, including but not limited to the Department's maximum liability or the insured percentage and in its sole discretion may, when setting the Department's maximum liability or the insured percentage or both, consider whether a loan is less than fully secured, as determined by the estimated liquidation value of the collateral.

(3) Eligible borrowers are Qualified businesses as defined in OAR 123-021-0015.

(4) Eligible financial institutions are financial institutions as defined by ORS 706.008.

(5) Any loans insured by SSBCI Funds will be required to meet additional U.S. Treasury requirements including, but not limited to:

(a) The loan has not been made in order to place under the protection of the CEF Program prior debt that is not covered by the CEF Program and that is or was owed by the borrower to the financial institution or to an affiliate of the financial institution.

(b) The insured loan is not used to refinance a loan previously made to that borrower by the financial institution or an affiliate of the financial institution making the loan to be insured, unless the prior loan has matured and new funds are being added to the loan.

(c) No Principal of the borrower or the financial institution has been convicted of a sex offense against a minor as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911).

(d) The borrower, or any principal of the borrower, is not:

(A) an executive officer, director, or principal shareholder of the financial institution, or

(B) a member of the immediate family of an executive officer, director or principal shareholder of the financial institution; or

(C) A related interest of any such executive officer, director, principal shareholder or member of the immediate family. For the purposes of this OAR 123-021-0020(6)(d), the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to the financial institution as the relationship described in 12 C.F.R. Part 215.2 (1990), whether or not the financial institution is a member bank of the Federal Reserve System.

(e) The activities of the borrower are not activities currently prohibited by U.S. Treasury, such as, but not limited to:

(A) The borrower is a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade unless those activities are incidental to the regular activities of the business and are part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business;

(B) The borrower is a business that earns more than half of its annual net revenue from lending activities unless the business is a non-bank or non-bank holding company community development financial institution;

(C) The borrower is a business engaged in pyramid sales, or engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted; or,

(D) The borrower is a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales and gambling activities.

(f) The financial institution is in compliance with requirements of 31 C.F.R. § 103.121.

(g) At the time of approval the borrower does not employ more than 750 employees in the United States.

(h) Total financing for the project is \$20,000,000 or less.

(i) No Principal of the borrower is a current member or delegate to the United States Congress or resident U.S. Commissioner.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 8-1999, f. & cert. ef. 10-1-99; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 14-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16

123-021-0050

Application Procedure

(1) The Department shall determine when an application is complete.

(2) It shall be the responsibility of the financial institution to submit a complete application.

(3) The Department will review an application based on the following criteria and considerations:

(a) An application will not be approved unless the Department determines that there is a reasonable prospect that the borrower will repay a loan according to its terms.

(b) An application will only be approved to the extent, in terms of amount, percentage and period of insurance, that is necessary and prudent for the Department to provide to complete the financing.

(c) No application will be approved unless the Department determines that the insured loan will be serviced by a financial institution as required by the Department.

(d) No application will be approved unless the Department determines that the borrower is eligible and the proceeds of the insured loan will be used for an eligible purpose.

(e) No application will be approved unless the Department determines that the application is complete and that information sufficient to make an informed decision on the application has been received.

(f) In reviewing applications, the Department will consider the following, as applicable:

(A) The extent to which the borrower demonstrates a need for an insured loan.

(B) The economic feasibility of the business endeavor as evidenced by the borrower's present and past financial situation and business experience and the general reasonableness of the business proposal and financial projections for the future.

(C) Whether the borrower and any guarantors have satisfactory credit histories.

(D) Whether the borrower has sufficient capital and other resources to conduct the business as planned, and the amount and source of equity contributed.

(E) The adequacy of the security offered for the loan.

(F) The extent to which the risk of financial loss is shared by others.

(G) The viability of the industry of which the borrower is a part and the contribution of the borrower to that industry.

ADMINISTRATIVE RULES

(H) The extent to which the borrower contributes to local economic development, market development and employment opportunities.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218
Stats. Implemented: ORS 285B.200 - 285B.218
Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 12-1997(Temp), f. & cert. ef. 10-7-97; EDD 11-1998, f. & cert. ef. 5-22-98; EDD 4-2007(Temp), f. & cert. ef. 8-28-07 thru 2-22-08; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16

123-021-0080

Loan and Insurance Terms and Conditions

(1) Interest rate and term. The rate of interest on the insured loan and the term of the loan shall be agreed between the financial institution and a borrower. The maximum term for insurance per borrower project is:

(a) The lesser of fifteen (15) years or the useful life of the assets being financed or the useful life of the assets securing the loan for the Conventional Insurance, First Loss Insurance, or Collateral Support Insurance, or

(b) One year plus four annual renewals for the Evergreen Entrants Insurance or Evergreen Plus Insurance.

(2) Collateral. Repayment of an insured loan shall be secured by such collateral as the Department deems prudent.

(a) Insured loans may, at the discretion of the Department, be secured by collateral valued for collateral purposes at less than the amount of the insured loan, provided the borrower, its principals, and the guarantors, to the satisfaction of the Department, are of good character, have good credit histories, and exhibit the ability to service the proposed and existing debt;

(b) Real estate or unmovable machinery or equipment constituting a significant portion of collateral for an insured loan shall be located within the state. Mobile machinery or equipment, including vessels, constituting a significant portion of collateral for repayment of an insured loan shall be registered with and taxed by the state or municipal authorities, if the State or municipal authorities register or tax machinery or equipment of a type similar to the collateral, and shall be stored or berthed in the state when not in use.

(c) The Department may, at its sole discretion, require independent collateral valuation and appraisal of the real property or other assets securing the loan.

(3) Covenants. The covenants and requirements of the loan shall be established by the financial institution in accordance with prudent lending practices. The Department may require such additional covenants and requirements as may be necessary, prudent or desirable. At a minimum, the loan documents should require the borrower to:

(a) Make periodic payments of principal and interest, with the exception of short term working capital loans or evergreen working capital loans or lines of credit where periodic interest payments with a balloon principal payment and/or term options may be acceptable, as determined by the Department;

(b) Make any lease payments;

(c) Maintain adequate insurance on collateral, and maintain books and records on the business;

(d) Pay any taxes or governmental charges assessed against the collateral and comply with all applicable laws and regulations;

(e) Keep the collateral free of liens and encumbrances except for as may be expressly accepted by the financial institution and Department;

(f) Provide for periodic financial reports to the financial institution;

(g) Pay advances necessary to protect the collateral and all expenses of protecting or enforcing the rights of the financial institution and Department.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218
Stats. Implemented: ORS 285B.200 - 285B.218
Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16

123-021-0090

Loan Insurance Programs

The Department shall offer the following insurance programs:

(1) Conventional Insurance, under which the Department may insure

(a) Up to 80 percent of a loan in which case the Department's maximum liability for any loss under the Conventional Insurance is the lesser of \$2,000,000 or an amount equal to the insured percentage times the authorized loan amount, or

(b) Up to 90 percent of a loan in which case the Department's maximum liability for any loss under the Conventional Insurance is the lesser of \$500,000 or an amount equal to the insured percentage times the authorized

loan amount. Should a borrower which receives an insured loan default or otherwise be unable to make loan payments, the Department will pay the financial institution the deficiency of a loan times the insured percentage, subject to the limitation set forth above. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Conventional Insurance and the uninsured portion of the loan.

(2) First Loss Insurance, under which the Department will pay 100 percent of the deficiency of a loan, but the Department's maximum liability under the First Loss Insurance shall be the lesser of (a) the insured percentage (which shall not exceed 25 percent) times the authorized loan amount, (b) the insured percentage (which shall not exceed 25 percent) times the outstanding balance of the loan, including accrued interest and reasonable costs and expenses of collection and liquidation of collateral exclusive of costs attributable to environmental problems, but not taking into account the proceeds of collateral liquidation and payments by guarantors, or (c) \$500,000. Any recovery after payment of a deficiency is applied first to the uninsured portion of the loan and then to the portion of a loan insured through First Loss Insurance.

(3) First Loss Collateral Support Insurance (aka Collateral Support Insurance), under which the Department will pay up to a maximum of 100 percent of the deficiency of a loan as follows. The Department's maximum liability under the Collateral Support Insurance per enrolled loan shall be the lesser of:

(a) The insured percentage times the authorized and enrolled loan amount;

(b) The insured percentage times the outstanding balance of the enrolled loan, including accrued interest and reasonable costs and expenses of collection and liquidation of collateral exclusive of costs attributable to environmental problems, after taking into account payments by guarantors but not taking into account the proceeds of collateral liquidation; or,

(c) 25% of the enrolled loan or \$1,000,000. Collateral Support Insurance may not exceed a term of 5 years. Loan payments, the proceeds of collection of guarantees, and recovery after payment of a deficiency from any source other than liquidation of collateral are applied pro rata to the portion of a loan insured through Collateral Support Insurance and the uninsured portion of the loan; the proceeds of collateral are applied first to the uninsured portion of the loan and then to the portion of a loan insured through Collateral Support Insurance. Loans covered by Collateral Support Insurance must meet a participating Lender's credit underwriting criteria with the exception of loan collateral adequacy. Borrowers with loans covered by Collateral Support Insurance must:

(A) Demonstrate significant current and historical cash flow coverage,

(B) Demonstrate strong credit history,

(C) Provide personal guarantees of significant owners; and,

(D) Meet other criteria as determined by the Department.

(d) In contrast to First Loss Insurance, Collateral Support Insurance is only intended to mitigate a collateral shortfall and is not intended to mitigate other or additional credit deficiencies. Collateral Support Insurance will only be provided to the extent necessary to facilitate making a qualified loan, not on a maximum allowable basis for each loan. Loan proceeds may be used to pay off an existing loan where the collateral value is no longer adequate to secure the loan due to a decline in the value of the existing collateral (not due to the loan having been less than fully secured at inception). If any proceeds of the new insured loan are used to refinance an existing loan of the lender making application for Collateral Support Insurance, in order for the new loan to be eligible for Collateral Support Insurance the existing loan must have reached its maturity date and the new loan must also include new monies advanced to the borrower. If proceeds of the new loan are applied to an existing loan which is secured by collateral that secures the new loan, enrollment of the new loan in the Collateral Support Insurance will be limited to the amount of the collateral shortfall or the decline in the collateral value from the origination date of the existing loan, whichever is less. For the Collateral Support Insurance, the maximum insured percentage for insurance up to \$500,000 shall be 25% of the loan. For insurance above \$500,000 and up to \$1,000,000 the maximum insured percentage shall be 20% of the loan.

(4)(a) Evergreen Entrants Insurance, under which the Department may insure up to 75 percent of a line of credit working capital loan. Should a borrower which receives an insured loan default or otherwise be unable to make loan payments, the Department will pay the financial institution the deficiency of the line of credit working capital loan times the insured percentage; provided that the Department's maximum liability for any defi-

ADMINISTRATIVE RULES

ciency under the Evergreen Entrants Insurance is the lesser of \$1,500,000 or an amount equal to the insured percentage of the authorized loan amount. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Evergreen Entrants Insurance and the uninsured portion of the loan.

(b) Eligible borrowers include persons or enterprises without or about to be without existing line of credit working capital loans.

(c) To obtain Evergreen Entrants Insurance, a financial institution must have the capacity to service the loan effectively, including monitoring compliance with any audit and control procedures prescribed by the Department or comparable procedures of the financial institution approved by the Department and must have in place and operating a lending program specializing in line of credit loans secured by or with advances based upon eligible accounts receivable and inventory or other assets. The Department must be satisfied that the financial institution is sufficiently experienced and capable of operating such a lending program effectively.

(5)(a) Evergreen Plus Insurance, under which the Department may insure up to 75 percent of a new increment of a line of credit; provided that the Department's maximum liability under the Evergreen Plus Insurance is \$1,500,000. If the insured loan is a renewal of a loan where the Department insured more than 75% of the loan, the Department may, in its sole discretion, insure the new loan up to the percentage insured on the immediately previous loan being renewed. If a financial institution makes a payment request for any deficiency, the Department will pay to the financial institution the lesser of:

(A) A ratable share of the total default charges; or

(B) The deficiency times the insured percentage. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Evergreen Plus Insurance and the uninsured portion of the loan.

(b) The formula for calculating the Department's ratable share of total default charges is:

$$R = (G \div T) \times P$$

R represents the ratable share of total default charges.

G represents the amount of the new increment of the line of credit.

T represents the total credit facility made available.

P represents the principal outstanding upon default plus accrued unpaid interest and costs of collateral liquidation and collection of guarantees exclusive of costs attributable to environmental problems.

(c) To obtain the Evergreen Plus Insurance, a financial institution must have in place and operating a lending program specializing in line of credit loans secured by or with advances based upon eligible accounts receivable and inventory or other assets. The Department must be satisfied that the financial institution is sufficiently experienced and capable of operating such a lending program effectively.

(6) The Conventional Insurance, First Loss Insurance, and Collateral Support Insurance are available for all types of non-revolving loans with regular periodic payments of principal and interest no less often than annually for eligible purposes, including working capital loans that are secured by fixed assets or other collateral determined to be sufficient by the Department.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 13-2002(Temp), f. & cert. ef. 6-18-02 thru 12-13-02; Administrative correction 4-15-03; EDD 6-2005(Temp), f. & cert. ef. 8-5-05 thru 1-31-06; EDD 1-2006, f. & cert. ef. 2-10-06; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16

123-021-0110

Insurance Premiums

(1) The Department shall charge a one-time (up-front) insurance premium. Premiums are due at the time financial institutions originate loans and execute loan authorizations with the Department. The Department's insurance is not effective until premiums are paid. It is expected that financial institutions will pass along the cost of premiums to borrowers. Premiums, expressed as a percentage of the Department's maximum liability, shall be charged in accordance with the schedule for the programs available from the agency.

(2) For revolving lines of credit or evergreen facilities, the premium is based on the Department's maximum liability in regard to the credit facility made available to a borrower, regardless of whether or not the line of credit is fully drawn down.

(3) Examples:

(a) The premium due on a \$200,000, five year loan with 80% Conventional Insurance would be \$3,200 (\$200,000 x .80 x .02);

(b) The premium for a \$200,000, eight year loan with 25% First Loss Insurance is \$2,500 (\$200,000 x .25 x .05);

(c) The premium for a \$1,000,000 five-year loan with a 15% Collateral Support Insurance is \$5,250 (\$1,000,000 x .15 x .035).

(d) The premium for a \$200,000 loan with 75% Evergreen Entrants Insurance is \$2,625 (\$200,000 x .75 x .0175); this amount would be due every year thereafter for up to four additional years, assuming the loan and amount is renewed each year for the maximum term permitted under the Evergreen Entrants program (5 years);

(e) The premium for a \$700,000 increment to the line of credit with 30% Evergreen Plus Insurance is \$3,675 (\$700,000 x .30 x .0175); this amount would be due every year thereafter for up to four additional years, assuming the loan and amount is renewed each year for the maximum term permitted under the program (5 years);

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16

Oregon Department of Education Chapter 581

Rule Caption: Provides exception for ban on use of Native American Mascots adopted by school districts

Adm. Order No.: ODE 15-2016

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Notice Publication Date: 1-1-2016

Rules Amended: 581-021-0047

Subject: In 2012 the State Board adopted this rule which prohibited the use of Native American mascots beginning July 1, 2017. The 2014 Legislature adopted SB 1509 which requires an exception to this prohibition for public schools which enter into agreements with tribes for the use of a mascot. The rule amendments: Lists the nine federal recognized Oregon Native American tribes; Allows an exception to the previous ban on the use of Native American mascots for public schools that enter into written agreements with the Native American Tribe that the mascot represents, is associated with or is significant to; Specifies who must approve valid agreement; and, Specifies minimum contents of agreements

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0047

Prohibits Public Schools from using Native American Mascots

(1) As used in this section:

(a) "Federally recognized Native American Tribe" means the following:

(A) The Confederated Tribes of the Warm Springs Indian Reservation.

(B) The Confederated Tribes of the Umatilla Indian Reservation.

(C) The Burns-Paiute Tribe.

(D) The Confederated Tribes of Siletz Indians of Oregon.

(E) The Confederated Tribes of the Grand Ronde.

(F) The Cow Creek Band of Umpqua Indians.

(G) The Confederated Coos, Lower Umpqua and Siuslaw Tribes.

(H) The Klamath Tribe.

(I) The Coquille Tribe.

(b) "Native American mascot" means a name, symbol or image that depicts or refers to an American Indian Tribe, individual, custom or tradition that is used by a public school as a mascot, nickname, logo, letterhead or team name.

(c) "Public school" means a school or program operated by a school district, education service district or public charter school.

(2) To ensure that all public schools are in compliance with ORS 659.850 which prohibits discrimination in public schools, on or after July 1, 2017, the use of any Native American mascot by a public school is prohibited. This prohibition includes the use of team names such as "Redskins," "Savages," "Indians," "Indianettes," "Chiefs," "Chieftains," and "Braves," except as provided in subsection (4).

ADMINISTRATIVE RULES

(3)(a) A public school may continue to use the team name “Warriors” as long as it is not combined with a symbol or image that depicts or refers to an American Indian Tribe, individual, custom or tradition. This paragraph does not apply to those public schools that enter into agreements pursuant to subsection (4) of this section.

(b) Except as provided in subsection (4) of this section, a public school may continue to use a mascot that may be associated with Native American culture, custom or tradition if the mascot depicts an animal or other image that is not an individual. Examples of such mascots include team names and images such as the “Thunderbirds”, “White Buffalo” and “Eagles.”

(4)(a) Pursuant to ORS 332.075, a public school may use a mascot including those prohibited under section (2) that represents, is associated with or is significant to a Native American Tribe only if the public school enters into an approved written agreement with that federally recognized Native American Tribe in Oregon that meets the requirements of this subsection.

(b) A mascot may only be considered under this subsection to represent, be associated with or be significant to a tribe if all of the following requirements are met:

(A) The tribe entering into the agreement determines that the district’s mascot represents, is associated with or is significant to the tribe; and

(B) The public school at which the mascot is used is located within the traditional area of interest of the tribe that enters into the agreement.

(c) Any agreement entered into under this subsection shall only be in effect if the public school continues to use a mascot that represents, is associated with or is significant to the Native American Tribe. Nothing in this subsection shall be construed to prevent a public school from changing their mascot to one that is not a Native American mascot.

(d) At least 60 days prior to entering into an agreement under this subsection, a public school must notify the State Board of Education as to which tribe the public school is intending to enter into an agreement with regarding the use of a mascot. If the public school does not enter into an agreement with the tribe listed in the notice, the public school may not enter into an agreement with another tribe relating to the mascot for five years from the date of the notice to the State Board of Education.

(e) A public school must conduct a public hearing relating to the agreement and give opportunity for members of the public to provide written and oral comments to the public school about the agreement. The public hearing must be conducted prior to the public school entering into the agreement.

(f) To be a valid agreement under ORS 332.075 and this rule, an agreement entered into under this subsection must:

(A) Be approved by the board of the public school and contain the signature of the board chairperson;

(B) Be approved by the tribal government of a Native American Tribe and contain the signature of the chairperson of the tribal council or other tribal leader designated by the tribe; and

(C) Be approved by the State Board of Education.

(g) An agreement entered into under this subsection must contain a declaration by the tribe that the mascot represents, is associated with or is significant to the tribe and at a minimum:

(A) A description of the acceptable uses of the mascot that the public school is using. The description must include the name of the mascot and pictures depicting any image, logo or letterhead that is deemed as an acceptable use;

(B) A description of how American Indian/Alaska Native history and culture will be included in the curriculum of the public school;

(C) A description of how the agreement will be enforced both between the school and tribe and within the public school;

(D) The time period of the agreement which may not exceed 10 years;

(E) A review of the agreement by the tribe and public school at least once every five years;

(F) A description of how disputes and complaints relating to the agreement will be resolved;

(G) The process for renewal of the agreement which must include approval by the public school governing body, tribal government and State Board of Education and be consistent with this subsection;

(H) A copy of school policies adopted in accordance with ORS 339.356 that address complaints based on harassment, intimidation or bullying and cyberbullying and a description of how the policies are distributed to parents and students who attend the public school; and

(I) A copy of school policies adopted in accordance with OAR 581-021-0049 that address complaints based on race, color, religion, sex, sexual orientation, national origin, marital status, age or disability and a descrip-

tion of how the policies are distributed to parents and students who attend the public school;

(h) The State Board of Education shall approve an agreement if the agreement meets the requirements of ORS 332.075 and this rule.

(i) A tribe that previously entered into an agreement may revoke the agreement prior to the end of the agreement. The tribe shall inform the State Board of Education of the revocation within fifteen (15) days of revocation.

(5) Nothing in this rule shall be construed to prohibit a public school from:

(a) Displaying art work, historical exhibits or other cultural educational exhibits or conducting educational programs related to Native Americans as long as the display or program is not associated with a Native American mascot. The display or program may be associated with a Native American mascot if the public school has entered into an agreement with a Native American tribe under this section and the display or program is allowed under the agreement;

(b) Honoring the contributions of Native Americans by naming a school, building or program after a Native American.

(6) Each school district, education service district or sponsor of a public charter school shall notify:

(a) On or before January 1, 2013, the Department of Education if any school operated by the district or sponsor uses a Native American Mascot; and

(b) On or before July 1, 2017, the Department of Education when a new mascot is adopted for the public school.

(7) The Superintendent of Public Instruction shall find any school district, education service district or public charter school that violates this section to be in noncompliance with the discrimination prohibitions under ORS 659.855. Pursuant to ORS 659.855, the Superintendent may immediately withhold all or part of state funding from the school district, education service district or public charter school.

Stat. Auth. ORS 326.051, 659.850 & 659.855

Stats. Implemented: ORS 326.051, 338.115, 659.850 & 659.855

Hist.: ODE 16-2012, f. 6-8-12, cert. ef. 6-11-12; ODE 15-2016, f. & cert. ef. 3-22-16

Rule Caption: Amends human sexuality education rule that applies to K-12 Students.

Adm. Order No.: ODE 16-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 1-1-2016

Rules Amended: 581-022-1440

Subject: Amends existing rule on human sexuality education to align with new child abuse instructional requirements in SB 856 (2015). SB 856 (Sex Abuse Prevention Instructional Program) became effective June 11, 2015. SB 856 requires each school district to provide 4 sessions annually of sexual abuse prevention instruction from kindergarten through grade 12. Updates are required to OAR 581-022-1440 (Human Sexuality Education) to reflect these new requirements.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-1440

Human Sexuality Education

(1) The following definitions apply to Oregon Administrative Rule 581-022-1440:

(a) “Age-appropriate” means curricula designed to teach concepts, information, and skills based on the social, cognitive, emotional, experience and developmental level of students;

(b) “Balanced” means instruction that provides information with the understanding of, and strength of the preponderance of evidence;

(c) “Best practice” means a practice/curriculum that is based in proven theory and practices, and has some evidence of effectiveness, but has not specifically gone through a randomized controlled trial that is needed to become an evidence-based practice;

(d) “Comprehensive plan of instruction” (as defined by Oregon education statutes) means k-12 programs that emphasize abstinence, but not to the exclusion of condom and contraceptive skills-based education. The human sexuality information provided is complete, balanced, and medically accurate. Opportunities are provided for young people to develop and understand their values, attitudes, beliefs and decisions about sexuality as a means of helping young people exercise responsibility regarding sexual relationships and sexual health decisions as further defined by subsections (2) and (3);

ADMINISTRATIVE RULES

(e) “Consensual” means the presence of a “yes” when “no” is a viable option;

(f) “Culturally inclusive” means using materials and instruction strategies that respond to culturally diverse individuals, families, and communities in a respectful and effective manner;

(g) “Gender expression” means how people express their gender based on mannerisms, dress, etc. A person’s gender expression/presentation may not always match their gender identity;

(h) Gender identity” means a person’s internal sense of being male, female or some other gender, regardless of whether the individual’s appearance, expression or behavior differs from that traditionally associated with the individual’s sex assigned at birth;

(i) “Gender role” means the socially determined sets of behaviors assigned to people based on their biological sex;

(j) “Gender sensitive” means using materials and instruction strategies that are sensitive to individual’s similarities and differences regarding gender role, gender identity and/or sexual orientation;

(k) “Healthy relationship” means one in which both people feel a healthy sense of “self”. Each person feels comfortable and safe when spending time with the other person. Two individuals try to meet each other’s needs, and each can ask for help and support, within and outside of the relationship without fear of criticism or harm;

(l) “Medically accurate” means information that is established through the use of the ‘scientific method.’ Results can be measured, quantified, and replicated to confirm accuracy, and are reported or recognized in peer-reviewed journals or other authoritative publications;

(m) “Non-consensual sexual behavior” means any sexual act that is inflicted upon a person who is unable to grant consent or that is unwanted and compelled through the use of physical force, manipulation, threats, or intimidation;

(n) “Research-based” means intervention is based on theoretical approaches that have been shown through scientific evaluation to be effective in achieving the intended outcomes. Evaluation based on studies using scientifically based designs; results published in recognized, peer-reviewed journals;

(o) “Sexual intercourse” means a type of sexual contact or activity involving one of the following:

- (A) Vaginal sex;
- (B) Oral sex; or
- (C) Anal sex;

(p) “Sexual orientation” means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or other romantic and/or sexual attraction;

(q) “Shame or fear based” means terminology, activities, scenarios, context, language, and/or visual illustrations that are used to devalue, ignore, and/or disgrace students who have had or are having sexual relationships. Not all curricula or activities that describe risks of sexual activities can be considered “fear-based;”

(r) “Skills-based” means instructional strategy that has students practice the desired skill; and

(s) “Student bystander behavior” means behaviors in which students who witness or learn about a peer’s harmful behaviors or attitudes intervene when it is safe to do so.

(2) Each school district shall provide an age-appropriate, comprehensive plan of instruction focusing on human sexuality education, HIV/AIDS and sexually transmitted infections and disease prevention in elementary and secondary schools as an integral part of health education and other subjects. Course material and instruction for all human sexuality education courses that discuss human sexuality in public elementary and secondary schools shall enhance students’ understanding of sexuality as a normal and healthy aspect of human development. As part of the comprehensive plan of human sexuality instruction, each school district board shall adopt a child sexual abuse prevention instructional program for students in kindergarten through grade 12 as defined in subsection (9). In addition, the HIV/AIDS and sexually transmitted infections and disease prevention education and the human sexuality education comprehensive plan shall provide adequate instruction at least annually, for all students’ grades 6-8 and at least twice during grades 9–12.

(3) Parents, teachers, school administrators, local health department staff, other community representatives, and persons from the medical community who are knowledgeable of the latest scientific information and effective education strategies shall develop the plan of instruction required by this rule, and in alignment with the Oregon Health Education Standards and Benchmarks, cooperatively.

(4) Local school boards shall approve the plan of instruction and require that it be reviewed and updated biennially in accordance with new scientific information and effective education strategies.

(5) Any parent may request that his/her child be excused from that portion of the instructional program required by this rule under the procedures set forth in ORS 336.035(2).

(6) The comprehensive plan of instruction shall include information that:

(a) Promotes abstinence for school-age youth and mutually monogamous relationships with an uninfected partner for adults as the safest and mostly responsible sexual behavior to reduce the risk of unintended pregnancy and exposure to HIV, Hepatitis B/C and other sexually transmitted infectious diseases;

(b) Allays those fears concerning HIV that are scientifically groundless;

(c) Is balanced and medically accurate;

(d) Provides balanced, accurate information, and skills-based instruction on the risks and benefits of contraceptives, condoms and other disease reduction measures which reduce the risk of unintended pregnancy, exposure to HIV, hepatitis B/C and other sexually transmitted infections and diseases;

(e) Discusses responsible sexual behaviors and hygienic practices which may reduce or eliminate unintended pregnancy, exposure to HIV, hepatitis B/C and other sexually transmitted infections and diseases;

(f) Stresses the risks of contracting HIV, hepatitis B and C and other infectious diseases through sharing of needles or syringes for injecting illegal drugs and controlled substances;

(g) Discusses the characteristics of the emotional, physical and psychological aspects of a healthy relationship;

(h) Discusses the benefits of delaying pregnancy beyond the adolescent years as a means to better ensure a healthy future for parents and their children. Students shall be provided with statistics based on the latest medical information regarding both the health benefits and the possible side effects of all forms of contraceptives, including the success and failure rates for prevention of pregnancy, sexually transmitted infections and diseases;

(i) Stresses that HIV/STDs and hepatitis B/C can be possible hazards of sexual contact;

(j) Provides students with information about Oregon laws that address young people’s rights and responsibilities relating to childbearing and parenting, and prevention of the spread of STDs, STIs, including testing for STDs, STIs, HIV and pregnancy;

(k) Advises pupils of the circumstances in which it is unlawful under ORS 163.435 and 163.445 for persons 18 years of age or older to have sexual relations with persons younger than 18 years of age to whom they are not married;

(l) Encourages positive family communication and involvement and helps students learn to make responsible, respectful and healthy decisions;

(m) Teaches that no form of sexual expression, or behavior is acceptable when it physically or emotionally harms oneself or others and that it is wrong to take advantage of or exploit another person;

(n) Teaches that consent is an essential component of healthy sexual behavior. Course material shall promote positive attitudes and behaviors related to healthy relationships and sexuality, and encourage active student bystander behavior;

(o) Teaches students how to identify and respond to attitudes and behaviors which contribute to sexual violence;

(p) Validates through course material and instruction the importance of honesty with oneself and others, respect for each person’s dignity and well-being, and responsibility for one’s actions;

(q) Uses inclusive materials, language, and strategies that recognizes different sexual orientations, gender identities and gender expression;

(r) Includes information about relevant community resources, how to access these resources, and the laws that protect the rights of minors to anonymously access these resources; and

(s) Is culturally inclusive.

(7) The comprehensive plan of instruction shall emphasize skills-based instruction that:

(a) Assists students to develop and practice effective communication skills, the development of self-esteem and the ability to resist peer and partner pressure;

(b) Provides students with the opportunity to learn about and personalize peer, media, technology and community influences that both positively and negatively impact their attitudes and decisions related to healthy sexuality, relationships, and sexual behaviors, including decisions to abstain from sexual intercourse;

ADMINISTRATIVE RULES

- (c) Enhances students' ability to access valid health information and resources related to their sexual health;
- (d) Teaches how to develop and communicate relational, sexual and reproductive boundaries;
- (e) Is research-based, evidence-based and/or best practice; and
- (f) Aligns with the Oregon Health Education Content Standards and Benchmarks.

(8) All human sexuality education programs shall emphasize that abstinence from sexual intercourse, when practiced consistently and correctly, is the only method that is 100 percent effective against unintended pregnancy, HIV infection (when transmitted sexually), hepatitis B/C infection, and other sexually transmitted infections and diseases. Abstinence is to be stressed, but not to the exclusion of contraceptives and condoms for preventing unintended pregnancy, HIV infection, sexually transmitted infections and diseases, and hepatitis B/C. Such courses are to acknowledge the value of abstinence while not devaluing, ignoring or stigmatizing those students who have had or are having sexual relationships. Further, sexuality education materials, instructional strategies, and activities must not, in any way, use shame or fear based tactics.

(9) As part of the comprehensive plan of human sexuality instruction, each school district shall provide child sexual abuse prevention instruction from kindergarten through grade 12. School Districts must provide a minimum of four instructional sessions per year. One instructional session is equal to one standard class period.

(10) Materials and information shall be presented in a manner sensitive to the fact that there are students who have experienced, perpetrated, or witnessed sexual abuse and relationship violence.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 336.455 & 336.455
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; EB 2-1997, f. & cert. ef. 3-27-97; ODE 25-2002, f. & cert. ef. 11-15-02; ODE 15-2007, f. & cert. ef. 7-6-07; ODE 25-2009, f. & cert. ef. 12-10-09; ODE 10-2013, f. & cert. ef. 4-10-13; ODE 16-2016, f. & cert. ef. 3-22-16

Rule Caption: Charter Schools and School Finance

Adm. Order No.: ODE 17-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 1-1-2016

Rules Amended: 581-023-0106

Subject: Changes definition of extended ADMw for purposes of calculation of State School Fund. Removes requirement that charter school extended ADMw be calculated separate from the non-charter schools in the district. Provides for additional funds to a district that has a charter school closure.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-023-0106

Calculation of Extended ADMw for Charter Schools

(1) The following definitions and abbreviations apply to this rule:

(a) "ADM" means average daily membership as defined in ORS 327.006(3) and OAR 581-023-0006 to 581-023-0008.

(b) "Cease to operate" means the closure of a charter school due to any of these reasons: closure or dissolution of charter school or termination or nonrenewal of charter.

(c) "Extended ADMw" means as that term is described in ORS 327.013(1)(c).

(d) "Public Charter Schools" means as that term is defined in ORS 338.005.

(2) A school district's general purpose grant per extended ADMw shall be calculated as follows:

(a) Estimated general purpose grant per extended ADMw will be based on the latest estimates published by the Department of Education at the time of calculation.

(b) Final general purpose grant per extended ADMw will be based on the estimates used for the May reconciliation as published by the Department of Education.

(3) School districts that have a public charter school which ceases to operate shall receive funding equal to the district's general purpose grant per extended ADMw multiplied by five (5) percent of the charter school's previous year's ADM as follows:

(a) School districts shall receive an estimated amount of funding as calculated by section (2)(a) of this rule in the year immediately after the charter school ceases to operate. The funding will be distributed by the Department of Education outside of the State School Fund payment cycle.

(b) The Department of Education shall reconcile the amount of funds a district received in subsection (a) above as follows:

(i) The Department will determine the final ADM of the charter school using the ADM reported in the annual ADM collection for the year in which the charter school was last open.

(ii) The Department will use the final general purpose grant per extended ADMw as determined by section (2)(b) of this rule.

(iii) The Department will reconcile the amount calculated in subsection (3)(a) of this rule with the final calculation based on data determined by subsections (b)(i)–(ii).

(iv) If the Department owes the school district additional funds as a result of May reconciliation, the Department will pay the school district outside of the State School Fund payment.

(v) If a school district owes the State School Fund money, the Department will invoice the school district for the amounts owed.

(4) School districts that had a public charter school cease to operate following the 2014-15 school year are eligible to receive additional funding to assist with expenses incurred in closing the public charter school.

(5) The maximum additional funding that a school district is eligible to receive is based on three (3) percent of the public charter's ADM multiplied by the school district's general purpose grant per extended ADMw using the following data:

(a) The ADM for the public charter school as reported by the school district in the last collection period for the 2014-15 school year.

(b) The final general purpose grant per extended ADMw as reported under section (2)(b) of this rule.

(6) School districts that wish to receive these funds must submit quarterly reports for 2015–16 that:

(a) Follow the template created by the Department.

(b) State the date of the expense.

(c) Give a description of the expense.

(d) Provide an explanation of how the expense related to the closure of the public charter school.

(e) Provide the amount of the expense.

(7) The Department shall review the quarterly reports and approve or deny the expense based on whether the expense is reasonably related to the closure of the public charter school.

(8) The Department will reimburse school districts for all approved expenses up to the maximum additional funding for that district.

(9) If there are additional funds remaining for that district after the end of the 2015-16 school year, the school district may submit yearly expense reports to receive additional reimbursement.

(10) The yearly expense reports will follow the same format set forth in section (6) of this rule.

(11) School districts may submit yearly reports for the 2016-17, 2017-18, and 2018-19 school years.

(12) At the end of the 2018-19 school year, any funds remaining will be redistributed to the State School Fund for distribution in the 2019-20 school year.

Stat. Auth.: ORS 327.125 & 338.025
Stats. Implemented: ORS 327.013, 327.077, 338.155 & 338.165
Hist.: ODE 18-2012, f. 6-8-12, cert. ef. 6-11-12; ODE 17-2016, f. & cert. ef. 3-22-16

Rule Caption: STEM Innovation Grant

Adm. Order No.: ODE 18-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 1-1-2016

Rules Amended: 581-017-0321, 581-017-0324, 581-017-0327, 581-017-0330, 581-017-0333

Subject: HB 3072 (2015) is the CTE/STEM framework bill. Included in HB 3072 is a grant program for innovative education and professional development related to STEM. The purpose of STEM Innovation Grant Program is to award grants that expand the implementation of effective programs relating to science, technology, engineering, and mathematics, that: (1) Propose innovative approaches to STEM-based education; or (2) Provide professional development relating to science, technology, engineering and mathematics.

Rules Coordinator: Cindy Hunt—(503) 947-5651

ADMINISTRATIVE RULES

581-017-0321

Establishment of the STEM Innovation Grants

The purpose of the STEM Innovation Grant Program is to award grants that expand the implementation of effective programs relating to science, technology, engineering, and mathematics, that:

- (1) Propose innovative approaches to STEM-based education; or
- (2) Provide professional development relating to science, technology, engineering, and mathematics.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp) f. 12-23-15, cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0324

Eligibility of STEM Innovation Grant

The Oregon Department of Education shall allocate funds for the STEM Innovation Grant. The following entities are able to apply for the STEM Innovation Grant:

- (1) STEM Hubs;
- (2) School districts;
- (3) Education service districts as defined in ORS 334.003
- (4) Public schools;
- (5) Public charter schools;
- (6) Student-focused nonprofit organizations who are in partnership with an eligible fiscal agent under OAR 581-017-0302; or
- (7) Post-secondary institutions who are, or are in partnership with, an eligible fiscal agent under OAR 581-017-0302.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp) f. 12-23-15, cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0327

Criteria of STEM Innovation Grant

(1) The Oregon Department of Education shall establish a request for proposal, application, or direct grant solicitation and approval process to be conducted each biennium for which the STEM Innovation Grant funds are available.

(2) Eligible recipients will focus on STEM related education with a specific agenda that demonstrates a record of success or clearly established plans for addressing the following through innovative approaches:

- (a) Closing the achievement gap for students who are historically underserved students or underrepresented in STEM or both with innovative approaches;
- (b) Supporting effective implementation of Oregon's academic standards and relevant technical skills;
- (c) Successfully moving students along a P-20 STEM workforce pathway; and
- (d) Engaging all students in meaningful, authentic problem-based learning.

(3) The Department shall give priority to proposals that meet the minimum criteria and clearly demonstrates how the grant funds will be used to address the following:

- (A) Establish how underserved and underrepresented students will be engaged and have increased learning opportunities;
- (B) Support new or expand STEM programs and activities;
- (C) Demonstrate a long-term sustainability plan; and
- (D) Collaborate with local business and industry partners or Regional STEM Hubs or both.

(4) The Department of Education may consider the geographic location of grant applicants to ensure geographic diversity within the recipients of grant program funds throughout the state.

(5) Eligible recipients must have a comprehensive system for measuring students' quantitative and qualitative outcomes.

Stat. Auth.: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)
Stat. Implemented: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp) f. 12-23-15, cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0330

Implementation of STEM Innovation Grant

(1) The Oregon Department of Education, in collaboration with the Chief Education Office and the STEM Council, shall determine for each biennium the funds available for the STEM Innovation Grants.

(2) STEM Innovation Grant funds received by a grantee 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.: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)
Stat. Implemented: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp) f. 12-23-15, cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0333

Reporting of STEM Innovation Grant

Recipients of the STEM Innovation Grant must report on the grant to the Department of Education. The report must include metrics developed by the Department of Education, in collaboration with the STEM Council and the Chief Education Office.

Stat. Auth.: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)
Stat. Implemented: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp) f. 12-23-15, cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

Rule Caption: Administration of Meds to Students

Adm. Order No.: ODE 19-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 1-1-2016

Rules Amended: 581-021-0037

Subject: Amends existing rule on the administration of prescription and nonprescription medication to align with three bills passed during 2015 legislative session.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0037

Administration of Prescription and Nonprescription Medication to Students

(1) As used in this rule, definitions of terms shall be as follows:

(a) "Age appropriate guidelines" means the student must be able to demonstrate the ability, developmentally and behaviorally, to self-medicate with permission from a parent or guardian, building administrator and in the case of a prescription medication a physician;

(b) "Adrenal crisis" means adrenal crisis as defined in ORS 433.800;

(c) "Adrenal insufficiency" means adrenal insufficiency as defined in ORS 433.800;

(d) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing medical intervention;

(e) "Designated staff" means the school staff person who is designated by the building level school administrator, either the principal or head teacher, to administer nonprescription or prescription medication pursuant to district policy and procedure;

(f) "Instruction from physician, physician assistant or nurse practitioner" means a written instruction for the administration of a prescription medication to a student which:

(A) Shall include:

- (i) Name of student;
- (ii) Name of medication;
- (iii) Dosage;
- (iv) Method of administration;
- (v) Frequency of administration; and
- (vi) Other special instruction, if any.

(B) Shall include the prescription medication label prepared by a pharmacist at the direction of a physician, physician assistant or nurse practitioner will meet the requirements for a written instruction if it contains the information listed in (i) through (vi) of this paragraph;

(g) "Instruction from the student's parent or guardian" means a written instruction for the administration of a nonprescription medication to a student which shall include:

- (A) Name of student;
- (B) Name of medication;
- (C) Dosage;
- (D) Method of administration;
- (E) Frequency of administration;
- (F) Other special instructions; and
- (G) Signature of parent or guardian.

(h) "Nonprescription medication" means only Federal Drug Administration approved, non-alcohol-based medication to be taken at school that is necessary for the child to remain in school. This shall be limited to eyes, nose and cough drops, cough suppressants, analgesics, decongestants, antihistamines, topical antibiotics, anti-inflammatories and antacids that do not require written or oral instructions from a physician. Nonprescription medication does not include dietary food supplements or nonprescription sunscreen;

(i) "Notice of a diagnoses of adrenal insufficiency" means written notice to the school district from the parent or guardian of a student who

ADMINISTRATIVE RULES

has been diagnosed as adrenal insufficient with a copy of an order from the student's physician that includes the student's diagnosis, description of symptoms indicating the student is in crisis, prescription for medication to treat adrenal insufficiency crisis, and instructions for follow-up care after medication to treat adrenal insufficiency crisis has been administered.

(j) "Physician" means:

(A) A doctor of medicine or osteopathy or a physician assistant licensed to practice by the Board of Medical Examiners for the State of Oregon except as allowed under subsection (5) of this rule;

(B) A nurse practitioner with prescriptive authority licensed by the Oregon State Board of Nursing;

(C) A dentist licensed by the Board of Dentistry for the State of Oregon;

(D) An optometrist licensed by the Board of Optometry for the State of Oregon; or

(E) A naturopathic physician licensed by the Board of Naturopathy for the State of Oregon;

(k) "Prescription medication" means:

(A) Any non-injectable drug, chemical compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by a student under the written direction of a physician; and

(B) Bronchodilators or auto-injectable epinephrine prescribed by a student's Oregon licensed health care professional for asthma or severe allergies.

(C) Prescription medication does not include dietary food supplements.

(l) "Qualified trainer" means a person who is familiar with the delivery of health services in a school setting and who is:

(A) A Registered Nurse licensed by the Oregon State Board of Nursing;

(B) A physician; or

(C) A pharmacist licensed by the State Board of Pharmacy for the State of Oregon.

(m) "Severe allergy" means a life-threatening hypersensitivity to a specific substance such as food, pollen or dust;

(n) "Student self-medication" means students must be able to administer medication to him or herself without requiring a trained school staff member to assist in the administration of the medication;

(o) "Training" means yearly instruction provided by qualified trainers to designated school staff on the administration of prescription and nonprescription medications, based on requirements set out in guidelines approved by the Department of Education, including discussion of applicable district policies, procedures and materials;

(2) Each school district shall adopt policies and procedures that provide for:

(a) The administration of prescription and nonprescription medication to students by trained school personnel; and

(b) Student self-medication including age appropriate guidelines.

(3) Policies and procedures shall:

(a) Include a process to designate, train and supervise appropriate staff that takes into account when a student is in school, at a school sponsored activity, under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities;

(b) Permit designated staff to administer prescription medication under the written permission from the student's parent or guardian and instruction from a physician, physician assistant or nurse practitioner if, because of its prescribed frequency, the medication must be given while in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities;

(c) Permit designated staff to administer nonprescription medication under the written permission and instruction from the student's parent or guardian; and

(d) Permit student self-medication;

(e) Include procedures for the administration of premeasured doses of epinephrine by school personnel trained as provided by ORS 433.815 to any student or other individual on school premises who the personnel believe in good faith is experiencing a severe allergic reaction, regardless of whether the student or individual has a prescription for epinephrine;

(f) Include procedures for the administration of medication by school personnel to treat a student who the personnel believe in good faith is experiencing symptoms of adrenal crisis. The procedures must provide that:

(A) Only upon notice of a diagnoses of adrenal insufficiency as defined in this rule, the building administrator of the school the student attends will designate school personnel to be responsible for administering medication to treat adrenal insufficiency in the event the student exhibits symptoms that school personnel believe in good faith indicate the student is experiencing symptoms of adrenal crisis;

(B) The designated school personnel will successfully complete training to administer medication to treat a student who has adrenal insufficiency and it experiencing symptoms of adrenal crisis in accordance with rules adopted by the Oregon Health Authority;

(C) The parent or guardian of the student must provide adequate supply of the student's prescribed medication to the school district; and

(D) In the event that a student experiences symptoms of adrenal crisis and the designated personnel determines the medication to treat adrenal insufficiency should be administered, any available school personnel will immediately call 911 and the student's parent or guardian.

(g) Provide guidelines for the management of students with life-threatening food allergies and adrenal insufficiency while the student is in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities. The guidelines must include:

(A) Standards for the education and training of school personnel to manage students with life threatening allergies or adrenal insufficiency;

(B) Procedures for responding to life-threatening allergic reactions or adrenal crisis;

(C) A process for the development of an individualized health care and allergy plan for every student with a known life-threatening allergy and an individualized health care plan for every student for whom the school district has been given proper notice of a diagnoses of adrenal insufficiency as defined in this rule;

(D) Protocols for preventing exposures to allergens;

(E) A process for determining when a student may self-carry prescription medication;

(F) Policies and procedures that provide for self-administration of medication by kindergarten through grade 12 students with asthma or severe allergies. The policies and procedures must:

(i) Require that a physician prescribe the medication to be used by the student while in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities, and instruct the student in the correct and responsible use of the medication;

(ii) Require that a physician or other Oregon licensed health care professional, acting within the scope of the person's license; formulate a written treatment plan for managing the student's asthma or severe allergy;

(4) Policies and procedures related to administration of prescription and nonprescription medication and student self-medication must discuss:

(a) Safe storage, handling, monitoring supply and disposing of medications;

(b) Record keeping and reporting of medication administration, including errors in administration;

(c) Emergency medical response for life threatening side effects and allergic reactions, including the administration of premeasured doses of epinephrine to students and other individuals; and

(d) Student confidentiality.

(5) A registered nurse who is employed by a public or private school may accept an order from a physician licensed to practice medicine or osteopathy in another state or territory of the United States if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.870; 2015 OL Ch. 112, Section 2 (Enrolled HB 3149); 2015 OL 162, Section 1 (Enrolled HB 3041)

Hist.: ODE 3-1998(Temp), f. & cert. ef. 2-27-98 thru 8-25-98; ODE 6-1998, f. & cert. ef. 4-23-98; ODE 10-1999, f. & cert. ef. 2-12-99; ODE 8-2005, f. & cert. ef. 3-23-05; ODE 17-2009, f. & cert. ef. 12-10-09; ODE 4-2010, f. & cert. ef. 3-18-10; ODE 21-2014, f. & cert. ef. 6-3-14; ODE 19-2016, f. & cert. ef. 3-22-16

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Rule Caption: District Improvement Partnership

Adm. Order No.: ODE 20-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 11-1-2015

Rules Adopted: 581-020-0531, 581-020-0534, 581-020-0537, 581-020-0540, 581-020-0542

ADMINISTRATIVE RULES

Subject: The 2015 Legislative Session provided the Oregon Department of Education (ODE) with resources to support school districts with large numbers of students experiencing difficulty meeting benchmarks in achievement, growth and graduation. ODE convened a taskforce that met several times to outline their recommendations for the selection of districts and use of the resources. As such, ODE will begin partnering with selected school districts during the 2015-2017 biennium. The partnerships will be forged to support focused improvement efforts, through a pilot approach and will be guided by the recommendations of the taskforce, the support from the state legislature, and an interest in developing the most effective and sustainable state model for comprehensive district improvement efforts moving forward. The rules provide the criteria and process for the selection of the districts.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-020-0531

Definitions

The following definitions apply to 581-020-0530 to 581-020-0541:

(1) “Comprehensive Improvement Plan” or “CIP” refers to a school district’s improvement plan created using the Indistar online planning tool.

(2) “District Improvement Partnership” is a formalized agreement to provide technical, adaptive and financial support to eligible and selected school districts.

(3) “School district” means a common or union high school district.

Stat. Auth.: ORS 327.800

Stats Implemented: ORS 327.800 & 329.105

Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0534

Eligibility

To be eligible for selection as District Improvement Partnership district:

(1) The district must have 300 or more students enrolled in the district on a date specified by the Department; and

(2) Demonstrate a history of low performance as defined as “below state average” in the following metrics:

(a) 3rd grade reading achievement for all students as determined by a statewide standardized assessment;

(b) 3rd grade reading achievement for student subgroups as determined by a statewide standardized assessment;

(c) 4th grade through 8th grade reading growth for all students as determined by a statewide standardized assessment;

(d) 4th grade through 8th grade reading growth for student subgroups as determined by a statewide standardized assessment;

(e) 4th grade through 8th grade math growth for all students as determined by a statewide standardized assessment;

(f) 4th grade through 8th grade math growth for student subgroups as determined by a statewide standardized assessment;

(g) 9th grade chronic absenteeism; and

(h) 5-year cohort graduation rates.

(3) Data used by the Department to select school districts may be from different school years but must be the best data available as identified by the Department.

Stat. Auth.: ORS 327.800

Stats Implemented: ORS 327.800 & 329.105

Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0537

Criteria

(1) The Department of Education shall determine eligible District Improvement Partnership districts by screening for the lowest 5%, or approximately ten districts, using the metrics identified in OAR 581-020-0533.

(2) When selecting districts, the Department shall further consider the district’s willingness to engage with the Department and the following activities:

(a) Participation in a readiness assessment;

(b) A district needs assessment;

(c) Analysis of the needs assessment;

(d) CIP revision support (outside of the predetermined ODE monitoring timeline) based on needs assessment findings to clearly articulate (i) priority improvement interventions, (ii) leading indicators and success metrics, and (iii) lagging indicators and success metrics, (iv) improvement timelines and budget with activities scheduled to begin during the winter or spring of 2016. The CIP must be approved by the Department;

(e) The development and institution of an internal (district-run) quarterly routine to monitor improvement initiative attending to leading and lagging success metrics;

(f) Prepare quarterly monitoring reports based on the district routine described in paragraph (d) of this subsection; and

(g) Meet periodically with the Department to review progress.

(3) Based on the considerations described in this rule, the Department shall select and provide financial resources for a number of or all of the eligible and identified District Improvement Partnership districts for the purpose of completing the activities identified in subsection (2) of this rule.

Stat. Auth.: ORS 327.800

Stats Implemented: ORS 327.800 & 329.105

Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0540

Funding

(1) The Department of Education shall determine and support District Improvement Partnerships during the 2015-2017 biennium.

(2) The Department shall distribute funding to districts in three stages of activities:

(a) Stage 1: District Needs Assessment;

(b) Stage 2: Approved CIP improvement activity start-up funding;

(c) Stage 3: Continued improvement funding aligned to quality review analysis;

(3) The Department shall determine funding for each phase as follows:

(a) Stage 1: up to \$25,000 per district

(b) Stages 2 and 3: formula grant based on estimated improvement planning and implementation activities (up to \$400,000, total, per district per year of the biennium).

Stat. Auth.: ORS 327.800

Stats Implemented: ORS 327.800 & 329.105

Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0542

Reporting and Monitoring

(1) Districts Improvement Partnership districts shall:

(a) Submit results of the district needs assessment to the Department of Education for review;

(b) Submit a revised Comprehensive Improvement Plan, informed by the district needs assessment, that includes leading and lagging indicators for no more than three district priority interventions;

(c) Submit quarterly district assessment data to ODE including, but not limited to:

(A) Percentage of students meeting standards for reading;

(B) Percentage of students meeting standards for math;

(C) Student attendance data; and

(D) An updated budget for the district.

(2) Annually, districts will submit updated Comprehensive Improvement Plans aligned to reflect progress and needs of the district for review and approval by the Department.

(3) In the event that participating districts fail to adhere to the aforementioned monitoring or reporting elements or in the event that adequate progress towards meeting goals is not met shall freeze funds available under the program until reports are received and adequate adjustments are made.

Stat. Auth.: ORS 327.800

Stats Implemented: ORS 327.800 & 329.105

Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

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Rule Caption: CTE Summer Youth Program

Adm. Order No.: ODE 21-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 1-1-2016

Rules Adopted: 581-017-0466, 581-017-0470, 581-017-0474, 581-017-0478, 581-017-0482, 581-017-0486

Subject: HB 3072 (2015) is the CTE/STEM framework bill. Included in HB 3072 is a new grant to support summer programs in career and technical education. The purpose of the program is to provide an intensive learning opportunity for middle and high school students, including access to advanced equipment, post-secondary connections, and industry professionals.

Rules Coordinator: Cindy Hunt—(503) 947-5651

ADMINISTRATIVE RULES

581-017-0466

Definitions

The following definitions apply to OAR 581-017-0465, 581-017-0469, 581-017-0473, 581-017-0477, 581-017-0481, 581-017-0485:

(1) "CTE Summer Youth Engagement Program Grant" means the grant established by section 1, Chapter 763, Oregon Law 2015 (Enrolled House Bill 3072).

(2) "High Demand" means having more than the median number of total (growth plus replacement) openings for statewide or a particular region.

(3) "High Wage" means a wage that is more than the all-industry, all-ownership median wage for statewide or a particular region.

(4) "Historically Underserved student" means an English language learner, a student of color, an economically disadvantaged student or a student with disabilities.

(5) "Industry Credential" means certification that can lead to a high wage and high demand job and has been approved by the Department of Education.

(6) "Program of Study" means a sequence of courses, aligned to industry standards at the secondary and post-secondary level, that integrates technical and career skill proficiencies with academic content and has been approved by the Oregon 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 21-2016, f. & cert. ef. 3-22-16

581-017-0470

Establishment

The purpose of the CTE Summer Youth Engagement Program is to provide middle and high school students with access to state-of-the-art facilities, training, and mentoring that may not be available in their local community, and to encourage those students to pursue industry credentials in high wage and high demand fields.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0474

Eligibility

(1) The following entities shall be eligible to receive a CTE Summer Youth Engagement Program Grant:

- (a) School districts;
- (b) Education service districts (ESDs) as defined in ORS 334.003;
- (c) Public schools;
- (d) Public charter schools;
- (e) Community colleges; and
- (f) Public universities.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0478

Criteria

(1) The Oregon Department of Education shall establish a request for proposal, application, or direct grant solicitation and approval process to be conducted each biennium for which CTE Summer Youth Engagement Program Grant funds are available.

(2) Requests for funding shall be evaluated and scored based on the following criteria:

(a) Summer programs serving students in grades 7 and 8 must:

(A) Focus on exploration of careers that include high wage and high demand occupations;

(B) Expose students to related CTE programs of study available at a student's future high school; and

(C) Include opportunities for students to interact with adults involved in related high wage and high demand occupations.

(b) Summer programs serving students who are in high school and have participated in a CTE course during the school year must:

(A) Focus on intensive CTE study addressing academic and technical attainment;

(B) Create opportunities for students to earn industry credentials or dual credit or both when appropriate;

(C) Align with CTE Programs of Study available in a student's high school;

(D) Include student interactions with related local businesses and industries; and

(E) Expose students to related educational opportunities through community colleges, universities, or apprenticeship programs.

(c) The Department of Education shall give priority to proposals that meet the minimum criteria and address the needs of historically underserved students.

(3) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application 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 who have an achievement gap between subgroup populations; and

(c) Districts who have a high level of students in poverty.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0482

Funding

(1) The Department of Education shall determine for each biennium the portion of the funds available for the CTE Summer Youth Engagement Program Grant.

(2) CTE Summer Youth Engagement Program Grant funds received by a grantee 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 21-2016, f. & cert. ef. 3-22-16

581-017-0486

Reporting

(1) After being selected as a grantee but before receiving the allocation of CTE Summer Youth Engagement Program Grant funds, grant recipients must provide the Department of Education with the following:

(a) A risk management plan that addresses contact between minors and adults and the use of power tools and equipment; and

(b) A plan for recruiting and retaining historically underserved students.

(2) Recipients of the CTE Summer Youth Engagement 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 21-2016, f. & cert. ef. 3-22-16

Rule Caption: Essential skills for English Language Learner students

Adm. Order No.: ODE 22-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 3-22-16

Notice Publication Date: 1-1-2016

Rules Amended: 581-022-0617

Subject: Changes the criteria for demonstrating proficiency in reading and writing Essential Skills in the student's language of origin to allow students through end of high school to demonstrate English language skills. Changes the location for posting notification of assessment options to the Essential Skills and Local Performance Assessment Manual. Removes requirement that assessment options are posted by March 1 of each year.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-0617

Essential Skills for English Language Learners

(1) Definitions. As used in this rule:

(a) "Assessment option" means an assessment approved to assess proficiency in the Essential Skills for the purpose of earning a high school diploma or a modified diploma.

(b) "English Language Learner" (ELL) means a student who meets the definition of "Limited English Proficient" found in Title IX, Part A, Section 9101.25 of the No Child Left Behind Act of 2001 (NCLB).

(c) "Essential Skills" means process skills that cross academic disciplines and are embedded in the content standards. The skills are not content specific and can be applied in a variety of courses, subjects, and settings.

(d) "Qualified Rater" means any individual who is:

(A) Trained to a high degree of proficiency in scoring the assessment administered to the student; and

ADMINISTRATIVE RULES

(B) Endorsed by the school district or public charter school, consistent with local school board policy, as proficient in the student's language of origin for the purposes of accurately scoring the student's work in the student's language of origin.

(2) Consistent with OAR 581-022-0615, school districts and public charter schools must adopt a policy whether to allow ELL students to demonstrate proficiency in the Essential Skill of "Apply mathematics in a variety of settings" in the students' language of origin for those ELL students who by the end of high school:

(a) Are on track to meet all other graduation requirements; and

(b) Are unable to demonstrate proficiency in the Essential Skills in English.

(3) Consistent with OAR 581-022-0615, school districts and public charter schools must adopt a policy whether to allow ELL students to demonstrate proficiency in Essential Skills other than "Apply mathematics in a variety of settings" in the students' language of origin for those ELL students who by the end of high school:

(a) Meet the criteria in Section 2(a)–(b) of this rule;

(b) Have been enrolled in a U.S. school for five (5) years or less; and

(c) Have demonstrated sufficient English language skills using an English language proficiency assessment option that is approved by the State Board of Education. ODE will issue final notice of the State Board of Education's adoption of English language proficiency assessment in the Essential Skills and Local Performance Assessment Manual.

(4) If a school district or public charter school adopts a policy allowing ELL students to demonstrate proficiency in the Essential skills in the students' language of origin under Sections 2 and 3 of this rule, that policy must include the following:

(a) Development of a procedure to provide assessment options as described in the Essential Skills and Local Performance Assessment Manual in the ELL students' language of origin for those ELL students who meet the criteria in Section 2(a)–(b) of this rule.

(b) Development of a procedure to ensure that locally scored assessment options administered in an ELL student's language of origin are scored by a qualified rater.

Stat. Auth.: ORS 326.051 & 329.075

Stats. Implemented: ORS 329.045, 329.075 & 329.485

Hist.: ODE 18-2010, f. & cert. ef. 12-17-10; ODE 22-2016, f. & cert. ef. 3-22-16

Rule Caption: Identification of Academically Talented and Intellectually Gifted Students

Adm. Order No.: ODE 23-2016

Filed with Sec. of State: 4-7-2016

Certified to be Effective: 4-7-16

Notice Publication Date: 2-1-2016

Rules Amended: 581-022-1310

Subject: Requires school districts to use research based best practices when determining eligibility of under-represented populations. Changing to more inclusive and equitable language when describing student populations. Replaces OAKS total reading score to the total ELA/Literacy SBAC score for identification eligibility.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-1310

Identification of Academically Talented and Intellectually Gifted Students

(1) Each school district shall have local district policies and procedures for the identification of talented and gifted students as defined in ORS 343.395 who demonstrate outstanding ability or potential in one or more of the following areas:

(a) General intellectual ability as commonly measured by measures of intelligence and aptitude.

(b) Unusual academic ability in one or more academic areas.

(2) The policies and procedures must meet the following requirements:

(a) Districts shall use research based best practices to identify students from under-represented populations including: ethnic minorities, students with disabilities, students who are culturally and/or linguistically diverse, or economically disadvantaged.

(b) A team shall make the final decisions on the identification of students using the information collected under paragraphs (c) and (d) of this section. No single test, measure or score shall be the sole criterion. A record of the team's decision, and the data used by the team to make the decision, shall become part of the education record for each student considered.

(c) Districts shall collect behavioral, learning and performance information and include the information in all procedures for the identification of students.

(d) The following measures and criteria for identifying the intellectually gifted and the academically talented shall be used by the team:

(A) Intellectually gifted students shall score at or above the 97th percentile on a nationally standardized test of mental ability; and

(B) Academically talented students shall score at or above the 97th percentile on a test of total reading or a test of total mathematics from a nationally standardized test battery, a nationally standardized test of reading or mathematics, or a test of total English Language Arts/Literacy or total mathematics on the Smarter Balanced Assessment.

(e) Despite a student's failure to qualify under paragraphs (d)(A) and (B) of this subsection, districts, by local policies and procedures, shall identify students who demonstrate the potential to perform at the 97th percentile.

(3) School districts may identify additional students who are talented and gifted as defined in ORS 343.395, as determined by local district policies and procedures, if the students demonstrate outstanding ability or potential in one or more of the following areas:

(a) Creative ability in using original or nontraditional methods in thinking and producing.

(b) Leadership ability in motivating the performance of others either in educational or non-educational settings.

(c) Ability in the visual or performing arts, such as dance, music or art.

Stat. Auth.: ORS 343.391 - 343.413

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 6-2009, f. & cert. ef. 6-29-09; ODE 23-2016, f. & cert. ef. 4-7-16

Rule Caption: Radio Frequency Identification Device Policy for Students

Adm. Order No.: ODE 24-2016

Filed with Sec. of State: 4-7-2016

Certified to be Effective: 4-7-16

Notice Publication Date: 2-1-2016

Rules Adopted: 581-021-0505

Subject: Requires school districts that wish to use Radio Frequency Identification (RFID) to track students develop a policy; establishes standards that protect privacy and insure security, requires notification to parents and students, and allows parents and students to opt-out of required programs.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0505

Radio Frequency Identification Device Policy for Student

Any school district that plans to use a Radio Frequency Identification Device (RFID) for the purpose of locating or tracking a student or taking student attendance shall adopt a policy regarding the use of RFID. The policy shall incorporate the standards outlined in this rule.

(1) Privacy and security standards:

(a") No personally identifiable information may be stored on the RFID;

(b) The RFID may not have a readable range of more than 10 feet;

(c) All data collected as part of a RFID program shall be considered part of the student record and shall be retained in accordance with state and federal student record laws and data privacy and security standards;

(d) Data collected as part of a RFID program shall be retained for no more than 72 hours, except records for the purpose of taking attendance; and

(e) RFID reader locations must be conspicuously marked.

(2) Notification to parents and students:

(a) Districts that are beginning a RFID program shall provide notice to parents and students at least 30 days before the district implements use of the RFID program. The notification shall:

(A) Specify the purpose for the RFID program;

(B) Specify where the RFID readers will be located;

(C) Outline the expectations of participation in the program including any possible disciplinary actions for not following the RFID program rules;

(D) Inform parents and students of the right to not participate in the RFID program and how to opt out;

(E) Outline the procedure to not participate in the RFID program; and

(F) Be communicated in at least two formats, one of which shall be the school district website, if available.

ADMINISTRATIVE RULES

(b) Districts that have established RFID programs shall provide a notice to parents and students annually at least 30 days prior to the first day of classes. The notification shall meet the requirements outlined in paragraph (a) of this subsection.

(c) If the district expands the use of RFID beyond the purpose specified in the notification requirement of paragraphs (a) or (b) of this subsection, the district shall provide notice to parents and students at least 30 days prior to the start of the new use of the RFID. The notification shall meet the requirements outlined in paragraph (a) of this subsection.

(3) Notwithstanding subsection (3) of this rule, districts may create RFID programs without notification if the district creates a form allowing parents to voluntarily opt-in to a RFID program.

(a) The form created under this section shall:

(A) Require a parent signature or signature of a student if the student is 14 years of age or older for consent to join the RFID program;

(B) Specify the purpose for the RFID program;

(C) Specify where the RFID readers will be located;

(D) Outline the expectations of participation in the program including any possible disciplinary actions for not following the RFID program rules;

(E) Outline the procedures to discontinue participation in the RFID program; and

(F) Expire one year from the date that the form is signed by the parent.

(b) RFID programs administered under this section shall not require any student to use RFID who does not have a consent form on file.

(c) Districts wishing to expand the RFID program to students without a valid consent form on file must provide 30 day notification as outlined in section (3) of this rule.

(4) Parents or students who are 14 years of age or older may provide notice in writing that they no longer wish to participate in a RFID program as outlined in section (3) or (4) of this rule. The district shall:

(a) Not ask for the reason or justification for the request;

(b) Not impose a time restriction for a request to be made;

(c) Ensure that the request is completed within three school days; and

(d) Not initiate or continue any disciplinary action against the student for not following the RFID program rules.

(5) As used in this rule:

(a) "Personally identifiable information" means data that could potentially identify a specific individual.

(b) "RFID" means a Radio Frequency Identification Device.

Stat. Auth.: ORS 339.890

Stat. Implemented: ORS 339.890

Hist.: ODE 24-2016, f. & cert. ef. 4-7-16

Rule Caption: Authorization of Department employee to appear on behalf of agency in certain hearings.

Adm. Order No.: ODE 25-2016

Filed with Sec. of State: 4-7-2016

Certified to be Effective: 4-7-16

Notice Publication Date: 1-1-2016

Rules Amended: 581-001-0002

Subject: Updates rule relating to employees appearing on behalf of Department of Education in administrative hearings to include hearings related to criminal background checks, bus driver certification and bus inspector certification.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-001-0002

Authorization for Employee to Appear on Behalf of Agency in Certain Hearings

(1) Subject to the approval of the Attorney General, an officer or employee of the Department of Education is authorized to appear on behalf of the agency in the following types of hearings conducted by this agency or the Office of Administrative Hearings:

(a) Appeals under ORS 326.603 and OAR 581-021-0500 relating to an applicant's employment or eligibility to contract with a school district based on the results of a criminal background check; and

(b) Appeals under ORS 820.110 and OAR 581-053-0060 relating to school buses and actions taken by the Department against a certificate or permit holder. These may include suspensions, revocations or refusals of certificates or permits.

(2) The Department representative may not make legal argument on behalf of the agency.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

Stat. Auth.: ORS 183.452

Stats. Implemented: ORS 183.452

Hist.: EB 1-1995, f. & cert. ef. 1-24-95; ODE 25-2016, f. & cert. ef. 4-7-16

Rule Caption: Tribal Attendance Pilot Project Grant

Adm. Order No.: ODE 26-2016

Filed with Sec. of State: 4-7-2016

Certified to be Effective: 4-7-16

Notice Publication Date: 1-1-2016

Rules Adopted: 581-017-0365, 581-017-0367, 581-017-0369, 581-017-0371, 581-017-0373, 581-017-0375

Subject: Establishes Tribal Attendance Grant Program. School Districts that partner with one of the nine Oregon tribes are eligible. Program is noncompetitive. Rules establish grant amounts, timing and expectations.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0365

Definitions

The following definitions apply to OAR 581-017-0365 to 581-017-0375:

(1) "American Indian"/Alaska Native means persons having origins in any of the original peoples of North and South America (including Central American) and who maintain tribal affiliation or community attachment.

(2) "Tribe" means:

(a) The Confederated Tribes of the Warm Springs Indian Reservation.

(b) The Confederated Tribes of the Umatilla Indian Reservation.

(c) The Burns-Paiute Tribe.

(d) The Confederated Tribes of Siletz Indians of Oregon.

(e) The Confederated Tribes of the Grand Ronde.

(f) The Cow Creek Band of Umpqua Indians.

(g) The Confederated Coos, Lower Umpqua and Siuslaw Tribes.

(h) The Klamath Tribe.

(i) The Coquille Tribe.

(3) "Tribal(ly) enrolled" means an individual who is recognized as a member of one of the Oregon nine federally recognized tribal governments.

(4) "Chronic absenteeism" means missing 10% or more of school days in an academic year.

(5) "Family/community advocate" means a community-based individual hired in collaboration with the designated tribe to develop strategies and partnerships with relevant community resources to staff and implement the attendance project in the designated school district

(6) "Non-profit organization" means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(7) "Title VII Indian Education" means a federally funded program receiving United States Department of Education Title VII — Indian, Native Hawaiian, and Alaska Native Education funding.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0367

Establishment

(1) The Tribal Attendance Pilot Project is established to support collaboration between tribes and school districts in efforts to design, imple-

ADMINISTRATIVE RULES

ment, and improve the attendance of American Indian/Alaska Native students in schools.

(2) The Department of Education shall award non-competitive grants to qualified applicants.

(3) The grant funds will be used to hire a family advocate position that would work to create effective strategies to reduce absenteeism for American Indian Alaska Native students in a preselected school or schools. Grant recipients shall use best practice concepts which include the following five components:

- (a) Recognizing good and improved attendance;
- (b) Engaging students and parents in school culture;
- (c) Monitoring and reporting attendance data and practices;
- (d) Providing personalized early intervention and outreach supports;

and
(e) Development of programmatic responses to identified barriers as needed.

(4) Additional expectations of the grant will focus on planning, implementing, and monitoring the strategies applied to reduce chronic absenteeism. These strategies should include these goals:

- (a) Robust collaboration between tribe and school district;
- (b) Strengthening relationships between school district, local community services, and federally recognized tribal government programs;
- (c) Improving the attendance of American Indian/Alaska Native students, and positive impact to the entire school community around regular attendance; and

(d) Development, implementation, monitoring, and dissemination of best practices in an effort to reduce chronic absenteeism and overcome barriers to regular attendance.

Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0369

Eligibility

(1) To be eligible to receive the Tribal Attendance Pilot Project funds, a qualified applicant must:

- (a) Be a school district identified by one of the tribes.
- (b) Be prepared to enter into an inclusive partnership with the designating tribe.
- (c) Include tribal consultation in the hiring of the family advocate position (1.0 FTE).

(d) Track and disseminate attendance data with the Department of Education and tribal representatives.

(2) Qualified applicants must be available to work with the consulting team provided by the Department to receive guidance and support.

(3) A single grant may be used to serve more than one school as long as the program goals can be met by the single hire (1.0 FTE) in the course of a normal (40 hour) work week.

(4) The Department shall monitor the programs, provide technical assistance and training, support parental outreach, provide coordination of efforts, develop and report out lessons learned and best practices, and implement a broad-based messaging campaign about the importance of school attendance.

Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0371

Criteria

(1) The Oregon Department of Education shall establish a request for participation and develop criteria to gauge full participation in the Tribal Attendance Pilot Project. All proposals must comply with the requirements of OAR 581-017-0365 to 581-017-0375.

(2) The Department shall award grants on the following criteria:

(a) Whether the grant application identifies how the district will partner with the local tribe, tribal representatives, and families to improve attendance for American Indian/Alaska Native students;

(b) Whether the grant application describes a strong and robust plan to meet the needs of American Indian/Alaska Native students and families to reduce chronic absenteeism;

(c) Whether the grant application describes expected outcomes and a strong and robust plan to achieve those outcomes;

(d) Whether the grant application demonstrates how district and community partners will collaborate on a mutually designed proposal in which all essential parties participate;

(e) Whether the grant application meets the requirements of OAR 581-017-0365 to 581-017-0375; and

(f) Whether the grant application clearly documents the school district's and tribe's capacity to implement and carry out programming and services for the Tribal Attendance Pilot Project and demonstrates intentions to work in a collaboration with identified partners.

(3) A grant application must include a description of how the school district and tribe will collaborate with other governmental entities and private organizations to meet the goals of the grant, including, not limited to:

- (a) Title VII Indian Education Programs;
- (b) Post-secondary institutions;
- (c) Youth organizations;
- (d) Health providers and consortia;
- (e) Advocacy organizations, and other private, non-profit, business, and faith-based organizations as appropriate;
- (f) Juvenile justice, police, parole and probation, and other needed enforcement agencies;
- (g) Counseling, mental health, and other social service providers; and
- (h) Food banks and nutrition specialists.

(4) A grant application must include a description of a plan for communication with families that is regular, uses diverse media channels and shares student achievement status and goals.

(5) A grant application must include an Attendance Project Plan that:

- (a) Reflects relevant research and practices;
- (b) Uses and monitors local data;
- (c) Recognizes good and improved attendance;
- (d) Engages students and parents;
- (e) Provides personalized early intervention and outreach; and
- (f) Develops programmatic responses to barriers (as needed).

(6) A grant application must provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0373

Funding

(1) The Department will award grants of up to \$150,000 based on participation per pilot site. If a pilot site either does not participate in the grant or does not meet the requirements of the grant, monies designated for that pilot site may be distributed equally among the other pilot sites even if the pilot sites have already received the maximum award under this subsection.

(2) Grantees shall use funds received for activities outlined in the participation proposal including the hiring of one community-based family advocate (1.0 FTE).

(3) 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 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0375

Reporting

(1) Grant recipients will provide detailed responses to surveys and questionnaires as developed by the Oregon Department of Education no more than five (5) times during the grant cycle.

(2) The Oregon Department of Education shall provide grant recipients a template for a 6-month report, (June 30, 2016), an interim report (January 15, 2017) and a Final Review report (July 31, 2017) that includes a detailed narrative prior to receiving the final funds.

Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

Rule Caption: Minimum Pay for Substitute Teachers

Adm. Order No.: ODE 27-2016

Filed with Sec. of State: 4-7-2016

Certified to be Effective: 4-7-16

Notice Publication Date: 1-1-2016

Rules Repealed: 581-005-0001

Subject: The minimum pay for a substitute teacher is set forth in state law. Substitutes shall not be paid less per day than 85% of the 1/190th of the salary of a beginning teacher who holds a bachelor's degree. This pay is based on the statewide average salary for begin-

ADMINISTRATIVE RULES

ning teachers who hold bachelor's degrees. The Department of Education does the calculation.

ODE originally sent districts this calculation each year by updating the administrative rule. The administrative rule process is cumbersome, however. In about 2000, the department began sending the districts the information via numbered memo. In about 2010, the department switched to posting the salary information on its State School Fund web page, a site regularly consulted by districts. The administrative rule was never repealed. Repealing the rule is a house-keeping change that eliminates potentially conflicting information about substitute teacher salaries.

Rules Coordinator: Cindy Hunt—(503) 947-5651

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Oregon Health Authority, Health Licensing Office, Board of Cosmetology Chapter 817

Rule Caption: Amend civil penalties by increasing fines for frequent violations and better ability to suspend/revoke authorizations.

Adm. Order No.: BOC 1-2016

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

Certified to be Effective: 4-4-16

Notice Publication Date: 10-1-2015

Rules Amended: 817-090-0025, 817-090-0035, 817-090-0080, 817-090-0090, 817-090-0100

Rules Repealed: 817-090-0050

Subject: Amend civil penalty schedule by increasing fine amounts for individuals who are repeatedly non-compliant with laws and rules. Amend rules to provide the Board of Cosmetology the ability to suspend and revoke authorizations for individuals who continue to not comply with statutes and rules.

Increase fine amounts for certain safety and infection control penalties including failure to disinfect foot spas and discard disposable articles.

Additional amendments to streamline language and align with Health Licensing Office statutes and rules.

Rules Coordinator: Samantha Patnode—(503) 373-1917

817-090-0025

Schedule of Penalties for Facility and Independent Contractor Registration Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of facility license and independent contractor registration laws and rules. This schedule applies, except at the discretion of the Agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 apply.

(1) Operating or purporting to operate a facility without a valid facility license is a violation of ORS 690.015(2)(b) or 690.015(2)(e):

(a) Never licensed or expired:

(A) 1st offense: \$750;

(B) 2nd offense: \$1500;

(C) 3rd offense: \$3000;

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(b) Inactive:

(A) 1st offense: \$200;

(B) 2nd offense: \$500;

(C) 3rd offense: \$1,000.

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(c) Suspended or Revoked:

(A) 1st offense: \$1000;

(B) 2nd offense: \$2500;

(C) 3rd offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(2) Operating or purporting to operate as an independent contractor without an independent contractor registration or with a dormant independ-

ent contractor registration is a violation of ORS 690.015(2)(a), 690.015(2)(d) or 690.015(2)(e):

(a) 1st offense: \$300;

(b) 2nd offense: \$750;

(c) 3rd offense: \$1500;

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(3) Allowing an uncertified employee or uncertified individual under a person's supervision and control to practice in a field of practice is a violation of ORS 690.015(2)(g) and OAR 817-020-0007 (1)(f).

(a) Employee or individual who has never been certified:

(A) 1st offense: \$1000;

(B) 2nd offense: \$2000;

(C) 3rd offense: \$3500;

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(b) Employee or individual with inactive, suspended, revoked, or expired certification:

(A) 1st offense: \$200

(B) 2nd offense: \$500

(C) 3rd offense: \$1000

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(4) Failing to meet the specifications and standards required under OAR 817-010-0007 in a facility is a violation of 817-020-0006 (1)(e) and may result in an emergency suspension of the facility license until the violation is corrected.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.992, 690.015, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 4-2011(Temp), f. & cert. ef. 9-13-11 thru 3-11-12; BOC 1-2012(Temp), f. 3-1-12, cert. ef. 3-12-12 thru 9-1-12; BOC 2-2012, f. 8-31-12, cert. ef. 9-1-12; BOC 1-2014, f. 2-27-14, cert. ef. 3-1-14; BOC 1-2016, f. & cert. ef. 4-4-16

817-090-0035

Schedule of Penalties for Practitioner Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of practitioner licensing laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Performing, attempting to perform, or purporting to perform services in a field of practice without proper certification, freelance authorization, temporary practitioner registration or demonstration permit is a violation of ORS 690.015(2)(a) or 690.015(2)(e).

(a) Never held or expired:

(A) 1st offense: \$1,000;

(B) 2nd offense: \$2,500;

(C) 3rd offense \$5,000.

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(b) Inactive or dormant

(A) 1st offense: \$200;

(B) 2nd offense: \$500;

(C) 3rd offense: \$1000

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(c) Suspended or revoked:

(A) 1st offense: \$2,500;

(B) 2nd offense: \$5,000;

(C) 3rd offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(2) Failing to display the practitioner certificate number and freelance authorization number when advertising or soliciting business; or, failing to provide required information under a Freelance Authorization is a violation of OAR 817-035-0052(1)(a) or (b):

(a) 1st offense: \$100;

ADMINISTRATIVE RULES

- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

(3) Practicing outside a licensed facility without a valid Freelance Authorization is a violation of ORS 690.015(2)(c):

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500.

(4) Performing in a field of practice by a student when not on the premises of an educational institution, or while not pursuing the prescribed curriculum in which he or she is enrolled as provided in OAR 817-100-0005, is a violation of ORS 690.015(a):

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500.

(5) Failing to comply with notification requirements listed in OAR 331-010-0040, is a violation of OAR 331-010-0040:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$200;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 4-2011(Temp), f. & cert. ef. 9-13-11 thru 3-1-12; BOC 1-2012(Temp), f. 3-1-12, cert. ef. 3-12-12 thru 9-1-12; BOC 2-2012, f. 8-31-12, cert. ef. 9-1-12; BOC 1-2016, f. & cert. ef. 4-4-16

817-090-0080

Schedule of Fines for Dispensing of Cosmetic Preparations Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to properly dispense powders, liquids, wave solutions, creams, semi-solid substances or other materials which come in contact with a client is a violation of OAR 817-010-0055:

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(2) Reuse of any powders, liquids, wave solutions, creams, semi-solid substances, including paraffin wax or other materials which come in contact with a client is a violation of OAR 817-010-0055:

- (a) 1st offense: \$1000;
- (b) 2nd offense: \$2,500;
- (c) 3rd offense: \$5,000.

Stat. Auth.: ORS 690.165, 690.205 & 690.995

Stats. Implemented: ORS 690.165, 690.205 & 690.995

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 1-2016, f. & cert. ef. 4-4-16

817-090-0090

Schedule of Penalties for Disinfecting Requirements of Tools and Implements Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 apply.

(1) Failing to cleanse and disinfect, with a high-level disinfectant, electrical or mechanical hair clipper blades before use on each client is a violation of OAR 817-010-0069(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(2) Failing to store new, disinfected or cleaned tools and implements separately from all others is a violation of OAR 817-010-0075(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(3) Failing to ensure that any tool or implement; or article which comes in contact with a client is disinfected, cleaned or disposed of is a violation of OAR 817-010-0065(1); or 817-010-0040(2) or 817-010-0040(3):

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500.

(4) Failing to discard or give to the client any a disposable nail files, pumice blocks, cosmetic sponges, buffer blocks, sanding bands or sleeves, orangewood sticks, or nail bits designed for single use after use on a client, is a violation of OAR 817-010-0065(7):

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 1-2014, f. 2-27-14, cert. ef. 3-1-14; BOC 1-2016, f. & cert. ef. 4-4-16

817-090-0100

Schedule of Penalties for Clean Conditions Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to keep a restroom located on the premises of a facility clean and sanitary is a violation of OAR 817-010-0021(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(2) Failing to keep a facility shampoo bowl or sink clean is a violation of OAR 817-010-0101(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(3) Failing to keep roller-storage receptacles and their contents clean and free of foreign material is a violation of OAR 817-010-0075(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Failing to keep storage drawers for clean tools and implements clean and to use such drawers only for clean tools and implements is a violation of OAR 817-010-0075(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(5) Failing to keep storage cabinets, work stations, vanities and back-bars or other such equipment clean is a violation of OAR 817-010-0075(4):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(6) Allowing hair clippings to accumulate on a facility floor or failing to dispose of hair clippings in a covered container is a violation of OAR 817-010-0106(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(7) Failing to keep facility walls and ceiling clean and free of excessive spots, mildew, condensation or peeling paint is a violation of OAR 817-010-0110:

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(8) Failing to properly clean and disinfect foot spa equipment as required is a violation of OAR 817-010-0101(5):

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 1-2016, f. & cert. ef. 4-4-16

ADMINISTRATIVE RULES

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 3-2016

Filed with Sec. of State: 3-25-2016

Certified to be Effective: 3-25-16

Notice Publication Date: 3-1-2016

Rules Amended: 409-026-0100, 409-026-0110, 409-026-0120, 409-026-0130, 409-026-0140

Rules Repealed: 409-026-0100(T), 409-026-0110(T), 409-026-0120(T), 409-026-0130(T), 409-026-0140(T)

Subject: 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.

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; OHP 3-2016, f. & cert. ef. 3-25-16

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; OHP 3-2016, f. & cert. ef. 3-25-16

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 Dietitians; 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; OHP 3-2016, f. & cert. ef. 3-25-16

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

ADMINISTRATIVE RULES

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; OHP 3-2016, f. & cert. ef. 3-25-16

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; OHP 3-2016, f. & cert. ef. 3-25-16

Rule Caption: Amends “Health care facility” definition to require Shriner’s Hospital to report financial information.

Adm. Order No.: OHP 4-2016

Filed with Sec. of State: 3-28-2016

Certified to be Effective: 3-28-16

Notice Publication Date: 3-1-2016

Rules Amended: 409-015-0005, 409-015-0010, 409-015-0015, 409-015-0030, 409-015-0035

Rules Repealed: 409-015-0040

Subject: 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 updates 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—(503) 931-6420

409-015-0005

Definitions

The following definitions apply to OAR 409-015-0005 through 409-015-0040:

(1) “Authority” means the Oregon Health Authority.

(2) “Charity care” means the uncollectible value, at the hospital’s full established rates, of services provided to financially indigent patients. The uncollectible portion may vary from a very small percentage of the regular charges for some patients, up to 100 percent for other patients.

(3) “Health care facility” means a hospital, including any special inpatient care facility, and an ambulatory surgical facility. The following facilities are not covered:

- (a) Institutions providing only domiciliary care;
- (b) Infirmarys of state institutions, colleges and universities;
- (c) Federal facilities; and
- (d) Long-term care facilities, or hospital-based long-term care service.

(4) “Medicare and Medicaid deductions” means the uncollectible differences between the hospital’s full established charges for individual services and the rates paid by Medicare or Medicaid for composite services.

(5) “Other contractual deductions” means the uncollectible differences between full established charges for individual services and the contractual rates paid by a third-party payer for composite services, usually on a per diem, per discharge or capitation basis.

(6) “Provision for bad debts” means the estimated amount of accounts receivable expected to result in credit losses.

(7) “Unreimbursed care” means the sum of the provision for bad debts plus charity service, Medicare deductions, Medicaid deductions and contractual deductions.

Stat. Auth.: ORS 442.400 & 442.420

Stats. Implemented: ORS 442.400 & 442.420

Hist.: SHPD 1-1979, f. & ef. 6-1-79; SHPD 6-1981, f. & ef. 10-2-81; SHPD 9-1982(Temp), f. & ef. 12-30-82; SHPD 21-1983, f. & ef. 6-28-83; SHPD 18-1984, f. & ef. 2-3-87; HP 2-1988, f. & cert. ef. 3-25-88; HP 2-1992, f. & cert. ef. 10-19-92; HP 2-1994, f. & cert. ef. 4-22-94; HP 1-1996, f. & cert. ef. 1-2-96; OHP 1-1997, f. & cert. ef. 8-25-97; OHP 1-1999, f. 10-22-99, cert. ef. 10-23-99; OHP 1-2002, f. & cert. ef. 1-2-02; OHP 4-2016, f. & cert. ef. 3-28-16

409-015-0010

Report Forms

(1) All health care facilities shall file the required reports and data on forms provided or approved by the Authority.

(2) The Authority adopts and incorporates by reference the Patient Revenue and Unreimbursed Care form, Form FR-3.

(3) The Authority shall not accept obsolete forms.

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

Stat. Auth.: ORS 442.405, 442.420 & 442.425

Stats. Implemented: ORS 442.425

Hist.: SHPD 1-1979, f. & ef. 6-1-79; SHPD 6-1981, f. & ef. 10-2-81; SHPD 9-1982(Temp), f. & ef. 12-30-82; SHPD 21-1983, f. & ef. 6-28-83; SHPD 18-1984, f. & ef. 12-20-84; SHPD 12-1986, f. & ef. 7-7-86; HP 2-1988, f. & cert. ef. 3-25-88; HP 2-1990, f. & cert. ef. 2-12-90; HP 2-1992, f. & cert. ef. 10-19-92; HP 2-1994, f. & cert. ef. 4-22-94; HP 1-1996, f. & cert. ef. 1-2-96; OHP 1-1997, f. & cert. ef. 8-25-97; OHP 1-1999, f. 10-22-99, cert. ef. 10-23-99; OHP 1-2002, f. & cert. ef. 1-2-02; OHP 3-2011, f. 2-8-11, cert. ef. 3-1-11; OHP 4-2016, f. & cert. ef. 3-28-16

409-015-0015

Reports Required

(1) Each health care facility shall file with the Authority financial statements, with attached certification of audit, not later than 120 days following the close of each fiscal year. If the financial statements of the facility are a part of the combining of a for-profit or not-for-profit corporation, the combining financial statements and attached certification of audit shall be filed.

(2) Each health care facility shall file an accurately completed Databank Monthly Data electronically with the Oregon Association of Hospitals and Health Systems (OAHS) for receipt by OAHS on or before the 23rd day of each month. This form will transmit data for the preceding month. The Authority may, at its discretion, exempt a special inpatient care facility, ambulatory surgical facility or other health care facility from the requirements of this section. The Authority may, by oral or written notification, require a health care facility to use an express mail service to submit the Databank Monthly Data Input Form to OAHS.

(3) The Authority may annually require that each health care facility provide a breakdown of its unreimbursed care into bad debts, charity care, Medicare deductions, Medicaid deductions and other contractual deductions, using Form FR-3.

(4) Each health care facility may be required to annually submit to the Authority a breakdown of its gross patient service revenue into inpatient revenue and outpatient revenue, and other applicable categories specified by Form FR-3.

(5) Documents filed with the Authority under these rules are to be addressed to the Oregon Health Authority, Health Systems Research & Data, 500 Summer St. NE E-64, Salem, Oregon 97301-1079.

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

Stat. Auth.: ORS 442.405, 442.420 & 442.425

Stats. Implemented: ORS 442.425

Hist.: SHPD 1-1979, f. & ef. 6-1-79; SHPD 6-1981, f. & ef. 10-2-81; SHPD 9-1982(Temp), f. & ef. 12-30-82; SHPD 21-1983, f. & ef. 6-28-83; SHPD 18-1984, f. & ef. 12-20-84; SHPD 12-1986, f. & ef. 7-7-86; HP 2-1988, f. & cert. ef. 3-25-88; HP 2-1990, f. & cert. ef. 2-12-90; HP 1-1996, f. & cert. ef. 1-2-96; OHP 1-1999, f. 10-22-99, cert. ef. 10-23-99; OHP 5-2010, f. 9-23-10, cert. ef. 10-1-10; OHP 4-2016, f. & cert. ef. 3-28-16

409-015-0030

Modification of Reporting Requirements

(1) The Authority, upon request of a health care facility and for good cause, may relieve or modify the reporting requirements provided for in these rules when the reporting requirement is proven to the satisfaction of the Authority to impose an undue hardship.

ADMINISTRATIVE RULES

(2) Unless otherwise specified by the Authority, any relief or modification granted under section (1) of this rule is restricted to the specific instance or occasion for which relief was sought, and may not be construed to relieve any other reporting requirements of the health care facility.

Stat. Auth.: ORS 442.405, 442.420 & 442.425

Stats. Implemented: ORS 442.425

Hist.: SHPD 1-1979, f. & ef. 6-1-79; SHPD 6-1981, f. & ef. 10-2-81; SHPD 9-1982(Temp), f. & ef. 12-30-82; SHPD 21-1983, f. & ef. 6-28-83; HP 2-1988, f. & cert. ef. 3-25-88; OHP 4-2016, f. & cert. ef. 3-28-16

409-015-0035

Civil Penalties

(1) Pursuant to ORS 442.445, the Authority adopts the following schedule of civil penalties:

(a) \$250.00 per day for the first five days of failure to file in accord with ORS 442.425; and

(b) \$500.00 per day from the sixth day until filing in accordance with ORS 442.425 is satisfactorily accomplished.

(2) Any amount of civil penalty imposed by the Authority may not be allowed as a reimbursable cost item and may not be recoverable from any category of payment source or patient.

Stat. Auth.: ORS 442.405, 442.420 & 442.445

Stats. Implemented: ORS 442.445(2)

Hist.: SHPD 1-1979, f. & ef. 6-1-79; SHPD 6-1981, f. & ef. 10-2-81; SHPD 9-1982(Temp), f. & ef. 12-30-82; SHPD 21-1983, f. & ef. 6-28-83; HP 2-1988, f. & cert. ef. 3-25-88; HP 2-1991, f. & cert. ef. 11-8-91; OHP 1-1999, f. 10-22-99, cert. ef. 10-23-99; OHP 4-2016, f. & cert. ef. 3-28-16

Oregon Health Authority,

Health Systems Division: Medical Assistance Programs

Chapter 410

Rule Caption: Remove ICD-9 Diagnosis Codes

Adm. Order No.: DMAP 14-2016

Filed with Sec. of State: 3-22-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 410-122-0211

Subject: 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 — (503) 945-6430

410-122-0211

Cough Stimulating Device

(1) Indications and Limitations of Coverage and Medical Appropriateness: The Division of Medical Assistance Programs (Division) may cover a cough stimulating device, alternating positive and negative airway pressure for a client who meets the following criteria:

(a) The client has been diagnosed with a neuromuscular disease as identified by one of the following diagnosis codes:

(A) Late effects of acute poliomyelitis;

(B) Cystic fibrosis;

(C) Werdnig-Hoffmann disease— anterior horn cell disease unspecified;

(D) Multiple sclerosis — quadriplegia and quadriparesis;

(E) Myoneural disorders;

(F) Disorders of diaphragm;

(G) Fracture of vertebral column, cervical, or dorsal (thoracic);

(H) Late effect of spinal cord injury;

(I) Late effect of injury to a nerve root or roots, spinal plexus or plexuses and other nerves of trunk;

(J) Spinal cord injury without evidence of spinal bone injury, cervical or dorsal (thoracic); and

(b) Standard treatment such as chest physiotherapy (e.g., chest percussion and postural drainage, etc.) has been tried and documentation supports why these modalities were not successful in adequately mobilizing retained secretions; or

(c) Standard treatment such as chest physiotherapy (e.g., chest percussion and postural drainage, etc.) is contraindicated and documentation supports why these modalities were ruled out; and

(d) The condition is causing a significant impairment of chest wall or diaphragmatic movement, such that it results in an inability to clear retained secretions.

(2) Procedure Code:

(a) E0482 (cough stimulating device, alternating positive and negative airway pressure)—prior authorization required;

(b) The Division will purchase or rent on a monthly basis (limited to the lowest cost alternative);

(c) E0482 is considered purchased after no more than ten months of rent;

(d) E0482 may be covered for a client residing in a nursing facility;

(e) The fee includes all equipment, supplies, services, routine maintenance, and necessary training for the effective use of the device.

(3) Documentation Requirements: Submit specific documentation from the treating practitioner that supports coverage criteria in this rule are met and may include, but is not limited to, evidence of any of the following:

(a) Poor, ineffective cough;

(b) Compromised respiratory muscles from muscular dystrophies or scoliosis;

(c) Diaphragmatic paralysis;

(d) Frequent hospitalizations or emergency department/urgent care visits due to pneumonias.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 14-2016, f. 3-22-16, cert. ef. 4-1-16

Rule Caption: Hospital Assessment Rate Decrease

Adm. Order No.: DMAP 15-2016(Temp)

Filed with Sec. of State: 3-31-2016

Certified to be Effective: 4-1-16 thru 9-27-16

Notice Publication Date:

Rules Amended: 410-050-0861

Subject: The Division needs to amend OAR 410-050-0861, effective April 1, 2016, to change the hospital assessment rate from 5.80% to 5.30%. According to the statutes, the director of the Oregon Health Authority is authorized to impose an assessment rate that is the best estimate to generate the revenue needed to cover authorized Oregon Health Plan expenditures. The proposed change is based on client caseload forecasts and expenditures for health services. The Oregon Health Authority has consulted with hospital representatives on this assessment rate change, and they support the rate decrease. This temporary rule is being filed in order to implement the rate change until a permanent rule can be filed.

Rules Coordinator: Sandy Cafourek — (503) 945-6430

410-050-0861

Assessment Rate

(1) The assessment rate for the period beginning January 1, 2005, and ending June 30, 2006, is .68 percent.

(2) The assessment rate for the period beginning July 1, 2006, and ending December 31, 2007, is .82 percent.

(3) The assessment rate for the period beginning January 1, 2008, and ending June 30, 2009, is .63 percent.

(4) The assessment rate for the period of January 1, 2008 through June 30, 2009 does not apply to the period beginning July 1, 2009.

(5) The assessment rate for the period beginning July 1, 2009, and ending September 30, 2009, is .15 percent.

(6) The assessment rate for the period beginning October 1, 2009, and ending June 30, 2010, is 2.8 percent.

(7) The assessment rate for the period beginning July 1, 2010, and ending June 30, 2011, is 2.32 percent.

(8) The assessment rate for the period beginning July 1, 2011, and ending September 30, 2011, is 5.25 percent.

(9) The assessment rate for the period beginning October 1, 2011, and ending December 31, 2011, is 5.08 percent.

(10) The assessment rate for the period beginning January 1, 2012, and ending March 31, 2013, is 4.32 percent.

(11) The assessment rate for the period beginning April 1, 2013, and ending September 30, 2014, is 5.30 percent.

(12) The assessment rate for the period beginning October 1, 2014, and ending March 31, 2016, is 5.80 percent.

(13) The assessment rate for the period beginning April 1, 2016, is 5.30 percent.

Stat. Auth.: ORS 413.042

ADMINISTRATIVE RULES

Stats. Implemented: 2015 HB 2395

Hist.: OMAP 28-2005(Temp), f. & cert. ef. 5-10-05 thru 11-5-05; OMAP 34-2005, f. 7-8-05, cert. ef. 7-11-05; OMAP 14-2006, f. 6-1-06, cert. ef. 7-1-06; DMAP 29-2007, f. 12-31-07, cert. ef. 1-1-08; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 24-2009, f. & cert. ef. 7-1-09; DMAP 25-2009(Temp), f. & cert. ef. 7-15-09 thru 1-10-10; DMAP 27-2009, f. & cert. ef. 9-1-09; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 21-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 16-2011(Temp), f. & cert. ef. 7-1-11 thru 11-1-11; DMAP 26-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 11-1-11; DMAP 31-2011, f. 10-28-11, cert. ef. 11-1-11; DMAP 50-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-30-12; DMAP 8-2012, f. 2-27-12, cert. ef. 3-1-12; DMAP 15-2013(Temp), f. & cert. ef. 4-1-13 thru 9-27-13; DMAP 41-2013, f. & cert. ef. 8-1-13; DMAP 58-2014(Temp), f. & cert. ef. 10-1-14 thru 3-29-15; DMAP 68-2014, f. & cert. ef. 12-1-14; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 15-2016(Temp), f. 3-31-16, cert. ef. 4-1-16 thru 9-27-16

Rule Caption: Board Registered/Licensed Interns to be included as Non-payable, Enrollable Medicaid Providers

Adm. Order No.: DMAP 16-2016(Temp)

Filed with Sec. of State: 4-15-2016

Certified to be Effective: 4-15-16 thru 10-11-16

Notice Publication Date:

Rules Amended: 410-172-0660

Subject: The Oregon Health Authority needs to include board registered, certified, or licensed (non-clinical) provider types practicing under a board approved supervision plan under enrolled or (paid provider) Medicaid providers. This rule is in response to provider inquiries about parity among interns. OHA approved pre-graduate mental health interns for enrollment and practice within Oregon Medicaid. OHA did not include board registered, certified or licensed (non-clinical) provider types practicing under a board approved supervision plan under enrolled (paid provider) Medicaid providers.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-172-0660

Rehabilitative Mental Health Services

(1) Rehabilitative mental health services means medical or remedial services recommended by a licensed medical practitioner or other licensed practitioner to reduce impairment to an individual's functioning associated with the symptoms of a mental disorder or substance use disorder and are intended to restore functioning to the highest degree possible.

(2) Remedial rehabilitative behavioral health services shall be recommended by a licensed practitioner of the healing arts within the scope of their practice under state law.

(3) Rehabilitative behavioral health services that include medical services shall be provided under ongoing oversight of a licensed medical practitioner.

(4) Paid providers of rehabilitative behavioral health services shall meet one of the following qualifications or hold at least one of the following educational degrees and valid licensure:

(a) Physician or Physician Assistant licensed by the Oregon Medical Board;

(b) Advanced Practice Nurse including Clinical Nurse Specialist and Certified Nurse Practitioner licensed by the Oregon Board of Nursing;

(c) Psychologist licensed by the Oregon Board of Psychology;

(d) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;

(e) Clinical Social Worker licensed by the Oregon Board of Licensed Social Workers;

(f) Certificate issued by AMH as described in OAR 309-012-0130 through 309-012-0220.

(5) Non-paid providers shall be supervised by a paid provider as described in this rule under a board approved plan of practice and supervision or be employed by a provider organization certified by OHA as described in OAR 309-012-0130 through 309-012-0220 and meet one of the following qualifications:

(a) Psychologist resident as described in OAR 858-010-0037;

(b) Psychologist associate as described in OAR 858-010-0015;

(c) Licensed Professional Counselor intern or Marriage and Family Therapist Intern registered with the Oregon Board of Licensed Professional Counselors and Therapists as described in OAR 833-050-0011;

(d) Licensed Master Social Worker licensed by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;

(e) Board Certified Behavior Analyst issued by the Oregon Board of Behavioral Analysis Regulatory Board as described in OAR 824-030-0010;

(f) Certificate of Clinical Social Work Associates issued by the Oregon Board of Licensed Social Workers as described in OAR 877-020-0009;

(g) Registered bachelor of social work issued by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;

(h) Qualified mental health professional as defined in OAR 309-019-0105;

(i) Qualified mental health associate as defined in OAR 309-019-0105;

(j) Mental health intern as defined in OAR 309-019-0105; or

(k) Peer-Support Specialist as defined in OAR 410-180-0305.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715

Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15; DMAP 16-2016(Temp), f. & cert. ef. 4-15-16 thru 10-11-16

Oregon Health Authority, Health Systems Division: Mental Health Services Chapter 309

Rule Caption: Temporary new rules regarding placement of defendants found unfit to proceed in their own defense.

Adm. Order No.: MHS 1-2016(Temp)

Filed with Sec. of State: 4-7-2016

Certified to be Effective: 4-7-16 thru 10-3-16

Notice Publication Date:

Rules Adopted: 309-088-0100, 309-088-0110, 309-088-0120

Subject: These rules implement House Bill (HB) 2420 from the 2015 regular legislative session, which amends Oregon Revised Statutes (ORS) 161.365 and ORS 161.370. The rules establish the process necessary for the Court to determine the setting in which a defendant is placed while receiving the supervision and education necessary to adequately aid and assist their attorney in their own defense during trial.

Rules Coordinator: Nola Russell—(503) 945-7652

309-088-0100

Purpose and Scope

These rules implement House Bill (HB) 2420 from the 2015 regular legislative session, which amends Oregon Revised Statutes (ORS) 161.365 and 161.370. The rules establish the process necessary for the Court to determine the setting in which a defendant is placed while receiving the supervision and education necessary to adequately aid and assist their attorney in their own defense during trial.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 161.065 & 161.370

Hist.: MHS 1-2016(Temp), f. & cert. ef. 4-7-16 thru 10-3-16

309-088-0110

Definitions

(1) "Authority" means the Oregon Health Authority (OHA).

(2) "Community Mental Health Program (CMHP) Director" means the individual identified by the local mental health authority as the director of that particular local CMHP — or his or her designee.

(3) "Consultation" means a consultation between the CMHP and the defendant, so that the CMHP may determine whether or not the CMHP currently has available the services and other resources necessary to safely restore the defendant's fitness to proceed, within the community.

(4) "Findings Report" means the CMHP report to the Court, which summarizes the information gathered during the consultation, and the resulting placement recommendation. Details of the Findings Report must support the CMHP's assertion regarding the CMHP's current ability to safely provide — within the community — the services and supervision necessary to restore the defendant's fitness to proceed.

(5) "Fitness to Proceed" means the same as having capacity.

(6) "Incapacitated" means - pursuant to ORS 161.360 — that as a result of mental disease or defect, the defendant is unable:

(a) To understand the nature of the proceedings against himself or herself;

(b) To assist and cooperate with his or her counsel; or

(c) To participate in his or her own defense.

(7) "Services and Support" means providing the defendant with the education, other services, and support necessary to best facilitate the defendant's return to capacity, including but not limited to:

(a) Skills training regarding court room procedures, roles, language, and potential outcomes of the court process;

ADMINISTRATIVE RULES

(b) Incidental support (e.g., purchase of food, clothing, or transportation, etc.); and

(c) Linkages to benefits and community resources such as SNAP, housing/shelter, Medicaid enrollment, and cash assistance.

(8) "Unable to Aid and Assist" means the same as "incapacitated", as defined in ORS 161.360(2).

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 161.065 & 161.370

Hist.: MHS 1-2016(Temp), f. & cert. ef. 4-7-16 thru 10-3-16

309-088-0120

The Required CMHP Process

(1) When the Court has reason to doubt a defendant's fitness to proceed by reason of incapacity, the Court will order a CMHP Director or his or her designee to consult with the defendant — in order to determine if the CMHP has the resources necessary to safely serve and supervise the defendant towards capacity — within the community.

(2) The CMHP Director shall ensure the following steps are complete within seven (7) days of the Order:

(a) Acknowledgement to the Court of having received the Order;

(b) A consultation with the defendant to determine whether or not the CMHP has the resources available to safely serve and supervise the defendant within the community;

(c) Submission to the Court of a Findings Report, completed on a standardized form identified by the Authority. If the CMHP determines it does not have the resources necessary to safely restore the defendant's capacity within the community, the CMHP will detail that determination within the Findings Report.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 161.065 & 161.370

Hist.: MHS 1-2016(Temp), f. & cert. ef. 4-7-16 thru 10-3-16

**Oregon Health Authority,
Public Health Division
Chapter 333**

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

Adm. Order No.: PH 11-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 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

Rules Repealed: 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)

Subject: The Oregon Health Authority, Public Health Division is permanently amending 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: Tracy Candela—(971) 673-0561

333-010-0100

Description of the ScreenWise Breast and Cervical Cancer Program

The mission of the Oregon ScreenWise Program is to reduce breast cancer, cervical cancer, cardiovascular disease and other diseases by promoting early detection through screening, risk reduction counseling, behavior modification support, and referral to medical treatment. ScreenWise includes the Breast and Cervical Cancer Program (ScreenWise BCC), a federal screening and early detection program administered by the Oregon Health Authority to provide screening and diagnostic services to eligible Oregonians statewide. ScreenWise BCC provides coverage for screening and diagnostic services to Oregonians with family incomes up to 250 percent of the Federal Poverty Level through a contract network of qualified providers. OAR 333-010-0100 through 333-010-0197 apply only to providers who have an approved medical services agreement to provide screening and diagnostic services through this program. The program is limited to a finite source of funds which may restrict availability of services on an annual basis.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 1-2012, f. & cert. ef. 1-17-12; PH 28-2014, f. & cert. ef. 10-10-14; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0105

Definitions

(1) "Agency number" means the administrative number assigned to the service provider by the Center for Prevention and Health Promotion (Center) for identification as a ScreenWise Breast and Cervical Cancer services (ScreenWise BCC) provider.

(2) "Ancillary provider" means a provider that performs services beyond the scope of an enrolling provider. Ancillary providers may include but is not limited to laboratories, imaging centers, surgeons and surgical facilities, and hospitals.

(3) "Approved medical services agreement" means the completed ScreenWise BCC agreement, submitted to and approved by the Center for Prevention and Health Promotion.

(4) "Authority" means the Oregon Health Authority.

(5) "BCCTP" means the Breast and Cervical Cancer Treatment Program. ORS 414.534, 414.536.

(6) "Care coordination or case management" means that a client is provided with services, results, follow-up recommendations, and active tracking of progress towards follow-up recommendations.

(7) "Center" means the Center for Prevention and Health Promotion, the office within the Oregon Health Authority that administers the ScreenWise BCC.

(8) "CLIA" means the federal Clinical Laboratory Improvement Amendments of 1988, establishes quality standards for all laboratory testing to ensure the accuracy, reliability and timeliness of patient test results, and allows for certification of clinical laboratories operating in accordance with these federal amendments.

(9) "Client" means a person of any age or gender who is enrolled in and receives screening or diagnostic services from the ScreenWise BCC.

(10) "Enrolling provider" means a provider that enrolls a client into the ScreenWise BCC, provides care coordination for the client and timely data submission to ScreenWise BCC.

(11) "FPL" means the federal poverty level guidelines established each year by the Department of Health and Human Services, used to determine eligibility for ScreenWise BCC and other federally funded programs.

(12) "HIPAA" means the Health Insurance Portability and Accountability Act.

(13) "ScreenWise BCC" means the ScreenWise program component that provides statewide breast and cervical cancer screening and diagnostic services to eligible clients, that is administered by the Center for Prevention and Health Promotion within the Oregon Health Authority.

(14) "ScreenWise BCC Provider Network" means the combination of all contracted ScreenWise providers, including enrolling and ancillary providers.

(15) "Service provider" or "provider" means a licensed health care provider operating within a scope of practice, who is authorized by the Center to bill for breast and cervical cancer screening and diagnostic services for eligible clients.

(16) "Site number" means the administrative number assigned to the provider by the Center for identification of the geographic location of each ScreenWise BCC provider.

(17) "Underinsured" means that health insurance does not fully cover breast and cervical cancer screening services or that out-of-pocket cost sharing for diagnostic services would pose a financial hardship.

Stat. Auth.: ORS 413.042

Stats. Implemented: 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 1-2012, f. & cert. ef. 1-17-12; PH 13-2014(Temp), f. & cert. ef. 4-22-14 thru 10-19-14; PH 28-2014, f. & cert. ef. 10-10-14; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0110

Client Eligibility

In order to be eligible for the ScreenWise BCC a client must meet the following eligibility criteria:

(1) Have an income based on family size that is at or below 250 percent of the Federal Poverty Level at the time of enrollment; and

(2) Reside or declare an intent to reside in Oregon; and

(3) Have no health insurance or be underinsured; and

(4) Meet one of the following criteria:

(a) Be a woman age 21 or over for clinically recommended breast and cervical cancer screening and diagnostic services; or

ADMINISTRATIVE RULES

(b) Be a man of any age who is displaying signs or symptoms that may indicate breast cancer.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 1-2012, f. & cert. ef. 1-17-12; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0115

Client Enrollment

(1)(a) Clients are determined eligible on a self-declared basis, when they submit a completed and signed ScreenWise BCC enrollment form at the clinic site at the time of service.

(b) Prior to enrolling a client in ScreenWise BCC, providers with access to the Medicaid Management Information System (MMIS) shall check MMIS to verify that applicant is not currently receiving Medicaid. Clients enrolled in Medicaid are ineligible for ScreenWise BCC.

(2) Eligibility is effective for one year unless a client justifiably needs to begin a second breast or cervical cycle, as defined in the program manual, before the end of one year. Justifications include:

(a) The presence of new signs or symptoms; or

(b) The necessity of short-term follow-up, as defined in the program manual.

(3) If breast or cervical services are justifiably initiated again before the end of one year, then eligibility will automatically extend through the end of that cycle, even if the cycle lasts into a new year.

(4) ScreenWise BCC providers must keep a signed enrollment form on file at the clinic for a minimum of four years. Clients enrolled into the program who are found ineligible will be disenrolled.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 1-2012, f. & cert. ef. 1-17-12; PH 28-2014, f. & cert. ef. 10-10-14; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0120

Covered Services

(1) ScreenWise BCC covers screening and diagnostic services specific to breast and cervical cancer. Contracted providers will only be reimbursed for services related to breast and cervical cancer screening and diagnosis.

(2) Screening and diagnostic services include, but are not limited to:

(a) For breast cancer, both a clinical breast examination and a mammogram;

(b) For cervical cancer, both a pelvic examination and a Pap smear; and

(c) Laboratory tests and medical procedures necessary for detection and diagnosis of breast and cervical cancer.

(3) Information regarding covered services and CPT code lists, including required notice to providers regarding revisions, may be found in the provider's Medical Services Agreement.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0125

Excluded Services

(1) Services and laboratory tests not directly related to breast and cervical cancer screening and diagnosis are not covered by ScreenWise BCC for any eligible client. If the client accepts financial responsibility for a non-covered service that is received during a visit, payment arrangements are between the provider and the client, per OAR 333-010-0140(5)(a).

(2) No payment will be made for any expense incurred for any of the following services or items:

(a) Treatment for cancer or pre-cancerous conditions; or

(b) Any medical service or laboratory tests whose primary purpose is for a reason other than breast or cervical cancer screening or diagnostic testing.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0130

Standards of Care for Breast and Cervical Cancer Screening and Diagnostic Services

Participating ScreenWise BCC providers must agree to provide screening and diagnostic services according to the following standards:

(1) Informed Consent. The client's decision to participate in and consent to receive breast and cervical cancer screening and diagnostic services must be voluntary and without bias or coercion.

(a) The informed consent process, provided verbally and supplemented with written materials, must be presented in a language the client understands.

(b) Consent must be obtained from the individual client receiving screening and diagnostic services.

(2) Confidentiality. Services must be provided in a manner that respects the privacy and dignity of the individual.

(a) Providers must inform clients that services and medical records will be kept confidential.

(b) Records cannot be released without written client consent, except as required by law, or otherwise permitted by the Health Insurance Portability and Accountability Act (HIPAA).

(3) Linguistic and Cultural Competence. All services, support and other assistance must be provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of the individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.

(a) All persons providing interpretation services must adhere to confidentiality guidelines.

(b) The provider must make interpretation services available to all clients needing or requesting such assistance at no cost to the client. The provider must notify clients in need of interpretation services of the availability of such services in accordance with the Civil Rights Act of 1964.

(c) The provider must assure the competency of language assistance provided to limited English proficiency clients by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services, unless requested by the client.

(d) Provider shall make available easily understood client related materials and post signage in the languages of groups commonly encountered in the service area.

(e) All print, electronic, and audiovisual materials must be appropriate according to the client's language and literacy. Providers must accommodate a client's request for alternate formats.

(4) Access to Care. Services covered by ScreenWise BCC must be provided without cost to eligible clients. Providers must inform clients of the scope of services available through the program.

(a) Although not covered by ScreenWise BCC, treatment and supplies for pre-cancerous, cancerous conditions, and sexually transmitted infections must be available at the site, or by referral.

(b) Clients in need of additional medical services beyond the scope of the ScreenWise BCC provider network must be provided with information about available local resources.

(c) Clients with a qualifying breast or cervical cancer diagnosis, including specific pre-cancerous conditions, shall be screened to determine presumptive eligibility for the BCCTP and enrolling providers shall facilitate the application process.

(d) All services must be offered to eligible clients without regard to marital status, race, parity, disability, or sexual orientation.

(5) Clinical and Preventive Services. The scope of breast and cervical cancer screening and diagnostic services offered to clients must include:

(a) A health history, including health risk facts and personal and family medical history as it pertains to breast and cervical cancer screening.

(b) An initial physical examination that includes a breast and pelvic exam with a Pap smear.

(c) Follow-up recommendations.

(d) Care coordination to ensure that appropriate follow-up screening, diagnostic testing and care is provided, including:

(A) An explanation of the results of the physical examination and the laboratory tests; and

(B) The opportunity for questions concerning procedures, methods and results.

Stat. Auth.: ORS 413.042, 414.540

Stats. Implemented: ORS 413.042, 414.534, 414.536

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 1-2012, f. & cert. ef. 1-17-12; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0135

Provider Enrollment

(1) This rule applies only to providers participating in ScreenWise BCC through an approved provider agreement with the Center.

(2) An individual or organization must meet applicable licensing or regulatory requirements set forth by federal and state statutes, regulations, and rules to be enrolled and to bill as a provider. In addition, all providers

ADMINISTRATIVE RULES

of services within the State of Oregon must have a valid Oregon business license if such a license is a requirement of the state, federal, county or city government to operate a business or to provide services.

(3) An individual or organization that is currently subject to sanctions by the Authority or the federal government is not eligible for enrollment.

(4) A ScreenWise BCC agency number will be issued to an individual or clinic upon:

(a) Completion of the application and submission of the required documents;

(b) The signing of the provider agreement by the provider or person authorized by the provider to bind the organization or individual to comply with these rules;

(c) Verification of licensing or certification; and

(d) Approval of the application by the Center.

(5) Issuance of an agency number establishes enrollment of an individual or organization as a provider for ScreenWise BCC services.

(6) If a provider changes address, business affiliation, licensure, ownership, certification, billing agents, registered name, or Federal Tax Identification Number (TIN), the Center must be notified in writing within 30 days of the change. Failure to notify the Center of a change of TIN may result in the imposing of a fine. Changes in business affiliation, ownership, registered name, and TIN may require the submission of a new application. Payments made to providers who have not furnished such notification may be recovered.

(7) Providers of services outside the state of Oregon will be enrolled under the following conditions:

(a) The provider is appropriately licensed or certified by the provider's state;

(b) The provider lives in a state contiguous to Oregon, and is within seventy-five miles of the Oregon border.

(8) Provider termination:

(a) The provider may terminate enrollment at any time. The request must be sent to the Center in writing, via certified mail, return receipt requested. The notice shall specify the agency number to be terminated and the effective date of termination. Termination of the provider enrollment does not terminate any obligations of the provider for dates of services during which the enrollment was in effect.

(b) ScreenWise BCC provider terminations or suspensions and subsequent recovery of any payments made by the Center may be for, but are not limited to, the following reasons:

(A) Breaches of the medical services agreement;

(B) Failure to comply with the statutes, regulations and policies of the Authority, and federal or state regulations that are applicable to the provider;

(C) Loss of the appropriate licensure or certification.

(9) The provider is entitled to a contested case hearing to determine whether the provider's agency number will be revoked.

(10) In the event of bankruptcy proceedings, the provider must notify the Center in writing within 15 days.

(11) Providers must receive information about administering the ScreenWise BCC from a ScreenWise BCC representative before services are initiated.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0140

Billing

(1) Only clinics providing breast and cervical cancer screening and diagnostic services pursuant to an approved medical services agreement, and who have been assigned an agency number may submit claims for ScreenWise BCC services.

(2) All services must be billed by submitting claim information in the method specified by the ScreenWise BCC.

(3) A primary diagnosis code is required on all claims. All billings must be coded with the most current and appropriate International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM), incorporated by reference and the most appropriate Current Procedural Terminology (CPT) codes. Information regarding CPT code lists, including required notice to providers regarding CPT code list revisions, may be found in the provider's Medical Services Agreement. Claims including primary diagnosis codes that are not listed on the approved CPT code list will not be paid without program approval.

(4) The provider must use CLIA certified laboratories for all tests whether done at the clinic site or by an outside clinic.

(5) Enrolled providers with ScreenWise BCC must not seek payment from an eligible client, or from a financially responsible relative or representative of that individual, for any services covered by ScreenWise BCC.

(a) A client may be billed for services that are not covered by ScreenWise BCC. However, the provider must inform the client in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the client or client's representative is financially responsible for payment for the specific service. Providers must document in writing that the client was provided this information and the client knowingly and voluntarily agreed to be responsible for payment. The client or client's representative must sign the documentation.

(b) Services not covered by ScreenWise BCC are those outside of the scope of standard breast and cervical cancer screening and diagnosis, or those not included in the ICD-10 list, incorporated by reference and approved CPT code lists.

(6) Prior to submission of a claim to the Center for payment, an approved provider agreement must be in place.

(7) All claims must be submitted with data, as described in the claims section of the rules.

(a) Except for services performed by a CLIA certified laboratory outside of the clinic, all billings must be for services provided within the provider's licensure or certification.

(b) Providers must submit true and accurate information when billing the Center.

(c) A claim may not be submitted prior to providing services.

(8) Diagnosis Code Requirement:

(a) A primary diagnosis code is required on all claims.

(b) Use the highest degree of specificity within the diagnosis codes listed in the ICD-10-CM codes, incorporated by reference, for breast and cervical screening or diagnostic testing.

(9) No provider shall submit to the Center:

(a) Any false claim for payment;

(b) Any claim altered in such a way as to result in a payment for a service that has already been paid;

(c) Any claim upon which payment has been made by another source unless the amount paid is clearly entered on the claim form;

(10) The provider must submit a billing error edit correction, or refund the amount of the overpayment, on any claim where the provider identifies an overpayment made by the Center.

(11) A provider who, after having been previously warned in writing by the Authority or the Department of Justice about improper billing practices, is found to have continued such improper billing practices and has had an opportunity for a contested case hearing, shall be liable to the Center for up to triple the amount of the established overpayment received as a result of such violation.

(12) Third Party Resources:

(a) Providers must make all reasonable efforts to ensure that ScreenWise BCC will be the payor of last resort with the exception of clinic or offices operated by the Indian Health Service (IHS) or individual American Indian tribes;

(b) Providers must make all reasonable efforts to obtain payment first from other resources. For the purposes of this rule reasonable efforts include:

(A) Determining the existence of insurance coverage or other resource by asking the client;

(B) Except in the case of the underinsured, when third party coverage is known to the provider, by any other means available:

(i) The provider must bill the third party resource;

(ii) Comply with the insurer's billing and authorization requirements.

(C) Providers are required to submit a billing error edit correction showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit a billing error edit correction within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery or sanction.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 17-2015, f. 9-30-15, cert. ef. 10-1-15; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0145

Claims and Data Submission

(1) In addition to submitting standard claims information, enrolling providers are required to submit client data in order to receive payment for the claim. The data is used to collect information pertaining to breast and

ADMINISTRATIVE RULES

cervical cancer prevention, diagnosis, and treatment and is used by the National Breast and Cervical Cancer Early Detection Program and the ScreenWise BCC primarily to monitor the delivery of services and clinical outcomes of the program.

(2) Although data requirements may require more information than necessary for payment of a specific claim, all related fields must be completed and submitted.

(3) Data requirements for enrolling providers and ancillary providers are as follows:

(a) Enrolling providers must provide required information on client data forms, as defined by the program and posted on the Program website: www.healthoregon.org/screenwise.

(b) Ancillary providers must provide results of services to enrolling providers. Ancillary providers are not required to provide data to the ScreenWise BCC directly.

(4) If a provider terminates the medical services agreement all data must be submitted through the completion of each client's cycle.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0150

Timely Submission of Claims and Data

(1) All claims for services must be submitted within 120 days of the date of service. Claims older than 120 days from the date of service will not be paid, except as provided for in section (2) and (3) of this rule.

(2) If a claim is denied, the claim must be resolved within 120 days of the date of the denial. Claims older than 120 days from the date of denial will not be paid, except as provided for in section (3) of this rule.

(3) When the Center has made an error that caused the provider not to be able to bill within 120 days of the date of service, then the claim may be submitted to the Center. The error must be confirmed by the Center.

(4) Client data not related to payment of the claim may be updated or corrected at any time after the date of service.

(5) Ancillary providers must provide results of services to enrolling providers within 14 calendar days from the date of service.

(6) Enrolling providers must provide the ScreenWise BCC with enrollment and eligibility information immediately or within five calendar days from the date of enrollment. All other data must be submitted within 90 days from the date of enrollment. In the event that a case requires additional diagnostic procedures that exceed 90 days from the date of enrollment, the data must be submitted immediately upon receipt.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 28-2014, f. & cert. ef. 10-10-14; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0155

Payment

(1) The Center will make payment only to providers that have a medical services agreement with the ScreenWise BCC and are billing for an eligible client.

(2) The ScreenWise BCC reimbursement amount will be up to the Medicare reimbursement rate for the Portland metropolitan area for ScreenWise BCC approved CPT codes, on a fee-for-service basis.

(3) Federally qualified health centers or rural health centers are not paid at their Prospective Payment System (PPS) rate; they will receive up to the Medicare reimbursement rate for ScreenWise BCC approved CPT codes, on a fee-for-service basis.

(4) Center payments for ScreenWise BCC provider services, unless in error, constitute payment in full.

(5) The Center will not make payment on claims that have been assigned, sold, or otherwise transferred, or on which a provider of billing services receives a percentage of the amount billed or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a provider for accounts receivable.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 13-2014(Temp), f. & cert. ef. 4-22-14 thru 10-19-14; PH 28-2014, f. & cert. ef. 10-10-14; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0160

Requirements for Financial, Clinical and Other Records

(1) The Center is responsible for analyzing and monitoring the operation of ScreenWise BCC and for auditing and verifying the accuracy and appropriateness of payment, utilization of services, the quality of care, and access to care. The provider shall:

(a) Develop and maintain adequate financial and clinical records and other documentation which supports the services for which payment has been requested. Payment will be made only for services that are adequately documented.

(b) All medical records must document the service provided, primary diagnosis code for the services, the date on which the service was provided, and the individual who provided the services. Patient account and financial records must also include documentation of charges, identify other payment resources pursued, indicate the date and amount of all debit or credit billing actions, and support the appropriateness of the amount billed and paid. The records must be accurate and in sufficient detail to substantiate the data reported.

(2) Clinical records must sufficiently document that the client's services were primarily for breast or cervical cancer screening or diagnosis of breast or cervical cancer. The client's record must be annotated each time a service is provided and signed or initialed by the individual who provided the service or must clearly indicate the individual who provided the service. Information contained in the record must meet the standards of care for breast and cervical cancer screening and diagnosis, and must be appropriate in quality and quantity to meet the professional standards applicable to the provider or practitioner and any additional standards for documentation set forth in this rule.

(3) The provider must have policies and procedures to ensure the maintenance of the confidentiality of medical record information. These procedures ensure that the provider may release such information in accordance with federal and state statutes, ORS 179.505, 411.320, 45 CFR 205.50.

(4) The provider must retain clinical, financial and other records described in this rule for at least four years from the date of last activity.

(5) Upon written request from the Center, the Authority, the Oregon Department of Justice Medicaid Fraud Unit, the Oregon Secretary of State, or their authorized representatives (Requestor), the provider must furnish requested documentation, without charge, immediately or within the time-frame specified in the written request. Copies of the documents may be furnished unless the originals are requested. At their discretion, representatives of the Requestor may review and copy the original documentation in the provider's place of business. Upon the written request of the provider, the Requestor may, at their sole discretion, modify or extend the time for provision of such records if, in the opinion of the Center, good cause for such extension is shown. Factors used in determining whether good cause exists include:

(a) Whether the written request was made in advance of the deadline for production;

(b) If the written request is made after the deadline for production, the amount of time elapsed since that deadline;

(c) The efforts already made to comply with the request;

(d) The reasons the deadline cannot be met;

(e) The degree of control that the provider had over its ability to produce the records prior to the deadline; and

(f) Other extenuating factors.

(6) Access to records, inclusive of medical charts and financial records, does not require authorization or release from the client if the purpose of such access is to:

(a) Perform billing review activities;

(b) Perform utilization review activities;

(c) Review quality, quantity and services provided;

(d) Facilitate payment authorization and related services;

(e) Investigate a client's fair hearing request;

(f) Facilitate investigation by the Authority;

(g) Where review of records is necessary to the operation of the program.

(7) Failure to comply with requests for documents and within the specified time-frames means that the records subject to the request may be deemed by the Authority not to exist for purposes of verifying appropriateness of payment, medical appropriateness, the quality of care, and the access to care in an audit or overpayment determination, and accordingly subjects the provider to possible denial or recovery of payments made by the Authority, or to sanctions.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0165

Compliance with Federal and State Statutes

(1) Submission of a claim for medical services or supplies provided to a ScreenWise BCC client shall be deemed a representation by the med-

ADMINISTRATIVE RULES

ical provider to the Center of the medical provider's compliance with the applicable sections of the federal and state statutes referenced in this rule:

(a) 45 CFR Part 84 which implements Title V, Section 504 of the Rehabilitation Act of 1973;

(b) Title II and Title III of the Americans with Disabilities Act of 1991;

(c) Title VI of the Civil Rights Act of 1964;

(d) 42 CFR Part 493 Laboratory Requirements and ORS chapter 438 (Clinical Laboratories).

(2) Providers are required to comply with HIPAA regarding the confidentiality of client records.

(3) CLIA requires all entities that perform even one laboratory test, including waived tests on, "materials derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings" to meet certain federal requirements. If an entity performs tests for these purposes, it is considered under CLIA to be a laboratory.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0175

Recovery of Overpayments to Providers Resulting from Review or Audit

(1) When the Center determines that an overpayment has been made to a provider, the amount of overpayment is subject to recovery:

(a) To determine the overpayment amount, the Center may use a statistically valid random sampling, with sufficient sample size allowing a confidence interval of 95 percent.

(b) After the Center determines an overpayment amount by the random sampling method set forth in section (1) of this rule, the provider may request a 100 percent audit of all billings submitted to the Center for breast and cervical cancer screening and diagnostic services provided during the period in question. If a 100 percent audit is requested:

(A) Payment and arrangement for a 100 percent audit is the responsibility of the provider requesting the audit; and

(B) The audit must be conducted by a certified public accountant that is knowledgeable about the Oregon Administrative Rules covering the payments in question, and must be conducted within 120 calendar days of the request to use such audit in lieu of the Center's random sample.

(2) The amount of the review or audit overpayment to be recovered:

(a) Will be the entire amount determined or agreed to by the Center;

(b) Is not limited to amounts determined by criminal or civil proceedings; and

(c) Will include interest to be charged at allowable state rates.

(3) The Center will deliver to the provider by registered or certified mail or in person a request for repayment of the overpayment and the documentation to support the alleged amount.

(4) If the provider disagrees with the Center's determination or the amount of overpayment the provider may appeal the decision by requesting a contested case hearing:

(a) A written request for hearing must be submitted to the Center by the provider within 30 calendar days of the date of the decision affecting the provider. The request must specify the areas of disagreement.

(b) Failure to request a hearing or administrative review in a timely manner constitutes acceptance by the provider of the amount of the overpayment.

(5) The overpayment is due and payable 30 calendar days from the date of the decision by the Center:

(a) An additional 30 day grace period may be granted the provider upon request to the Center;

(b) A request for a hearing does not change the date the repayment of the overpayment is due.

(6) The Center may extend the reimbursement period or accept an offer of repayment terms. Any change in reimbursement period or terms must be made in writing by the Center.

(7) If the provider refuses to reimburse the overpayment or does not adhere to an agreed upon payment schedule, the Center may:

(a) Recoup future provider payments up to the amount of the overpayment; or

(b) Pursue civil action to recover the overpayment.

(8) As the result of a hearing the amount of the overpayment may be reduced in part or in full.

(9) The Center may, at any time, change the amount of the overpayment upon receipt of additional information. Any changes will be verified

in writing by the Center. Any monies paid to the Center that exceed an overpayment will be refunded to the provider.

(10) If a provider is terminated or sanctioned for any reason, the Center may pursue civil action to recover any amounts due and payable to ScreenWise BCC.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0180

Provider Sanctions

The following are conditions that may result in the imposition of a sanction on a provider.

(1) Basis for Sanction:

(a) Conviction of a provider of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, or XX of the Social Security Act or related state laws (or entered a plea of nolo contendere);

(b) Conviction of fraud related to any federal, state, or locally financed health care program;

(c) Conviction of interference with the investigation of health care fraud;

(d) Conviction of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(e) Failure to comply with the state and federal statutory requirements set forth in OAR 333-010-0165;

(f) By actions of any state licensing authority for reasons relating to the provider's professional competence, professional conduct, or financial integrity, the provider either:

(A) Had a health care license suspended or revoked, or has otherwise lost such license; or

(B) Surrendered the license while a formal disciplinary proceeding was pending before a licensing authority.

(g) Suspension or exclusion from participation in a federal or state health care program for reasons related to professional competence, professional performance, or other reason;

(h) Improper billing practices, including billing for excessive charges or visits;

(i) Failure to furnish services as required by law or contract with the Center, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the client;

(j) Failure to supply requested information on subcontractors and suppliers of goods or services;

(k) Failure to supply requested payment information;

(l) Failure to grant access to facilities or provide records upon request of the Center or a designated Requestor;

(m) Receiving payments for services provided to persons who were not eligible;

(n) Establishing multiple claims using procedure codes that overstate or misrepresent the level, amount or type of health care provided;

(o) Failure to develop, maintain, and retain in accordance with relevant rules and standards adequate clinical or other records that document the medical appropriateness, nature, and extent of the health care provided;

(p) Failure to develop, maintain, and retain in accordance with relevant rules and standards adequate financial records that document charges incurred by a client and payments received from any source;

(q) Failure to follow generally accepted accounting principles or accounting standards or cost principles required by federal or state laws, rule, or regulation;

(r) Submission of claims or written orders contrary to generally accepted standards of medical practice;

(s) Submission of claims for services that exceed that requested or agreed to by the client or the responsible relative or guardian or requested by another medical practitioner;

(t) Breach of the terms of the medical services agreement;

(u) Failure to correct deficiencies in operations after receiving written notice of the deficiencies from the Center;

(v) Submission of any claim for payment for which payment has already been made by the Center; or

(w) Provision of or billing for services provided by ineligible or unsupervised staff.

(2) A provider who has been suspended or terminated from participation in a federal or state medical program, such as Medicare or Medicaid, or whose license to practice has been suspended or revoked by a state licensing board, shall not submit claims for payment, either personally or through claims submitted by any billing provider or other provider, for any

ADMINISTRATIVE RULES

services or supplies provided under ScreenWise BCC, except those services provided prior to the date of suspension or termination.

(3) When the provisions of section (2) of this section are violated, the Center may suspend or terminate the provider who is responsible for the violation.

(4) Provider sanctions will be imposed at the discretion of the Authority or the administrator of the office whose budget includes payment for the services involved.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 11-2016, f. & cert. ef. 4-1-16

333-010-0197

Presumptive Eligibility for BCCTP

(1) Any licensed health care provider who can diagnose breast or cervical cancer may presumptively enroll a client into BCCTP and refer the client to the Oregon Health Plan if she meets the presumptive eligibility criteria as described in section (2) of this rule.

(2) In order to be presumptively enrolled into BCCTP a client must meet the eligibility criteria in OAR 333-010-0110 and 410-200-0400.

Stat. Auth.: ORS 413.042, 414.540
Stats. Implemented: ORS 414.534, 414.536
Hist.: PH 1-2012, f. & cert. ef. 1-17-12; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; PH 11-2016, f. & cert. ef. 4-1-16

Rule Caption: Temporary Licensure for Wildland Fire Response

Adm. Order No.: PH 12-2016

Filed with Sec. of State: 4-7-2016

Certified to be Effective: 4-7-16

Notice Publication Date: 2-1-2016

Rules Adopted: 333-265-0056

Subject: The Oregon Health Authority (Authority), Public Health Division, Emergency Medical Services and Trauma Systems Program is permanently adopting a rule which allows an out-of-state EMS provider to obtain a temporary Oregon license in order to assist with emergency medical needs of staff on fire response teams. The State of Oregon will often experience critical fire dangers which result in evacuations and threatens critical infrastructure and physical structures. In 2015, the Authority received a request to expedite limited license reciprocity for out-of-state EMS providers in order to address these critical fire dangers. In response, a temporary rule (OAR 333-265-0055) was adopted that expired on February 16, 2016. This rulemaking will replace those temporary changes permanently.

Rules Coordinator: Tracy Candela—(971) 673-0561

333-265-0056

Temporary Licensure for Wildland Fire Response

(1) Notwithstanding OAR 333-265-0050, an individual licensed and in good standing as an emergency medical services provider in another state and currently certified by the National Registry of EMTs (NREMT) may apply for a temporary license at the same level the EMS provider is currently certified by the NREMT for the purpose of providing emergency or non-emergency care to other individuals involved in responding to a wildland fire in Oregon.

(2) To apply for temporary licensure an individual must complete a temporary license application and provide any additional information required in the application.

(3) The Authority may conduct a criminal background check on an individual applying for temporary licensure.

(4) If the Authority issues a temporary license that license is only valid:

- (a) For 90 calendar days from the date issued;
- (b) While the individual is deployed firefighting or otherwise responding to a wildland fire; and
- (c) For the purpose of treating individuals engaged in wildland fire response in Oregon.

(5) An individual licensed under this rule must:

- (a) Function within the Oregon scopes of practice for EMS providers as described in OAR 847-035-0030;
- (b) Practice with written standing orders issued by a supervising physician as defined in OAR 847-035-0001; and
- (c) Comply with ORS chapter 682 and all rules adopted under ORS chapter 682.

Stat. Auth.: ORS 682.017, 682.216

Stats. Implemented: ORS 682.017, 682.216
Hist.: PH 12-2016, f. & cert. ef. 4-7-16

Rule Caption: Marijuana child-resistant packaging standards and waiver of replacement card fee

Adm. Order No.: PH 13-2016(Temp)

Filed with Sec. of State: 4-13-2016

Certified to be Effective: 4-15-16 thru 9-30-16

Notice Publication Date:

Rules Adopted: 333-008-9900

Rules Amended: 333-008-1225

Subject: The Oregon Health Authority, Public Health Division is temporarily amending OAR 333-008-1225 pertaining to packaging of marijuana items.

With the passage of HB 3400 (Oregon Laws 2015, chapter 614) during the 2015 legislative session, the Legislature directed the Oregon Health Authority to protect public safety and to establish rules on medical marijuana safety standards.

OAR 333-008-1225 establishes public health and safety standards on the use of child-resistant packaging for certain marijuana items being sold or transferred to a consumer by a registered medical marijuana dispensary. The rule will be in effect during an interim period before the Oregon Liquor Control Commission's permanent rules related to packaging of certain marijuana items are required to be followed by registered medical marijuana dispensaries.

Cannabinoid products, concentrates and extracts in a medical marijuana dispensary will be required to meet these packaging standards established by the Authority until October 1, 2016. The requirement for cannabinoid products, concentrates and extracts, such as cannabinoid edibles to be in child-resistant safety packaging was inadvertently left out of the rule when it was recently amended on March 1, 2016.

OAR 333-008-9900 temporarily waives the replacement card fee for a patient changing a PRMG or grow site address as described in OAR 333-008-0047 in order to avoid placing inequitable financial burden and hardship on patients. Many patients will need to change PRMG's or grow site addresses as growers transition to the OLCC system or as growers remove patients from grow sites in order to comply with plant limits implemented on March 1, 2016.

Rules Coordinator: Tracy Candela—(971) 673-0561

333-008-1225

Packaging

(1) This rule is in effect from March 1, 2016 until October 1, 2016. Nothing in this rule prohibits a dispensary from complying with the packaging rules in OAR 845-025-7000 to 845-025-7060 prior to October 1, 2016.

(2) For purposes of this rule:

(a) "Child-resistant safety packaging" means:

(A) Containers designed and constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly;

(B) Closable for any product intended for more than a single use or containing multiple servings; and

(C) Labeled in accordance with OAR 333-008-1220.

(b) "Container" means a sealed, hard or soft-bodied receptacle in which a tetrahydrocannabinol-infused product is placed prior to being transferred to a patient or caregiver.

(c) "Packaged in a manner not attractive to minors" means the tetrahydrocannabinol-infused product is not in a container that is brightly colored, depicts cartoons or images other than the logo of the facility, unless the logo of the facility depicts cartoons, in which case only the name of the facility is permitted.

(3) A dispensary may not transfer a medical cannabinoid product, extract or concentrate to a patient or caregiver unless the product, extract or concentrate is in child-resistant safety packaging.

Stat. Auth.: ORS 475B.450 & 475B.525

Stats. Implemented: ORS 475B.450

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14; PH 25-2014, f. & cert. ef. 9-24-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 9-2016, f. 2-26-16, cert. ef. 3-1-16; PH 13-2016(Temp), f. 4-13-16, cert. ef. 4-15-16 thru 9-30-16

ADMINISTRATIVE RULES

333-008-9900

Waiver of Replacement Card Fee

Notwithstanding OAR 333-008-0021(5) or 333-008-0047(1)(b), until July 1, 2016, the Authority will not impose or collect a \$100 replacement card fee if the reason for the replacement card is that the patient is designating a new PRMG or new grow site address.

Stat. Auth.: ORS 475B.415, 475B.420, 475B.525

Stats. Implemented: ORS 475B.415

Hist.: PH 13-2016(Temp), f. 4-13-16, cert. ef. 4-15-16 thru 9-30-16

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Expands fund use; amends maximum percentage of allowable credits and factors considered for approval.

Adm. Order No.: OHCS 2-2016

Filed with Sec. of State: 3-25-2016

Certified to be Effective: 3-25-16

Notice Publication Date: 12-1-2015

Rules Amended: 813-300-0005, 813-300-0120, 813-300-0150

Rules Repealed: 813-300-0150(T)

Subject: The Individual Development Account (IDA) program authorizes the creation of IDAs between lower income account holders and authorized fiduciary organizations. The 2015 Legislative session expanded the purposes for which people can save and made changes to the contribution limits.

Rules Coordinator: Alison McIntosh—(503) 986-2079

813-300-0005

General Purpose

OAR 813, division 300, is promulgated to accomplish the general purposes of ORS 315.271 and 458.670 through 458.700, as they pertain to the Housing and Community Services Department and its supervision of individual development accounts (“IDAs”). These statutes, among other things, authorize the creation of IDAs between lower income account holders and authorized fiduciary organizations. Through these IDAs, account holders may deposit funds into cooperating financial institutions so as to accumulate assets that may be used by them in a manner consistent with personal development plans developed in conjunction with their participating fiduciary organization. The fiduciary organizations, in turn, deposit matching funds through the corresponding IDAs into financial institutions so as to augment account holder assets. The fiduciary organizations also provide their expertise in coordination of the personal development plans. Fiduciary organizations largely obtain their matching funds from contributors. Contributions to fiduciary organizations for use as IDA matching deposits may qualify the contributor for a tax credit under ORS 315.271.

Stat. Auth.: ORS 456.555, 456.625 & 458.700

Stats. Implemented: ORS 315.271 & 458.670 - 458.700

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 2-2016, f. & cert. ef. 3-25-16

813-300-0120

Account Holder Use of Funds

(1) Account holders only may withdraw and use IDA deposits in a manner consistent with their IDA, the relevant personal development plan, these rules and any relevant directives of the Department. IDA deposits are considered to be the participant’s savings, matching funds, and any interest earned thereon.

(2) Account holders only may withdraw and use IDA deposits for the following purposes as approved by their fiduciary organization:

(a) For the acquisition of post-secondary education or job training;

(b) If the account holder has established the account for the benefit of a designated beneficiary, for the payment of extracurricular non-tuition expenses designed to prepare the designated beneficiary for post-secondary education or job training;

(c) If the account holder has established an account for the acquisition of post-secondary education or job training, the account holder may withdraw, or authorize the withdrawal of funds, including matching deposits, into a college savings network account under ORS 348.841 to 348.873. The rollover of moneys into a college savings network account under this subsection may not cause the amount in the college savings network account to exceed the limit on total contributions established pursuant to ORS 348.857. Any amount of the rollover that has been subtracted on the taxpayer’s federal return pursuant to section 219 of the Internal Revenue Code shall be added back in the determination of taxable income.

(d) To capitalize a small business;

(e) For the purchase of a primary residence;

(f) For the rental of a primary residence to help achieve housing stability. Account moneys also may be used for security deposits, first and last months’ rent, application fees and other expenses necessary to move into the primary residence.

(g) With respect to account holder deposits only, for an emergency as set forth in ORS 458.685(2)(a);

(h) If the account holder has established a qualified tuition savings program account under ORS 348.841 to 348.873 on behalf of a designated beneficiary, for the establishment of an additional qualified tuition savings program account on behalf of the same designated beneficiary;

(i) For improvements, repairs or modifications necessary to make or keep the account holder’s primary dwelling habitable, accessible, or visitable for the account holder or a household member. This does not include improvements, repairs, or modifications made to a rented primary dwelling to achieve or maintain a habitable condition for which ORS 90.320(1) places responsibility on the landlord;

(j) For the purchase of equipment, technology, or specialized training required to become competitive in obtaining or maintaining employment or to start or maintain a business.

(k) For the purchase or repair of a vehicle.

(l) For the saving of funds for retirement.

(m) If the account holder has established an account for the purpose of saving for retirement, the account holder may withdraw or authorize the withdrawal of funds, including matching deposits and interest into an individual retirement account, a retirement plan, or a similar account or plan established pursuant to the terms of The Internal Revenue Code of 1986, as amended. Any amount of the rollover that has been subtracted on the taxpayer’s federal return pursuant to section 219 of the Internal Revenue Code shall be added back in the determination of taxable income.

(n) For the replacement of a primary residence when replacement offers significant opportunity to improve habitability or energy efficiency.

(3) IDA deposits, including the interest earned thereon, withdrawn by the account holder for an emergency as set forth in ORS 458.685 and OAR 813-300-0120(2)(e) above, must be repaid by the account holder within 12 months.

(4) Account holders may withdraw IDA deposits, including interest earned thereon, to repay debts related to post-secondary education, job training, or medical purposes.

(5) Account holders may withdraw IDA deposits received to secure a loan or a financial product that is designed to improve their credit score. (6) In addition to payment on the purchase price of a residence pursuant to OAR 813-300-0120(2)(d) above, appropriate account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs with respect to such residence.

(7) Account holders may not use IDA deposits to purchase a primary residence if they have owned or held any interest in a residence during the three years prior to making the purchase for which they intend to use IDA deposits. This three year restriction shall not apply in the following:

(a) For displaced homemakers or other individuals who have lost homeownership as a result of divorce.

(b) For a tribal member who has an interest in trust land and still has rights to an allotment under the Dawes Act Public Law 280 and amended in 1891, the 1906 Burke Act and the 1910 Omnibus Act Statutes at Large 24, 388-91, NADP Document A1887, but the tribal member faces multiple ownership of his or her land status and cannot successfully achieve sole ownership in order to receive any equity or collateral from that allotment. If the tribal member solely owns a residence on land known as an allotment and has successfully received sole ownership including the receipt of title status report (TSR) through the Bureau of Indian Affairs, they may not use IDA deposits to purchase a primary residence. If the person can receive more than \$2500 in equity or collateral of their allotment, the value over \$2500 shall be included in their asset limit.

(c) For owners of manufactured homes.

(8) In capitalizing a small business pursuant to OAR 813-300-0120(2)(c) above, IDA deposits may be used for capital, plant, equipment and inventory expenses, to hire employees, and for working capital pursuant to a business plan approved by the fiduciary organization. To qualify for fiduciary organization approval, the business plan must have been developed by a financial institution, a nonprofit micro enterprise program or other qualified agent demonstrating business expertise. The business plan also must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

ADMINISTRATIVE RULES

(9) Account holders must repay moneys improperly taken from IDA deposits including the interest earned thereon, when required by their fiduciary organization or by the department.

Stat. Auth.: ORS 456.555, 456.625 & 458.700
Stats. Implemented: ORS 458.670 - 458.700
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 9-2003, f. & cert. ef. 12-19-03; OHCS 13-2007(Temp), f. & cert. ef. 10-2-07 thru 3-30-08; OHCS 2-2008, f. & cert. ef. 3-18-08; OHCS 2-2016, f. & cert. ef. 3-25-16

813-300-0150

Tax Credit Contributor

(1) Contributions to a fiduciary organization approved by the department may qualify for an Oregon IDA tax credit.

(2) The percentage of tax credit to be awarded to tax payers is determined upon recommendation by the fiduciary organization with approval of the department. In making such a determination, the department may consider factors including but not limited to:

- (a) The availability of the Oregon IDA Tax Credit;
- (b) The nature and value of the contribution; and
- (c) The recommendation of the approved fiduciary organization.

(3) The percentage of allowable credit will be determined in advance of accepting contributions.

(4) The maximum percentage of tax credit allowable to a single taxpayer within a particular year is seventy percent.

(5) Contributions from contributors not utilizing an Oregon IDA tax credit may be eligible for a charitable deduction against taxable income.

(6) The department makes no representation on whether or not specific contributions qualify for an Oregon IDA tax credit. In all cases, contributors are encouraged to seek professional advice to determine the actual tax ramifications of their contribution.

Stat. Auth.: ORS 456.555, 456.625 & 458.700
Stats. Implemented: ORS 315.271 & 458.670 - 458.700
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 18-2015(Temp), f. & cert. ef. 10-5-15 thru 4-1-16; OHCS 2-2016, f. & cert. ef. 3-25-16

Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amends three rules and adopts one allowing suppliers to advertise promotional events at retail licensees.

Adm. Order No.: OLCC 4-2016

Filed with Sec. of State: 3-24-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 8-1-2015

Rules Adopted: 845-006-0446

Rules Amended: 845-005-0428, 845-006-0450, 845-013-0040

Subject: This rules package enables suppliers to advertise Promotional Events for all types of alcohol and centralize this concept into a new rule OAR 845-006-0446. These amendments allow suppliers to pay for advertising (provided the payment is not to the retailer but directly to the provider of the advertising) for these events and for tasting events allowed under 845-006-0450. Further, the package removes the tasting prohibition in stores that are under 20,000 sq. ft. and that sell petroleum products.

Rules Coordinator: Bryant Haley—(503) 872-5136

845-005-0428

Retail On-Premises Distilled Spirits Sampling Involving Distillery Representative

(1) Full On-Premises Sales licensees may allow a distillery with products approved for sale in Oregon (distillery) and its representatives, employees, contractors, and agents to participate in distilled spirits sample tasting events. These events must be sponsored by the Full On-Premises Sales licensee and be held on the Full On-Premises Sales licensee's annually (not temporarily) licensed premises.

(2) Sample Tasting Events. These are events sponsored by the Full On-Premises Sales licensee where a distillery and its representatives, employees, contractors, and agents visit the Full On-Premises Sales licensee's annually licensed premises for the purpose of offering free sample tastings of the distillery's product to customers of the Full On-Premises Sales licensee. At any event allowed by this rule, the Full On-Premises Sales licensee is responsible for ensuring that the distillery and its representatives, employees, contractors, and agents:

(a) Provide or pay for the person to serve the distilled spirit tasting. The server must be the distillery's representative, employee, contractor, or

agent. The server may not be an employee or agent of the Full On-Premises licensee. The server may provide education to patrons and staff. All servers must have valid Oregon Service Permits;

(b) Do not compensate the Full On-Premises Sales licensee or its employees or agents in order to conduct the tasting event;

(c) Do not provide any other service normally provided by the Full On-Premises Sales licensee (for example: taking orders for alcohol or food, serving anything other than sample tastings to customers, promoting alcohol beyond service of the sample tasting);

(d) Provide the distilled spirits product to be sampled, and remove any remaining product at the end of the tasting;

(e) Provide only distilled spirits product approved for sale in Oregon;

(f) Do not give anything prohibited by division 13 of chapter 845 of the Commission's administrative rules to a retailer or its customers;

(g) Comply with ORS 471.398, and division 13 of chapter 845 of the Commission's administrative rules.

(3) Sample tasting sizes, number of samples per customer. At sample tasting events allowed under this rule, a tasting shall be no more than one-half fluid ounce of distilled spirits in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A distillery and its representatives, employees, contractors, and agents may not provide more than two and one-half fluid ounces total of distilled spirits per customer per day. For purposes of this rule, a day is from 7:00 a.m. until 2:30 a.m. on the succeeding calendar day.

(4) Number of sample tasting events allowed. Each Full On-Premises Sales licensee shall sponsor no more than eight sample tasting events per calendar year on its premises.

(5) Violations associated with sample tastings. In the case of a liquor law violation associated with a sample tasting allowed under this rule, the Full On-Premises Sales licensee will be held responsible. When the violation also involves a server (for example, service of a sample to a minor or a visibly intoxicated person), both the server and the Full On-Premises Sales licensee will be held responsible.

(6) Record keeping. The Full On-Premises Sales licensee must keep a record of each tasting event it sponsors, including the date and location of each event, the products served, and the names of the servers. Records of tasting events must be retained for one year from the date of the tasting.

(7) Advertising. The retailer may advertise these events. The distillery may advertise these events as allowed in OAR 845-013-0040.

(8) Violation of this rule are Category III violations.

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

Stats. Implemented: ORS 471.398

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 3-2001(Temp), f. & cert. ef. 8-10-01 thru 2-6-02; OLCC 3-2002, f. & cert. ef. 2-15-02; OLCC 7-2005, f. 10-19-05, cert. ef. 11-1-05; OLCC 5-2011, f. 8-15-11, cert. ef. 9-1-11; OLCC 4-2016, f. 3-24-16, cert. ef. 4-1-16

845-006-0446

Promotional Events at a Retailer Licensed Premises Involving Suppliers

(1) Definitions. For the purposes of this rule:

(a) "Retailer Licensed Premises" means a premises licensed with a full on-premises sales issued under ORS 471.175, limited on-premises sales issued under ORS 471.178, or brewery-public house licensed issued under ORS 471.200.

(b) "Supplier" means a Winery, Grower Sales Privilege, Brewery, Brewery-Public House, Warehouse, and Distillery licensee. It also means an Oregon Certificate of Approval (CERA) holder and an Oregon Certificate of Approval Distillery (CERD) but only for the product for which it holds the certificate. Further, a supplier does not mean an Oregon Wholesale Malt Beverage and Wine licensee; however, a Wholesale Malt Beverage and Wine licensee may represent a CERA holder.

(c) "Promotional Event" means an event sponsored by a retailer at a retailer licensed premises where the retailer accepts assistance as per section (3) of this rule from one or more suppliers. Examples include wine-maker dinners, food and alcohol pairings, and product releases.

(2) Retail Licensee Responsibilities. The retail licensee is responsible for:

(a) All sale and service of alcohol at the event.

(b) Ensuring that a supplier who serves alcoholic beverages at the event has a valid Oregon service permit.

(c) Ensuring that the supplier does not compensate the retailer or any employee or agent of the retailer to participate in any event as described in this section.

(d) Ensuring that the supplier does not donate alcohol or sell alcohol at a discount to the retail licensee and the retail licensee does not accept donated alcohol or discounted alcohol from a supplier (the retail licensee

ADMINISTRATIVE RULES

must obtain the alcohol from a retail sales agent of the Commission or a supplier authorized to sell alcohol directly to retail licensees of the Commission).

(e) Meeting all applicable food service requirements.

(3) Supplier Assistance. OAR 845-013-0001 to 845-013-0110 apply to these events; however, at these events a supplier may provide to a retailer and a retailer may accept from a supplier:

(a) Education to patrons and staff.

(b) Staff or agents of the supplier to serve alcoholic beverages for the products it represents provided the server has a valid Oregon service permit.

(4) Record Keeping. The retail licensee must keep a record of each event it sponsors, including the date and location of each event, the products served, and the names of suppliers. Records of events must be retained for at least one year from the date of the event.

(5) Advertising. The retailer may advertise these events. The supplier may advertise these events as allowed in OAR 845-013-0040.

(6) Number of Promotional Events. A supplier may be in each retail premises no more than 12 days per calendar year for the purpose of a promotional event.

(7) This rule does not apply to items or services a supplier provides under OAR 845-013-0090 to a nonprofit or governmental temporary sales licensee as described in OAR 845-013-0090(4)(a).

(8) Violation of sections (2) through (4) of this rule are Category III violations.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.398 & 471.400
Hist.: OLCC 4-2016, f. 3-24-16, cert. ef. 4-1-16

845-006-0450

Retail On-Premises Malt Beverage, Wine, or Cider Tastings Involving Suppliers

The Commission allows certain other Oregon licensees to conduct or participate in malt beverage, cider, or wine sample tasting on Full On-Premises Sales, Limited On-Premises Sales, and Off-Premises Sales licensed premises as specified in OAR 845-005-0427, subject to the requirements and limits identified in this rule.

(1) Sample Sizes. The size of each sample must not exceed one and a half ounces for wine or cider and three ounces for malt beverages.

(2) Identified Tasting Area.

(a) Any Off-Premises Sales retailer who conducts tastings or who allows manufacturers to conduct tastings on the retail premises must identify a specific tasting area or areas.

(b) The area/s must be of a size and design such that the person(s) conducting the tasting can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol.

(c) Customers must remain in the tasting area or areas until they have finished consuming the sample.

(d) The retailer must keep on file at the premises a floor plan identifying the tasting area(s).

(e) If a retailer does not have an identified tasting area or areas, the Commission may require prior approval of an area or areas before the retailer conducts any more tastings or allows any more manufacturer-conducted tastings on the premises.

(3) Number of In-Store Tastings.

(a) A manufacturer may be in each retail premises no more than 12 days per calendar year for the purpose of tastings.

(b) There is no limit on the number of tastings a retailer may conduct, but the retailer must not allow a manufacturer on the retailer's premises more than 12 days per calendar year for the purpose of tastings.

(4) Server Requirements. Alcohol servers must have a valid Oregon service permit.

(5) Record Keeping. The manufacturer or wholesaler must keep a record of each tasting they conduct, including the date and location of each event, the products served and the names of the servers.

(6) Manufacturer-Conducted Sample Tastings: Oregon law allows Oregon Winery, Grower Sales Privilege, Brewery, Brewery-Public House and Warehouse licensees and Oregon Certificate of Approval holders, for the product for which they hold the certificate, to conduct tastings:

(a) These license holders must provide the product to be tasted, and remove any remaining product at the end of the tasting;

(b) These license holders must provide or pay for a person to serve the wine, cider, or malt beverages. The server must be the manufacturer's employee or agent. The manufacturer may not compensate any employee or agent of the retail licensee to participate in the tasting;

(c) The retailer may advertise these events. These license holders may advertise these events as allowed in OAR 845-013-0040;

(d) An Oregon Wholesale Malt Beverage and Wine licensee may conduct tastings under this section only if representing a Certificate of Approval holder.

(7) Retailer-Conducted Tastings. Retailers with Full On-Premises Sales, Limited On-Premises Sales and Off-Premises Sales licenses may conduct tastings on their licensed premises only as follows:

(a) The retail licensee must provide the product to be tasted.

(b) The retail licensee must provide the person to serve the wine, cider, or malt beverage. The server must be the retail licensee's employee or agent and may not be an employee or agent of an Oregon Winery, Grower Sales Privilege, Brewery, Brewery-Public House, Warehouse, Wholesale Malt Beverage and Wine licensee or an Oregon Certificate of Approval holder.

(c) The retail licensee may not accept any financial assistance from an Oregon Winery, Grower Sales Privilege, Brewery, Brewery-Public House, Warehouse, Wholesale Malt Beverage and Wine licensee or an Oregon Certificate of Approval holder.

(d) The retailer may advertise the tasting.

(e) The retailer may hold an unlimited number of retailer-conducted tastings.

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

Stats. Implemented: ORS 471.398 & 471.402

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 15-2002, f. 12-19-02, cert. ef. 1-1-03; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thru 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03; OLCC 4-2016, f. 3-24-16, cert. ef. 4-1-16

845-013-0040

Advertising, ORS 471.398(4)

ORS 471.398(4) allows a manufacturer or wholesaler to provide advertising to a retailer.

(1) Except as authorized in this rule, the only advertising a supplier may provide under ORS 471.398(4) is generic, off-premises references to the supplier's alcoholic beverage products that mention no specific retailer. Some examples include radio and television commercials and billboards.

(2) A supplier may make available to its customers, either on the supplier's website or on lists available at the supplier's premises, the names and addresses of the retail licensees that sell products made or distributed by the supplier. Any such list must include all retailers who carry the products without discrimination, for example, an alphabetical or geographical list. The lists may not include prices or any other information that would appear to promote any particular retailer over other retailers.

(3) A supplier may provide or pay for advertising pursuant to OAR 845-013-0080.

(4) A supplier may provide or pay for advertising pursuant to OAR 845-005-0428, 845-006-0446 and 845-006-0450. Some examples include radio, television, billboards, and its own website. Only the following advertising is allowed:

(a) The advertising may list no more than the retailer's name and address, the date of the event, and the name of the supplier's product.

(b) No monetary payments may be made by a supplier to a retail licensee except for payments to purchase advertising allowed under ORS 471.401(1)(d).

(5) A violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.398(4) & 471.730(7)

Hist.: OLCC 8-1987, f. 31-3-87, ef. 4-1-87; OLCC 7-1992, f. & cert. ef. 7-1-92; Renumbered from 845-010-0124; OLCC 8-2010, f. 6-22-10, cert. ef. 7-1-10; OLCC 4-2016, f. 3-24-16, cert. ef. 4-1-16

Oregon Medical Board Chapter 847

Rule Caption: Volunteer Emeritus license qualifications include demonstration of competency

Adm. Order No.: OMB 6-2016

Filed with Sec. of State: 4-8-2016

Certified to be Effective: 4-8-16

Notice Publication Date: 2-1-2016

Rules Amended: 847-023-0005

Subject: The rule amendments clarify that applicants for Volunteer Emeritus licensure must be able to demonstrate competency to qualify for licensure like any other Oregon Medical Board applicant. Volunteer Emeritus applicants are required to demonstrate competency if they have not completed postgraduate training or been certified or recertified by an accepted specialty board within the past ten years

ADMINISTRATIVE RULES

or if the applicant has ceased the practice of medicine for 12 or more months. If the applicant has ceased the practice of medicine for 24 or more months, the applicant is required to complete a re-entry plan approved by the Board.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-023-0005

Qualifications

(1) The Board may issue a volunteer emeritus license to a physician who volunteers at a health clinic provided that the physician:

(a) Has a current license to practice medicine in another state or territory of the United States or the District of Columbia; and

(b) Has successfully passed one of the examinations or combination of examinations per OAR 847-020-0170.

(2) A physician applying for a license to volunteer in health clinics who has not completed postgraduate training within the past 10 years or been certified or recertified by a specialty board within the past ten years may be required to demonstrate clinical competency by passing the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable Purpose Examination (COMVEX). This requirement may be waived if the applicant has done one or more of the following:

(a) Received a current appointment as Professor or Associate Professor at the Oregon Health and Science University or the Western University of Health Sciences College of Osteopathic Medicine of the Pacific-Northwest;

(b) Completed at least 50 hours of Board-approved continuing medical education each year for the past three years; or

(c) Can demonstrate ongoing participation in maintenance of certification with a specialty board as defined in OAR 847-020-0100.

(3) A physician applying for a license to volunteer in health clinics who has not practiced medicine for a period of 12 or more consecutive months may be required to demonstrate clinical competency by passing the SPEX or COMVEX. This requirement may be waived if the applicant has done one or more of the following:

(a) Within ten years of filing an application with the Board, completed an accredited one year residency, or an accredited or Board approved one year clinical fellowship;

(b) Within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA-BOS);

(c) Obtained continuing medical education to the Board's satisfaction; or

(d) Can demonstrate ongoing participation in maintenance of certification with the ABMS or AOA-BOS.

(4) A physician applying for a license to volunteer in health clinics who has not practiced medicine for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the applicant may be required to do one or more of the following:

(a) Pass the SPEX/COMVEX examination;

(b) Practice for a specified period of time under a mentor/supervising physician who will provide periodic reports to the Board;

(c) Obtain certification or re-certification, or participate in maintenance of certification, with a specialty board as defined in OAR 847-020-0100;

(d) Complete a re-entry program as determined appropriate by the Board;

(e) Complete one year of accredited postgraduate or clinical fellowship training, which must be pre-approved by the Board's Medical Director;

(f) Complete at least 50 hours of Board-approved continuing medical education each year for the past three years.

(5) The applicant may be granted a Limited License, SPEX/COMVEX according to OAR 847-010-0064.

Stat. Auth.: ORS 677.120, 677.265

States. Implemented: ORS 677.100, 677.120, 677.132, 677.265, 677.420

Hist.: BME 16-2006, f. & cert. ef. 7-25-06; BME 5-2008, f. & cert. ef. 1-22-08; OMB 1-2015, f. & cert. ef. 1-13-15; OMB 6-2016, f. & cert. ef. 4-8-16

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Rule Caption: Update the names of the podiatric surgery certifying board and the podiatry licensing examination

Adm. Order No.: OMB 7-2016

Filed with Sec. of State: 4-8-2016

Certified to be Effective: 4-8-16

Notice Publication Date: 2-1-2016

Rules Amended: 847-008-0070, 847-017-0003, 847-017-0015, 847-017-0020, 847-080-0010, 847-080-0018, 847-080-0021, 847-080-0022, 847-080-0035

Subject: The rule amendments update the name of the American Board of Podiatric Surgery (ABPS) to its current name, American Board of Foot and Ankle Surgery (ABFAS). The amendments also update the name of the American Podiatric Medical Association Council on Podiatry Education to the Council on Podiatric Medical Education.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0070

Continuing Medical Competency (Education)

The Oregon Medical Board is committed to ensuring the continuing competence of its licensees for the protection, safety and well being of the public. All licensees must engage in a culture of continuous quality improvement and lifelong learning.

(1) Licensees renewing registration who had been registered with Active, Administrative Medicine Active, Locum Tenens, Telemedicine Active, Telemonitoring Active, or Teleradiology Active status for the previous registration period must demonstrate ongoing competency to practice medicine by:

(a) Ongoing participation in maintenance of certification by an American Board of Medical Specialties (ABMS) board, the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Medicine (ABPM), the American Board of Foot and Ankle Surgery (ABFAS), the National Commission on Certification of Physician Assistants (NCCPA), or the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); or

(b) 60 hours of continuing medical education (CME) per two years relevant to the licensee's current medical practice, or 30 hours of CME if licensed during the second year of the biennium, as follows:

(A) American Medical Association (AMA) Category 1;

(B) American Osteopathic Association (AOA) Category 1-A or 2-A;

(C) American Podiatric Medical Association's (APMA) Council on Podiatric Medical Education approved sponsors of continuing education; or
(D) American Academy of Physician Assistants (AAPA) Category 1 (pre-approved); or

(c) 30 hours of NCCAOM-approved courses per two years relevant to the licensee's current practice, or 15 hours if licensed during the second year of the biennium.

(2) Licensees renewing registration who had been registered with Emeritus status for the previous registration period must demonstrate ongoing competency by:

(a) Ongoing participation in re-certification by an ABMS board, the AOA-BOS, the ABPM, the ABFAS, the NCCPA, or the NCCAOM; or

(b) 15 hours of CME per year as follows:

(A) AMA Category 1 or 2;

(B) AOA Category 1-A, 1-B, 2-A or 2-B;

(C) APMA-approved continuing education; or

(D) AAPA Category 1 or 2; or

(c) 8 hours of NCCAOM-approved courses.

(3) Licensees who have lifetime certification without participation in maintenance of certification with the ABMS, AOA-BOS, ABPM, ABFAS, or NCCPA must submit the required CME in section (1) (b) of this rule or section (2) (b) of this rule if renewing with Emeritus status.

(4) Licensees who have lifetime certification without participation in maintenance of certification with the NCCAOM must submit the required CME in section (1) (c) of this rule or section (2) (c) of this rule if renewing with Emeritus status.

(5) CME in cultural competency is considered relevant CME for the current practice of all licensees and may be used toward satisfying the required CME hours.

(6) Licensees who perform Level II office-based surgical procedures and who are not eligible or maintaining certification with an ABMS, AOA-BOS, ABPM, ABFAS, or NCCPA specialty board, must obtain 50 hours of CME each year. The CME hours must be relevant to the surgical procedures to be performed in the office-based facility and must be accredited as described in section (1)(b) of this rule. This requirement may not be satis-

ADMINISTRATIVE RULES

fied with cultural competency CME or other CME that is only generally relevant to the licensee's practice.

(7) The Board may audit licensees for compliance with CME. Audited licensees have 60 days from the date of the audit to provide course certificates. Failure to comply or misrepresentation of compliance is grounds for disciplinary action.

(8) As the result of an audit, if licensee's CME is deficient or licensee does not provide adequate documentation, the licensee will be fined \$250 and must comply with CME requirements within 120 days from the date of the audit.

(a) If the licensee does not comply within 120 days of the date of the audit, the fine will increase to \$1000; and

(b) If the licensee does not comply within 180 days of the date of the audit, the licensee's license will be suspended for a minimum of 90 days.

(9) The following licensees are exempt from this rule:

(a) Licensees in residency training;

(b) Licensees serving in the military who are deployed outside Oregon for 90 days or more during the reporting period; and

(c) Volunteer Camp licensees.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265, 677.512, 677.759, 677.837

Hist.: BME 2-2009, f. & cert. ef. 1-22-09; BME 16-2009, f. & cert. ef. 10-23-09; OMB 7-2011, f. & cert. ef. 4-25-11; OMB 23-2012, f. & cert. ef. 8-3-12; OMB 2-2014, f. & cert. ef. 1-14-14; OMB 7-2016, f. & cert. ef. 4-8-16

847-017-0003

Classification of Office-Based Surgery

Office-based surgeries are classified by complexity.

(1) Level I are minor surgical procedures performed without anesthesia or under topical, local, or minor conduction block anesthesia not involving drug-induced alteration of consciousness, other than minimal sedation utilizing preoperative oral anxiolytic medications.

(a) The licensee must pursue continuing medical education in the field for which the services are being provided and in the proper drug dosages, management of toxicity, and hypersensitivity to local anesthetic and other drugs.

(b) The licensee must maintain active basic life support (BLS) certification.

(2) Level II are minor or major surgical procedures performed under moderate sedation/analgesia, such as oral, parenteral, or intravenous sedation or under analgesic or dissociative drugs.

(a) In addition to the requirements in section (1) of this rule, the licensee must:

(A) Maintain board certification or board eligibility in a specialty recognized by the American Board of Medical Specialties (ABMS), the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Medicine (ABPM), the American Board of Foot and Ankle Surgery (ABFAS) or the National Commission on Certification of Physician Assistants (NCCPA), or

(B) Obtain fifty hours each year of accredited continuing medical education (CME) relevant to the Level II surgical procedures to be performed in the office-based facility. This requirement may not be satisfied with cultural competency CME or other CME that is only generally relevant to the licensee's practice.

(b) The licensee must be certified in advanced resuscitative techniques and must be on site at all times when patients are under the effects of anesthetic.

(c) The patient must be appropriately monitored as defined in 847-017-0005.

(3) Level III are major surgical procedures that require deep sedation/analgesia, general anesthesia, or regional blocks, and require support of vital bodily functions.

(a) In addition to the requirements in section (1) of this rule, the licensee must:

(A) Have staff privileges to perform the same procedure in a hospital or ambulatory surgical center, or

(B) Maintain board certification or board eligibility in an appropriate specialty recognized by the ABMS, the AOA-BOS, the ABPM, the ABFAS or the NCCPA.

(b) The licensee must be certified in advanced resuscitative techniques and must be on site at all times when patients are under the effects of anesthetic.

(c) The patient must be appropriately monitored as defined in 847-017-0005.

(d) The licensee performing the procedure may not administer anesthesia other than additional local anesthesia and may not be primarily responsible for monitoring anesthesia during the procedure.

(4) Procedures or treatments involving the injection of a medication or substance for cosmetic purposes are the practice of medicine and must be performed as an office-based surgical procedure.

(5) Lipoplasty involving the removal of 500 cc or less volume of supernatant fat may be performed as a Level I surgical procedure. Office-based lipoplasty involving more than 500 cc volume of supernatant fat must be performed as a Level II or Level III surgical procedure.

(a) The performance of lipoplasty in an office-based setting may not result in the removal of more than 5% of total body weight or more than 4500 cc volume of supernatant fat removed, whichever is less.

(b) The licensee may not use more than 55 mg/kg of Lidocaine or 70 mcg/kg of epinephrine for tumescent anesthesia. The concentration of epinephrine in tumescent solutions may not exceed 1.5 mg/L.

(6) The following may not be performed in an office-based surgical facility:

(a) Procedures that may result in blood loss of more than 4% of the estimated blood volume in a patient with a normal hemoglobin;

(b) Procedures requiring intracranial, intrathoracic, or abdominal cavity entry; and

(c) Joint replacement procedures.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: OMB 33-2013, f. & cert. ef. 10-15-13; OMB 7-2016, f. & cert. ef. 4-8-16

847-017-0015

Selection of Procedures and Patients

(1) The licensee who performs the office-based surgery or anesthetic is responsible for the safety of the patient.

(a) The licensee must evaluate and document the condition of the patient and the potential risks associated with the proposed treatment plan;

(b) The licensee must be satisfied that the procedure to be undertaken is within the scope of practice of the health care personnel, the capabilities of the facility and the condition of the patient; and

(c) The licensee must examine the patient immediately before the procedure to evaluate the risks of the procedure and the risks of anesthesia if applicable.

(2) Informed consent for the nature and objectives of the anesthesia planned and office-based surgery to be performed must be in writing and obtained from the patient before the office-based surgery is performed. Informed consent is only to be obtained after a PARQ conference and must be documented in the medical record. The informed consent must include a disclosure of the licensee's specialty board certification through the ABMS, the AOA-BOS, the ABPM, the ABFAS or the NCCPA or lack thereof. The requirement for written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13; OMB 7-2016, f. & cert. ef. 4-8-16

847-017-0020

Patient Medical Records

(1) A legible, complete, comprehensive and accurate medical record must be maintained for each patient evaluated or treated. The record must include:

(a) Identity of the patient;

(b) History and physical, diagnosis and plan;

(c) Appropriate lab, x-ray or other diagnostic reports;

(d) Documentation of the PARQ conference;

(e) Disclosure of the licensee's specialty board certification through the ABMS, the AOA-BOS, the ABPM, the ABFAS or the NCCPA or lack thereof;

(f) Appropriate preanesthesia evaluation;

(g) Narrative description of procedure;

(h) Intraoperative and postoperative monitoring;

(i) Pathology reports;

(j) Documentation of the outcome and the follow-up plan; and

(k) Provision for continuity of post-procedure care.

(2) If the office-based surgery is a Level II or Level III surgical procedure, the patient record must include a separate anesthetic record that contains documentation of anesthetic provider, procedure, and technique employed. This must include the type of anesthesia used, drugs (type and dose) and fluids administered during the procedure, patient weight, level of consciousness, estimated blood loss, duration of procedure, and any complication or unusual events related to the procedure or anesthesia.

(3) The patient record must document if tissues and other specimens have been submitted for histopathologic diagnosis.

ADMINISTRATIVE RULES

(4) The licensee must ensure that the facility has specific and current protocols in place for patient confidentiality and security of all patient data and information.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13; OMB 7-2016, f. & cert. ef. 4-8-16

847-080-0010

Requirements for Licensure

The applicant for licensure must have:

(1) Graduated from a school or college of podiatric medicine accredited by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association.

(2) Successfully passed a licensing examination as provided in OAR 847-080-0018.

(3) Fulfilled one of the following:

(a) Satisfactory completion of one year of post-graduate training served in a hospital that is approved by the CPME, or

(b) Satisfactory completion of one year of post-graduate training in a hospital residency program that was not approved by the CPME and current certification by the American Board of Podiatric Medicine or the American Board of Foot and Ankle Surgery.

(4) Satisfactorily met the requirements of ORS 677.820 and 677.825.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.820, 677.825 & 677.830

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 7-1982, f. & ef. 10-27-82; Suspended by ME 3-1983(Temp), f. & ef. 10-3-83 to 10-7-83; Suspended by ME 2-1984(Temp), f. & ef. 1-20-84; ME 11-1985, f. & ef. 8-6-85; ME 6-1986, f. & ef. 4-23-86; ME 8-1994, f. & cert. ef. 4-29-94; BME 16-2004, f. & cert. ef. 7-13-04; BME 13-2005, f. & cert. ef. 10-12-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 12-2008, f. & cert. ef. 4-24-08; BME 27-2008, f. & cert. ef. 10-31-08; OMB 20-2013, f. & cert. ef. 7-12-13; OMB 7-2016, f. & cert. ef. 4-8-16

847-080-0018

Examination for Licensure

The applicant must base an application upon the licensing examination administered by the National Board of Podiatric Medical Examiners (NBPME). The licensing examination is limited to the American Podiatric Medical Licensing Examination (APMLE) or the NBPME examination. No application will be accepted on the basis of reciprocity or written examination, other than an examination administered by the NBPME.

(1) The applicant must pass Parts I, II and III of the licensing examination.

(2) Part III of the licensing examination may be waived if the applicant graduated from a school or college of podiatric medicine before January 1, 2001; and

(a) Is licensed as a podiatric physician in another state; or

(b) Is certified by the American Board of Podiatric Medicine (ABPM) or the American Board of Foot and Ankle Surgery (ABFAS).

(3) The score achieved on each part of the examination must equal or exceed the figure established by the NBPME as a passing score.

(4) All three Parts of the licensing examination must be passed within a seven-year period which begins when the first Part, either Part I or Part II, is passed. An applicant who graduated from a school or college of podiatric medicine on or after January 1, 2001, and who has not passed all three Parts within the seven-year period may request a waiver of the seven-year requirement if he or she:

(a) Has current certification by the ABPM or the ABFAS; or

(b) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's podiatric study; or

(c) Experienced other extenuating circumstances that do not indicate an inability to safely practice podiatric medicine as determined by the Board.

(5) The applicant who graduated from a school or college of podiatric medicine on or after January 1, 2001, must have passed Part III of the licensing examination within four attempts, whether for Oregon or for any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed Part III on their fourth and final attempt. An applicant who has passed Part III of the licensing examination, but not within the four attempts as required, may request a waiver of this requirement if he or she has current certification by the ABPM or the ABFAS.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.825 & 677.830

Hist.: ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; ME 23-1989(Temp), f. & cert. ef. 10-20-89; ME 3-1990, f. & cert. ef. 1-29-90; ME 13-1992, f. & cert. ef. 10-22-92; ME 8-1994, f. & cert. ef. 4-29-94; ME 11-1996, f. & cert. ef. 10-29-96; BME 2-1999, f. & cert. ef. 1-26-99; BME 4-1999, f. & cert. ef. 2-17-99; BME 10-2005, f. & cert. ef. 7-20-05; BME 19-2006, f. & cert. ef. 7-25-06; BME 17-2007, f. & cert. ef. 7-23-07; BME 18-2007(Temp), f. & cert. ef. 7-23-07 thru 1-8-08; BME 22-2007, f. & cert. ef. 10-24-07; BME 12-2008, f. & cert. ef. 4-24-08; BME 27-2008, f. & cert. ef. 10-31-08; OMB 26-2011, f. & cert. ef. 10-18-11; OMB 20-2013, f. & cert. ef. 7-12-13; OMB 7-2016, f. & cert. ef. 4-8-16

847-080-0021

Competency Examination and Re-Entry to Practice

(1) The applicant who has not completed postgraduate training within the past 10 years or been certified or recertified with the ABPM or the ABFAS within the past 10 years may be required to pass a competency examination in podiatric medicine. The competency examination may be waived if the applicant can demonstrate ongoing participation in maintenance of certification with the ABPM or ABFAS, or has completed at least 50 hours of Board-approved continuing education each year for the past three years.

(2) The applicant who has ceased practice for a period of 12 or more consecutive months immediately preceding an application for licensure or reactivation may be required to pass a competency examination in podiatric medicine. The competency examination may be waived if the applicant can demonstrate ongoing participation in maintenance of certification with the ABPM or ABFAS or, subsequent to ceasing practice, the applicant has:

(a) Passed the licensing examination administered by the NBPME, or

(b) Been certified or recertified by the ABPM or ABFAS, or

(c) Completed a Board-approved one-year residency or clinical fellowship, or

(d) Obtained continuing medical education to the Board's satisfaction.

(3) The applicant who has ceased the practice of medicine for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the applicant may be required to do one or more of the following:

(a) Pass the licensing examination;

(b) Practice for a specified period of time under a mentor/supervising podiatric physician who will provide periodic reports to the Board;

(c) Obtain certification or re-certification, or participate in maintenance of certification, with the ABPM or the ABFAS;

(d) Complete a re-entry program as determined appropriate by the Board;

(e) Complete one year of an accredited postgraduate or clinical fellowship training, which must be pre-approved by the Board's Medical Director;

(f) Complete at least 50 hours of Board-approved continuing medical education each year for the past three years.

(4) Licensure shall not be granted until all requirements of OAR chapter 847, division 80, are completed satisfactorily.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190, 677.265, 677.825, 677.830, 677.837

Hist.: OMB 20-2013, f. & cert. ef. 7-12-13; OMB 11-2014, f. & cert. ef. 4-9-14; OMB 13-2014, f. & cert. ef. 10-8-14; OMB 7-2016, f. & cert. ef. 4-8-16

847-080-0022

Qualifications to Perform Ankle Surgery

Ankle surgery must be conducted in a certified hospital or in an ambulatory surgical center certified by the Health Division. To be eligible to perform ankle surgery in the state of Oregon, the licensed podiatrist shall meet the qualifications from one of the following sections prior to being approved by the Board to perform ankle surgery:

(1) Completion of a Council on Podiatric Medical Education (CPME) approved surgical residency; board certification by the American Board of Foot and Ankle Surgery (ABFAS); documented clinical experience as approved by the Board; and current clinical privileges to perform reconstructive/rearfoot ankle surgery in a Joint Commission approved hospital; or

(2) Completion of a CPME approved surgical residency; and board qualified by the ABFAS in Reconstructive Rearfoot/Ankle Surgery progressing to board certification in Reconstructive Rearfoot/Ankle Surgery within seven years.

Stat. Auth.: ORS 677.245

Stats. Implemented: ORS 677.805, 677.812

Hist.: BM 11-2000, f. & cert. ef. 7-27-00; BME 7-2003, f. & cert. ef. 1-27-03; OMB 20-2013, f. & cert. ef. 7-12-13; OMB 7-2016, f. & cert. ef. 4-8-16

ADMINISTRATIVE RULES

847-080-0035

Approved Colleges of Podiatric Medicine

Colleges of podiatric medicine approved by the Board are only those approved by the American Podiatric Medical Association Council on Podiatric Medical Education.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265, 677.820

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 11-1985, f. & ef. 8-6-85; OMB 7-2016, f. & cert. ef. 4-8-16

Oregon State Lottery
Chapter 177

Rule Caption: Removes references to arrest records; housekeeping edits

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

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16 thru 9-24-16

Notice Publication Date:

Rules Amended: 177-040-0003

Subject: The Oregon Lottery has initiated temporary and permanent rulemaking to amend the above referenced administrative rule to remove the references to arrest records when evaluating a person's application to be a Lottery retailer.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-040-0003

Application for Temporary Lottery Retailer Contract

(1) General: For the purposes of this rule, "temporary retailer contract" means a contract issued to a retailer for a temporary period. A temporary retailer contract may be formed subject to such special terms, conditions, or limitations as the Director may deem prudent.

(2)(a) Submission: To apply for a temporary retailer contract, an applicant must submit a complete application for a retailer contract.

(b) Purchase of Existing Business: When an applicant applies for a temporary retailer contract for a business which the applicant is purchasing from an existing Lottery retailer, the applicant must submit to the Lottery a complete application along with any documentation requested by the Lottery regarding the intended purchase prior to the date the applicant takes possession of the premises pursuant to a purchase agreement. Notwithstanding submission of the application prior to the date of possession, the Lottery shall not enter into a temporary retailer contract with the applicant until on or after the date the applicant takes legal possession of the business.

(3) Investigation: When the Lottery accepts the complete application for a temporary retailer contract, the Director will conduct an abbreviated investigation of the applicant and the business. That investigation includes, but is not limited to:

(a) A computerized background check for criminal convictions;

(b) A credit check using the services of a commercial credit reporting company; and

(c) An inspection of the business for which the applicant seeks a temporary retailer contract.

(4) Qualifying: An applicant may qualify for a temporary retailer contract if, based on the abbreviated investigation and on the application, all of the following criteria are met:

(a) The applicant is applying for a retailer contract at a specific location;

(b) The "Criteria Precluding Entering Into a Contract" described in OAR 177-040-0005 do not apply to the applicant;

(c) The applicant has no criminal convictions of any kind within five years of the date application is made;

(d) The applicant has no convictions as described in OAR 177-040-0010(3), "Criminal Behavior";

(e) The applicant has no Class "A" misdemeanor or felony charges pending against the applicant;

(f) The applicant has no outstanding judgments, liens, or collections, except those judgments which the applicant is disputing through a legal process;

(g) The applicant is in compliance with all tax laws;

(h) The applicant has certified that the business location complies with OAR 177-040-0070, "Retailer Wheelchair Accessibility Program";

(i) The applicant has the appropriate Oregon Liquor Control Commission license, as required by ORS Chapter 461, if applying for a contract to offer Video LotterySM games; and

(j) There are no apparent factors regarding the applicant to cause the Director to reasonably conclude that the applicant poses an actual or apparent threat to the fairness, honesty, integrity, or security of the Lottery and its games. Factors that may pose a threat include, but are not limited to, any of the following examples:

(A) The applicant or key person has one or more criminal convictions, depending on the nature and severity of the crimes involved; or

(B) The applicant or key person has been involved in any civil action in which the final judgment indicates that the applicant or key person is not financially responsible, depending on the nature, severity, and recency of the action.

(5) Other Requirements: Prior to the effective date of the temporary retailer contract, the Director may require the applicant to:

(a) Receive training from the Lottery;

(b) Establish an electronic funds transfer (EFT) bank account for Lottery funds;

(c) Pay all necessary fees associated with the installation of telephone lines and telephone service;

(d) Agree to pay all necessary fees associated with amusement device taxes prior to the effective date of a temporary retailer contract; and

(e) Agree to be responsible for and to pay all fees in connection with the application, including any cancellation fees for telephone lines and service.

(6) Other Video LotterySM Requirements: The applicant and the applicant's business must qualify for the type of Lottery sales sought by the applicant. For example, if the applicant seeks a contract to offer Video LotterySM games, the business must have an appropriate liquor license and an age controlled area that meets the Lottery's requirements. In addition, the business must not be operating as a casino as described in OAR 177-040-0061.

(7) Guarantor: If the applicant is an entity other than either a sole proprietor who is a natural person or a private club as defined in ORS 471.175(8), at least one natural person who is a principal of the applicant entity and who is a key person may be required to personally guarantee all monies owed to the Lottery.

(8) Bonding: The Director may require the applicant to post a bond, letter of credit, or cash deposit in the form of certified funds prior to the effective date of a temporary retailer contract.

(9) EFT Transfers: If the Lottery enters into a temporary retailer contract with the applicant, the contract will require the applicant to pay the amount due the Lottery from the sale of Lottery tickets or shares by electronic funds transfer (EFT). In most instances, amounts due the Lottery will be collected via EFT at the end of the fourth day after the close of the Lottery business week. If an applicant operates multiple Lottery retail sites before the effective date of this rule, the routine date of the EFT collection may be set beyond the fourth day after the close of the business week in order to accommodate the needs of the combined sites. The applicant must establish an account for deposit of money from the sale of Lottery tickets and shares with a financial institution that has the capability of making EFT draws.

(10) Burden of Proof: The burden for establishing that an applicant qualifies for a temporary retailer contract is on the applicant.

(11) Termination: In the Director's sole discretion, the Director may immediately terminate a temporary retailer contract if the Director determines that continuing to contract with the applicant is not in the best interest of the Lottery including, but not limited to, when:

(a) The applicant provided false or misleading material information, or the applicant made a material omission in the application for a retailer contract;

(b) The applicant or any key person is convicted of a Class "A" misdemeanor or felony during the term of the temporary retailer contract;

(c) An EFT payment is rejected for non-sufficient funds (NSF), or the applicant fails to provide timely information to the Lottery regarding any change of the applicant's EFT bank account;

(d) Any other reason contained in the contract or administrative rules that provides a basis for termination of a retailer contract; and

(e) When the Director concludes that continuing to contract with the applicant may pose a threat to the fairness, honesty, integrity, or security of the Lottery and its games.

(12) Length of Temporary Contract: A temporary retailer contract shall be valid for a specific time period for up to 120 days. A temporary retailer contract may, in the Director's discretion, be extended for up to 120 additional days.

Stat. Auth.: ORS 461.217, 461.250 & 461.300; Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.217, 461.250 & 461.300

ADMINISTRATIVE RULES

Hist.: LOTT 5-2000, f. 7-26-00, cert. ef. 11-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 2-2008, f. & cert. ef. 6-2-08; LOTT 13-2010, f. 12-20-10, cert. ef. 1-1-11; LOTT 2-2016(Temp), f. & cert. ef. 4-1-16 thru 9-24-16

Oregon State Marine Board
Chapter 250

Rule Caption: Slow-no-wake on Dexter Dam Reservoir from the Covered Bridge to the west shore.

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

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16 thru 4-18-16

Notice Publication Date:

Rules Amended: 250-020-0221

Subject: This rule will temporarily adopt a slow-no-wake zone on the portion of the lake from the Covered Bridge to the west shoreline for April 9, 2016, and also on the weekend of April 16-17, 2016, for scheduled rowing events.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0221

Boat Operations on Certain Waters in Lane County

(1) No person shall operate a motorboat in excess of a “slow—no wake” speed in the following areas:

(a) Triangle Lake: Within 200 feet of a marked swimming area or a designated public launching ramp;

(b) Fern Ridge Lake:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) In the Coyote Creek Channel;

(C) Between shore and buoy line which extends southerly from the north shore to a point approximately 200 feet of the northern most Eugene Yacht Club mooring dock thence generally south and west approximately 200 feet of the docks to a point approximately 200 feet south of the Tri Pass Club mooring dock thence generally west to the southern tip of the Tri Pass Club dock as buoyed except for the buoyed corridor immediately south of the Eugene Yacht Club southernmost dock;

(D) South of the buoy line which extends easterly from a point approximately 100 yards north of the Perkins Boat Ramp to the adjacent shoreline;

(E) In the Main Long Tom River Channel.

(c) Dexter Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) Within 50 feet of the causeway crossing the reservoir.

(C) On the portion of the lake from the Covered Bridge to the west shore from 7:00 am to 4:00 pm on Saturday, April 9, 2016; from 6:00 am to 6:00 pm on Saturday, April 16, 2016; and from 6:00 am to 4:00 pm on Sunday, April 17, 2016.

(d) Lookout Point Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) East of the Southern Pacific Railroad bridge.

(e) Dorena Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp.

(B) Southeast of a line between markers on Humphrey Point and the northeast shore.

(f) Cottage Grove Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) South of a line between a marker on the east shore, near the Wilson Creek area, and on the west shore near Cedar Creek.

(g) Hills Creek Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) On Packard Creek arm west of Rigdon Road (USFS Road #21);

(C) On Hills Creek south of the Hills Creek Crossing Bridge;

(D) On the Middle Fork, Willamette River south of the Rigdon Road (USFS #21) (Upper Crossing) Bridge;

(E) No person shall operate a motorboat for any purpose on Larison Creek arm west of Rigdon Road (USFS Road #21).

(h) Collard Lakes;

(i) Picket Lake

(j) Munsel Lake — west of the line of marker buoys;

(k) Fall Creek Lake:

(A) Within 200 feet of a designated public launching ramp or marked swimming area;

(B) On Fall Creek upriver from the buoys located approximately 200 feet downstream of the Big Fall Creek Road;

(C) On Winberry Creek upriver from the buoys located approximately 1800 feet downstream of the Winberry Creek Road Bridge.

(l) Siltcoos Lake:

(A) Within 200 feet of a designated public launching ramp or marked swimming area;

(B) Between shore and buoy line at the mouth of Kiechle Arm beginning at a point at the east shoreline of Arrowhead Point and extending northerly approximately 900 yards to a point approximately 100 yards off shore of Camp Baker during the period of June 1 through September 30.

(C) In Miller Arm north of the buoy line, located at the entrance near Nightingales’ Fishing Camp, during the period of May 1 through September 31.

(2) No person shall operate a motorboat in excess of 5 MPH on Leaburg Reservoir and the McKenzie River from the dam upstream to Good Pasture Bridge.

(3) No person shall operate a motorboat in excess of a “slow-no wake” speed within 300 feet of a boat launching ramp or a boat moorage on the following bodies of water:

(a) Cougar Reservoir;

(b) Blue River Reservoir;

(c) Siuslaw River — between the river entrance and the highway bridge at Mapleton.

(4) No person shall operate a motorboat for any purpose on the following lakes: Scott, Melakwa, Hidden, Blair, Upper Erma Bell, Middle Erma Bell, Lower Erma Bell, Torrey, Whig, Wahanna, Rigdon, Lower Rigdon, Kiwa, Upper Eddelele, Round, Betty, and Alameda.

(5) No person shall operate a motorboat for any purpose in excess of 10 MPH on Munsel Lake east of the line of marker buoys, except from June 1 through September 30, between the hours of 10 a.m. and 5 p.m.

(6) No person shall operate a motorboat on the McKenzie River above Good Pasture Bridge, except a representative of the Oregon State Police or the County Sheriff’s Office pursuant to a criminal investigation or search and rescue operation.

(7) No person shall operate a motorboat, except with an electric motor:

(a) In the Old Long Tom River Channel;

(b) On Fern Ridge Reservoir south of State Highway 126;

(c) On Hult Reservoir.

(8) No person shall operate a propeller-driven airboat or non-displacement hull type hovercraft in the following areas on Fern Ridge Reservoir where there is emergent vegetation present:

(a) Coyote Creek area — east of a line beginning at the West Coyote Creek bridge at Highway 126 extending north approximately one mile to a point near the mouth of Coyote Creek, then extending north approximately 1.4 miles to a point located approximately 100 yards off shore of the northwest corner of Gibson Island;

(b) Amazon Bay area — east of a line beginning at a point located approximately 100 yards off shore of the northwest corner of Gibson Island extending northeast approximately one mile to the Shore Lane access;

(c) South Marsh area — west of a line extending from a point on the shoreline at the southern boundary of Zumwalt Park near the end of Vista Drive extending southeast approximately one mile to a point on the shoreline at the tip of Perkins Peninsula;

(d) Long Tom Area — southwest of a line beginning at a point on the shore line at the end of Moyer Lane extending southeast approximately 0.9 miles to a point on the west shoreline of the Jeans Peninsula at the north end of Winter Lane.

(9) No person shall operate a motorboat north and east of a line across the entrance of Bannister Cove on Lookout Point Reservoir, as marked.

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.175

Hist.: MB 21, f. 8-23-63; MB 27, f. 6-3-65; MB 31, f. 6-20-66; MB 42, f. 12-3-68; MB 44, f. 8-21-69; MB 48, f. 6-28-71, ef. 7-25-71; MB 49, f. 8-14-72, ef. 9-1-72; MB 3-1979(Temp), f. & ef. 6-22-79; MB 5-1979, f. 7-31-79, ef. 8-1-79; Renumbered from 250-020-0131; MB 8-1981, f. & ef. 11-16-81; MB 5-1982, f. & ef. 6-1-82; MB 6-1982, f. & ef. 6-1-82; MB 15-1984, f. 11-30-84, ef. 12-1-84; MB 6-1995, f. & cert. ef. 7-14-95; MB 9-1996, f. & cert. ef. 5-29-96; OSMB 2-2000, f. & cert. ef. 7-14-00; OSMB 2-2001, f. & cert. ef. 1-25-01; OSMB 1-2008, f. & cert. ef. 1-15-08; OSMB 3-2010, f. & cert. ef. 1-15-10; OSMB 9-2010(Temp), f. & cert. ef. 5-6-10 thru 9-30-10; Administrative correction 10-26-10; OSMB 13-2010, f. & cert. ef. 11-1-10; OSMB 5-2011(Temp), f. 3-28-11, cert. ef. 4-8-11 thru 4-11-11; Administrative correction, 4-25-11; [OSMB 10-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 10-1-11; OSMB 10-2011(Temp) Suspended by OSMB 11-2011(Temp), f. & cert. ef. 8-5-11 thru 10-1-11, Administrative correction, 8-25-11]; OSMB 4-2012(Temp), f. & cert. ef. 4-2-

ADMINISTRATIVE RULES

12 thru 4-30-12; OSMB 8-2012, f. 4-24-12, cert. ef. 5-1-12; OSMB 1-2013(Temp), f. 3-18-13, cert. ef. 4-12-13 thru 4-27-13; Administrative correction, 5-22-13; OSMB 6-2013, f. 10-28-13, cert. ef. 11-1-13; OSMB 8-2014(Temp), f. & cert. ef. 4-11-14 thru 5-3-14; Administrative correction, 5-21-14; OSMB 1-2015(Temp), f. 3-24-15, cert. ef. 4-10-15 thru 4-20-15; OSMB 4-2015, f. 4-30-15, cert. ef. 5-1-15; OSMB 2-2016(Temp), f. & cert. ef. 4-1-16 thru 4-18-16

Rule Caption: Suspend titling fee rule language which is contrary to Oregon Revised Statute

Adm. Order No.: OSMB 3-2016(Temp)

Filed with Sec. of State: 4-13-2016

Certified to be Effective: 4-13-16 thru 7-31-16

Notice Publication Date:

Rules Suspended: 250-010-0057

Subject: Suspend titling fee rule language in Oregon Administrative Rule which is contrary to Oregon Revised Statute pending permanent repeal.

Rules Coordinator: June LeTarte—(503) 378-2617

250-010-0057

Issuance and Duplication Fees

(1) Fees for the title issuance and duplication fee shall be:

(a) Title original issuance — \$30;

(b) Title duplication without change when original has been lost, mutilated, destroyed or stolen — \$15;

(c) Title reissued with change of ownership — \$30.

(2) Fees for duplication of certificate of number, certificate or registration and/or duplication of validation stickers — \$10. The agency shall waive the fee for duplicate decal if the original decal issued is found to be defective.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.820

Hist.: MB 19-1983, f. 11-29-83, ef. 12-1-83; OSMB 1-2002, f. 4-15-02 cert. ef. 6-1-02; OSMB 6-2002, f. & cert. 10-15-02; OSMB 1-2005, f. & cert. ef. 1-20-05; Suspended by OSMB 3-2016(Temp), f. & cert. ef. 4-13-16 thru 7-31-16

Oregon Youth Authority Chapter 416

Rule Caption: OYA is adopting the February 2016 Interstate Commission for Juvenile rules by reference.

Adm. Order No.: OYA 3-2016

Filed with Sec. of State: 4-1-2016

Certified to be Effective: 4-1-16

Notice Publication Date: 3-1-2016

Rules Amended: 416-115-0025

Subject: 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—(503) 373-7570

416-115-0025

Standards for Juvenile Interstate Transfer of Supervision

The Oregon Youth Authority adopts by this reference standards for the interstate transfer of Youth Offender supervision and services set in the official ICJ rules, published by the Interstate Commission for Juveniles, as updated to reflect all amendments through February 1, 2016. The rules may be viewed at the Interstate Commission for Juveniles website at <http://juvenilecompact.org/>.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 7-2011, f. 12-12-11, cert. ef. 12-14-11; OYA 5-2012, f. & cert. ef. 6-25-12; OYA 3-2015(Temp), f. & cert. ef. 8-5-15 thru 1-21-16; OYA 7-2015, f. & cert. ef. 10-7-15; OYA 3-2016, f. & cert. ef. 4-1-16

Parks and Recreation Department Chapter 736

Rule Caption: Amend Special Access Pass Rules

Adm. Order No.: PRD 1-2016

Filed with Sec. of State: 3-16-2016

Certified to be Effective: 3-16-16

Notice Publication Date: 11-1-2015

Rules Amended: 736-015-0035

Subject: Revisions to the Special Access Pass program for Veterans with a service connected disability will: 1) allow these reservations to be made on-line; 2) simplify the stay limit to ten days per month; 3) add showers to the list of fee waivers available to pass holders; 4) add a \$5 fee for replacement of a lost pass; 5) clarify when a pass can be revoked or temporarily suspended; 6) add penalties for failure to cancel and leaving early without letting park staff know.

Rules Coordinator: Claudia Ciobanu—(503) 872-5295

736-015-0035

Fee Waivers and Refunds

(1) The director, at the direction of the commission, may waive, reduce or exempt fees established in this division under the following conditions:

(a) A person or group provides in-kind services or materials equal to or greater than the value of the applicable rate, as determined by criteria approved by the director;

(b) Marketing or promotional considerations, including but not limited to special events and commercial filming, that promote the use of park areas and Oregon tourism;

(c) Traditional tribal activities in accordance with policy adopted by the Commission;

(d) Reduced service levels at a park, campsite or other facility as determined by the Park Manager.

(2) Reservation Facility Deposit Fee Waivers for individual primitive, tent, electric, full hook-up or horse camp campsites only:

(a) The facility deposit fee is waived for all persons with reservations commencing on State Parks Day (first Saturday of June). All other fees apply.

(b) The facility deposit fee is waived for foster families and adoptive foster families as defined in OAR 736-015-0006. The fee waiver is limited to the first two campsites, and an adult care provider must be present with the foster children. All other fees apply.

(c) The facility deposit fee is waived for U.S. veterans with a service connected disability or active duty U.S. military personnel as provided in ORS 390.124. All other fees apply.

(d) The person making the reservation must pay the \$8 non-refundable transaction fee at the time the reservation is made. This fee is not included in the fee waiver.

(3) Overnight Rental Fee Waivers for individual primitive, tent, electric, full hook-up or horse camp campsites only:

(a) The overnight rental fee, including any extra vehicle fees, is waived for all persons on the night of State Parks Day (first Saturday of June). All other fees apply.

(b) The overnight rental fee is waived for foster families and adoptive foster families as defined in OAR 736-015-0006. The fee waiver is limited to the first two campsites, and an adult care provider with one or more foster children must be present. The fee waiver is limited to a total of fourteen days per calendar month. All other fees and rules apply.

(c) The overnight rental fee is waived for U.S. veterans with a service connected disability or active duty U.S. military personnel on leave as provided in ORS 390.124. The waiver of individual campsite fees shall be limited to no more than ten days total in a calendar month. The qualifying veteran or active duty military personnel on leave must be present in the site to qualify for the waiver. All other fees and rules apply.

(d) The director may waive the overnight rental fee for volunteer hosts traveling to an assignment at a park area.

(4) Day Use Parking Fee Waivers:

(a) The day use parking fee is waived for all persons on State Parks Day (first Saturday of June).

(b) The day use parking fee is waived for U.S. veterans with a service connected disability or active duty U.S. military personnel on leave as provided in ORS 390.124.

(c) The day use parking fee is waived for foster families and adoptive foster families as defined in OAR 736-015-0006. The waiver shall be valid until the expiration date of the Certificate of Approval to Provide Foster Care or the adopted foster child turns 18 years of age.

(d) All other fees apply.

(5) At those parks offering showers to non-campers, the shower use fee is waived for individuals with an OPRD Special Access Pass.

(6) Proof of Eligibility for Fee Waivers

(a) The department will issue Veterans and Foster families who have provided the department valid proof of eligibility an OPRD Special Access Pass. Pass holders must use the pass to identify themselves as a qualified recipient of fee waivers at state park campgrounds and day use areas. Proof

ADMINISTRATIVE RULES

of eligibility must be provided through an application process outlined on the OPRD web site at www.oregonstateparks.org or by calling the OPRD Information Center at 1-800-551-6949 for instructions.

(b) The department will accept the following forms of proof to qualify for fee waivers as a U.S. veteran with a service connected disability:

(A) Disabled Veteran's license plate issued by the Oregon DMV;

(B) A current Disabled Veteran Permanent Hunting/Angling License issued by the Oregon Department of Fish and Wildlife;

(C) A Washington State Parks Disabled Veteran's ID card;

(D) Any United States Department of Veterans Affairs (VA) photo identification card bearing the words "service connected";

(E) Any letter issued by the VA stating eligibility for any of the above programs, or bearing the words "service-connected disability."

(c) The department will accept the following forms of proof to qualify for fee waivers as an adoptive foster family, as defined in OAR 736-015-0006, with an adopted foster child under 18 years of age or a foster family, as defined in OAR 736-015-0006:

(A) Certificate of Approval to Maintain a Foster Home for Children with Developmental Disabilities;

(B) Certificate of Approval to Maintain a Foster Home for Children;

(C) Certificate of Approval to Maintain a Relative Home for Children;

(D) Written certification from Department of Human Services identifying the applicant as an adoptive or guardian foster family.

(d) The department will not issue an Active Duty Military on official leave a Special Access Pass. Such customers must pay any applicable fee and after their visit may request a refund by sending a letter from their commanding officer on official letterhead stating they were on leave for the dates they camped and their camping receipt to Reservations Northwest within 30 days after departure date of the stay. A refund of applicable fees will be sent within three weeks of the receipt of their request.

(7) There will be no charge for issuing a Special Access Pass or renewing an expired pass. There will be a processing fee of \$5.00 for replacement of a lost pass that is still valid.

(8) The department may revoke or temporarily suspend an OPRD Special Access Pass issued under section (6) if:

(a) The pass is used to waive fees beyond the monthly allowable limits;

(b) The pass holder does not occupy a site when fees have been waived under authority of their pass; or

(c) The pass holder transfers their pass to another person to use.

(9) Pass holders must cancel their reservation three days prior to arrival to avoid a penalty. Cancellations within the three day period will be charged a penalty equal to one nights facility fee for the type of site reserved.

(10) Pass holders who make a reservation and do not check in at the park or notify park staff that they will be delayed, prior to 1:00 p.m. of the second day of the reservation, will be considered a "no show" and the entire reservation will be cancelled. A penalty equal to one night's facility fee for the type of site reserved will be charged.

(11) If a pass holder vacates their site one or more days prior to check-out without notifying park staff, any days remaining on the reservation will be counted against their monthly waiver limit.

(12) A person may request a refund under the following circumstances.

(a) Reservations Northwest may refund a reservation fee when the department has made a reservation error.

(b) Reservations Northwest may refund a facility deposit and may waive the cancellation or change rules when requested by the person due to the following emergency situations:

(A) Emergency vehicle repair creates a late arrival or complete reservation cancellation;

(B) A medical emergency or death of a family member creates a late arrival or complete reservation cancellation;

(C) Acts of Nature create dangerous travel conditions; or

(D) Deployment of military or emergency service personnel creates a late arrival or complete reservation cancellation.

(c) The director or his/her designee may approve a refund under other special circumstances.

(d) All requests for refunds under this section must be sent in writing to Reservations Northwest via email, fax or surface mail to be considered for a refund.

(e) The department will issue refunds for specific site or park area closures and no written request is required.

(f) The park manager may only issue a refund at the park due to the person leaving earlier than expected, and while the person is present and has signed for the refund. Once the person has left the park, refund requests must be sent to Reservations Northwest for processing.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121 & 390.124

Hist.: 1 OTC 17, f. 12-20-73; 1 OTC 56(Temp), f. & ef. 4-4-75; 1 OTC 59, f. 8-1-75, ef. 8-25-75; 1 OTC 74, f. & ef. 4-30-76; 1 OTC 82, f. 5-11-77, ef. 5-14-77; 1 OTC 5-1979, f. & ef. 2-9-79; 1 OTC 22-1979 (Temp), f. & ef. 9-24-79; 1 OTC 2-1980, f. & ef. 1-4-80; PR 9-1981, f. & ef. 4-6-81; PR 11-1986, f. & ef. 7-9-86; PR 1-1988, f. & cert. ef. 3-25-88; PR 1-1990, f. & cert. ef. 5-14-90; PR 4-1991, f. 4-30-91, cert. ef. 5-13-91; PR 3-1996, f. & cert. ef. 5-13-96; PRD 7-2002, f. & cert. ef. 7-1-02; PRD 6-2003, f. 10-3-03 cert. ef. 11-1-03; PRD 8-2004, f. & cert. ef. 6-3-04; Renumbered from 736-010-0120, PRD 4-2005, f. & cert. ef. 5-5-05; PRD 5-2005(Temp), f. 10-14-05, cert. ef. 11-11-05 thru 4-30-06; PRD 1-2006, f. & cert. ef. 2-14-06; PRD 8-2009, f. & cert. ef. 6-2-09; PRD 15-2009, f. & cert. ef. 9-29-09; PRD 1-2010, f. & cert. ef. 1-5-10; PRD 5-2011, f. & cert. ef. 8-1-11; PRD 4-2013, f. & cert. ef. 10-1-13; PRD 1-2016, f. & cert. ef. 3-16-16

Psychiatric Security Review Board Chapter 859

Rule Caption: Updates and Clarifies Activities Related to the Psychiatric Security Review Board's Adult Panel

Adm. Order No.: PSRB 1-2016

Filed with Sec. of State: 3-17-2016

Certified to be Effective: 3-17-16

Notice Publication Date: 3-1-2016

Rules Amended: 859-020-0005, 859-020-0010, 859-020-0015

Subject: These rules set forth the organization, membership, powers, and duties of the Psychiatric Security Review Board's Adult Panel and Executive Director. The proposed additions and modifications are designed to clarify the roles of the adult panel and Executive Director.

Rules Coordinator: Sid Moore—(503) 229-5596

859-020-0005

Membership

The Adult Panel of the PSRB, as stated in ORS 161.385, consists of 5 members with the experience and terms as defined in the statute. The Adult Panel includes a psychiatrist, a psychologist, a member with substantial experience in the processes of parole and probation, a lawyer with substantial experience in criminal trial practice, and a public member.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.385

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-2016, f. & cert. ef. 3-17-16

859-020-0010

Chairperson of the Adult Panel

(1) Selection: The Board will select one or more of its members as chairperson or as co-chairpersons to serve for a one year term. The chair person(s) may be re-elected for subsequent terms.

(2) Duties:

(a) The duties of the Adult Panel Chairperson(s), or Acting Chairperson(s), include, but are not limited to:

(A) Presiding at administrative meetings, administrative hearings, full hearings and other matters requiring Adult Panel decisions;

(B) Rulings on procedural matters;

(C) Conducting Annual Performance Evaluations of the Executive Director;

(D) Hiring and terminating the Executive Director with the approval of the majority of the Board; and

(E) Assist Executive Director with personnel matters (e.g. consulting regarding termination, discipline and hiring of PSRB employees)

(b) Designating an Acting Chair when the Chairperson is not present or available or when otherwise appropriate or necessary.

(3) Acting Chairperson. The Chairperson may appoint for temporary purposes any Adult Panel member to be designated as Acting Chairperson.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.385

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-2016, f. & cert. ef. 3-17-16

859-020-0015

Executive Director; Powers and Duties

The executive director will officially represent the Board and will perform other duties including but not limited to:

(1) Supervising work operations of the Board's staff, including taking corrective action regarding employees;

(2) Preparing and managing the biennial budget;

(3) Implementing Board policies and decisions;

ADMINISTRATIVE RULES

- (4) Informing the Board of the status of persons under its jurisdiction;
- (5) Presenting to the Board all matters requiring Board action;
- (6) Hiring and terminating employees;
- (7) Providing community outreach such as training for the public, licensed mental health providers, practitioners, attorneys, judges and certified evaluators as well as education, presentations and site visits of licensed residential facilities;
- (8) Tracking legislation applicable to Board operations, advising the Legislature on concepts and representing the Board at legislative hearings and meetings;
- (9) Communicating regularly with hospital and community providers about persons under the Board's jurisdiction, in order to ensure that services are maintained at the proper level.
- (10) Sitting on relevant task forces and boards to improve the criminal responsibility system.
- (11) Attending Board deliberations and offering procedural/administrative guidance.
- (12) Performing other duties as authorized or requested by the Board, such as approving out-of-state pass requests and requests for community evaluations.

Stat. Auth.: ORS 161.385
Stats. Implemented: ORS 161.385
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 1-2016, f. & cert. ef. 3-17-16

Rule Caption: Updates and Clarifies Procedures Surrounding Psychiatric Security Review Board Adult Panel Administrative Meetings

Adm. Order No.: PSRB 2-2016
Filed with Sec. of State: 3-17-2016
Certified to be Effective: 3-17-16
Notice Publication Date: 3-1-2016

Rules Amended: 859-040-0005, 859-040-0010, 859-040-0015, 859-040-0020, 859-040-0025
Subject: These rule modifications clarify procedures surrounding the Psychiatric Security Review Board's Adult Panel administrative meetings, including items such as quorums, public meetings, and records.

Rules Coordinator: Sid Moore—(503) 229-5596

859-040-0005 Administrative Meetings

- (1) The Adult Panel of the Board will hold administrative meetings to consider matters relating to Board policy and administration. Generally, these administrative meetings are held on a quarterly basis unless there is business that warrants meeting more or less frequently.
- (2) The agenda for administrative meetings will be developed by the Executive Director and the Chairperson(s) prior to the meeting. Public notice will be given in accordance with the Public Meetings Law.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.385 & ORS 161.387
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 2-2016, f. & cert. ef. 3-17-16

859-040-0010 Quorum and Decisions

The presence of at least three members of the Board—in person or by remote means—constitutes a quorum: Three concurring votes (affirmative or negative) are required for the Board's Adult Panel to make a decision.

Stat. Auth.: ORS 161.387
Stats. Implemented: ORS 161.385
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 1-2008(Temp), f. & cert. ef. 12-17-08 thru 6-2-09; PSRB 1-2009, f. & cert. ef. 5-5-09; PSRB 2-2016, f. & cert. ef. 3-17-16

859-040-0015 Public Meetings Law

All meetings of the PSRB are open to the public in accordance with the Public Meetings Law; the deliberations of the Board are not open to the public. For the purposes of this rule, the term "public" does not include employees of the PSRB.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.387
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-2008(Temp), f. & cert. ef. 12-17-08 thru 6-2-09; PSRB 1-2009, f. & cert. ef. 5-5-09; PSRB 2-2016, f. & cert. ef. 3-17-16

859-040-0020 Records

Written minutes will be kept of Board action taken at administrative meetings and adopted at the subsequent administrative meeting.
Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.345 & 161.346
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 2-2016, f. & cert. ef. 3-17-16

859-040-0025 Public Participation

Please note: Public Records Law Rule may now be found in the new Division 45.

(1) The Adult Panel of the Board will allocate a public comment period during its Administrative meetings. The Adult Panel Chairperson or Acting Chairperson may set a time limit for participants electing to speak during that period.

(2) The public may not participate in the discussion during Administrative meetings unless invited by the Board Chairperson.

Stat. Auth.: ORS 161.385, 161.387, 192.450, 192.500, 192.525 & 192.690
Stats. Implemented: ORS 161.336
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 2-2016, f. & cert. ef. 3-17-16

Rule Caption: Updates and Clarifies the Responsibilities of the Psychiatric Security Review Board's Adult Panel

Adm. Order No.: PSRB 3-2016
Filed with Sec. of State: 3-17-2016
Certified to be Effective: 3-17-16
Notice Publication Date: 3-1-2016

Rules Amended: 859-030-0005, 859-030-0010
Subject: These rule amendments clarify the responsibilities and jurisdiction—including length of jurisdiction—of the Psychiatric Security Review Board's adult panel.
Rules Coordinator: Sid Moore—(503) 229-5596

859-030-0005 PSRB Adult Panel Responsibilities

Purpose The Adult Panel of the Board monitors the psychiatric and physical health and treatment of all persons placed under its jurisdiction and performs other duties as assigned by the Legislature. The Board will have as its primary concern the protection of society. In addition, the Board's responsibilities will include, but not be limited to:

- (1) Holding hearings as required by law to determine the appropriate status of persons under its jurisdiction;
- (2) Advising the State Hospital Review Panel on conditions of release whose inclusion the Board recommends in the Panel's order of conditional release of a Tier Two Offender;
- (3) Overseeing the supervision of persons placed on conditional release in the community;
- (4) Modifying or terminating conditional release plans;
- (5) Maintaining and keeping current medical, social and criminal histories of all persons under the Board's jurisdiction;
- (6) Observing the confidentiality of records as required by law.

Stat. Auth.: ORS 161.387, Or Law 2011, ch 708, § 33(2) (SB 420)
Stats. Implemented: ORS 161.315 - ORS 161.351, Or Law 2011, ch 708, §§ 5, 33, 41 (SB 420)
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 1-2012(Temp), f. & cert. ef. 2-3-12 thru 7-31-12; PSRB 2-2012, f. & cert. ef. 4-16-12; PSRB 3-2016, f. & cert. ef. 3-17-16

859-030-0010 Jurisdiction of Persons under the PSRB/Length of Jurisdiction

(1) In accordance with ORS 161.325, the Board will take jurisdiction over persons adjudged by the court to be guilty except for insanity and who present a substantial danger to others.

(2) The period of jurisdiction of under the Board will be that sentence ordered by the court that places the person under PSRB jurisdiction.

(3) The Board will maintain jurisdiction over persons who are legally placed under its jurisdiction by any court of the State of Oregon or transferred from the jurisdiction of the Oregon Health Authority.

(4) Judgment orders placing individuals under Board jurisdiction must:

- (a) Indicate whether the court finds the individual is a proper subject for conditional release, along with the appropriate order of placement under the Board, the Oregon Health Authority, or an appropriate supervision and treatment facility;

ADMINISTRATIVE RULES

(b) Include written notification to the Board of the court's conditional release order, and identify the court-appointed supervisor;

(c) Identify the length of Board jurisdiction over the individual;

(d) Any supervisory or other special orders the court delivered with its judgment.

(5) If the court's order is unclear or is missing information required by ORS 161.325, the Board may seek clarification on the matter from the court.

(6) The Board will not retain jurisdiction over persons if the court order places the person under the Board only because of a judgment of guilty except for insanity for a probation violation. In order for the Board to retain jurisdiction, the person must be placed under the Board's jurisdiction for the initial offense.

(7) The Board's Adult Panel will accept jurisdiction of remanded youth who are found Guilty Except for Insanity (GEI) in adult court and placed under the Board's Adult Panel Jurisdiction. For rules regarding adjudicated youth who are found Responsible Except for Insanity (REI) in juvenile court and placed under the Board's Juvenile Panel, see OAR 859, Divisions 501 through 600

(8) Upon receipt of verified information regarding time spent in custody, persons placed under the Board's jurisdiction will receive credit for:

(a) Time spent in any correctional facility or jail for the offense or conduct for which the person was placed under the Board's jurisdiction; and

(b) Time spent in custody of the Oregon Health Authority at a state mental hospital for determination of the defendant's fitness to proceed or for treatment until fit to proceed under a detainer for the criminal charges for which the person ultimately was found guilty except for insanity as well as a result of being committed by a court after being found guilty except for insanity of a charge.

(9) The Board does not consider time spent on unauthorized leave from the Oregon State Hospital while committed as part of the jurisdictional time and will add that time to the end of jurisdiction date.

Stat. Auth.: ORS 161.387, Or Law 2011, ch 708, §33(2) (SB 420)

Stats. Implemented: ORS 161.315 - ORS 161.351, Or Law 2011, ch 708, §§5, 33, 41 (SB 420)

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 2-1987, f. 9-30-87, ef. 10-1-87; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 1-2012(Temp), f. & cert. ef. 2-3-12 thru 7-31-12; PSRB 2-2012, f. & cert. ef. 4-16-12; PSRB 3-2016, f. & cert. ef. 3-17-16

Rule Caption: PSRB Sex Offender Classification/Reclassification/Relief from Reporting

Adm. Order No.: PSRB 4-2016

Filed with Sec. of State: 3-17-2016

Certified to be Effective: 3-17-16

Notice Publication Date: 3-1-2016

Rules Adopted: 859-400-0001, 859-400-0005, 859-400-0010, 859-400-0015, 859-400-0020, 859-400-0025, 859-400-0030, 859-400-0035, 859-400-0040, 859-400-0045

Subject: Both in 2013 and 2015, the Oregon Legislature passed new laws establishing a state-wide system that classifies registered sex offenders into three categories based on risk. This new law also authorizes some information regarding a sex offender to be released to the public and law enforcement, if necessary to protect the public. See 2015 Oregon Laws, Chapter 820 (HB 2320), 2013 Oregon Laws, Chapter 708 (HB 2549).

By December 2018, the PSRB, in cooperation with the Oregon Board of Parole & Post-Prison Supervision will classify all registered sex offenders, including those who have been found guilty except for insanity (GEI) of a sex crime or who have been found GEI of a crime and must register as a sex offender due to a prior conviction, even if the person is no longer on any PSRB supervision. All registrants will be classified with one of the following levels:

Level I — lowest risk.

Level II — moderate risk.

Level III — high risk.

Rules Coordinator: Sid Moore — (503) 229-5596

859-400-0001

Background/Purpose of Rules/Applicability

(1) 2013 Oregon Laws, Chapter 708 (HB 2549) as amended by 2015 Oregon Laws, Chapter 820 (HB 2320) creates a new state-wide system that classifies most registered sex offenders in the State of Oregon. After com-

pletion of a risk assessment, each registrant will be classified as a 3, 2 or 1. A classification of "3" is considered the highest risk while a classification of "1" is considered the lowest risk. Effective August 12, 2015, the PSRB has new responsibilities under these laws. First, the PSRB or the Board of Parole & Post-Prison Supervision will be classifying all registrants who have been found GEI (guilty except for insanity) and submitting their classification to Oregon State Police. Depending on a registrant's risk, the PSRB may release information necessary to protect the public concerning the sex offender and Oregon State Police may release information to the public as well. Finally, registrants who meet the eligibility requirements to apply to the PSRB for relief from registration or request reclassification to a lower level may do so beginning December 1, 2018. Division 400 rules will clarify the PSRB's implementation of these programs.

(2) Division 400 administrative rules do not apply to those found responsible except for insanity (REI) who must register as a sex offender due to that finding.

Stat. Auth.: ORS 161.387(1), 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)

Stat. Implemented: ORS 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)

Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0005

Definitions

(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) "BOPPPS" means the Oregon Board of Parole and Post-Prison Supervision.

(3) "Category B registrant" means a person of any sex 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.

(4) "Category B sex crime" means any type of criminal offense within the scope of "Category B offenses" listed in the Static-99R Coding Rules (Revised 2003). These include: consensual sex with other adults in public places, crimes relating to child pornography, indecent behavior without a sexual motive (urinating in public), offering prostitution services, pimping/pandering, seeking/hiring prostitutes and solicitation of a prostitute.

(5) "Conditional Release" means an individual found GEI is under supervision of the PSRB living in the community under a Conditional Release order.

(6) "Discharged" means an individual found GEI is no longer under the supervision of the PSRB or OHA.

(7) "Review Officer" means a person designated by the Board to consider objections to a registrant's risk assessment score and forward those recommendations to the Board.

(8) "OHA" means the Oregon Health Authority.

(9) "PSRB" or "Board" means the Psychiatric Security Review Board.

(10) "Registrant" means a person for whom the event triggering the obligation to make an initial report under ORS 163A.010(3)(a)(A), 163A.015(4)(a)(A), 163A.020(1)(a)(A), 2(a)(A) or (3)(a)(A) has occurred.

(11) "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.

(12) "Sex crime" has the definition contained in ORS 163A.005(5).

(13) "Young male registrant" means an offender 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. Young male registrant does not mean a person solely found responsible except for insanity as a youth.

Stat. Auth.: ORS 161.387(1), 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)

Stat. Implemented: ORS 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)

Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0010

Sex Offender Risk Assessment Methodology

(1) Except for the provisions in subsections (3) and (4) of this rule, the PSRB will classify adult male registrants under its jurisdiction or previously under its jurisdiction by the Static-99R. The PSRB will score and place the registrant into one of the following levels:

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

ADMINISTRATIVE RULES

Level II: Moderate (Static-99R score of 4 to 5); or
Level III: High (Static-99R score of 6 or higher).

(2) For classification of adult female registrants, category B registrants, and young male registrants, the PSRB will classify using the Level of Services/Case Management Inventory (LS/CMI) as supplemented by an independent sexual offense-specific evaluation report. Based on the score, these registrants will be designated into one of the following levels:

Level I: Low (Score 0 to 10; LS/CMI as supplemented by an independent sexual offense-specific evaluation);
Level II: Moderate (Score 11 to 19; LS/CMI as supplemented by an independent sexual offense-specific evaluation); or
Level III: High (Score 20 or higher; LS/CMI as supplemented by an independent sexual offense-specific evaluation).

(3) If a person found GEI has previously been designated as a sexually violent dangerous offender under ORS 137.765, it will classify that person as a Level III sex offender.

(4) If a person found GEI has previously been designated as a predatory sex offender between February 10, 2005 and December 31, 2013, the Board will classify the registrant as a Level III sex offender.

(5) The PSRB will classify a registrant who refuses or fails to participate in a sex offender risk assessment as a Level III sex offender unless the assessment can effectively be completed without the registrant's participation.

Stat. Auth: ORS 161.387(1) & 181.800 - 181.803
Stat. Implemented: ORS 181.800 & 181.803
Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0015

Classifying Agency/Sharing of Records

(1) The PSRB will complete the risk assessment for PSRB GEI registrants who are required to register for the first time after August 12, 2015. For registrants who registered on or before this date, the PSRB may complete the assessment and notification process or assist BOPPPS with its classification process.

(2) The PSRB will work collaboratively with BOPPPS to ensure that GEI registrants who do not fall under subsection (1) of this rule are classified. If needed, the PSRB will provide BOPPPS the PSRB records necessary to complete the assessment.

Stat. Auth: ORS 161.387(1), 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)
Stat. Implemented: ORS 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)
Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0020

Timelines for Classifying Registrants

(1) When a person found GEI of a crime described in ORS 163.355 to 163.427 is committed to a hospital designated by the Oregon Health Authority and placed under PSRB jurisdiction, the PSRB will conduct the risk assessment of the person using the risk assessment methodology in 859-400-0010. For those who are discharged or placed on conditional release after August 12, 2015, this assessment will take place no later than 60 days of the registrant's discharge or conditional release.

(2) For a person described in ORS 163A.105 who was found GEI of a crime described in ORS 163.355 to 163.427 and whose initial obligation to register occurred between January 1, 2014 and August 12, 2015, the PSRB will consult and assist BOPPPS to ensure the risk assessment—using the risk assessment methodology under 859-400-0010—is completed as soon as practicable.

(3) For a person described in ORS 163A.105 who was found GEI of a crime described in ORS 163.355 to 163.427 and whose initial obligation to register occurred prior to January 1, 2014, the PSRB will consult and assist BOPPPS to ensure the risk assessment of the person utilizing the risk assessment methodology in 859-400-0010 is completed as soon as practicable.

Stat. Auth: ORS 161.387(1), 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)
Stat. Implemented: ORS 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)
Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0025

Failure of Registrant to Participate in the Risk Assessment/Failure to Provide Information for Assessment

(1) If the PSRB cannot complete the risk assessment using its written exhibit file, it may request in writing that the registrant provide additional information to aid in the completion of the assessment.

(2) The PSRB will use the registrant's current address located in the Oregon State Police Sex Offender Registry or PSRB's records—if the registrant is under the PSRB's jurisdiction—to communicate with the registrant when seeking additional information.

(3) Failure to participate in the assessment or respond to PSRB's request for information may cause the registrant to be classified at a higher level if the PSRB cannot confirm the information through another source or if the missing information is critical to determining a final score.

Stat. Auth:
Stat. Implemented:
Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0030

Procedures for Classifying and Notifying 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 assessing agency will provide the registrant the Static-99R score, the completed Static-99R assessment, a Notice of Rights form and a Written Objections form.

(3) Following the notification in subsection (2), the following applies if the registrant waives objections to the Static-99R score:

(a) If the registrant's obligation to register occurred on or after January 1, 2014, the registrant will forward the Notice of Rights form indicating the registrant's waiver to the PSRB within 20 (twenty) calendar days after the mailing date on the Notice of Rights.

(b) If the registrant's obligation to register occurred before January 1, 2014, the registrant will forward the Notice of Rights form indicating the registrant's waiver to the PSRB within 60 (sixty) calendar days after the mailing date on the Notice of Rights.

(c) The PSRB will review the submission by the registrant and determine a final classification.

(d) The PSRB 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.

(4) Following the notification in subsection (2), the following applies if a registrant submits written objections to the Static-99R score:

(a) If the registrant's obligation to register occurred on or after January 1, 2014, the registrant must submit his Static-99R assessment, the Notice of Rights form and any Written Objections to the Static-99R score within 20 (twenty) calendar days after the mailing date on the Notice of Rights.

(b) If the registrant's obligation to register occurred before January 1, 2014, the registrant must submit his Static-99R assessment, the Notice of Rights form and any Written Objections to the Static-99R score to the PSRB within 60 (sixty) calendar 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 PSRB will proceed to final classification.

(d) Verbal objections will not be considered by the PSRB or Review Officer.

(e) Upon receipt of any timely submitted written objections, a Review Officer will conduct a review of the Static-99R score and supporting documents. The Review 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 Review Officer's review will detail the finding of the Static-99R score and make a determination as to whether the registrant's Static-99R score is accurate or should be changed. Upon completing the review, the Review Officer will submit to the PSRB, a memo detailing the review, as well as any information considered by the Review Officer.

(f) The PSRB will review the Review 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 3 (three) business days of the date of the final classification.

(5)(a) A registrant who refuses to participate in the notice of rights process shall be considered to have waived objections to the Static-99R score. Refusal to participate includes failure to submit a waiver or written objection.

(b) If, following the notification in subsection (2), the registrant's response time has lapsed, the PSRB 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.

(6) The PSRB's classification decision shall be final. The PSRB's classification decision is not subject to review under ORS 161.327(7).

ADMINISTRATIVE RULES

Stat. Auth: ORS 161.387(1), 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)
Stat. Implemented: ORS 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)
Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0035

Procedures for Classifying and Notifying Young Male Registrants, Female Registrants, and Category B Registrants

(1) These procedures apply to registrants for whom the Static-99R is not an appropriate assessment methodology as outlined in OAR 859-400-0010.

(2) With the cooperation of the Oregon State Hospital and community mental health agencies, the PSRB will identify young male registrants, female registrants, and Category B registrants found guilty except for insanity. This may include discharged PSRB clients.

(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, and 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 qualified licensed provider 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, the independent sexual offense-specific evaluation report, the Notice of Rights form and the Written Objections form.

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

(a) If the registrant's obligation to register occurred on or after January 1, 2014 and the registrant waives the right to submit written objections to the LS/CMI score and evaluation report, the registrant will forward the Notice of Rights form indicating the registrant's waiver to the Board within 20 (twenty) calendar business days after the mailing date on the Notice of Rights.

(b) If the registrant's obligation to register occurred before January 1, 2014 and the registrant waives the right to submit Written Objections to the LS/CMI score and evaluation report, the registrant will forward the Notice of Rights form indicating the registrant's waiver to the Board within 60 (sixty) calendar days after the mailing date on the Notice of Rights.

(c) The PSRB will review the submission by the registrant and determine a final classification.

(d) The PSRB 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.

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

(a) If the registrant's obligation to register occurred on or after January 1, 2014, the registrant must submit the LS/CMI, evaluation report, Notice of Rights and any written objections to the assessment and evaluation findings to the Board within 20 (twenty) calendar days after the mailing date on the Notice of Rights.

(b) If the registrant's obligation to register occurred before January 1, 2014, the registrant must submit any written objections to the assessment and evaluation findings within 60 (sixty) calendar 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.

(d) Upon the PSRB's receipt of the written objections, a Review Officer will complete a review of the LS/CMI score, evaluation, and supporting documents. The review will verify the information, and the Review 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.

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

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

(A) The Review 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 Review Officer will write a supplement to the memo and will provide the supplement to the Board.

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

(E) The PSRB will review the Review 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 Review 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.

(8)(a) A registrant who refuses to participate in the notice of rights process shall be considered to have waived objections to the LS/CMI score and evaluation report. Refusal to participate includes failure to submit a waiver or written objection.

(b) If, following notification in subsection (3), the registrant's response time has lapsed, the PSRB 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.

(9) The PSRB's classification decision shall be final. The PSRB's classification decision is not subject to review under ORS 161.327(7).

Stat. Auth: ORS 161.387(1), 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)

Stat. Implemented: ORS 181.801-181.812, 2015 OL, Ch. 820 (HB 2320), 2013 OL, Ch. 708 (HB 2549)

Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0040

Releasing Information to the Public and Law Enforcement

(1) The PSRB will review all requests for information concerning a specific sex offender or sex offenders who reside in a specific area on a case by case basis to determine what, if any, information is in the public interest to release.

(2) The PSRB has the authority to release any information to law enforcement and the public it deems necessary to protect the public in accordance with ORS 161.835. The Board will release information on a case by case basis and release the minimum information necessary to achieve the goal of reasonable public safety.

(3) When the PSRB discharges a registrant who has been determined to be at a Level III, the Board will notify the Department of State Police and request that if the person was not already on the public website maintained by the department, that they be added in accordance with ORS 163A.215(3).

(4) When the PSRB discharges any level registrant, the Board or its designee will evaluate whether notification of those listed in ORS 163A.215(2)(b) is appropriate. This may include requesting that a registrant be included on the public website regardless of their classification level.

Stat. Auth: ORS 161.387(1) & 163A.215

Stat. Implemented: ORS 163A.215

Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

859-400-0045

Requests for Reclassification/Relief

(1) Beginning on December 1, 2018, registrants who meet certain criteria may petition the PSRB to reclassify them to a lower classification level and/or request relief from the obligation to report as a sex offender as provided in ORS 163A.125.

(2) The PSRB will develop administrative rules in preparation for implementation of a reclassification and relief program no later than October 1, 2018.

Stat. Auth: ORS 161.387(1) & 181.801 - 181.821

Stat. Implemented: ORS 181.821

Hist.: PSRB 1-2015(Temp), f. 10-28-15, cert. ef. 10-29-15 thru 4-25-16; PSRB 4-2016, f. & cert. ef. 3-17-16

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Rule Caption: Updates Psychiatric Security Review Board Hearings Procedures, including evidence, witnesses, and burdens of proof.

Adm. Order No.: PSRB 5-2016

Filed with Sec. of State: 3-17-2016

ADMINISTRATIVE RULES

Certified to be Effective: 3-17-16

Notice Publication Date: 3-1-2016

Rules Adopted: 859-050-0001, 859-050-0083

Rules Amended: 859-050-0005, 859-050-0010, 859-050-0015, 859-050-0020, 859-050-0025, 859-050-0030, 859-050-0035, 859-050-0040, 859-050-0045, 859-050-0050, 859-050-0055, 859-050-0060, 859-050-0065, 859-050-0070, 859-050-0075, 859-050-0080, 859-050-0085, 859-050-0090, 859-050-0095, 859-050-0100, 859-050-0105

Subject: These rule modifications outline and modify the procedures the Psychiatric Security Review Board uses when it conducts hearings for those judged Guilty Except for Insanity and other hearings involving adults placed under the Board's jurisdiction.

Rules Coordinator: Sid Moore—(503) 229-5596

859-050-0001

Hearings

(1) PSRB Hearings are open to the public, except Board deliberations.

(2) The Board, Board staff, or the security staff at the hearings' location may limit physical items or persons permitted inside the hearings room to ensure safety and hearing decorum. This may include limiting personal items such as cell phones and weapons, as well as restricting access to persons who are disruptive to the decorum of the hearing or limiting numbers of persons when the number of attendees in the hearings room exceeds the fire marshal's safety code. Victims, treatment team members and patient's guests will be given priority seating.

(3) When PSRB hearings are held at any branch or part of Oregon State Hospital (OSH), OSH security policies will be followed.

(4) For protocol for media participation in hearings, see OAR 859-050-0105.

(5) A copy of a recorded hearing on CD may be obtained by written request. A charge of \$5.00 per CD will be assessed unless the requestor is the patient, employed by an agency that is providing treatment to a patient, a victim of the instant offense, or a party.

Stat. Auth.: ORS 161.387, 192.501, 192.502, 192.610 et seq.
Stat. Implemented: ORS 161.387, 192.501, 192.502, 192.610
Hist.: PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0005

Notice

Written notice of hearings will be given to those indicated in ORS 161.346(5) and 161.326.

(1) Those given notice under ORS 161.346(5) and 161.326 include the:

- (a) Person about whom the hearing is being conducted;
- (b) Attorney representing the person under PSRB jurisdiction;
- (c) District attorney;
- (d) Community supervisor or case monitor;
- (e) Court or department of the county from which the person was committed;
- (f) The victim, if the court or Board finds the victim requests notification;
- (g) Any other interested person requesting notification;
- (h) Forensic unit of Oregon State Hospital;

(2) The written notice of hearings will contain the information specified in ORS 161.346, as follows:

- (a) The time, place, and location of the hearing;
- (b) The nature of the hearing and the specific action for which a hearing has been requested, the issues to be considered at the hearing and a reference to the particular sections of the statutes and rules involved;
- (c) A statement of the legal authority and jurisdiction under which the hearing is to be held; and
- (d) A statement outlining the following additional rights:

(A) To appear at all proceedings held pursuant to this section, except for deliberations;

(B) To cross-examine all witnesses appearing to testify at the hearing;

(C) To subpoena witnesses and documents as provided in ORS 161.395;

(D) To be represented by suitable legal counsel possessing skills and experience commensurate with the nature and complexity of the case, to consult with counsel prior to the hearing and, if financially eligible, to have suitable counsel appointed at state expense; and

(E) To examine all information, documents and reports that the agency considers. If available to the agency at that time, the information,

documents and reports will be disclosed to the person so as to allow examination prior to the hearing.

(3) In order to reduce the waste associated with unnecessary paper use, the Board will deliver its hearings notices electronically. Those with a need for hard copies may request them from Board staff.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.332 & 161.346
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0010

Scheduling of Hearings

(1) The scheduling of hearings will be driven by the statutory time-lines found in ORS Chapter 161.

(2) Hospital requests for conditional release hearings will generally be prioritized over other types of hearings.

(3) Frequent docketing changes are common. For the most up-to-date information, Board staff should be contacted at least one day before the scheduled hearing.

(4) The order of hearings on a given hearings day is generally not available until at least two (2) days before the hearing and is subject to change.

(5) Victims, witnesses and interested parties are encouraged to notify Board staff immediately of hearings-day time constraints. The Board considers reasonable scheduling restrictions from victims, witnesses and the parties.

Stat. Auth.: ORS 161.387, 161.341
Stats. Implemented: ORS 161.341
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1988, f. & cert. ef. 4-1-88; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0015

Time of Hearings

Hearings will be held within the following time frames:

(1) Initial hearing under ORS 161.341(6)(a). After a person has been placed under the Board's jurisdiction and committed to a state hospital designated by the Oregon Health Authority—90 days.

(2) Revocation hearing, ORS 161.336(4)(c). After return to the state hospital as a result of an Order of Revocation for violation of the conditional release—20 days.

(3) Patient request for conditional release or discharge, ORS 161.341(3)(4)(5). A patient is eligible to request a hearing six months after last hearing. Hearing to be held within 60 days after filing request.

(4) Hospital request, ORS 161.341(1), or outpatient supervisor request, ORS 161.336(5)(b), for conditional release, modification of conditional release or discharge. Request may be made at any time. Hospital requests will be scheduled within 60 days of receipt of request. Outpatient supervisor requests do not have statutory time frame.

(5) Outpatient request for modification of conditional release or discharge, ORS 161.336(5)(a). Outpatients on conditional release are eligible to request a hearing six months after last hearing—scheduling priority will be given to the requests of patients in the hospital.

(6) Two-year hearing, ORS 161.341(6)(b). A hearing is mandatory for persons committed to a state hospital when no other hearing has been held within two years.

(7) Five-year hearing, ORS 161.336(6). Any person who is under the jurisdiction of the Board and who has spent five years on conditional release will be brought before the Board for a hearing within 30 days of the expiration of the five year period. Administrative Hearings/Emergency Modifications

(8) The Board will hold administrative hearings to expedite modifications of conditional release requests supported by the case manager. Either party may request that the Board hold an administrative hearing. The Board may deny such a request if too limited by time or other resources to grant it.

(9) Notice of administrative hearings is given to the parties, district attorney and judge in the county where the GEI was adjudicated, persons who have requested notice and known victims who have requested hearing notice and have a current address on file with the Board. For purposes of this rule, "the parties will receive a complete exhibit file containing a minimum of: recent progress reports; a report or correspondence with the treatment provider and, if applicable; a community conditional release plan.

(10) Either party may request a full hearing on the proposed modification to the day prior to a scheduled administrative hearing.

(11) When a patient or outpatient's mental health status has changed or he or she can no longer be safely managed under the existing conditional release order, the Board or community provider may issue modifications without notice.

ADMINISTRATIVE RULES

(a) A copy of the new Board order will be distributed to those specified in ORS 161.346(10).

(b) If either party objects to the new order, that party may request a full hearing on the matter.

Stat. Auth.: ORS 161.387
Stats. Implemented: ORS 161.336, 161.341 & 161.351
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 2-1988, f. & cert. ef. 11-16-88; PSRB 1-1989, f. & cert. ef. 10-20-89; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0020

Chairperson Conducting Hearing

During Board hearings, the Chairperson or acting Chairperson will preside. The Chairperson will designate the order of presentation and questioning. The Chairperson will also determine the scope of questioning and may set time limits and cut off irrelevant questions and irrelevant or unresponsive answers.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.385
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0025

Patient's Right to Review Record; Exceptions

Patients will receive written notice of hearings and directly, or through their attorneys, a statement of their rights in accordance with ORS 161.346. All exhibits to be considered by the Board will be disclosed to the patient attorney or the patient, if proceeding pro se, as soon as they are available:

(1) Exhibits not available prior to the hearing will be made available to the patient's attorney or the patient, if not represented, at the hearing.

(2) All material relevant and pertinent to the patient and issues before the Board will be made a part of the record.

(3) Only evidence deemed admissible becomes part of the patient's exhibit file.

(4) Material that is not part of the patient's exhibit file may not be releasable to the patient or to the parties unless authorized by the Board for good cause. The Board will review the material to determine if any administrative rule or law prohibits disclosure.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.346
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0030

Evidence Considered; Admissibility

The Board will consider all material, relevant, and reliable evidence available to it. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs will be admissible, including, but not limited to, the following:

(1) The record of trial.

(2) Information supplied by the state's attorney or any interested party, including the patient.

(3) Information concerning the patient's mental condition, incident reports and progress reports.

(4) The patient's entire psychiatric and criminal history, including motor vehicle records.

(5) Psychiatric or psychological reports ordered by the Board under ORS 161.346(3).

(6) Psychiatric and psychological reports under ORS 161.341(2), written by a person chosen by the state or the patient to examine the patient.

(7) Testimony of witnesses. Although not considered evidence, the Board will consider victim impact statements during its deliberations.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.336, 161.341 & 161.346
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0035

Motion Practice

Any party bringing a motion before the Board will submit it to the Board and the opposing party one week prior to the scheduled hearing date. This rule does not apply to requests for set-overs for good cause, or to requests for continuance.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.346
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0040

Objections

(1) Evidentiary objections: The Chairperson or acting Chairperson will rule on questions of evidence. Hearsay evidence will not be excluded

unless the Chairperson or acting Chairperson determines the evidence is not material, relevant or reliable.

(a) In determining whether the evidence is material, relevant or reliable, the Board will consider the following:

(A) The age and source of the documents;

(B) The ability of the witness to have observed and had personal knowledge of the incidents;

(C) The credibility of the witness and whether the witness has bias or interest in the matter.

(b) The person, the person's attorney or attorney representing the state may object to any evidence. The Board may decide the following:

(A) To sustain the objection and deny the admission and consideration of the evidence on the grounds that it is not material, relevant or reliable;

(B) To overrule the objection and admit the evidence and in considering the weight given to that evidence, consider the reason for the objection; or

(C) To grant a continuance for a period of time not to exceed 60 days to allow a witness to appear or be subpoenaed to testify about the evidence under consideration.

(2) Board member objections. If an objection for good cause is made as determined by the Chairperson or Acting Chairperson, to a specific member of the Board sitting on the panel considering a specific case, that member will recuse him/herself and, if necessary, the hearing will be postponed and rescheduled.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.346 & 161.385
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0045

Witnesses and Documents; Subpoena

Witnesses or documents may be subpoenaed as provided in ORS 161.395 upon request of any party to the hearing or on the Board's own motion, upon a proper showing of the general relevance and reasonable scope of the documentary or physical evidence sought:

(1) Witnesses with a subpoena other than parties or state officers or employees will receive fees and mileage, as prescribed by law.

(2) The Legislature has provided that a judge of the Circuit Court of the county in which the hearing is held will compel obedience by proceeding for contempt for failure of any person to comply with the subpoena issued.

(3) Board staff will prepare subpoenas requested by either party. However, the party requesting the subpoena is responsible for serving the subpoena.

Stat. Auth.: ORS 161.387
Stats. Implemented: ORS 161.346 & 161.395
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0050

Testimony Given on Oath

(1) The Board will take testimony of a witness upon oath or affirmation of the witness administered by the Chairperson or acting Chairperson at the hearing.

(2) Victim Impact Statements are not considered testimony and will not be taken under oath by the Board.

Stat. Auth.: ORS 161
Stats. Implemented: ORS 161.346 & 161.385
Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0055

Burdens

(1) The standard of proof on all issues at hearings of the Board will be the preponderance of the evidence.

(2) The party with the burden of proof will also have the burden of going forward with the evidence (call and examine witnesses, propose conditions of release, etc.).

The burden of proof will depend on the type of hearing, as follows:

(1) Initial 90-day hearing under ORS 161.341(6)(a): The state has the burden to show the person continues to be affected by a mental disease or defect and continues to be a substantial danger to others.

(2) Revocation hearing under ORS 161.336(4)(c): The state has the burden to show that the revocation of conditional release was appropriate and that jurisdiction of the Board should continue.

(3) Conditionally released outpatient's request for modification of a conditional release or discharge under ORS 161.336(5)(a): The patient has the burden of proving his or her fitness for modification of a conditional release or discharge.

ADMINISTRATIVE RULES

(4) Hospital patient's request for conditional release or discharge under ORS 161.341(3): The person has the burden of proving his or her fitness for conditional release or discharge unless it has been more than 2 years since the State had the burden of proof in which case the burden is on the State.

(5) Request for conditional release or discharge of the patient by the State Hospital under ORS 161.341(1): the state must prove the person is not appropriate for conditional release or discharge.

(6) Request for conditional release or discharge of the outpatient by an outpatient supervisor under ORS 161.336(5)(b): the State has the burden.

(7) At a status review hearing (5 year hearing) under ORS 161.336(6): The state has the burden of proving that the current conditional release, modification of conditional release, or a proposed plan is appropriate.

(8) If at any hearing the hospital staff agrees with the patient on the issue of mental disease or defect, dangerousness or fitness for conditional release but no advance notice is given to the Board that the hospital requests discharge or conditional release, the burden of proof remains with the patient. The testimony of hospital staff will be considered as evidence to assist the Board in deciding whether the patient has met his/her burden.

Stat. Auth.: ORS 161.387

Stats. Implemented: ORS 161.336, 161.341 & 161.346

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0060

Deliberations

Board deliberations are confidential and not open to the public. For purposes of this rule, "the public" does not include PSRB employees. PSRB staff may attend Board deliberations.

Stat. Auth.: ORS 161.387

Stats. Implemented: ORS 161.346

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0065

Continuance of Hearing

Upon the request of any party or on its own motion, the Board may, for good cause, continue a hearing for a reasonable period, up to 60 days to obtain additional information, psychiatric reports or testimony or to accommodate a witness's schedule. The patient may waive the 60-day time period for good cause.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.346

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0070

Cancellation of Hearing

(1) The requestor of a hearing may request cancellation of that hearing. The request should be in writing and state the basis for the cancellation request.

(2) If a patient/outpatient requests cancellation of a hearing after notices for that hearing have been mailed by the Board, the person will not be able to request another hearing for six months from the date of the canceled hearing.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.346

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0075

Use of Restraints

(1) The Board prefers to have patients appear at hearings without physical restraints. If, in the judgment of the patient's physician, the patient might need restraining, the Board prefers to have staff attending the hearing with the patient rather than to use physical restraints. However, the final decision on use of restraints lies with the physician.

(2) Any attorney objecting to the patient appearing with restraints at the hearing may raise the issue and ask for testimony from the physician or request a continuance of that hearing until the patient can appear safely without restraints.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.346

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0080

Board Decisions

(1) The Board will provide findings and notify the parties and other interested individuals and organizations, as appropriate.

(2) The board may issue its decisions orally on the record at the hearing, and will do so unless the Board has reason to delay issuing its findings.

Stat. Auth.: ORS 161.387

Stats. Implemented: ORS 161.346

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0083

Split Votes at Hearings

(1) When three members cannot agree during deliberations about a hearing outcome, the hearing may be continued for no longer than 60 days. The recording of the hearing and the exhibits will be reviewed by the remaining member(s) and a decision by the majority of the members will be the finding and order of the Board. Before making a decision, the Board may deliberate any time it has a quorum.

(2) If the party objects for good cause to the remaining member's or members' review as set forth in section (1) of this rule, the Board may reschedule the matter for a hearing before the entire Board.

(3) Board staff will electronically notice both parties and the victim advocate of the split shortly after the deciding vote(s) are known to staff.

Stat. Auth.: ORS 161.387

Stats. Implemented: ORS 161.346

Hist.: PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0085

Notification of Right to Appeal

(1) At the conclusion of a Board hearing, the Board Chair or acting Chair will provide the person and his or her attorney with written notification advising of the right to appeal on an adverse decision within 60 days from the date an order is signed and the right to an attorney is indigent.

(2) If the person refuses to sign the Notification of Appeal, the person's attorney/PSRB staff will sign the Notification of Appeal attesting that the person refuses to sign it.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.385

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0090

Patient/Outpatient Appearing Pro Se

(1) When a patient/outpatient waives the right to be represented by an attorney, the Board will take written or oral testimony and decide whether the patient/outpatient is capable of understanding the proceedings.

(2) After considering evidence about the competency of a patient/outpatient to represent his or her own interests at the hearing, the Board will rule on whether the patient/outpatient will be allowed to represent himself/herself pro se or whether the Board will appoint counsel to represent the patient/outpatient over his or her objection.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.346

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0095

Examination of Patient

(1) The Board may appoint a psychiatrist or licensed psychologist to examine the person and submit a report to the Board, including an opinion as to the mental condition of the person, whether the person presents a substantial danger to others and whether the person could be adequately controlled on conditional release with treatment and supervision:

(2) The attorney representing the state may choose, at the state's expense, a psychiatrist or licensed psychologist to examine the person.

(a) The report will include a written opinion as to the mental condition of the person, whether the person presents a substantial danger to others and whether the person could be adequately controlled on conditional release with treatment and supervision.

(b) The attorney for the state will file a written notice of intent to conduct an examination. This notice may include a request for a continuance of the scheduled hearing in order to allow time for the requested examination.

(3) The attorney for the patient/outpatient may file a written request for the Board to appoint a psychiatrist or licensed psychologist to examine the patient/outpatient at the Public Defense Services Commission's expense. The attorney may request a continuance of the scheduled hearing in order to allow time for the requested examination.

(4) The Board, regardless of whether a request for examination is made by the Board, the State, the person's attorney or the patient, may order the person placed in temporary custody of any state hospital or suitable facility for purposes of examination.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.346

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 5-2016, f. & cert. ef. 3-17-16

ADMINISTRATIVE RULES

859-050-0100

Records of Hearings

All Board hearings, except Board deliberations, will be recorded by electronic means which can be transcribed. All documents considered will be included in the file and kept as part of the record:

- (1) Audio recordings capable of being transcribed will be kept by the Board for a minimum period of five years from the hearing date;
- (2) Any material to which an objection is sustained will be removed from the record; the objection and ruling of the Board will be noted on the record;

Stat. Auth.: ORS 161.387
Stats. Implemented: ORS 161.295 - 161.400
Hist.: PSRB 2-2014, f. & cert. ef. 12-18-14; PSRB 5-2016, f. & cert. ef. 3-17-16

859-050-0105

Protocol for Media at Hearings

- (1) Public Access Coverage Defined. As used in this rule:
 - (a) "Public access coverage" means coverage by means of any public access coverage equipment.
 - (b) "Public access coverage equipment" means any of the following in the possession of persons other than the PSRB or the PSRB staff: television equipment; still photographer equipment; audio, video, or other electronic recording equipment.
- (2) Notification to Record Hearings. The news media must notify the PSRB of their request to record video, still photography, or audio of a PSRB proceeding by submitting a request for media or other public access coverage of PSRB at least one business day (24 hours) prior to the scheduled hearing day. Notice of media or public access coverage requests given to the PSRB less than twenty-four (24) hours prior to a scheduled hearing will be taken under advisement by the Board and may result in coverage access being denied directly in the hearings room. PSRB rules require that an original be filed with the PSRB. Submissions will be emailed to PSRB at: psrb@psrb.org.

(3) Equipment and Operators

(a) Only one television camera and/or one still camera each with a single camera operator will be permitted in the PSRB proceeding. Cameras and operators must be in designated locations. Interviews may only be conducted in the area designated by the Board, or Health Systems, if hearings are conducted at OSH.

(b) It is up to the PSRB Board Chair, or Acting Chair, typically through its staff, to decide where cameras and microphones may be placed in the hearings room. Each hearings room is different and PSRB Board members may differ on this so operators must ask for assistance to determine camera placement on the day of the hearing.

(c) Equipment and camera operators must be in place prior to the PSRB hearing. Equipment must not be installed, moved or removed from the hearings room while the PSRB hearing is in session. Camera operators may not move around the hearings room while hearings are in session.

(d) News media must arrange any pooling of footage, photographs or audio among themselves. Typically, the first camera to arrive at the hearings room will be allowed to set up in the hearings room. The PSRB will not participate in any pooling agreement. The PSRB will not mediate in the event of disagreements about pooling arrangements. Disagreements about pooling arrangements will not result in additional media equipment being allowed into the hearings room and they will not cause a delay in the hearing start time. In the absence of agreement on pooling issues by persons seeking public access coverage, the PSRB Chair or Acting Chair may exclude any or all public access coverage.

(e) No public access coverage device will be operated by more than one person.

(f) No person will use public access coverage equipment that interferes or distracts from proceedings in the hearings room.

(g) The video camera must be mounted on a tripod or other device or installed in the hearings room. The tripod or other device must not be moved while the proceedings are in session. Video equipment must be screened where practicable or located and operated as directed by the Board Chair.

(h) No artificial lighting devices of any kind will be allowed.

(4) Limitations on Access: Media will not record:

(a) Any notes or conversations intended to be private including, but not limited to counsel, victims, Board members and members of the public attending hearings.

(b) Portions of the hearing that would interfere with the rights of the parties to a fair hearing or would affect the presentation of evidence or outcome of the hearing. This may include if public access coverage affects the PSRB patient's ability to effectively participate in his/her hearing.

(c) Any portion of the hearing that would interfere with a victim's entitlement to due dignity and respect. This may include prohibiting the recording of a victim impact statement or other portions of the hearing that include graphic depictions of the instant offense.

(5) Any cost or increased burden resulting from the public access coverage would interfere with the efficient administration of justice.

(6) Recording equipment may not be used in the visitor area.

(7) A Board Chair may summarily prohibit public access coverage of particular hearing attendees or witnesses, if the attendee or witness so requests.

(8) Violations. Any violation of this rule may result in sanctions including but not limited to the termination of media coverage privileges.

Stat. Auth.: ORS 161.387
Stats. Implemented: ORS 161.295 - 161.400
Hist.: PSRB 2-2014, f. & cert. ef. 12-18-14; PSRB 5-2016, f. & cert. ef. 3-17-16

Rule Caption: Updates and Clarifies Psychiatric Security Review Board's Rules on Use and Disclosure of Public Records

Adm. Order No.: PSRB 6-2016

Filed with Sec. of State: 3-17-2016

Certified to be Effective: 3-17-16

Notice Publication Date: 3-1-2016

Rules Adopted: 859-045-0005, 859-045-0010

Subject: This rule outlines the procedures used by the Psychiatric Security Review Board in its use, handling, and disclosure of public records.

Rules Coordinator: Sid Moore—(503) 229-5596

859-045-0005

Written Records

(1) Pursuant to Oregon public records law, Board orders and information releasable to the public within the Public Records Law will be made available upon request within a reasonable time.

(2) All requests will be made in writing and final determination on disclosure will be made by the Board or Board staff. Delays in releasing written material may occur when consultation with counsel is necessary to determine whether a record falls under the exemption from disclosure laws.

(3) At a minimum, public records requests will be reviewed by PSRB staff to determine whether any of the records are exempt under the Public Records Law including, but not limited to, the following provisions:

(a) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance; or

(b) Medical records, health information, individually identifiable health information and protected health information will be withheld from public inspection if the Board determines that the disclosure would interfere with the rehabilitation of the person and if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(4) PSRB will charge a fee of \$0.25 per hard copy page for copying material, unless the request is voluminous, in which case the requested materials will be placed on a compact disc (CD) at a charge of \$5.00 per CD. For all requests for one hundred (100) pages or more, PSRB may provide the requestor with a written estimate of the associated copying fees. Appeals of determinations on disclosure may be made by petition to the Attorney General in accordance with statutory requirements.

Stat. Auth.: ORS 192.501, 192.502, 192.440, 192.496(3), 179.505, 192.556, 161.387
Stat. Implemented: ORS 192.501, 192.502, 192.496(3), 179.505, 192.556, 161.387
Hist.: PSRB 6-2016, f. & cert. ef. 3-17-16

859-045-0010

Public Records Use and Disclosure; Confidentiality

(1) Definitions: In addition to the definitions in OAR 859-010-0005, the following terms apply to this rule:

(a) "Authorization" means written permission form from a patient or patient's representative giving the Board, and others named on the form, authorization to obtain, release, or use information about the patient from third parties for specified purposes or to disclose information to a third party specified by the patient.

(b) "Disclosure" means the release, transfer, relay, provision of access to, or conveying of protected patient information to any individual or entity outside the Board.

(c) "Non-Protected Patient Information" means patient information that the Board may have in its records or files that is not protected or otherwise exempt from disclosure under state or federal law.

ADMINISTRATIVE RULES

(d) "Protected Patient Information" means patient information that the Board may have in its records or files that is exempt from disclosure under state or federal law, including, but not limited to, individually identifiable health information relating to mental health records, alcohol and drug treatment records, and genetic information.

(e) "Re-disclosure" means the disclosure of information to a person or other entity other than the person or entity to whom disclosure was originally authorized.

(f) "Representative" means a person who has authority to act on behalf of a patient, including, but not limited to, the patient's attorney or legal guardian.

(2) Use and disclosure of non-protected patient information. Non-protected patient information is subject to disclosure under the Public Records Law. All requests for patient information must be made in writing. The Board will determine whether the requested information is non-protected patient information or protected patient information. The Board may charge a reasonable fee to cover the actual costs of making the public records available to the requestor.

(3) Use and disclosure of protected patient information with patient authorization:

(a) The Board may disclose protected patient information to an identified individual or entity in accordance with the signed, written authorization of the patient or the patient's representative.

(b) A patient or patient representative may revoke an authorization at any time. No revocation will apply to information released while the authorization was valid and in effect.

(4) Use and disclosure of protected patient information without authorization. The Board may use or disclose protected patient information without authorization under the following circumstances:

(a) The Board may use or disclose protected patient information without authorization to notify those whose immediate need to know preserves or protects public safety. Individuals with a need to know include, but are not limited to, first responders and victims.

(b) The Board may use or disclose protected patient information without authorization if required to or permitted to disclose the information under state and federal law, including but not limited to mandatory abuse reporting laws, offender reporting requirements under ORS chapter 181, and court orders. The Board's use or disclosure of the protected patient information must comply with, and be limited in scope to, the requirements of the applicable state and federal laws.

(c) The Board will disclose relevant protected patient information to the parties (the state and the patient) in a pending or scheduled PSRB hearing for the sole purpose of representing the parties in the hearing. Persons other than the patient or the patient's representative who are granted access under this rule may not re-disclose protected patient information for any other purpose or use, unless it is otherwise authorized under state or federal law.

(d) The Board may use or disclose protected patient information without authorization in connection with the performance of its official duties, or in defense of the Board in a legal action or other proceeding against the Board brought by the patient or patient representative.

(e) The Board may use or disclose protected patient information without authorization as necessary to protect potential victims from specific threats made by the patient against one or more named persons. If the Board receives information indicating that an individual has been threatened directly, the Board will respond as appropriate and as consistent with state law, including the need to protect the public.

(f) The Board may use or disclose protected patient information without authorization as necessary to ensure continuity of care, conditional release evaluation, monitoring and supervision of those being considered for or placed on conditional release.

(5) The Board will protect and will not release personally identifiable information including, but not limited to, home addresses, telephone numbers, and e-mail addresses about the victims of the patients under the Board's jurisdiction. Under these rules, victims have the same protections from disclosure as do those under Board jurisdiction.

Stat. Auth.: ORS 161.387, 179.505(14)
Stats. Implemented: ORS 161.336, 161.390, 179.505, 192.496, 192.502
Hist.: PSRB 6-2016, f. & cert. ef 3-17-16

Rule Caption: Clarifies Civil Commitment Hearing Rules

Adm. Order No.: PSRB 7-2016

Filed with Sec. of State: 3-17-2016

Certified to be Effective: 3-17-16

Notice Publication Date: 3-1-2016

Rules Amended: 859-200-0070

Subject: Pursuant to ORS 426.702, the PSRB has the authority to certify a person under its jurisdiction for recommitment at the end of the 24 month commitment period. This law does not require that the PSRB hold a hearing to determine certification and the PSRB's current practice is not to hold a certification hearing if both parties stipulate to the treatment team's opinion that the patient remains dangerous and should be recommitted. The PSRB has developed an administrative review process to seek the person's clinical team's recommendation regarding recommitment, and to avoid a full hearing in situations in which there will be no opposition. The former rule does not accurately describe this practice; therefore, this amendment updates references to accurately reflect the agency's practice.

Rules Coordinator: Sid Moore—(503) 229-5596

859-200-0070

Types of Hearings/Certification Procedure

(1) Initial 6-Month Hearings

(a) The Board will hold a hearing within six months of a court ordering the civil commitment of an extremely dangerous person with mental illness.

(b) The Board will make a finding on the issue of whether or not the person meets jurisdictional criteria. If jurisdiction is not found, the person will be discharged. If jurisdiction is found, the Board will consider whether the person should remain at the hospital, whether the person is appropriate for conditional release, or if a community evaluation should be ordered.

(2) Revocation Hearings.

(a) A revocation hearing will be held within thirty days of a person's return to the state hospital as a result of a PSRB Order of Revocation.

(b) At a revocation hearing the Board will consider whether the revocation was appropriate and decide whether the person can be continued on conditional release or should be committed to the state hospital. The Board may also consider a request for evaluation at a revocation hearing.

(3) Hospital Request for Conditional Release Hearings. At any time while an extremely dangerous person with mental illness is committed to the state hospital, the hospital may apply to the Board for conditional release if it is the hospital's opinion that the person continues to be affected by a mental disorder that is resistant to treatment that makes the person extremely dangerous but that the person can be controlled in the community with proper care, medication, supervision and treatment. The hospital request for the person's discharge should be accompanied by a hospital report prepared by a member of the person's treatment team setting forth the facts supporting the request, and a verified conditional release plan.

(4) Hospital Request for Discharge Hearings. At any time while an extremely dangerous person with mental illness is committed to the state hospital, the hospital may apply to the Board for the person's discharge if it is the hospital's position that the person no longer meets jurisdictional criteria. The hospital request for the person's discharge should be accompanied by a report setting forth the facts supporting the request.

(5) Outpatient Supervisor Request for Conditional Release Modification Hearings/Administrative Review

(a) At any time during the person's conditional release, a PSRB case manager may request a status hearing to amend or modify the person's conditions of release. The request for the hearing should be accompanied by a proposed Summary of Conditional Release Plan that reflects the requested modifications.

(b) Modifications to a person's conditional release plan includes: adding conditions to the plan, removing conditions from the plan, and changing existing conditions in the plan.

(c) If there is no objection to the case manager's requested modifications, such requests for modifications may be handled by administrative review.

(d) At any time, if either the person or the State objects to requested conditional release plan modifications, the person or the State may request a full hearing regarding the requested modifications rather than having the modifications considered at an administrative review.

(6) PSRB Case Manager Request for Discharge Hearings. At any time during the person's conditional release, the PSRB case manager may request a hearing for discharge if the treating physician or certified mental health examiner believes the person no longer suffers from a mental disorder that is resistant to treatment or is no longer extremely dangerous. The request for discharge of the person from the Board's jurisdiction should be accompanied by a report setting forth the facts and evidence upon which the request is based.

ADMINISTRATIVE RULES

(7) Certification at end of commitment period. One hundred-twenty (120) days prior to the end of each commitment period, the Board will request that the Oregon State Hospital or local mental health facility providing treatment to a person on conditional release provide a written opinion on whether the person is still extremely dangerous and suffers from a mental disorder that is resistant to treatment.

(a) The Board will provide the parties the treatment team's written opinion 90 days prior to the end of the commitment period.

(b) If the treatment team certifies that the person continues to meet jurisdictional criteria, the Board will ensure the certification is served on the person and forward the documentation to the court for recommitment.

(c) If the treatment team does not certify that the person continues to meet jurisdictional criteria, the Board will take one of the following actions when determining whether certification is appropriate:

(A) If both parties stipulate to the treatment team's opinion that recommitment is not appropriate, take no further action; or

(B) At the request of the District Attorney in the original county of commitment and/or the District Attorney in the county where the person resides at the end of commitment, schedule a full hearing and take testimony regarding the issue of certification.

Stat. Auth.: ORS 161.387(1), 426.701 & 426.702

Stats. Implemented: ORS 161.387(1) 426.701 & 426.702

Hist.: PSRB 1-2014, f. & cert. ef. 3-5-14; PSRB 7-2016, f. & cert. ef. 3-17-16

Public Utility Commission, Board of Maritime Pilots Chapter 856

Rule Caption: Expands qualifying maritime experience to broaden the pool of potential trainees.

Adm. Order No.: BMP 3-2016

Filed with Sec. of State: 3-31-2016

Certified to be Effective: 3-31-16

Notice Publication Date: 3-1-2016

Rules Amended: 856-010-0010, 856-010-0026

Subject: Expands applicant qualifications to include five or more years' experience as a state-licensed pilot in another jurisdiction.

Rules Coordinator: Susan Johnson—(971) 673-1530

856-010-0010

Original Licensing Requirements

In addition to the qualifications required for licensing of pilots under ORS 776, the applicant shall:

(1) Present an application in writing to the administrator of the board on the form provided by the board for the pilotage ground for which the applicant intends to become licensed. The application shall be filed not less than 30 days prior to appearance before the board for a written examination and may be supplemented at any time until the examination is taken. The board shall consider the application and upon approval, the written examination will be scheduled. The examination shall be proctored by the board's administrator. The examination for each pilotage ground shall be prepared by the board with the assistance of the board's licensed training organization for that pilotage ground. The examination will test for skill and knowledge of those factors identified in ORS 776.035(2) and 776.325(1)(b). The examination will be graded by the board member from the pilotage ground for which the applicant is seeking a license. If requested by the training course monitor, up to two additional pilots selected by the training course monitor and approved by the board may participate with the board member in grading the exam. The examination will be pass/fail. (2) Accompany the application with a photocopy of a U.S. Coast Guard physical examination report and signed by an Oregon or Washington licensed physician verifying that the applicant meets the physical, medical and mental criteria required to qualify for a federal pilot's license.

(a) If the examining physician determines that the applicant is not competent to perform the duties of a pilot, the applicant is not then medically eligible to receive a license from the board.

(b) If the examining physician determines that the applicant is competent to perform the duties of a pilot, or if the examining physician determines that the applicant's physical, medical or mental condition is in need of further review, then the applicant is then considered medically eligible to receive a license from the board, subject to any later review and conclusion by the U.S. Coast Guard that the applicant is not competent for continued federal licensure as a pilot.

(c) If the U.S. Coast Guard undertakes further medical review of an applicant's physical, medical or mental competency, either upon recom-

mendation by the examining physician or otherwise, then the applicant shall report to the board at least every 30 days regarding the status of such further review. If, at the conclusion of such review process, the U.S. Coast Guard declines to approve the applicant for continued federal licensure as a pilot, the applicant shall immediately notify the board and the board will treat the decision as a suspension of the applicant's federal license. Any license issued by the board shall be automatically suspended as of the date the board receives notice of the U.S. Coast Guard's decision, notwithstanding any appeal that may be taken from such decision. If the Coast Guard concludes its review by issuing a waiver to the applicant, the terms of the waiver shall be immediately reported to the board, and the license issued by the board shall become subject to the terms of the waiver issued by the Coast Guard.

(3) Have actual experience as a pilot handling ships over the pilotage ground for which a state license is sought and state in the application the names of ships piloted, dates, draft, gross tonnage, and length over all, as specified in (but not limited to) (4), (5), (6) and/or (7) in this section, and:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard;

(b) Hold an unlimited federal pilot's endorsement for the ground for which a state license is sought; and

(c) Have served at least two years as Master aboard vessels, or when applying for a license over the Columbia and Willamette River pilotage ground, have completed a program of apprenticeship training which has been approved by the Board.

(4) In addition to the requirements in OAR 856-010-0010(1), (2), (3), to qualify for a Grade "C" license over the Columbia and Willamette River pilotage ground, the applicant shall, prior to taking the board's examination required under section (1) above:

(a) Have served at least 730 active working days as captain of towing vessels on the Columbia River and its tributaries, or have completed a program of apprenticeship training which has been approved by the Board, as specified in OAR 856-010-0014;

(b) Complete at least six trips under the supervision of an unlimited state-licensed pilot while on the bridge of a ship of not less than 500 feet length over-all (L.O.A.) through the bridges in the upper harbor in Portland, up to and including the Broadway Bridge, which shall be made with and without the aid of a tug or towboat, including at least one trip in each direction. The training course monitor may defer satisfaction of the requirement for trips through the Broadway Bridge if insufficient training trip opportunities through that bridge are available, provided that any license issued without fully satisfying this subsection will be restricted to below the Broadway Bridge until the requirements of this subsection are fully satisfied, and provided further that the holder of such a restricted license must complete the requirements at the earliest opportunity training trips through the Broadway Bridge are available;

(c) Complete at least 110 transits while on the bridge of a ship of not less than 500 feet L.O.A. within the 270 days preceding the examination, with at least 70 of these transits made under the supervision of an unlimited state-licensed pilot and at least 80 of the transits completed within 150 days after the first transit is completed;

(d) When combining trip segments to establish a transit, each trip segment may be used only once;

(e) Complete at least six trips under the supervision of an unlimited state-licensed pilot within the 270 days preceding the examination while on the bridge of a ship of not less than 500 feet L.O.A. in a combination of the following directions, with at least three trips in each direction:

(A) From the Willamette River, turning east (upstream) into the Columbia River; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south into the Willamette River.

(f) Complete at least 10 trips in either direction between Astoria and Longview or Kalama under the supervision of an unlimited state-licensed pilot.

(g) Complete at least 4 trips from dock to dock or anchor to dock while on ships not less than 500 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.

(h) Train at least 25 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor that may include, but need not be limited to, shipboard training, electronic navigation training, manned model training, attendance at meetings with maritime-related governmental agencies or exposure to maritime related administrative activities.

ADMINISTRATIVE RULES

(i) Present recommendations from the training course monitor and from at least ten unlimited state-licensed pilots who participated in the training, certifying that the applicant has demonstrated sufficient knowledge and shiphandling skills to pilot ocean-going ships up to 600 feet L.O.A. on the pilotage ground.

(5) When applying for a license on the Coos Bay bar pilotage ground, the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels, or, notwithstanding subsection (3), hold and have served at least five years under an unlimited state pilot's license for a pilotage ground other than Coos Bay Bar or Yaquina Bay Bar;

(b) Hold a federal Master's license with an unlimited federal pilot's endorsement for the Coos Bay bar pilotage ground;

(c) Complete at least one hundred (100) crossings of the Coos Bay bar while under the supervision of an unlimited state-licensed Coos Bay bar pilot, with at least ten crossings with each unlimited state-licensed Coos Bay bar pilot and with at least 25 of the bar crossings completed during hours of darkness;

(d) Dock and undock at least 25 ships under the supervision of an unlimited state-licensed pilot;

(e) Make at least 25 trips through each of the bridges; and

(f) Submit letters from each of the Coos Bay bar pilots who have supervised the training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(6) When applying for a license on the Yaquina Bay bar pilotage ground the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels, or, notwithstanding subsection (3), hold and have served at least five years under an unlimited state pilot's license for a pilotage ground other than Coos Bay Bar or Yaquina Bay Bar;

(b) Hold a federal Master's license with an unlimited federal pilots' endorsement for the Yaquina Bay bar pilotage ground;

(c) Complete at least one hundred (100) crossings of the Yaquina Bay bar while under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing two years of piloting with a state license in Coos Bay, the number of bar crossings at Yaquina Bay may be reduced to 12, with at least one such crossing with each unlimited state-licensed Yaquina Bay bar pilot and with at least twenty-five percent (25%) of the bar crossings completed during the hours of darkness;

(d) Dock and undock at least 25 ships under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing two years of piloting with a state license in Coos Bay, the number of dockings and undockings may be reduced to 12;

(e) Make at least twenty-five (25) trips through the bridge, or after completing two years of piloting with a state license in Coos Bay, the number of trips may be reduced to 12; and

(f) Submit letters from each of the Yaquina Bay bar pilots who have supervised training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(7) When applying for an original license on the Columbia River bar pilotage ground the applicant shall:

(a) Hold a valid license issued by the U.S. Coast Guard as "Unlimited Master any oceans — any tonnage", endorsed for Radar Observer;

(b) Have served at least two years as Master of an offshore merchant ship of 5,000 gross tons or more, certified by Certificates of Discharge or Continuous Discharge Book;

(c) Obtain a federal pilot's endorsement for the Columbia River bar pilotage ground, after which a minimum of one hundred (100) crossings of the Columbia River bar shall be made under the supervision of an unlimited state-licensed pilot, and make crossings with at least five unlimited state-licensed Columbia River bar pilots;

(d) Be on board a minimum of ten ships docking or undocking from the Astoria Port Docks, Tongue Point, and other facilities;

(e) Make approximately twenty-five percent (25%) of the crossings of the Columbia River bar during the hours of darkness.

Stat. Auth.: ORS 776.115

Stats. Implemented: ORS 776.115 & 776.300

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; PC 7, f. 6-13-73, ef. 7-15-73; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 3-1995, f. & cert. ef. 3-16-95; MP 1-1996, f. & cert. ef. 5-9-96; BMP 2-1999, f. & cert. ef. 6-24-99; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2003, f. & cert. ef. 2-26-03; BMP 3-2006, f. 9-29-06, cert. ef. 10-1-06; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 2-2007, f. & cert. ef. 5-22-07; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 2-2009, f. 6-19-09, cert. ef. 6-23-09; BMP 4-2009, f. & cert. ef. 8-5-09; BMP 4-2011, f. 6-28-11, cert. ef. 6-29-11; 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 3-2016, f. & cert. ef. 3-31-16

856-010-0026

Pilot Trainee Selection — Coos Bay Bar and Yaquina Bay Bar Pilotage Grounds

(1) Applicants for trainee positions must submit their applications to the Board of Maritime Pilots on forms provided by the Board. When the Board determines that a need for a trainee exists, it shall select from among the eligible applicants the best qualified for training. Selection must be based upon numerical ranking according to the point system set forth below. The person selected shall be appointed for training on both pilotage grounds.

(2) Applicants for trainee positions shall be ranked based upon a point system, with points awarded for each of the following categories:

(a) Academic:

(A) Graduation from high school or equivalent certification: 10 points.

(B) Two or more years at an accredited college or university: 5 points.

(C) Post-graduate or professional degree: 5 points.

(D) Completion of a four-year course of study at an accredited maritime academy: 15 points.

(E) Maximum total points under this section is 25.

(b) Previous Maritime Experience and Licensure:

(A) Federal First Class Pilot License for the Coos Bay Bar or the Yaquina Bay Bar: 15 points.

(B) Federal First Class Pilot License for a pilotage ground other than Coos Bay Bar or Yaquina Bay Bar: 10 points.

(C) Federal Unlimited 3rd, 2nd or Chief Mate License, any oceans: 5 points.

(D) Federal unlimited radar observer endorsement: 5 points.

(E) 1,460 or more active working days as master of towing vessels: 15 points.

(F) 1,460 or more working days as master of vessels greater than 1600 gross tons: 15 points.

(G) 50 or more crossings of the Coos Bay or Yaquina Bay Bar as master of towing vessels or master of vessels greater than 1600 gross tons: 15 points.

(H) Five or more years' service as an unlimited state-licensed pilot for a pilotage ground other than Coos Bay Bar or Yaquina Bay Bar: 2 points.

(I) Additional certified training in each of the following categories: Bridge Resources Management, Emergency Medical Training, Hazardous Materials, Marine Firefighting, Oil Spill Control: 1 point each, up to a maximum of 5 points.

(J) Maximum total points under this section is 55.

(c) Interview: Every applicant with a combined point total of 35 or more from points awarded under subsections (a) and (b) shall be interviewed by three or more members of the Board, provided at least one member is a public member, one member is a pilot member from the Coos Bay Bar or Yaquina Bay Bar Pilotage Ground, and one member is a member engaged in the activities of a company that operates commercial ocean-going vessels. Each person interviewed shall be assigned from 0 to 35 points based on the interviewee's poise and confidence, potential as an asset to the pilotage system, recommendations from within the maritime community, knowledge of trade and commerce, and such other factors as may be deemed relevant by the Board.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115, 776.300

Hist.: BMP 1-2006, f. & cert. ef. 1-30-06; BMP 3-2016, f. & cert. ef. 3-31-16

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Repeals rules related to highly qualified requirements and outdated rules.

Adm. Order No.: TSPC 2-2016

Filed with Sec. of State: 4-15-2016

Certified to be Effective: 4-15-16

Notice Publication Date: 3-1-2016

Rules Repealed: 584-018-0110(T), 584-210-0120, 584-100-0002, 584-100-0006, 584-100-0007, 584-100-0008, 584-100-0011, 584-100-0016, 584-100-0017, 584-100-0021, 584-100-0026, 584-100-0031, 584-100-0036, 584-100-0038, 584-100-0041(T), 584-100-0051, 584-100-0056, 584-100-0061, 584-100-0066, 584-100-0071, 584-100-0091, 584-100-0096, 584-100-0111

ADMINISTRATIVE RULES

Subject: Repeals rules related to federal requirements for highly qualified under former ESEA. Repeals outdated program standard.
Rules Coordinator: Victoria Chamberlain—(503) 378-6813

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Water Resources Department
Chapter 690

Rule Caption: Malheur Lake Basin Program
Adm. Order No.: WRD 2-2016
Filed with Sec. of State: 4-14-2016
Certified to be Effective: 4-15-16
Notice Publication Date: 2-1-2016
Rules Adopted: 690-512-0010, 690-512-0020, 690-512-0090
Rules Repealed: 690-512-0040

Subject: 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—(503) 986-0874

690-512-0010
Classifications

(1) Except as provided in OAR 690-512-0020, the groundwater and surface water of the Malheur Lake Basin are classified for direct appropriation of, or storage and use of, water for domestic, livestock, irrigation, municipal, quasi-municipal, industrial, mining, agricultural water use, commercial, power development, forest management, public uses, road watering, dust abatement and wildlife refuge management.

(2) Definitions of classified uses. Except as specified in these rules, and unless the context requires otherwise, the definitions in OAR 690-300-0010 apply except that “public uses” are defined in OAR 690-077-0010(27). “Exempt groundwater uses” are those uses defined in ORS 537.545.

NOTE: The Malheur Lake Basin is delineated on the agency Map 12.6, dated January 1, 1966.
Stat. Auth.: 536.300, 536.340 & 537
Stats. Implemented:
Hist.: WRD 2-2016, f. 4-14-16, cert. ef. 4-15-16

690-512-0020
Groundwater use in the Greater Harney Valley Groundwater Area of Concern

(1) The Greater Harney Valley Groundwater Area of Concern (GHVGAC) is established to ensure that groundwater in the GHVGAC is appropriated within the capacity of the resource and that new appropriations of groundwater assure the maintenance of reasonably stable groundwater levels and prevent depletion of the groundwater resource. Current data, comprising substantial evidence, indicate that groundwater levels are declining in areas of the GHVGAC. Additional allocation of groundwater within the

GHVGAC 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. Subject to further study, the Department will not allocate additional groundwater permits unless the permit is issued consistent with OAR 690-512 rules. For the purpose of this rule, the GHVGAC is as described and shown in Exhibit 1.

(2) Except as provided in subsections (4), (5), (6), and (7) of this section, groundwater in the GHVGAC is classified only for exempt groundwater uses as specified in ORS 537.545.

(3) In processing applications to appropriate and use groundwater within the GHVGAC, the Department may not find that the proposed use will ensure the preservation of the public welfare, safety and health unless the use is classified, and unless water is available for the proposed new use as described in subsections (4), (5), (6), and (7) of this section.

(4) Voluntary Cancellations for Groundwater Availability. Notwithstanding OAR 690-300-0010(57) and except for exempt groundwater uses, for the purposes of processing applications pursuant to ORS 537.621 and OAR 690-310-0130, an applicant who agrees to application of these rules to a completed pending application may request the Department find that groundwater is available for the proposed use(s) in the GHVGAC consistent with this subsection. In reviewing an application for a permit to appropriate groundwater, the Department may find that groundwater is available if:

(a) The proposed use does not have the potential for substantial interference as determined pursuant to OAR 690-009; and,

(b) The total rate and duty of the proposed groundwater use is offset by the contemporaneous and voluntary cancellation or partial cancellation of an existing primary groundwater certificate or primary permit within the GHVGAC as provided in subsection (c) of this section; and,

(c) The primary groundwater certificate or primary groundwater permit that is voluntarily cancelled or partially cancelled is not subject to forfeiture or cancellation for non-use and is equal or greater in rate, duty and acreage as compared to the rate, duty and acreage of the new appropriation sought; and,

(d) The application was pending and the groundwater right being cancelled was subject to transfer, permit amendment, or has a pending application for an extension of time that is subsequently approved, as of April 15, 2016; and the applicant has provided confirmed offset water to the Department by April 15, 2019.

(e) Notwithstanding subsection (2) of this section, if groundwater is available for a proposed new use consistent with this subsection and if the use is the type of use described in OAR 690-512-0010(1), the proposed use will be considered a classified use.

(5) Any primary permits or primary certificates that are voluntarily cancelled or partially cancelled within the GHVGAC that have not been specifically identified as offset for an application pending before the Department under section (4) will be made available for offset for pending applications under section (4) on the basis of priority determined by the tentative priority date.

(6) Groundwater Availability Where Voluntary Cancellation is not Sought. If an applicant does not elect to pursue processing of a pending groundwater application under subsection (4) of this section, and the well or wells associated with the pending application are located in the Northwest or South sub-areas of the GHVGAC, the applicant may request the Department to process a pending application pursuant to this subsection. These two sub-area locations are shown on Exhibit 1, and are designated based on limited groundwater level trend information. For the purposes of this subsection and processing applications pursuant to ORS 537.621 and OAR 690-310-0130, and notwithstanding OAR 690-300-0010(57), groundwater is available for appropriation to new proposed uses on pending applications in these sub-areas in the GHVGAC, if:

(a) The proposed use does not have the potential for substantial interference pursuant to OAR 690-009;

(b) Since April 15, 2016, there has not been a total of 7,600 acre feet of irrigation permits issued in the Northwest sub-area, and 1,660 acre feet of irrigation permits in the South sub-area. For the purposes of allocating water under this subsection, applications will be processed in the order they are received by the Department.

(c) Permits issued according to this subsection shall be conditioned to prohibit use of water if, based on the Department’s Harney Basin groundwater study, the Department cannot make a finding that the groundwater use is within the capacity of the resource, is not over appropriated, or will not cause injury to senior water users. The permit holder may provide offset water in the manner described in subsection (4) within three years of the final report being issued. The Department shall make the findings described

ADMINISTRATIVE RULES

in this subsection for each permit issued under Section 6 within one year of completing the Harney Basin groundwater study. The Department's findings described in this subsection shall include site-specific substantial evidence.

(d) The application was pending as of April 15, 2016, and the applicant confirms to the Department in writing, within 6 months of April 15, 2016, that they wish for their permit to be issued under section (6) of these rules.

(e) If groundwater is available for a proposed new use consistent with this subsection and if the use is the type of use described in OAR 690-512-0010(1), the proposed use will be considered a classified use.

(7) Each permit issued according to subsections (4) and (6) must be conditioned as follows:

(a) Include a requirement for construction of a dedicated observation well at a location determined by the Department, to the same depth as the production well, within 6 months of permit issuance, or the permit may be cancelled. This 6 month deadline shall not be extended. Failure to construct a dedicated observation well within 6 months of permit issuance shall cause the watermaster to regulate off any future use under the permit.

(b) All groundwater pumping authorized by this permit is prohibited if March groundwater levels indicate 18 feet or more of decline has occurred, as measured in the observation well or any authorized irrigation well, when compared to the first March measurement. Subsequent groundwater pumping may occur with Department approval during the year(s) a subsequent March groundwater level measurement indicates the groundwater level at the observation well has recovered to less than 18 feet of decline when compared to the first March measurement.

(c) Notwithstanding OAR 690-008-0001(8b and 8c), all permits issued in the GHVGAC must include the following condition: Any well authorized under this permit shall be located more than 1,320 feet from any existing senior exempt, permitted or certificated well(s) not owned by the permit holder. Any well authorized on this permit, when located between 1,320 feet and 2,640 feet of any senior exempt, permitted or certificated well not owned by the permit holder, shall immediately cease pumping groundwater if Department staff, during investigation of a complaint, determine 10 feet or more of measured groundwater level interference related to the authorized well use has occurred in the complainant's senior exempt, permitted or certificated well.

(8) The Department shall keep an accounting, and track the status of, existing groundwater permits, certificates and groundwater applications pending within the GHVGAC as of April 15, 2016. This information shall be provided to any person upon request. Updated information shall also be kept and made available at the Watermaster's office in Burns.

(9) The Department shall report annually on the implementation of these rules to the Water Resources Commission early each calendar year beginning in 2017. The Commission may amend these rules to adjust the boundaries of the GHVGAC, or amend or repeal these rules. The

Department's report to the Commission shall include at least the following information:

(a) New groundwater permits issued within the GHVGAC after April 15, 2016;

(b) An update on groundwater level data, and the groundwater study to assist the Department and Commission in understanding the aquifer system in the study area, and;

(c) Staff recommendations, if any, regarding whether this section of rules should be amended or repealed.

(10) The Department study referenced in 690-512-0020(1) shall be designed to collect substantial data on the groundwater flow system in the GHVGAC. The final report containing study findings shall be scientifically peer-reviewed. The study is planned to be completed by the end of the year 2020.

(11) The Department shall plan and conduct the study in coordination with a local Groundwater Study Advisory Committee (SAC) to be jointly appointed by the Department and the Harney County Court. The committee may include, but not be limited to: local irrigators, well drillers, irrigation/pump contractors, members of the scientific community, a representative of the Harney County Court, conservation and instream interests, and interested members of the public. The Department will work with the SAC and individual water users to encourage the collection and use of hydrogeologic data. As part of the study process, the Department shall review and consider relevant data provided by or through the Groundwater SAC. The Department shall report quarterly to the Groundwater SAC to provide updates on the study status, data analyses and preliminary findings, and shall collaborate with the SAC with regard to actions and decisions that may result from the study. The Department shall provide the SAC a draft of the groundwater study report for review and comment prior to publishing the final report. The final groundwater study report shall be peer-reviewed.

(12) Within 1 year after the Groundwater Study discussed in subsection 11 has been published by the Department, the Department will convene a Rules Advisory Committee to explore whether there is a need for updates or changes to these rules. Members of the Groundwater Study Advisory Committee will be invited to participate on the Rules Advisory Committee.

NOTE: Exhibits referenced are available from the agency.

Stat. Auth.: ORS 536.340(1)(a), 537.525(3),(5),(7) and (8), 537.621(2), 537.777(1), & 537.780(1) and (1)(h)

Stats. Implemented:

Hist.: WRD 2-2016, f. 4-14-16, cert. ef. 4-15-16

690-512-0090

Whitehorse and Willow Creeks

Willow Creek and tributaries, and Whitehorse Creek and tributaries are withdrawn from future appropriations except as described in the order of the Water Resources Commission effective April 24, 1992.

Stat. Auth.: ORS 536.410

Stats. Implemented: ORS 536.410

Hist.: WRD 2-2016, f. 4-14-16, cert. ef. 4-15-16

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
104-080-0000	12-1-2015	Amend	1-1-2016	123-042-0122(T)	2-29-2016	Repeal	4-1-2016
104-080-0010	12-1-2015	Repeal	1-1-2016	123-042-0132	2-29-2016	Amend	4-1-2016
104-080-0020	12-1-2015	Repeal	1-1-2016	123-042-0132(T)	2-29-2016	Repeal	4-1-2016
104-080-0021	12-1-2015	Repeal	1-1-2016	123-042-0155	2-29-2016	Amend	4-1-2016
104-080-0022	12-1-2015	Repeal	1-1-2016	123-042-0155(T)	2-29-2016	Repeal	4-1-2016
104-080-0023	12-1-2015	Repeal	1-1-2016	123-042-0165	2-29-2016	Amend	4-1-2016
104-080-0024	12-1-2015	Repeal	1-1-2016	123-042-0165(T)	2-29-2016	Repeal	4-1-2016
104-080-0025	12-1-2015	Repeal	1-1-2016	123-042-0175	2-29-2016	Amend	4-1-2016
104-080-0026	12-1-2015	Repeal	1-1-2016	123-042-0175(T)	2-29-2016	Repeal	4-1-2016
104-080-0027	12-1-2015	Repeal	1-1-2016	123-042-0180	2-29-2016	Amend	4-1-2016
104-080-0028	12-1-2015	Repeal	1-1-2016	123-042-0180(T)	2-29-2016	Repeal	4-1-2016
104-080-0030	12-1-2015	Repeal	1-1-2016	123-042-0190(T)	2-29-2016	Repeal	4-1-2016
104-080-0040	12-1-2015	Repeal	1-1-2016	123-052-1100	2-9-2016	Amend(T)	3-1-2016
104-080-0050	12-1-2015	Repeal	1-1-2016	123-052-1850	2-9-2016	Adopt(T)	3-1-2016
104-080-0060	12-1-2015	Repeal	1-1-2016	123-200-1000	1-5-2016	Amend	2-1-2016
104-080-0070	12-1-2015	Repeal	1-1-2016	123-200-1100	1-5-2016	Amend	2-1-2016
104-080-0100	12-1-2015	Adopt	1-1-2016	123-200-1200	1-5-2016	Repeal	2-1-2016
104-080-0110	12-1-2015	Adopt	1-1-2016	123-200-1210	1-5-2016	Adopt	2-1-2016
104-080-0120	12-1-2015	Adopt	1-1-2016	123-200-1220	1-5-2016	Adopt	2-1-2016
104-080-0125	12-1-2015	Adopt	1-1-2016	123-200-1230	1-5-2016	Adopt	2-1-2016
104-080-0135	12-1-2015	Adopt	1-1-2016	123-200-1240	1-5-2016	Adopt	2-1-2016
104-080-0140	12-1-2015	Adopt	1-1-2016	123-200-1300	1-5-2016	Amend	2-1-2016
104-080-0150	12-1-2015	Adopt	1-1-2016	123-200-1400	1-5-2016	Amend	2-1-2016
104-080-0160	12-1-2015	Adopt	1-1-2016	123-200-1500	1-5-2016	Amend	2-1-2016
104-080-0165	12-1-2015	Adopt	1-1-2016	123-200-1600	1-5-2016	Amend	2-1-2016
104-080-0170	12-1-2015	Adopt	1-1-2016	123-200-1700	1-5-2016	Amend	2-1-2016
104-080-0180	12-1-2015	Adopt	1-1-2016	123-200-1800	1-5-2016	Amend	2-1-2016
104-080-0190	12-1-2015	Adopt	1-1-2016	123-200-1900	1-5-2016	Amend	2-1-2016
104-080-0195	12-1-2015	Adopt	1-1-2016	123-200-2000	1-5-2016	Amend	2-1-2016
104-080-0200	12-1-2015	Adopt	1-1-2016	123-200-2100	1-5-2016	Am. & Ren.	2-1-2016
104-080-0210	12-1-2015	Adopt	1-1-2016	123-200-2200	1-5-2016	Amend	2-1-2016
105-040-0040	3-1-2016	Amend(T)	3-1-2016	123-200-2210	1-5-2016	Adopt	2-1-2016
105-040-0065	3-1-2016	Amend(T)	3-1-2016	123-623-1000	1-29-2016	Amend	3-1-2016
123-021-0010	4-11-2016	Amend(T)	5-1-2016	123-623-1100	1-29-2016	Amend	3-1-2016
123-021-0015	4-11-2016	Amend(T)	5-1-2016	123-623-1115	1-29-2016	Adopt	3-1-2016
123-021-0020	4-11-2016	Amend(T)	5-1-2016	123-623-1250	1-29-2016	Amend	3-1-2016
123-021-0050	4-11-2016	Amend(T)	5-1-2016	123-623-1300	1-29-2016	Amend	3-1-2016
123-021-0080	4-11-2016	Amend(T)	5-1-2016	123-623-1400	1-29-2016	Amend	3-1-2016
123-021-0090	4-11-2016	Amend(T)	5-1-2016	123-623-1500	1-29-2016	Amend	3-1-2016
123-021-0110	4-11-2016	Amend(T)	5-1-2016	123-623-1525	1-29-2016	Amend	3-1-2016
123-042-0020	2-29-2016	Amend	4-1-2016	123-623-1600	1-29-2016	Amend	3-1-2016
123-042-0020(T)	2-29-2016	Repeal	4-1-2016	123-623-1700	1-29-2016	Amend	3-1-2016
123-042-0026	2-29-2016	Amend	4-1-2016	123-623-1800	1-29-2016	Amend	3-1-2016
123-042-0026(T)	2-29-2016	Repeal	4-1-2016	123-623-1900	1-29-2016	Amend	3-1-2016
123-042-0036(T)	2-29-2016	Repeal	4-1-2016	123-623-1950	1-29-2016	Amend	3-1-2016
123-042-0038	2-29-2016	Amend	4-1-2016	123-623-2000	1-29-2016	Amend	3-1-2016
123-042-0038(T)	2-29-2016	Repeal	4-1-2016	123-623-3000	1-29-2016	Amend	3-1-2016
123-042-0045	2-29-2016	Amend	4-1-2016	123-623-3200	1-29-2016	Amend	3-1-2016
123-042-0045(T)	2-29-2016	Repeal	4-1-2016	123-623-4000	1-29-2016	Amend	3-1-2016
123-042-0055	2-29-2016	Amend	4-1-2016	123-623-4100	1-29-2016	Amend	3-1-2016
123-042-0055(T)	2-29-2016	Repeal	4-1-2016	123-623-4200	1-29-2016	Adopt	3-1-2016
123-042-0061	2-29-2016	Adopt	4-1-2016	123-635-0000	3-28-2016	Amend	5-1-2016
123-042-0065(T)	2-29-2016	Repeal	4-1-2016	123-635-0100	3-28-2016	Amend	5-1-2016
123-042-0076	2-29-2016	Amend	4-1-2016	123-635-0150	3-28-2016	Amend	5-1-2016
123-042-0076(T)	2-29-2016	Repeal	4-1-2016	123-635-0175	3-28-2016	Amend	5-1-2016
123-042-0122	2-29-2016	Amend	4-1-2016	123-635-0200	3-28-2016	Amend	5-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-635-0250	3-28-2016	Amend	5-1-2016	137-050-0735	1-29-2016	Amend(T)	3-1-2016
123-635-0270	3-28-2016	Amend	5-1-2016	137-050-0735	4-1-2016	Amend	5-1-2016
123-635-0300	3-28-2016	Amend	5-1-2016	137-050-0745	1-1-2016	Amend	2-1-2016
123-635-0350	3-28-2016	Amend	5-1-2016	137-055-1140	2-1-2016	Amend	3-1-2016
125-007-0200	1-4-2016	Amend	2-1-2016	137-055-1160	2-1-2016	Amend	3-1-2016
125-007-0210	1-4-2016	Amend	2-1-2016	137-055-3240	1-1-2016	Amend	2-1-2016
125-007-0220	1-4-2016	Amend	2-1-2016	137-055-3300	2-1-2016	Amend	3-1-2016
125-007-0230	1-4-2016	Repeal	2-1-2016	137-055-3490	1-1-2016	Amend	2-1-2016
125-007-0240	1-4-2016	Repeal	2-1-2016	137-055-3660	1-1-2016	Amend	2-1-2016
125-007-0250	1-4-2016	Amend	2-1-2016	137-055-5035	1-1-2016	Amend	2-1-2016
125-007-0260	1-4-2016	Amend	2-1-2016	137-055-5080	1-1-2016	Amend	2-1-2016
125-007-0270	1-4-2016	Amend	2-1-2016	137-055-5110	2-1-2016	Amend	3-1-2016
125-007-0280	1-4-2016	Repeal	2-1-2016	137-055-6220	1-1-2016	Amend	2-1-2016
125-007-0290	1-4-2016	Repeal	2-1-2016	137-055-6240	1-1-2016	Amend	2-1-2016
125-007-0300	1-4-2016	Amend	2-1-2016	137-055-7020	1-1-2016	Repeal	2-1-2016
125-007-0310	1-4-2016	Amend	2-1-2016	137-055-7040	1-1-2016	Amend	2-1-2016
125-007-0320	1-4-2016	Repeal	2-1-2016	137-055-7060	1-1-2016	Amend	2-1-2016
125-007-0330	1-4-2016	Amend	2-1-2016	137-055-7100	1-1-2016	Amend	2-1-2016
125-045-0200	1-7-2016	Amend	2-1-2016	137-055-7120	1-1-2016	Amend	2-1-2016
125-045-0205	1-7-2016	Amend	2-1-2016	137-055-7140	1-1-2016	Amend	2-1-2016
125-045-0225	1-7-2016	Amend	2-1-2016	137-055-7160	1-1-2016	Amend	2-1-2016
125-045-0235	1-7-2016	Amend	2-1-2016	137-055-7160	1-1-2016	Repeal	2-1-2016
125-045-0245	1-7-2016	Amend	2-1-2016	137-055-7180	1-1-2016	Amend	2-1-2016
125-055-0040	1-1-2016	Amend	2-1-2016	137-055-7190	1-1-2016	Amend	2-1-2016
125-246-0100	1-1-2016	Amend	2-1-2016	137-085-0060	2-3-2016	Adopt	3-1-2016
125-246-0110	1-1-2016	Amend	2-1-2016	137-085-0070	2-3-2016	Adopt	3-1-2016
125-246-0135	1-1-2016	Adopt	2-1-2016	137-085-0080	2-3-2016	Adopt	3-1-2016
125-246-0330	1-1-2016	Amend	2-1-2016	137-085-0090	2-3-2016	Adopt	3-1-2016
125-246-0500	1-1-2016	Amend	2-1-2016	141-089-0820	1-2-2016	Amend(T)	2-1-2016
125-247-0100	1-1-2016	Amend	2-1-2016	141-089-0825	1-2-2016	Amend(T)	2-1-2016
125-247-0185	1-1-2016	Adopt	2-1-2016	141-089-0835	1-2-2016	Amend(T)	2-1-2016
125-247-0260	1-1-2016	Amend	2-1-2016	141-093-0185	2-8-2016	Amend	3-1-2016
125-247-0270	1-1-2016	Amend	2-1-2016	141-093-0190	2-8-2016	Amend	3-1-2016
125-247-0500	1-1-2016	Amend	2-1-2016	141-125-0170	12-29-2015	Amend	2-1-2016
125-247-0640	1-1-2016	Amend	2-1-2016	150-118.140	1-1-2016	Amend	2-1-2016
125-248-0100	1-1-2016	Amend	2-1-2016	150-118.NOTE	1-1-2016	Repeal	2-1-2016
125-248-0220	1-1-2016	Amend	2-1-2016	150-183.330(1)	1-1-2016	Am. & Ren.	2-1-2016
125-249-0100	1-1-2016	Amend	2-1-2016	150-192.440	1-1-2016	Amend	2-1-2016
125-249-0120	1-1-2016	Amend	2-1-2016	150-285C.420-(A)	1-1-2016	Adopt	2-1-2016
125-249-0370	1-1-2016	Amend	2-1-2016	150-294.175(1)(c)	1-1-2016	Am. & Ren.	2-1-2016
125-249-0390	1-1-2016	Amend	2-1-2016	150-294.175(2)	1-1-2016	Am. & Ren.	2-1-2016
125-249-0440	1-1-2016	Amend	2-1-2016	150-305.100-(C)	1-1-2016	Repeal	2-1-2016
137-003-0640	2-1-2016	Amend	3-1-2016	150-305.120	1-1-2016	Adopt	2-1-2016
137-020-0020	1-1-2016	Amend	2-1-2016	150-305.145(5)	1-1-2016	Renumber	2-1-2016
137-020-0050	1-1-2016	Amend	2-1-2016	150-305.155-(A)	1-1-2016	Adopt	2-1-2016
137-046-0110	1-1-2016	Amend	2-1-2016	150-305.612	1-1-2016	Amend	2-1-2016
137-046-0140	1-1-2016	Adopt	2-1-2016	150-305.792	12-7-2015	Adopt(T)	1-1-2016
137-046-0200	1-1-2016	Amend	2-1-2016	150-306.125	1-1-2016	Repeal	2-1-2016
137-046-0210	1-1-2016	Amend	2-1-2016	150-306.126(1)	1-1-2016	Am. & Ren.	2-1-2016
137-047-0260	1-1-2016	Amend	2-1-2016	150-306.126(2)	1-1-2016	Am. & Ren.	2-1-2016
137-047-0640	1-1-2016	Amend	2-1-2016	150-306.126(3)-(A)	1-1-2016	Am. & Ren.	2-1-2016
137-048-0220	1-1-2016	Amend	2-1-2016	150-307.242(2)	1-1-2016	Am. & Ren.	2-1-2016
137-049-0120	1-1-2016	Amend	2-1-2016	150-307.405(3)	1-1-2016	Repeal	2-1-2016
137-049-0370	1-1-2016	Amend	2-1-2016	150-308.010	1-1-2016	Amend	2-1-2016
137-049-0390	1-1-2016	Amend	2-1-2016	150-308.205-(A)	1-1-2016	Amend	2-1-2016
137-049-0440	1-1-2016	Amend	2-1-2016	150-308.205-(D)	1-1-2016	Amend	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
150-308.205(2)	1-1-2016	Am. & Ren.	2-1-2016	177-070-0080	2-22-2016	Amend(T)	4-1-2016
150-308.290-(A)	1-1-2016	Repeal	2-1-2016	250-010-0057	4-13-2016	Suspend	5-1-2016
150-308.290-(B)	1-1-2016	Amend	2-1-2016	250-020-0221	4-1-2016	Amend(T)	5-1-2016
150-309.026(2)-(A)	1-1-2016	Am. & Ren.	2-1-2016	250-030-0010	2-1-2016	Repeal	2-1-2016
150-309.110-(A)	1-1-2016	Amend	2-1-2016	250-030-0020	2-1-2016	Repeal	2-1-2016
150-310.110(1)	1-1-2016	Repeal	2-1-2016	250-030-0030	2-1-2016	Repeal	2-1-2016
150-311.234	1-1-2016	Amend	2-1-2016	250-030-0041	2-1-2016	Repeal	2-1-2016
150-314.280-(O)	1-1-2016	Adopt	2-1-2016	250-030-0100	2-1-2016	Adopt	2-1-2016
150-314.280-(O)	1-26-2016	Amend(T)	3-1-2016	250-030-0110	2-1-2016	Adopt	2-1-2016
150-314.297(6)	1-1-2016	Am. & Ren.	2-1-2016	250-030-0120	2-1-2016	Adopt	2-1-2016
150-314.380(2)(B)	1-1-2016	Am. & Ren.	2-1-2016	250-030-0130	2-1-2016	Adopt	2-1-2016
150-314.400(1)	1-1-2016	Am. & Ren.	2-1-2016	250-030-0140	2-1-2016	Adopt	2-1-2016
150-314.402	1-1-2016	Repeal	2-1-2016	250-030-0150	2-1-2016	Adopt	2-1-2016
150-314.402(1)	1-1-2016	Am. & Ren.	2-1-2016	250-030-0160	2-1-2016	Adopt	2-1-2016
150-314.402(6)	1-1-2016	Am. & Ren.	2-1-2016	250-030-0170	2-1-2016	Adopt	2-1-2016
150-314.415(2)(f)-(B)	1-1-2016	Amend	2-1-2016	250-030-0180	2-1-2016	Adopt	2-1-2016
150-314.515(2)	1-1-2016	Am. & Ren.	2-1-2016	255-085-0010	1-27-2016	Adopt	3-1-2016
150-314.665(1)-(A)	1-1-2016	Amend	2-1-2016	255-085-0020	1-27-2016	Adopt	3-1-2016
150-314.665(2)-(C)	1-1-2016	Repeal	2-1-2016	255-085-0030	1-27-2016	Adopt	3-1-2016
150-315.144	1-1-2016	Amend	2-1-2016	255-085-0040	1-27-2016	Adopt	3-1-2016
150-315.521	1-1-2016	Repeal	2-1-2016	255-085-0050	1-27-2016	Adopt	3-1-2016
150-316.583(2)	1-1-2016	Am. & Ren.	2-1-2016	257-070-0010	3-7-2016	Repeal	4-1-2016
150-317.152	1-1-2016	Adopt	2-1-2016	257-070-0015	3-7-2016	Amend	4-1-2016
150-317.717	1-1-2016	Adopt	2-1-2016	257-070-0100	3-7-2016	Adopt	4-1-2016
150-321.207(1)	1-1-2016	Am. & Ren.	2-1-2016	257-070-0110	3-7-2016	Adopt	4-1-2016
150-358.505	1-1-2016	Amend	2-1-2016	257-070-0120	3-7-2016	Adopt	4-1-2016
150-401.794	1-1-2016	Renumber	2-1-2016	257-070-0130	3-7-2016	Adopt	4-1-2016
150-475B.710-(A)	1-4-2016	Adopt(T)	1-1-2016	259-008-0005	1-1-2016	Amend	2-1-2016
150-475B.710-(B)	1-4-2016	Adopt(T)	1-1-2016	259-008-0005	4-1-2016	Amend	5-1-2016
150-475B.710-(C)	1-4-2016	Adopt(T)	1-1-2016	259-008-0010	1-1-2016	Amend	2-1-2016
165-001-0016	1-1-2016	Amend	2-1-2016	259-008-0010	4-1-2016	Amend	5-1-2016
165-001-0025	1-1-2016	Amend	2-1-2016	259-008-0011	4-1-2016	Amend	5-1-2016
165-001-0034	1-1-2016	Amend	2-1-2016	259-008-0015	4-1-2016	Amend	5-1-2016
165-001-0050	1-1-2016	Amend	2-1-2016	259-008-0020	4-1-2016	Amend	5-1-2016
165-001-0095	1-1-2016	Adopt	2-1-2016	259-008-0025	1-1-2016	Amend	2-1-2016
165-005-0055	1-1-2016	Amend	2-1-2016	259-008-0025	3-22-2016	Amend	5-1-2016
165-005-0065	1-1-2016	Amend	2-1-2016	259-008-0030	3-22-2016	Repeal	5-1-2016
165-005-0070	1-1-2016	Amend	2-1-2016	259-008-0035	3-22-2016	Repeal	5-1-2016
165-005-0170	1-1-2016	Adopt	2-1-2016	259-008-0040	1-1-2016	Amend	2-1-2016
165-007-0030	12-11-2015	Amend	1-1-2016	259-008-0060	1-1-2016	Amend	2-1-2016
165-007-0035	1-1-2016	Amend	2-1-2016	259-008-0085	3-22-2016	Amend	5-1-2016
165-010-0005	1-1-2016	Amend	2-1-2016	259-008-0100	1-1-2016	Amend	2-1-2016
165-012-0005	1-1-2016	Amend	2-1-2016	259-009-0059	1-1-2016	Amend	2-1-2016
165-012-0240	1-1-2016	Amend	2-1-2016	259-009-0062	12-22-2015	Amend	2-1-2016
165-013-0010	1-1-2016	Amend	2-1-2016	259-009-0070	1-1-2016	Amend	2-1-2016
165-013-0020	1-1-2016	Amend	2-1-2016	259-060-0010	12-22-2015	Amend	2-1-2016
165-013-0030	1-2-2016	Amend	2-1-2016	259-060-0015	12-22-2015	Amend	2-1-2016
165-014-0005	1-1-2016	Amend	2-1-2016	259-060-0060	3-22-2016	Amend	5-1-2016
165-014-0100	1-1-2016	Amend	2-1-2016	259-060-0120	3-22-2016	Amend	5-1-2016
165-014-0260	1-1-2016	Amend	2-1-2016	259-060-0135	3-22-2016	Amend	5-1-2016
165-014-0280	1-1-2016	Repeal	2-1-2016	259-060-0145	12-22-2015	Amend	2-1-2016
165-016-0000	1-1-2016	Amend	2-1-2016	259-061-0010	3-22-2016	Amend	5-1-2016
170-062-0000	2-10-2016	Amend	3-1-2016	259-061-0018	3-22-2016	Amend	5-1-2016
170-063-0000	2-12-2016	Amend(T)	3-1-2016	259-061-0120	12-22-2015	Amend	2-1-2016
177-010-0094	1-1-2016	Adopt	2-1-2016	259-061-0160	3-22-2016	Amend	5-1-2016
177-040-0003	4-1-2016	Amend(T)	5-1-2016	259-061-0170	3-22-2016	Repeal	5-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
259-061-0250	3-22-2016	Repeal	5-1-2016	330-210-0040	3-15-2016	Amend	4-1-2016
259-061-0300	3-22-2016	Amend	5-1-2016	330-210-0100	3-15-2016	Amend	4-1-2016
274-005-0040	12-28-2015	Amend	2-1-2016	330-210-0110	3-15-2016	Adopt	4-1-2016
274-005-0046	12-28-2015	Adopt	2-1-2016	330-210-0150	3-15-2016	Amend	4-1-2016
291-041-0010	3-24-2016	Amend	5-1-2016	331-710-0050	1-1-2016	Amend	2-1-2016
291-041-0015	3-24-2016	Amend	5-1-2016	333-007-0010	2-8-2016	Amend(T)	3-1-2016
291-041-0016	3-24-2016	Amend	5-1-2016	333-007-0200	2-8-2016	Amend(T)	3-1-2016
291-041-0018	3-24-2016	Amend	5-1-2016	333-008-0000	3-1-2016	Repeal	4-1-2016
291-041-0020	3-24-2016	Amend	5-1-2016	333-008-0010	3-1-2016	Amend	4-1-2016
291-041-0030	3-24-2016	Amend	5-1-2016	333-008-0010(T)	3-1-2016	Repeal	4-1-2016
291-041-0035	3-24-2016	Amend	5-1-2016	333-008-0020	3-1-2016	Amend	4-1-2016
291-082-0110	3-8-2016	Amend	4-1-2016	333-008-0021	3-1-2016	Adopt	4-1-2016
291-167-0005	2-29-2016	Amend	4-1-2016	333-008-0022	3-1-2016	Adopt	4-1-2016
291-167-0010	2-29-2016	Amend	4-1-2016	333-008-0023	3-1-2016	Adopt	4-1-2016
291-167-0015	2-29-2016	Amend	4-1-2016	333-008-0025	3-1-2016	Amend	4-1-2016
291-180-0252	3-1-2016	Amend	4-1-2016	333-008-0025(T)	3-1-2016	Repeal	4-1-2016
291-205-0020	1-21-2016	Amend	3-1-2016	333-008-0030	3-1-2016	Amend	4-1-2016
291-205-0030	1-21-2016	Amend	3-1-2016	333-008-0033	3-1-2016	Adopt	4-1-2016
291-205-0050	1-21-2016	Amend	3-1-2016	333-008-0035	3-1-2016	Adopt	4-1-2016
291-209-0010	1-1-2016	Amend(T)	2-1-2016	333-008-0037	3-1-2016	Adopt	4-1-2016
291-209-0010	3-30-2016	Amend	5-1-2016	333-008-0040	3-1-2016	Amend	4-1-2016
291-209-0010(T)	3-30-2016	Repeal	5-1-2016	333-008-0045	3-1-2016	Amend	4-1-2016
291-209-0020	1-1-2016	Amend(T)	2-1-2016	333-008-0047	3-1-2016	Adopt	4-1-2016
291-209-0020	3-30-2016	Amend	5-1-2016	333-008-0049	3-1-2016	Adopt	4-1-2016
291-209-0020(T)	3-30-2016	Repeal	5-1-2016	333-008-0050	3-2-2016	Repeal	4-1-2016
291-209-0030	1-1-2016	Amend(T)	2-1-2016	333-008-0060	3-1-2016	Repeal	4-1-2016
291-209-0030	3-30-2016	Amend	5-1-2016	333-008-0070	3-1-2016	Repeal	4-1-2016
291-209-0030(T)	3-30-2016	Repeal	5-1-2016	333-008-0080	3-1-2016	Amend	4-1-2016
291-209-0040	1-1-2016	Amend(T)	2-1-2016	333-008-0110	3-1-2016	Amend	4-1-2016
291-209-0040	3-30-2016	Amend	5-1-2016	333-008-0120	3-1-2016	Repeal	4-1-2016
291-209-0040(T)	3-30-2016	Repeal	5-1-2016	333-008-0499	1-1-2016	Adopt(T)	2-1-2016
291-209-0050	1-1-2016	Suspend	2-1-2016	333-008-0499(T)	3-1-2016	Repeal	4-1-2016
291-209-0050	3-30-2016	Repeal	5-1-2016	333-008-0500	1-1-2016	Adopt(T)	2-1-2016
291-209-0050(T)	3-30-2016	Repeal	5-1-2016	333-008-0500	3-1-2016	Adopt	4-1-2016
291-209-0060	1-1-2016	Suspend	2-1-2016	333-008-0500(T)	3-1-2016	Repeal	4-1-2016
291-209-0060	3-30-2016	Repeal	5-1-2016	333-008-0510	1-1-2016	Adopt(T)	2-1-2016
291-209-0060(T)	3-30-2016	Repeal	5-1-2016	333-008-0510	3-1-2016	Adopt	4-1-2016
291-209-0070	1-1-2016	Amend(T)	2-1-2016	333-008-0510(T)	3-1-2016	Repeal	4-1-2016
309-012-0130	11-25-2015	Amend(T)	1-1-2016	333-008-0520	1-1-2016	Adopt(T)	2-1-2016
309-012-0210	11-25-2015	Amend(T)	1-1-2016	333-008-0520	3-1-2016	Adopt	4-1-2016
309-012-0220	11-25-2015	Amend(T)	1-1-2016	333-008-0520(T)	3-1-2016	Repeal	4-1-2016
309-088-0100	4-7-2016	Adopt(T)	5-1-2016	333-008-0530	1-1-2016	Adopt(T)	2-1-2016
309-088-0110	4-7-2016	Adopt(T)	5-1-2016	333-008-0530	3-1-2016	Adopt	4-1-2016
309-088-0120	4-7-2016	Adopt(T)	5-1-2016	333-008-0530(T)	3-1-2016	Repeal	4-1-2016
309-114-0005	11-24-2015	Amend(T)	1-1-2016	333-008-0540	3-1-2016	Adopt	4-1-2016
325-005-0015	1-29-2016	Amend	3-1-2016	333-008-0550	3-1-2016	Adopt	4-1-2016
325-010-0025	1-29-2016	Amend	3-1-2016	333-008-0560	3-1-2016	Adopt	4-1-2016
330-135-0055	1-1-2016	Amend	2-1-2016	333-008-0570	3-1-2016	Adopt	4-1-2016
330-140-0020	12-23-2015	Amend	2-1-2016	333-008-0580	3-1-2016	Adopt	4-1-2016
330-140-0060	12-23-2015	Amend	2-1-2016	333-008-0600	3-1-2016	Adopt	4-1-2016
330-140-0070	12-23-2015	Amend	2-1-2016	333-008-0630	3-1-2016	Adopt	4-1-2016
330-140-0140	12-23-2015	Amend	2-1-2016	333-008-0640	3-1-2016	Adopt	4-1-2016
330-170-0010	3-1-2016	Amend	4-1-2016	333-008-0700	3-1-2016	Adopt	4-1-2016
330-170-0050	3-1-2016	Amend	4-1-2016	333-008-0710	3-1-2016	Adopt	4-1-2016
330-210-0000	3-15-2016	Amend	4-1-2016	333-008-0720	3-1-2016	Adopt	4-1-2016
330-210-0010	3-15-2016	Amend	4-1-2016	333-008-0730	3-1-2016	Adopt	4-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-008-0740	3-1-2016	Adopt	4-1-2016	333-008-1640	3-1-2016	Adopt	4-1-2016
333-008-0750	3-1-2016	Adopt	4-1-2016	333-008-1650	3-1-2016	Adopt	4-1-2016
333-008-1000	3-1-2016	Amend	4-1-2016	333-008-1660	3-1-2016	Adopt	4-1-2016
333-008-1010	3-1-2016	Amend	4-1-2016	333-008-1670	3-1-2016	Adopt	4-1-2016
333-008-1010(T)	3-1-2016	Repeal	4-1-2016	333-008-1680	3-1-2016	Adopt	4-1-2016
333-008-1020	3-1-2016	Amend	4-1-2016	333-008-1690	3-1-2016	Adopt	4-1-2016
333-008-1030	3-1-2016	Amend	4-1-2016	333-008-1700	3-1-2016	Adopt	4-1-2016
333-008-1040	3-1-2016	Amend	4-1-2016	333-008-1710	3-1-2016	Adopt	4-1-2016
333-008-1050	3-1-2016	Amend	4-1-2016	333-008-1720	3-1-2016	Adopt	4-1-2016
333-008-1060	3-1-2016	Amend	4-1-2016	333-008-1730	3-1-2016	Adopt	4-1-2016
333-008-1060(T)	3-1-2016	Repeal	4-1-2016	333-008-1740	3-1-2016	Adopt	4-1-2016
333-008-1063	3-1-2016	Adopt	4-1-2016	333-008-1750	3-1-2016	Adopt	4-1-2016
333-008-1070	3-1-2016	Amend	4-1-2016	333-008-1760	3-1-2016	Adopt	4-1-2016
333-008-1070(T)	3-1-2016	Repeal	4-1-2016	333-008-1770	3-1-2016	Adopt	4-1-2016
333-008-1073	3-1-2016	Adopt	4-1-2016	333-008-1780	3-1-2016	Adopt	4-1-2016
333-008-1075	3-1-2016	Adopt	4-1-2016	333-008-1790	3-1-2016	Adopt	4-1-2016
333-008-1078	3-1-2016	Adopt	4-1-2016	333-008-1800	3-1-2016	Adopt	4-1-2016
333-008-1080	3-1-2016	Repeal	4-1-2016	333-008-1810	3-1-2016	Adopt	4-1-2016
333-008-1090	3-1-2016	Repeal	4-1-2016	333-008-1820	3-1-2016	Adopt	4-1-2016
333-008-1100	3-1-2016	Repeal	4-1-2016	333-008-1830	3-1-2016	Adopt	4-1-2016
333-008-1110	3-1-2016	Amend	4-1-2016	333-008-2000	3-1-2016	Adopt	4-1-2016
333-008-1120	3-1-2016	Repeal	4-1-2016	333-008-2010	3-1-2016	Adopt	4-1-2016
333-008-1130	3-2-2016	Repeal	4-1-2016	333-008-2020	3-1-2016	Adopt	4-1-2016
333-008-1140	3-2-2016	Repeal	4-1-2016	333-008-2030	3-1-2016	Adopt	4-1-2016
333-008-1150	3-2-2016	Repeal	4-1-2016	333-008-2040	3-1-2016	Adopt	4-1-2016
333-008-1160	3-2-2016	Repeal	4-1-2016	333-008-2050	3-1-2016	Adopt	4-1-2016
333-008-1170	3-2-2016	Repeal	4-1-2016	333-008-2060	3-1-2016	Adopt	4-1-2016
333-008-1180	3-2-2016	Repeal	4-1-2016	333-008-2070	3-1-2016	Adopt	4-1-2016
333-008-1190	3-1-2016	Amend	4-1-2016	333-008-2080	3-1-2016	Adopt	4-1-2016
333-008-1200	3-1-2016	Amend	4-1-2016	333-008-2090	3-1-2016	Adopt	4-1-2016
333-008-1205	3-1-2016	Adopt	4-1-2016	333-008-2100	3-1-2016	Adopt	4-1-2016
333-008-1210	3-1-2016	Repeal	4-1-2016	333-008-2110	3-1-2016	Adopt	4-1-2016
333-008-1220	3-1-2016	Amend	4-1-2016	333-008-2120	3-1-2016	Adopt	4-1-2016
333-008-1225	3-1-2016	Amend	4-1-2016	333-008-2130	3-1-2016	Adopt	4-1-2016
333-008-1225	4-15-2016	Amend(T)	5-1-2016	333-008-2140	3-1-2016	Adopt	4-1-2016
333-008-1230	3-1-2016	Amend	4-1-2016	333-008-2150	3-1-2016	Adopt	4-1-2016
333-008-1240	3-1-2016	Repeal	4-1-2016	333-008-2160	3-1-2016	Adopt	4-1-2016
333-008-1245	3-1-2016	Amend	4-1-2016	333-008-2170	3-1-2016	Adopt	4-1-2016
333-008-1247	3-1-2016	Adopt	4-1-2016	333-008-2180	3-1-2016	Adopt	4-1-2016
333-008-1248	3-1-2016	Adopt	4-1-2016	333-008-2190	3-1-2016	Adopt	4-1-2016
333-008-1250	3-1-2016	Repeal	4-1-2016	333-008-2200	3-1-2016	Adopt	4-1-2016
333-008-1260	3-1-2016	Repeal	4-1-2016	333-008-3000	3-1-2016	Adopt	4-1-2016
333-008-1270	3-1-2016	Repeal	4-1-2016	333-008-3010	3-1-2016	Adopt	4-1-2016
333-008-1275	3-1-2016	Repeal	4-1-2016	333-008-9000	1-1-2016	Adopt(T)	2-1-2016
333-008-1280	3-1-2016	Repeal	4-1-2016	333-008-9000(T)	3-1-2016	Repeal	4-1-2016
333-008-1290	3-1-2016	Repeal	4-1-2016	333-008-9900	4-15-2016	Adopt(T)	5-1-2016
333-008-1400	3-1-2016	Repeal	4-1-2016	333-010-0100	4-1-2016	Amend	5-1-2016
333-008-1500	3-1-2016	Adopt	4-1-2016	333-010-0100(T)	4-1-2016	Repeal	5-1-2016
333-008-1500(T)	3-1-2016	Repeal	4-1-2016	333-010-0105	4-1-2016	Amend	5-1-2016
333-008-1501	3-1-2016	Adopt	4-1-2016	333-010-0105(T)	4-1-2016	Repeal	5-1-2016
333-008-1501(T)	3-1-2016	Repeal	4-1-2016	333-010-0110	4-1-2016	Amend	5-1-2016
333-008-1505	3-1-2016	Adopt	4-1-2016	333-010-0110(T)	4-1-2016	Repeal	5-1-2016
333-008-1600	3-1-2016	Adopt	4-1-2016	333-010-0115	4-1-2016	Amend	5-1-2016
333-008-1610	3-1-2016	Adopt	4-1-2016	333-010-0115(T)	4-1-2016	Repeal	5-1-2016
333-008-1620	3-1-2016	Adopt	4-1-2016	333-010-0120	4-1-2016	Amend	5-1-2016
333-008-1630	3-1-2016	Adopt	4-1-2016	333-010-0120(T)	4-1-2016	Repeal	5-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-010-0125	4-1-2016	Amend	5-1-2016	333-050-0110(T)	1-20-2016	Repeal	3-1-2016
333-010-0130	4-1-2016	Amend	5-1-2016	333-052-0040	1-1-2016	Amend	1-1-2016
333-010-0130(T)	4-1-2016	Repeal	5-1-2016	333-052-0043	1-1-2016	Amend	1-1-2016
333-010-0135	4-1-2016	Amend	5-1-2016	333-052-0080	1-1-2016	Amend	1-1-2016
333-010-0140	4-1-2016	Amend	5-1-2016	333-052-0120	1-1-2016	Amend	1-1-2016
333-010-0140(T)	4-1-2016	Repeal	5-1-2016	333-053-0040	1-1-2016	Amend	1-1-2016
333-010-0145	4-1-2016	Amend	5-1-2016	333-053-0050	1-1-2016	Amend	1-1-2016
333-010-0145(T)	4-1-2016	Repeal	5-1-2016	333-053-0080	1-1-2016	Amend	1-1-2016
333-010-0150	4-1-2016	Amend	5-1-2016	333-054-0010	1-1-2016	Amend	1-1-2016
333-010-0155	4-1-2016	Amend	5-1-2016	333-054-0020	1-1-2016	Amend	1-1-2016
333-010-0160	4-1-2016	Amend	5-1-2016	333-054-0050	1-1-2016	Amend	1-1-2016
333-010-0165	4-1-2016	Amend	5-1-2016	333-054-0060	1-1-2016	Amend	1-1-2016
333-010-0175	4-1-2016	Amend	5-1-2016	333-054-0070	1-1-2016	Amend	1-1-2016
333-010-0180	4-1-2016	Amend	5-1-2016	333-055-0000	2-8-2016	Amend	3-1-2016
333-010-0197	4-1-2016	Amend	5-1-2016	333-055-0006	2-8-2016	Amend	3-1-2016
333-010-0197(T)	4-1-2016	Repeal	5-1-2016	333-055-0015	2-8-2016	Amend	3-1-2016
333-012-0500	1-1-2016	Am. & Ren.	2-1-2016	333-055-0021	2-8-2016	Amend	3-1-2016
333-015-0030	1-1-2016	Amend	2-1-2016	333-055-0030	2-8-2016	Amend	3-1-2016
333-015-0035	1-1-2016	Amend	2-1-2016	333-055-0035	2-8-2016	Amend	3-1-2016
333-015-0040	1-1-2016	Amend	2-1-2016	333-061-0020	4-1-2016	Amend	3-1-2016
333-015-0045	1-1-2016	Amend	2-1-2016	333-061-0030	4-1-2016	Amend	3-1-2016
333-015-0064	1-1-2016	Amend	2-1-2016	333-061-0031	4-1-2016	Amend	3-1-2016
333-015-0068	1-1-2016	Amend	2-1-2016	333-061-0032	4-1-2016	Amend	3-1-2016
333-015-0070	1-1-2016	Amend	2-1-2016	333-061-0036	4-1-2016	Amend	3-1-2016
333-015-0075	1-1-2016	Amend	2-1-2016	333-061-0040	4-1-2016	Amend	3-1-2016
333-015-0078	1-1-2016	Amend	2-1-2016	333-061-0042	4-1-2016	Amend	3-1-2016
333-015-0085	1-1-2016	Amend	2-1-2016	333-061-0043	4-1-2016	Amend	3-1-2016
333-015-0200	1-1-2016	Adopt(T)	2-1-2016	333-061-0045	4-1-2016	Amend	3-1-2016
333-015-0205	1-1-2016	Adopt(T)	2-1-2016	333-061-0050	4-1-2016	Amend	3-1-2016
333-015-0210	1-1-2016	Adopt(T)	2-1-2016	333-061-0060	1-1-2016	Amend	1-1-2016
333-015-0215	1-1-2016	Adopt(T)	2-1-2016	333-061-0060	4-1-2016	Amend	3-1-2016
333-015-0220	1-1-2016	Adopt(T)	2-1-2016	333-061-0063	4-1-2016	Amend	3-1-2016
333-016-2000	1-1-2016	Adopt	2-1-2016	333-061-0065	4-1-2016	Amend	3-1-2016
333-016-2010	1-1-2016	Adopt	2-1-2016	333-061-0070	4-1-2016	Amend	3-1-2016
333-016-2020	1-1-2016	Adopt	2-1-2016	333-061-0071	4-1-2016	Amend	3-1-2016
333-016-2030	1-1-2016	Adopt	2-1-2016	333-061-0072	1-1-2016	Amend	1-1-2016
333-018-0015	2-18-2016	Amend(T)	4-1-2016	333-061-0073	1-1-2016	Amend	1-1-2016
333-028-0300	1-29-2016	Adopt	3-1-2016	333-061-0075	4-1-2016	Amend	3-1-2016
333-028-0310	1-29-2016	Adopt	3-1-2016	333-061-0076	1-1-2016	Amend	1-1-2016
333-028-0320	1-29-2016	Adopt	3-1-2016	333-061-0076	4-1-2016	Amend	3-1-2016
333-028-0330	1-29-2016	Adopt	3-1-2016	333-061-0077	4-1-2016	Amend	3-1-2016
333-028-0340	1-29-2016	Adopt	3-1-2016	333-061-0078	4-1-2016	Adopt	3-1-2016
333-028-0350	1-29-2016	Adopt	3-1-2016	333-061-0090	4-1-2016	Amend	3-1-2016
333-050-0010	1-20-2016	Amend	3-1-2016	333-061-0097	4-1-2016	Amend	3-1-2016
333-050-0010(T)	1-20-2016	Repeal	3-1-2016	333-061-0235	4-1-2016	Amend	3-1-2016
333-050-0040	1-20-2016	Amend	3-1-2016	333-061-0265	1-1-2016	Amend	1-1-2016
333-050-0040(T)	1-20-2016	Repeal	3-1-2016	333-064-0005	1-1-2016	Amend(T)	2-1-2016
333-050-0050	1-20-2016	Amend	3-1-2016	333-064-0010	1-1-2016	Amend(T)	2-1-2016
333-050-0050(T)	1-20-2016	Repeal	3-1-2016	333-064-0025	1-1-2016	Amend(T)	2-1-2016
333-050-0080	1-20-2016	Amend	3-1-2016	333-064-0060	1-1-2016	Amend(T)	2-1-2016
333-050-0080(T)	1-20-2016	Repeal	3-1-2016	333-076-0101	2-24-2016	Amend	4-1-2016
333-050-0095	1-20-2016	Amend	3-1-2016	333-076-0135	2-24-2016	Amend	4-1-2016
333-050-0095(T)	1-20-2016	Repeal	3-1-2016	333-076-0137	2-24-2016	Adopt	4-1-2016
333-050-0100	1-20-2016	Amend	3-1-2016	333-103-0025	1-1-2016	Amend	2-1-2016
333-050-0100(T)	1-20-2016	Repeal	3-1-2016	333-200-0000	1-1-2016	Amend	1-1-2016
333-050-0110	1-20-2016	Amend	3-1-2016	333-200-0010	1-1-2016	Amend	1-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-200-0020	1-1-2016	Amend	1-1-2016	340-083-0010	2-4-2016	Amend	3-1-2016
333-200-0030	1-1-2016	Amend	1-1-2016	340-083-0020	2-4-2016	Amend	3-1-2016
333-200-0035	1-1-2016	Amend	1-1-2016	340-083-0030	2-4-2016	Amend	3-1-2016
333-200-0040	1-1-2016	Amend	1-1-2016	340-083-0040	2-4-2016	Amend	3-1-2016
333-200-0050	1-1-2016	Amend	1-1-2016	340-083-0050	2-4-2016	Amend	3-1-2016
333-200-0060	1-1-2016	Amend	1-1-2016	340-083-0070	2-4-2016	Amend	3-1-2016
333-200-0070	1-1-2016	Amend	1-1-2016	340-083-0080	2-4-2016	Amend	3-1-2016
333-200-0080	1-1-2016	Amend	1-1-2016	340-083-0090	2-4-2016	Amend	3-1-2016
333-200-0090	1-1-2016	Amend	1-1-2016	340-083-0100	2-4-2016	Amend	3-1-2016
333-200-0235	1-1-2016	Adopt	1-1-2016	340-083-0500	2-4-2016	Adopt	3-1-2016
333-200-0245	1-1-2016	Adopt	1-1-2016	340-083-0510	2-4-2016	Adopt	3-1-2016
333-200-0250	1-1-2016	Adopt	1-1-2016	340-083-0520	2-4-2016	Adopt	3-1-2016
333-200-0255	1-1-2016	Adopt	1-1-2016	340-083-0530	2-4-2016	Adopt	3-1-2016
333-200-0265	1-1-2016	Adopt	1-1-2016	340-097-0001	2-4-2016	Amend	3-1-2016
333-200-0275	1-1-2016	Adopt	1-1-2016	340-097-0110	2-4-2016	Amend	3-1-2016
333-200-0285	1-1-2016	Adopt	1-1-2016	340-097-0120	2-4-2016	Amend	3-1-2016
333-200-0295	1-1-2016	Adopt	1-1-2016	340-200-0040	12-10-2015	Amend	1-1-2016
333-200-0300	1-1-2016	Adopt	1-1-2016	340-215-0010	12-10-2015	Amend	1-1-2016
333-205-0000	1-1-2016	Amend	1-1-2016	340-215-0020	12-10-2015	Amend	1-1-2016
333-205-0010	1-1-2016	Amend	1-1-2016	340-215-0030	12-10-2015	Amend	1-1-2016
333-205-0020	1-1-2016	Amend	1-1-2016	340-215-0040	12-10-2015	Amend	1-1-2016
333-205-0040	1-1-2016	Amend	1-1-2016	340-215-0060	12-10-2015	Amend	1-1-2016
333-205-0050	1-1-2016	Amend	1-1-2016	340-248-0250	1-1-2016	Amend(T)	1-1-2016
333-265-0056	4-7-2016	Adopt	5-1-2016	340-248-0270	1-1-2016	Amend(T)	1-1-2016
333-500-0045	2-24-2016	Amend	4-1-2016	340-253-0000	1-1-2016	Amend	1-1-2016
333-505-0005	2-24-2016	Amend	4-1-2016	340-253-0040	1-1-2016	Amend	1-1-2016
333-505-0007	2-24-2016	Amend	4-1-2016	340-253-0060	1-1-2016	Amend	1-1-2016
333-505-0030	2-24-2016	Amend	4-1-2016	340-253-0100	1-1-2016	Amend	1-1-2016
333-505-0050	2-24-2016	Amend	4-1-2016	340-253-0200	1-1-2016	Amend	1-1-2016
333-510-0030	2-24-2016	Amend	4-1-2016	340-253-0250	1-1-2016	Amend	1-1-2016
333-515-0030	2-24-2016	Amend	4-1-2016	340-253-0310	1-1-2016	Amend	1-1-2016
333-515-0050	2-24-2016	Repeal	4-1-2016	340-253-0320	1-1-2016	Amend	1-1-2016
333-515-0060	2-24-2016	Repeal	4-1-2016	340-253-0330	1-1-2016	Amend	1-1-2016
333-520-0020	2-24-2016	Amend	4-1-2016	340-253-0340	1-1-2016	Amend	1-1-2016
333-520-0050	2-24-2016	Amend	4-1-2016	340-253-0400	1-1-2016	Amend	1-1-2016
333-525-0000	2-24-2016	Amend	4-1-2016	340-253-0450	1-1-2016	Amend	1-1-2016
333-535-0061	2-24-2016	Amend	4-1-2016	340-253-0500	1-1-2016	Amend	1-1-2016
333-535-0080	2-24-2016	Amend	4-1-2016	340-253-0600	1-1-2016	Amend	1-1-2016
333-535-0110	2-24-2016	Amend	4-1-2016	340-253-0620	1-1-2016	Amend	1-1-2016
340-012-0054	1-1-2016	Amend	1-1-2016	340-253-0630	1-1-2016	Amend	1-1-2016
340-012-0135	1-1-2016	Amend	1-1-2016	340-253-0650	1-1-2016	Amend	1-1-2016
340-012-0140	1-1-2016	Amend	1-1-2016	340-253-1000	1-1-2016	Amend	1-1-2016
340-039-0001	12-10-2015	Adopt	1-1-2016	340-253-1010	1-1-2016	Amend	1-1-2016
340-039-0003	12-10-2015	Adopt	1-1-2016	340-253-1020	1-1-2016	Amend	1-1-2016
340-039-0005	12-10-2015	Adopt	1-1-2016	340-253-1030	1-1-2016	Amend	1-1-2016
340-039-0015	12-10-2015	Adopt	1-1-2016	340-253-1050	1-1-2016	Amend	1-1-2016
340-039-0017	12-10-2015	Adopt	1-1-2016	340-253-2000	1-1-2016	Amend	1-1-2016
340-039-0020	12-10-2015	Adopt	1-1-2016	340-253-2100	1-1-2016	Amend	1-1-2016
340-039-0025	12-10-2015	Adopt	1-1-2016	340-253-2200	1-1-2016	Amend	1-1-2016
340-039-0030	12-10-2015	Adopt	1-1-2016	340-253-8010	1-1-2016	Amend	1-1-2016
340-039-0035	12-10-2015	Adopt	1-1-2016	340-253-8020	1-1-2016	Amend	1-1-2016
340-039-0040	12-10-2015	Adopt	1-1-2016	340-253-8030	1-1-2016	Amend	1-1-2016
340-039-0043	12-10-2015	Adopt	1-1-2016	340-253-8040	1-1-2016	Amend	1-1-2016
340-045-0075	1-1-2016	Amend	1-1-2016	340-253-8050	1-1-2016	Amend	1-1-2016
340-071-0140	1-1-2016	Amend	1-1-2016	340-253-8060	1-1-2016	Amend	1-1-2016
340-071-0140	1-27-2016	Amend	3-1-2016	340-253-8070	1-1-2016	Amend	1-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-253-8080	1-1-2016	Amend	1-1-2016	409-026-0130	3-25-2016	Amend	5-1-2016
407-007-0000	1-14-2016	Amend(T)	2-1-2016	409-026-0130(T)	3-25-2016	Repeal	5-1-2016
407-007-0010	1-14-2016	Amend(T)	2-1-2016	409-026-0140	2-8-2016	Amend(T)	3-1-2016
407-007-0020	1-14-2016	Amend(T)	2-1-2016	409-026-0140	3-25-2016	Amend	5-1-2016
407-007-0030	1-14-2016	Amend(T)	2-1-2016	409-026-0140(T)	3-25-2016	Repeal	5-1-2016
407-007-0050	1-14-2016	Amend(T)	2-1-2016	409-035-0020	11-24-2015	Amend	1-1-2016
407-007-0060	1-14-2016	Amend(T)	2-1-2016	409-035-0020(T)	11-24-2015	Repeal	1-1-2016
407-007-0065	1-14-2016	Amend(T)	2-1-2016	409-055-0010	1-1-2016	Amend(T)	2-1-2016
407-007-0070	1-14-2016	Amend(T)	2-1-2016	409-055-0030	1-1-2016	Amend(T)	2-1-2016
407-007-0075	1-14-2016	Suspend	2-1-2016	409-055-0040	1-1-2016	Amend(T)	2-1-2016
407-007-0080	1-14-2016	Amend(T)	2-1-2016	409-055-0060	1-1-2016	Amend(T)	2-1-2016
407-007-0090	1-14-2016	Amend(T)	2-1-2016	409-055-0070	1-1-2016	Amend(T)	2-1-2016
407-007-0200	1-14-2016	Amend(T)	2-1-2016	410-050-0861	4-1-2016	Amend(T)	5-1-2016
407-007-0210	1-14-2016	Amend(T)	2-1-2016	410-120-0006	1-1-2016	Amend	1-1-2016
407-007-0220	1-14-2016	Amend(T)	2-1-2016	410-120-1340	1-1-2016	Amend(T)	2-1-2016
407-007-0230	1-14-2016	Amend(T)	2-1-2016	410-120-1340	3-1-2016	Amend	4-1-2016
407-007-0240	1-14-2016	Amend(T)	2-1-2016	410-120-1340(T)	3-1-2016	Repeal	4-1-2016
407-007-0250	1-14-2016	Amend(T)	2-1-2016	410-121-0000	1-1-2016	Amend	2-1-2016
407-007-0275	1-14-2016	Amend(T)	2-1-2016	410-121-0030	12-27-2015	Amend	2-1-2016
407-007-0277	1-14-2016	Amend(T)	2-1-2016	410-121-0030	1-1-2016	Amend(T)	2-1-2016
407-007-0280	1-14-2016	Suspend	2-1-2016	410-121-0030(T)	12-27-2015	Repeal	2-1-2016
407-007-0290	1-14-2016	Amend(T)	2-1-2016	410-121-0040	12-27-2015	Amend	2-1-2016
407-007-0300	1-14-2016	Amend(T)	2-1-2016	410-121-0040	1-1-2016	Amend(T)	2-1-2016
407-007-0315	1-14-2016	Amend(T)	2-1-2016	410-121-0040	2-12-2016	Amend(T)	3-1-2016
407-007-0320	1-14-2016	Amend(T)	2-1-2016	410-121-0040(T)	12-27-2015	Repeal	2-1-2016
407-007-0325	1-14-2016	Suspend	2-1-2016	410-121-0135	1-1-2016	Amend	2-1-2016
407-007-0330	1-14-2016	Amend(T)	2-1-2016	410-121-0146	1-1-2016	Amend	2-1-2016
407-007-0350	1-14-2016	Amend(T)	2-1-2016	410-121-4000	1-1-2016	Am. & Ren.	2-1-2016
407-007-0370	1-14-2016	Amend(T)	2-1-2016	410-121-4005	1-1-2016	Am. & Ren.	2-1-2016
407-007-0400	1-14-2016	Suspend	2-1-2016	410-121-4010	1-1-2016	Am. & Ren.	2-1-2016
407-045-0260	2-3-2016	Amend	3-1-2016	410-121-4015	1-1-2016	Renumber	2-1-2016
407-045-0350	2-3-2016	Amend	3-1-2016	410-121-4020	1-1-2016	Renumber	2-1-2016
409-015-0005	3-28-2016	Amend	5-1-2016	410-122-0186	2-3-2016	Amend	3-1-2016
409-015-0010	3-28-2016	Amend	5-1-2016	410-122-0204	3-1-2016	Amend	4-1-2016
409-015-0015	3-28-2016	Amend	5-1-2016	410-122-0211	4-1-2016	Amend	5-1-2016
409-015-0030	3-28-2016	Amend	5-1-2016	410-122-0240	3-1-2016	Amend	4-1-2016
409-015-0035	3-28-2016	Amend	5-1-2016	410-122-0300	3-1-2016	Amend	4-1-2016
409-015-0040	3-28-2016	Repeal	5-1-2016	410-122-0360	3-1-2016	Amend	4-1-2016
409-025-0100	1-5-2016	Amend	2-1-2016	410-122-0365	3-1-2016	Amend	4-1-2016
409-025-0110	1-5-2016	Amend	2-1-2016	410-122-0380	3-1-2016	Amend	4-1-2016
409-025-0120	1-5-2016	Amend	2-1-2016	410-122-0475	3-1-2016	Amend	4-1-2016
409-025-0130	1-5-2016	Amend	2-1-2016	410-122-0480	3-1-2016	Amend	4-1-2016
409-025-0140	1-5-2016	Amend	2-1-2016	410-122-0510	3-1-2016	Amend	4-1-2016
409-025-0150	1-5-2016	Amend	2-1-2016	410-122-0525	3-1-2016	Amend	4-1-2016
409-025-0160	1-5-2016	Amend	2-1-2016	410-122-0640	3-1-2016	Amend	4-1-2016
409-025-0170	1-5-2016	Amend	2-1-2016	410-122-0678	3-1-2016	Amend	4-1-2016
409-026-0100	2-8-2016	Amend(T)	3-1-2016	410-123-1240	12-1-2015	Amend	1-1-2016
409-026-0100	3-25-2016	Amend	5-1-2016	410-123-1240(T)	12-1-2015	Repeal	1-1-2016
409-026-0100(T)	3-25-2016	Repeal	5-1-2016	410-123-1260	1-1-2016	Amend(T)	2-1-2016
409-026-0110	2-8-2016	Amend(T)	3-1-2016	410-123-1260	2-9-2016	Amend(T)	3-1-2016
409-026-0110	3-25-2016	Amend	5-1-2016	410-123-1510	1-1-2016	Adopt(T)	2-1-2016
409-026-0110(T)	3-25-2016	Repeal	5-1-2016	410-130-0200	12-1-2015	Amend(T)	1-1-2016
409-026-0120	2-8-2016	Amend(T)	3-1-2016	410-130-0200	1-1-2016	Amend	2-1-2016
409-026-0120	3-25-2016	Amend	5-1-2016	410-130-0200(T)	1-1-2016	Repeal	2-1-2016
409-026-0120(T)	3-25-2016	Repeal	5-1-2016	410-130-0220	3-4-2016	Amend(T)	4-1-2016
409-026-0130	2-8-2016	Amend(T)	3-1-2016	410-136-3040	1-1-2016	Amend	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-140-0020	3-1-2016	Amend	4-1-2016	410-200-0115	12-22-2015	Amend(T)	2-1-2016
410-140-0040	3-1-2016	Amend	4-1-2016	410-200-0120	12-22-2015	Amend(T)	2-1-2016
410-140-0050	3-1-2016	Amend	4-1-2016	410-200-0125	12-22-2015	Amend(T)	2-1-2016
410-140-0080	3-1-2016	Amend	4-1-2016	410-200-0130	12-22-2015	Amend(T)	2-1-2016
410-140-0120	3-1-2016	Amend	4-1-2016	410-200-0135	12-22-2015	Amend(T)	2-1-2016
410-140-0140	3-1-2016	Amend	4-1-2016	410-200-0140	12-22-2015	Amend(T)	2-1-2016
410-140-0160	3-1-2016	Amend	4-1-2016	410-200-0200	12-22-2015	Amend(T)	2-1-2016
410-140-0200	3-1-2016	Amend	4-1-2016	410-200-0215	12-22-2015	Amend(T)	2-1-2016
410-140-0260	3-1-2016	Amend	4-1-2016	410-200-0230	12-22-2015	Amend(T)	2-1-2016
410-140-0280	3-1-2016	Amend	4-1-2016	410-200-0235	12-22-2015	Amend(T)	2-1-2016
410-140-0300	3-1-2016	Amend	4-1-2016	410-200-0240	12-22-2015	Amend(T)	2-1-2016
410-141-0000	12-10-2015	Amend	1-1-2016	410-200-0310	12-22-2015	Amend(T)	2-1-2016
410-141-0080	12-10-2015	Amend	1-1-2016	410-200-0315	3-1-2016	Amend(T)	4-1-2016
410-141-0085	12-10-2015	Repeal	1-1-2016	410-200-0407	12-18-2015	Adopt(T)	2-1-2016
410-141-0160	12-10-2015	Amend	1-1-2016	410-200-0415	12-22-2015	Amend(T)	2-1-2016
410-141-0220	12-10-2015	Amend	1-1-2016	410-200-0425	12-22-2015	Amend(T)	2-1-2016
410-141-0320	12-10-2015	Amend	1-1-2016	410-200-0440	12-22-2015	Amend(T)	2-1-2016
410-141-0340	12-10-2015	Amend	1-1-2016	410-200-0500	12-22-2015	Suspend	2-1-2016
410-141-0410	12-10-2015	Repeal	1-1-2016	410-200-0505	12-22-2015	Amend(T)	2-1-2016
410-141-0420	12-10-2015	Amend	1-1-2016	410-200-0510	12-22-2015	Amend(T)	2-1-2016
410-141-0520	1-1-2016	Amend(T)	2-1-2016	411-004-0000	1-1-2016	Adopt	1-1-2016
410-141-0520	3-1-2016	Amend	4-1-2016	411-004-0010	1-1-2016	Adopt	1-1-2016
410-141-0520(T)	3-1-2016	Repeal	4-1-2016	411-004-0020	1-1-2016	Adopt	1-1-2016
410-141-0660	12-10-2015	Repeal	1-1-2016	411-004-0020	1-1-2016	Amend	2-1-2016
410-141-0680	12-10-2015	Repeal	1-1-2016	411-004-0030	1-1-2016	Adopt	1-1-2016
410-141-0700	12-10-2015	Repeal	1-1-2016	411-004-0040	1-1-2016	Adopt	1-1-2016
410-141-0720	12-10-2015	Repeal	1-1-2016	411-020-0002	1-1-2016	Amend(T)	2-1-2016
410-141-0740	12-10-2015	Repeal	1-1-2016	411-027-0005	3-18-2016	Amend	4-1-2016
410-141-0760	12-10-2015	Repeal	1-1-2016	411-027-0005(T)	3-18-2016	Repeal	4-1-2016
410-141-0780	12-10-2015	Repeal	1-1-2016	411-027-0170	3-18-2016	Adopt	4-1-2016
410-141-0800	12-10-2015	Repeal	1-1-2016	411-027-0170(T)	3-18-2016	Repeal	4-1-2016
410-141-0820	12-10-2015	Repeal	1-1-2016	411-030-0020	3-18-2016	Amend	4-1-2016
410-141-0840	12-10-2015	Repeal	1-1-2016	411-030-0020(T)	3-18-2016	Repeal	4-1-2016
410-141-0860	12-10-2015	Amend	1-1-2016	411-030-0068	3-18-2016	Adopt	4-1-2016
410-141-3040	1-7-2016	Adopt	2-1-2016	411-030-0068(T)	3-18-2016	Repeal	4-1-2016
410-141-3040(T)	1-7-2016	Repeal	2-1-2016	411-030-0070	3-18-2016	Amend	4-1-2016
410-141-3060	1-1-2016	Amend(T)	2-1-2016	411-030-0070(T)	3-18-2016	Repeal	4-1-2016
410-141-3080	12-10-2015	Amend	1-1-2016	411-030-0080	3-18-2016	Amend	4-1-2016
410-141-3080	1-1-2016	Amend(T)	2-1-2016	411-030-0080(T)	3-18-2016	Repeal	4-1-2016
410-141-3150	1-1-2016	Adopt	2-1-2016	411-030-0100	3-18-2016	Amend	4-1-2016
410-141-3150(T)	1-1-2016	Repeal	2-1-2016	411-030-0100(T)	3-18-2016	Repeal	4-1-2016
410-141-3267	12-27-2015	Adopt	2-1-2016	411-031-0020	3-2-2016	Amend(T)	4-1-2016
410-141-3267(T)	12-27-2015	Repeal	2-1-2016	411-031-0020	3-23-2016	Amend(T)	5-1-2016
410-141-3345	1-1-2016	Amend(T)	2-1-2016	411-031-0020(T)	3-23-2016	Suspend	5-1-2016
410-141-3345	3-1-2016	Amend	3-1-2016	411-031-0040	3-2-2016	Amend(T)	4-1-2016
410-141-3345(T)	3-1-2016	Repeal	3-1-2016	411-031-0040	3-23-2016	Amend(T)	5-1-2016
410-141-3440	1-1-2016	Amend	2-1-2016	411-031-0040(T)	3-23-2016	Suspend	5-1-2016
410-170-0110	2-7-2016	Amend(T)	3-1-2016	411-031-0050	3-2-2016	Amend(T)	4-1-2016
410-170-0110	2-23-2016	Amend	4-1-2016	411-031-0050	3-23-2016	Amend(T)	5-1-2016
410-170-0110(T)	2-23-2016	Repeal	4-1-2016	411-031-0050(T)	3-23-2016	Suspend	5-1-2016
410-172-0660	4-15-2016	Amend(T)	5-1-2016	411-032-0050	12-27-2015	Amend	1-1-2016
410-200-0015	12-22-2015	Amend(T)	2-1-2016	411-032-0050(T)	12-27-2015	Repeal	1-1-2016
410-200-0100	12-22-2015	Amend(T)	2-1-2016	411-050-0602	1-1-2016	Amend(T)	2-1-2016
410-200-0105	12-22-2015	Amend(T)	2-1-2016	411-050-0615	1-1-2016	Amend(T)	2-1-2016
410-200-0110	12-22-2015	Amend(T)	2-1-2016	411-050-0630	1-1-2016	Amend(T)	2-1-2016
410-200-0111	12-22-2015	Amend(T)	2-1-2016	411-050-0632	1-1-2016	Amend(T)	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-050-0635	1-1-2016	Amend(T)	2-1-2016	411-325-0300	1-1-2016	Amend(T)	2-1-2016
411-050-0642	1-1-2016	Amend(T)	2-1-2016	411-325-0390	1-1-2016	Amend(T)	2-1-2016
411-050-0645	1-1-2016	Amend(T)	2-1-2016	411-325-0430	1-1-2016	Amend(T)	2-1-2016
411-050-0650	1-1-2016	Amend(T)	2-1-2016	411-328-0550	1-1-2016	Amend(T)	2-1-2016
411-050-0655	1-1-2016	Amend(T)	2-1-2016	411-328-0560	1-1-2016	Amend(T)	2-1-2016
411-050-0662	1-1-2016	Amend(T)	2-1-2016	411-328-0625	1-1-2016	Adopt(T)	2-1-2016
411-050-0665	1-1-2016	Amend(T)	2-1-2016	411-328-0630	1-1-2016	Amend(T)	2-1-2016
411-050-0670	1-1-2016	Amend(T)	2-1-2016	411-328-0650	1-1-2016	Amend(T)	2-1-2016
411-050-0685	1-1-2016	Amend(T)	2-1-2016	411-328-0720	1-1-2016	Amend(T)	2-1-2016
411-054-0000	1-1-2016	Amend(T)	2-1-2016	411-328-0750	1-1-2016	Amend(T)	2-1-2016
411-054-0005	1-1-2016	Amend(T)	2-1-2016	411-328-0790	1-1-2016	Amend(T)	2-1-2016
411-054-0012	1-1-2016	Amend(T)	2-1-2016	411-330-0020	1-1-2016	Amend(T)	2-1-2016
411-054-0025	1-1-2016	Amend(T)	2-1-2016	411-330-0050	1-1-2016	Amend(T)	2-1-2016
411-054-0027	1-1-2016	Amend(T)	2-1-2016	411-330-0060	1-1-2016	Amend(T)	2-1-2016
411-054-0036	1-1-2016	Amend(T)	2-1-2016	411-330-0070	1-1-2016	Amend(T)	2-1-2016
411-054-0038	1-1-2016	Adopt(T)	2-1-2016	411-330-0080	1-1-2016	Amend(T)	2-1-2016
411-070-0437	4-1-2016	Amend(T)	5-1-2016	411-330-0110	1-1-2016	Amend(T)	2-1-2016
411-070-0442	4-1-2016	Amend(T)	5-1-2016	411-340-0020	1-1-2016	Amend(T)	2-1-2016
411-070-0470	4-1-2016	Amend	4-1-2016	411-340-0030	1-1-2016	Amend(T)	2-1-2016
411-089-0030	4-1-2016	Amend	4-1-2016	411-340-0120	1-1-2016	Amend(T)	2-1-2016
411-300-0110	1-1-2016	Amend(T)	2-1-2016	411-340-0130	1-1-2016	Amend(T)	2-1-2016
411-300-0130	1-1-2016	Amend(T)	2-1-2016	411-340-0140	1-1-2016	Amend(T)	2-1-2016
411-300-0150	1-1-2016	Amend(T)	2-1-2016	411-340-0150	1-1-2016	Amend(T)	2-1-2016
411-300-0155	1-1-2016	Amend(T)	2-1-2016	411-340-0160	1-1-2016	Amend(T)	2-1-2016
411-300-0170	1-1-2016	Amend(T)	2-1-2016	411-340-0170	1-1-2016	Amend(T)	2-1-2016
411-308-0020	1-1-2016	Amend(T)	2-1-2016	411-345-0010	1-1-2016	Amend(T)	2-1-2016
411-308-0050	1-1-2016	Amend(T)	2-1-2016	411-345-0020	1-1-2016	Amend(T)	2-1-2016
411-308-0080	1-1-2016	Amend(T)	2-1-2016	411-345-0025	1-1-2016	Amend(T)	2-1-2016
411-308-0100	1-1-2016	Amend(T)	2-1-2016	411-345-0030	1-1-2016	Amend(T)	2-1-2016
411-308-0110	1-1-2016	Amend(T)	2-1-2016	411-345-0085	1-1-2016	Amend(T)	2-1-2016
411-308-0120	1-1-2016	Amend(T)	2-1-2016	411-345-0110	1-1-2016	Amend(T)	2-1-2016
411-308-0130	1-1-2016	Amend(T)	2-1-2016	411-345-0160	1-1-2016	Amend(T)	2-1-2016
411-317-0000	1-1-2016	Amend(T)	2-1-2016	411-346-0100	2-23-2016	Amend(T)	4-1-2016
411-318-0000	1-1-2016	Amend(T)	2-1-2016	411-346-0110	2-23-2016	Amend(T)	4-1-2016
411-318-0005	1-1-2016	Amend(T)	2-1-2016	411-346-0170	2-23-2016	Amend(T)	4-1-2016
411-318-0010	1-1-2016	Amend(T)	2-1-2016	411-346-0190	2-23-2016	Amend(T)	4-1-2016
411-320-0020	1-1-2016	Amend(T)	2-1-2016	411-346-0200	2-23-2016	Amend(T)	4-1-2016
411-320-0040	1-1-2016	Amend(T)	2-1-2016	411-350-0020	1-1-2016	Amend(T)	2-1-2016
411-320-0060	1-1-2016	Amend(T)	2-1-2016	411-350-0030	1-1-2016	Amend(T)	2-1-2016
411-320-0080	1-1-2016	Amend(T)	2-1-2016	411-350-0040	1-1-2016	Amend(T)	2-1-2016
411-320-0090	1-1-2016	Amend(T)	2-1-2016	411-350-0050	1-1-2016	Amend(T)	2-1-2016
411-320-0110	1-1-2016	Amend(T)	2-1-2016	411-350-0055	1-1-2016	Adopt(T)	2-1-2016
411-320-0120	1-1-2016	Amend(T)	2-1-2016	411-350-0080	1-1-2016	Amend(T)	2-1-2016
411-323-0010	1-1-2016	Amend(T)	2-1-2016	411-350-0100	1-1-2016	Amend(T)	2-1-2016
411-323-0020	1-1-2016	Amend(T)	2-1-2016	411-355-0000	12-28-2015	Amend	1-1-2016
411-323-0030	1-1-2016	Amend(T)	2-1-2016	411-355-0000(T)	12-28-2015	Repeal	1-1-2016
411-323-0035	1-1-2016	Amend(T)	2-1-2016	411-355-0010	12-28-2015	Amend	1-1-2016
411-323-0060	1-1-2016	Amend(T)	2-1-2016	411-355-0010	1-1-2016	Amend(T)	2-1-2016
411-325-0010	1-1-2016	Amend(T)	2-1-2016	411-355-0010(T)	12-28-2015	Repeal	1-1-2016
411-325-0020	1-1-2016	Amend(T)	2-1-2016	411-355-0020	12-28-2015	Amend	1-1-2016
411-325-0040	1-1-2016	Amend(T)	2-1-2016	411-355-0020(T)	12-28-2015	Repeal	1-1-2016
411-325-0130	1-1-2016	Amend(T)	2-1-2016	411-355-0030	12-28-2015	Amend	1-1-2016
411-325-0140	1-1-2016	Amend(T)	2-1-2016	411-355-0030	1-1-2016	Amend(T)	2-1-2016
411-325-0150	1-1-2016	Amend(T)	2-1-2016	411-355-0030(T)	12-28-2015	Repeal	1-1-2016
411-325-0170	1-1-2016	Amend(T)	2-1-2016	411-355-0040	12-28-2015	Amend	1-1-2016
411-325-0220	1-1-2016	Amend(T)	2-1-2016	411-355-0040	1-1-2016	Amend(T)	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-355-0040(T)	12-28-2015	Repeal	1-1-2016	413-015-9000(T)	1-1-2016	Repeal	2-1-2016
411-355-0045	12-28-2015	Adopt	1-1-2016	413-030-0400	11-24-2015	Amend(T)	1-1-2016
411-355-0045(T)	12-28-2015	Repeal	1-1-2016	413-030-0400	2-1-2016	Amend	3-1-2016
411-355-0050	12-28-2015	Amend	1-1-2016	413-030-0400(T)	2-1-2016	Repeal	3-1-2016
411-355-0050	1-1-2016	Amend(T)	2-1-2016	413-040-0000	1-1-2016	Amend(T)	2-1-2016
411-355-0050(T)	12-28-2015	Repeal	1-1-2016	413-040-0010	11-24-2015	Amend(T)	1-1-2016
411-355-0060	12-28-2015	Repeal	1-1-2016	413-040-0010	2-1-2016	Amend	3-1-2016
411-355-0070	12-28-2015	Repeal	1-1-2016	413-040-0010(T)	2-1-2016	Repeal	3-1-2016
411-355-0075	12-28-2015	Adopt	1-1-2016	413-040-0145	1-1-2016	Amend(T)	2-1-2016
411-355-0075(T)	12-28-2015	Repeal	1-1-2016	413-040-0150	1-1-2016	Amend(T)	2-1-2016
411-355-0080	12-28-2015	Amend	1-1-2016	413-070-0551	11-24-2015	Amend(T)	1-1-2016
411-355-0080(T)	12-28-2015	Repeal	1-1-2016	413-070-0551	2-1-2016	Amend	3-1-2016
411-355-0090	12-28-2015	Amend	1-1-2016	413-070-0551(T)	2-1-2016	Repeal	3-1-2016
411-355-0090(T)	12-28-2015	Repeal	1-1-2016	413-080-0050	11-24-2015	Amend(T)	1-1-2016
411-355-0100	12-28-2015	Amend	1-1-2016	413-080-0050	1-1-2016	Amend	2-1-2016
411-355-0100(T)	12-28-2015	Repeal	1-1-2016	413-080-0050(T)	11-24-2015	Suspend	1-1-2016
411-355-0110	12-28-2015	Repeal	1-1-2016	413-080-0050(T)	1-1-2016	Repeal	2-1-2016
411-355-0120	12-28-2015	Repeal	1-1-2016	413-080-0053	1-1-2016	Adopt	2-1-2016
411-360-0010	1-1-2016	Amend(T)	2-1-2016	413-080-0053(T)	1-1-2016	Repeal	2-1-2016
411-360-0020	1-1-2016	Amend(T)	2-1-2016	413-080-0054	1-1-2016	Amend	2-1-2016
411-360-0050	1-1-2016	Amend(T)	2-1-2016	413-080-0054(T)	1-1-2016	Repeal	2-1-2016
411-360-0055	1-1-2016	Amend(T)	2-1-2016	413-090-0085	1-1-2016	Amend	2-1-2016
411-360-0060	1-1-2016	Amend(T)	2-1-2016	413-090-0085(T)	1-1-2016	Repeal	2-1-2016
411-360-0130	1-1-2016	Amend(T)	2-1-2016	413-090-0087	1-1-2016	Adopt	2-1-2016
411-360-0140	1-1-2016	Amend(T)	2-1-2016	413-090-0087(T)	1-1-2016	Repeal	2-1-2016
411-360-0170	1-1-2016	Amend(T)	2-1-2016	413-090-0400	2-1-2016	Amend	3-1-2016
411-360-0190	1-1-2016	Amend(T)	2-1-2016	413-090-0410	2-1-2016	Repeal	3-1-2016
411-370-0010	1-1-2016	Amend(T)	2-1-2016	413-090-0420	2-1-2016	Repeal	3-1-2016
411-375-0010	1-1-2016	Amend(T)	2-1-2016	413-090-0430	2-1-2016	Repeal	3-1-2016
411-375-0050	1-1-2016	Amend(T)	2-1-2016	413-100-0400	12-21-2015	Amend	2-1-2016
411-375-0055	1-1-2016	Adopt(T)	2-1-2016	413-100-0410	12-21-2015	Amend	2-1-2016
411-375-0070	1-1-2016	Amend(T)	2-1-2016	413-100-0420	12-21-2015	Amend	2-1-2016
411-375-0080	1-1-2016	Amend(T)	2-1-2016	413-100-0435	12-21-2015	Amend	2-1-2016
411-380-0010	1-1-2016	Adopt(T)	2-1-2016	413-100-0457	12-21-2015	Repeal	2-1-2016
411-380-0020	1-1-2016	Adopt(T)	2-1-2016	413-100-0800	4-1-2016	Amend	5-1-2016
411-380-0030	1-1-2016	Adopt(T)	2-1-2016	413-100-0810	4-1-2016	Amend	5-1-2016
411-380-0040	1-1-2016	Adopt(T)	2-1-2016	413-100-0820	4-1-2016	Amend	5-1-2016
411-380-0050	1-1-2016	Adopt(T)	2-1-2016	413-100-0830	4-1-2016	Amend	5-1-2016
411-380-0060	1-1-2016	Adopt(T)	2-1-2016	413-100-0840	4-1-2016	Repeal	5-1-2016
411-380-0070	1-1-2016	Adopt(T)	2-1-2016	413-100-0850	4-1-2016	Repeal	5-1-2016
411-380-0080	1-1-2016	Adopt(T)	2-1-2016	413-120-0730	2-24-2016	Amend(T)	4-1-2016
411-380-0090	1-1-2016	Adopt(T)	2-1-2016	413-120-0925	1-1-2016	Amend(T)	2-1-2016
413-010-0000	2-1-2016	Amend	3-1-2016	413-130-0000	1-1-2016	Amend(T)	2-1-2016
413-010-0035	2-1-2016	Amend	3-1-2016	413-130-0300	1-1-2016	Amend(T)	2-1-2016
413-015-0115	1-1-2016	Amend	2-1-2016	413-130-0310	1-1-2016	Amend(T)	2-1-2016
413-015-0115(T)	1-1-2016	Repeal	2-1-2016	413-130-0320	1-1-2016	Amend(T)	2-1-2016
413-015-0205	1-1-2016	Amend	2-1-2016	413-130-0330	1-1-2016	Amend(T)	2-1-2016
413-015-0211	1-1-2016	Amend	2-1-2016	413-130-0340	1-1-2016	Amend(T)	2-1-2016
413-015-0211(T)	1-1-2016	Repeal	2-1-2016	413-130-0350	1-1-2016	Amend(T)	2-1-2016
413-015-0215	4-11-2016	Amend(T)	5-1-2016	413-130-0355	1-1-2016	Amend(T)	2-1-2016
413-015-0415	1-1-2016	Amend	2-1-2016	413-130-0360	1-1-2016	Amend(T)	2-1-2016
413-015-0415(T)	1-1-2016	Repeal	2-1-2016	413-130-0365	1-1-2016	Adopt(T)	2-1-2016
413-015-0460	1-1-2016	Amend	2-1-2016	413-130-0400	1-1-2016	Suspend	2-1-2016
413-015-0470	1-1-2016	Amend	2-1-2016	413-130-0420	1-1-2016	Suspend	2-1-2016
413-015-1220	1-1-2016	Amend	2-1-2016	413-130-0430	1-1-2016	Suspend	2-1-2016
413-015-9000	1-1-2016	Amend	2-1-2016	413-130-0440	1-1-2016	Suspend	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-130-0450	1-1-2016	Suspend	2-1-2016	436-001-0240	1-1-2016	Amend	1-1-2016
413-130-0455	1-1-2016	Suspend	2-1-2016	436-001-0246	1-1-2016	Amend	1-1-2016
413-130-0460	1-1-2016	Suspend	2-1-2016	436-001-0259	1-1-2016	Amend	1-1-2016
413-130-0480	1-1-2016	Suspend	2-1-2016	436-001-0410	1-1-2016	Amend	1-1-2016
413-130-0490	1-1-2016	Suspend	2-1-2016	436-001-0420	1-1-2016	Amend	1-1-2016
413-130-0500	1-1-2016	Suspend	2-1-2016	436-001-0435	1-1-2016	Adopt	1-1-2016
413-130-0510	1-1-2016	Suspend	2-1-2016	436-001-0500	1-1-2016	Adopt	1-1-2016
413-130-0520	1-1-2016	Suspend	2-1-2016	436-009-0001	4-1-2016	Amend	4-1-2016
414-150-0050	1-25-2016	Amend	3-1-2016	436-009-0004	1-1-2016	Amend(T)	1-1-2016
414-150-0055	1-25-2016	Amend	3-1-2016	436-009-0004	4-1-2016	Amend	4-1-2016
414-150-0060	1-25-2016	Amend	3-1-2016	436-009-0004(T)	4-1-2016	Repeal	4-1-2016
414-150-0070	1-25-2016	Amend	3-1-2016	436-009-0005	4-1-2016	Amend	4-1-2016
414-150-0080	1-25-2016	Repeal	3-1-2016	436-009-0008	4-1-2016	Amend	4-1-2016
414-150-0090	1-25-2016	Repeal	3-1-2016	436-009-0010	1-1-2016	Amend(T)	1-1-2016
414-150-0100	1-25-2016	Repeal	3-1-2016	436-009-0010	4-1-2016	Amend	4-1-2016
414-150-0110	1-25-2016	Amend	3-1-2016	436-009-0010(T)	4-1-2016	Repeal	4-1-2016
414-150-0120	1-25-2016	Amend	3-1-2016	436-009-0020	4-1-2016	Amend	4-1-2016
414-150-0130	1-25-2016	Amend	3-1-2016	436-009-0025	4-1-2016	Amend	4-1-2016
414-150-0140	1-25-2016	Adopt	3-1-2016	436-009-0030	4-1-2016	Amend	4-1-2016
414-150-0150	1-25-2016	Adopt	3-1-2016	436-009-0040	4-1-2016	Amend	4-1-2016
414-150-0160	1-25-2016	Adopt	3-1-2016	436-009-0060	4-1-2016	Amend	4-1-2016
414-150-0170	1-25-2016	Adopt	3-1-2016	436-009-0080	4-1-2016	Amend	4-1-2016
415-060-0010	1-5-2016	Suspend	2-1-2016	436-009-0090	4-1-2016	Amend	4-1-2016
415-060-0020	1-5-2016	Suspend	2-1-2016	436-009-0110	4-1-2016	Amend	4-1-2016
415-060-0030	1-5-2016	Suspend	2-1-2016	436-010-0001	4-1-2016	Amend	4-1-2016
415-060-0040	1-5-2016	Suspend	2-1-2016	436-010-0005	4-1-2016	Amend	4-1-2016
415-060-0050	1-5-2016	Suspend	2-1-2016	436-010-0008	4-1-2016	Amend	4-1-2016
416-115-0025	4-1-2016	Amend	5-1-2016	436-010-0240	4-1-2016	Amend	4-1-2016
416-335-0090	3-10-2016	Amend(T)	4-1-2016	436-010-0265	4-1-2016	Amend	4-1-2016
416-530-0010	3-2-2016	Amend	4-1-2016	436-010-0270	4-1-2016	Amend	4-1-2016
416-530-0020	3-2-2016	Amend	4-1-2016	436-010-0330	4-1-2016	Amend	4-1-2016
416-530-0030	3-2-2016	Amend	4-1-2016	436-010-0340	4-1-2016	Amend	4-1-2016
416-530-0035	3-2-2016	Amend	4-1-2016	436-050-0003	1-1-2016	Amend	2-1-2016
416-530-0040	3-2-2016	Amend	4-1-2016	436-050-0175	1-1-2016	Amend	2-1-2016
416-530-0060	3-2-2016	Amend	4-1-2016	437-003-0001	1-1-2017	Amend	4-1-2016
416-530-0070	3-2-2016	Amend	4-1-2016	437-003-0134	1-1-2017	Amend	4-1-2016
416-530-0090	3-2-2016	Amend	4-1-2016	437-003-0503	10-1-2017	Amend	4-1-2016
416-530-0200	3-2-2016	Amend	4-1-2016	437-003-1500	10-1-2017	Amend	4-1-2016
418-040-0000	1-1-2016	Adopt(T)	2-1-2016	437-003-1501	1-1-2017	Amend	4-1-2016
418-040-0010	1-1-2016	Adopt(T)	2-1-2016	437-003-2501	1-1-2017	Adopt	4-1-2016
418-040-0020	1-1-2016	Adopt(T)	2-1-2016	437-003-3502	10-1-2017	Repeal	4-1-2016
418-040-0030	1-1-2016	Adopt(T)	2-1-2016	438-005-0035	1-1-2016	Amend	2-1-2016
418-040-0040	1-1-2016	Adopt(T)	2-1-2016	438-015-0010	1-1-2016	Amend	2-1-2016
418-040-0050	1-1-2016	Adopt(T)	2-1-2016	438-015-0019	1-1-2016	Amend	2-1-2016
418-040-0060	1-1-2016	Adopt(T)	2-1-2016	438-015-0025	1-1-2016	Amend	2-1-2016
418-040-0070	1-1-2016	Adopt(T)	2-1-2016	438-015-0033	1-1-2016	Adopt	2-1-2016
418-040-0080	1-1-2016	Adopt(T)	2-1-2016	438-015-0045	1-1-2016	Amend	2-1-2016
418-040-0090	1-1-2016	Adopt(T)	2-1-2016	438-015-0048	1-1-2016	Adopt	2-1-2016
431-121-2005	12-7-2015	Amend	1-1-2016	438-015-0055	1-1-2016	Amend	2-1-2016
436-001-0003	1-1-2016	Amend	1-1-2016	438-015-0065	1-1-2016	Amend	2-1-2016
436-001-0004	1-1-2016	Amend	1-1-2016	438-015-0070	1-1-2016	Amend	2-1-2016
436-001-0009	1-1-2016	Amend	1-1-2016	438-015-0110	1-1-2016	Amend	2-1-2016
436-001-0019	1-1-2016	Amend	1-1-2016	440-001-9000	1-1-2016	Adopt(T)	2-1-2016
436-001-0027	1-1-2016	Amend	1-1-2016	441-175-0002	3-7-2016	Amend	4-1-2016
436-001-0030	1-1-2016	Amend	1-1-2016	441-175-0010	3-7-2016	Amend	4-1-2016
436-001-0170	1-1-2016	Amend	1-1-2016	441-175-0015	3-7-2016	Amend	4-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
441-175-0020	3-7-2016	Amend	4-1-2016	461-125-0090	4-1-2016	Repeal	5-1-2016
441-175-0030	3-7-2016	Amend	4-1-2016	461-125-0110	4-1-2016	Repeal	5-1-2016
441-175-0040	3-7-2016	Amend	4-1-2016	461-125-0120	4-1-2016	Repeal	5-1-2016
441-175-0041	3-7-2016	Amend	4-1-2016	461-125-0130	4-1-2016	Repeal	5-1-2016
441-175-0046	3-7-2016	Amend	4-1-2016	461-125-0170	4-1-2016	Repeal	5-1-2016
441-175-0050	3-7-2016	Amend	4-1-2016	461-125-0230	4-1-2016	Repeal	5-1-2016
441-175-0055	3-7-2016	Amend	4-1-2016	461-125-0250	4-1-2016	Repeal	5-1-2016
441-175-0060	3-7-2016	Amend	4-1-2016	461-125-0255	4-1-2016	Repeal	5-1-2016
441-175-0070	3-7-2016	Amend	4-1-2016	461-125-0370	3-1-2016	Amend(T)	4-1-2016
441-175-0085	3-7-2016	Amend	4-1-2016	461-125-0370	4-1-2016	Amend	5-1-2016
441-175-0100	3-7-2016	Amend	4-1-2016	461-125-0370(T)	3-1-2016	Suspend	4-1-2016
441-175-0110	3-7-2016	Amend	4-1-2016	461-125-0370(T)	4-1-2016	Repeal	5-1-2016
441-175-0120	3-7-2016	Amend	4-1-2016	461-125-0830(T)	1-1-2016	Repeal	2-1-2016
441-175-0130	3-7-2016	Amend	4-1-2016	461-130-0310	1-1-2016	Amend	2-1-2016
441-175-0140	3-7-2016	Amend	4-1-2016	461-130-0310	1-1-2016	Amend(T)	2-1-2016
441-175-0150	3-7-2016	Amend	4-1-2016	461-130-0310	4-1-2016	Amend	5-1-2016
441-175-0160	3-7-2016	Amend	4-1-2016	461-130-0310(T)	4-1-2016	Repeal	5-1-2016
441-175-0165	3-7-2016	Amend	4-1-2016	461-130-0315	4-1-2016	Amend	5-1-2016
441-175-0171	3-7-2016	Amend	4-1-2016	461-130-0327	4-1-2016	Amend	5-1-2016
441-175-0175	3-7-2016	Amend	4-1-2016	461-130-0330	1-1-2016	Amend	2-1-2016
441-500-0020	3-16-2016	Amend(T)	5-1-2016	461-130-0330	4-1-2016	Amend	5-1-2016
441-710-0305	1-1-2016	Adopt	2-1-2016	461-130-0335	4-1-2016	Amend	5-1-2016
441-855-0114	1-1-2016	Adopt	1-1-2016	461-135-0070	4-1-2016	Amend	5-1-2016
441-865-0060	12-14-2015	Amend	1-1-2016	461-135-0071	4-1-2016	Adopt	5-1-2016
459-001-0000	1-29-2016	Amend	3-1-2016	461-135-0073	4-1-2016	Adopt	5-1-2016
459-005-0001	11-20-2015	Amend	1-1-2016	461-135-0075	4-1-2016	Amend	5-1-2016
459-005-0310	11-20-2015	Amend	1-1-2016	461-135-0087	4-1-2016	Repeal	5-1-2016
459-005-0350	11-20-2015	Amend	1-1-2016	461-135-0400	1-1-2016	Amend	2-1-2016
459-005-0605	1-29-2016	Adopt	3-1-2016	461-135-0405	1-1-2016	Amend	2-1-2016
459-010-0012	11-20-2015	Amend	1-1-2016	461-135-0405(T)	1-1-2016	Repeal	2-1-2016
459-011-0500	11-20-2015	Amend	1-1-2016	461-135-0407	1-1-2016	Amend	2-1-2016
459-013-0060	11-20-2015	Amend	1-1-2016	461-135-0407(T)	1-1-2016	Repeal	2-1-2016
459-013-0310	11-20-2015	Amend	1-1-2016	461-135-0475	4-1-2016	Amend	5-1-2016
459-080-0150	1-1-2016	Amend	1-1-2016	461-135-0485	4-1-2016	Amend	5-1-2016
461-001-0000	1-1-2016	Amend	2-1-2016	461-135-0506	1-1-2016	Amend(T)	2-1-2016
461-001-0000	4-1-2016	Amend	5-1-2016	461-135-0506	4-1-2016	Amend	5-1-2016
461-001-0000(T)	1-1-2016	Repeal	2-1-2016	461-135-0506(T)	4-1-2016	Repeal	5-1-2016
461-001-0020	4-1-2016	Amend	5-1-2016	461-135-0520	1-1-2016	Amend	2-1-2016
461-001-0025	12-28-2015	Amend	2-1-2016	461-135-0520	2-5-2016	Amend(T)	3-1-2016
461-001-0025	4-1-2016	Amend	5-1-2016	461-135-0520	3-2-2016	Amend(T)	4-1-2016
461-110-0210	4-1-2016	Amend	5-1-2016	461-135-0520	4-1-2016	Amend	5-1-2016
461-110-0630	4-1-2016	Amend	5-1-2016	461-135-0520	4-5-2016	Amend(T)	5-1-2016
461-110-0750	4-1-2016	Amend	5-1-2016	461-135-0520(T)	3-2-2016	Suspend	4-1-2016
461-115-0016	1-1-2016	Amend(T)	2-1-2016	461-135-0520(T)	4-1-2016	Repeal	5-1-2016
461-115-0016	4-1-2016	Amend	5-1-2016	461-135-0521	4-1-2016	Amend(T)	5-1-2016
461-115-0016(T)	4-1-2016	Repeal	5-1-2016	461-135-0750	12-15-2015	Amend(T)	1-1-2016
461-115-0651	1-1-2016	Amend	2-1-2016	461-135-0750	4-1-2016	Amend	5-1-2016
461-115-0700	1-1-2016	Amend	2-1-2016	461-135-0750(T)	4-1-2016	Repeal	5-1-2016
461-120-0110	3-4-2016	Amend(T)	4-1-2016	461-135-0780	2-3-2016	Amend	3-1-2016
461-120-0125	1-1-2016	Amend	2-1-2016	461-135-1250	4-1-2016	Amend	5-1-2016
461-120-0210	4-1-2016	Amend	5-1-2016	461-135-1270	4-1-2016	Adopt	5-1-2016
461-120-0340	4-1-2016	Amend	5-1-2016	461-140-0020	1-1-2016	Amend	2-1-2016
461-125-0010	4-1-2016	Repeal	5-1-2016	461-140-0120	1-1-2016	Amend	2-1-2016
461-125-0030	4-1-2016	Repeal	5-1-2016	461-140-0250	1-1-2016	Amend	2-1-2016
461-125-0050	4-1-2016	Repeal	5-1-2016	461-145-0010	1-1-2016	Amend	2-1-2016
461-125-0060	4-1-2016	Repeal	5-1-2016	461-145-0020	1-1-2016	Amend	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-145-0040	1-1-2016	Amend	2-1-2016	461-165-0030	4-1-2016	Amend	5-1-2016
461-145-0050	1-1-2016	Amend	2-1-2016	461-165-0180	1-20-2016	Amend(T)	3-1-2016
461-145-0080	1-1-2016	Amend	2-1-2016	461-165-0180	3-14-2016	Amend(T)	4-1-2016
461-145-0089	1-1-2016	Amend	2-1-2016	461-165-0180(T)	3-14-2016	Suspend	4-1-2016
461-145-0220	1-1-2016	Amend	2-1-2016	461-170-0011	1-1-2016	Amend	2-1-2016
461-145-0240	1-1-2016	Amend	2-1-2016	461-170-0011	4-1-2016	Amend	5-1-2016
461-145-0252	1-1-2016	Amend	2-1-2016	461-170-0101	1-1-2016	Amend	2-1-2016
461-145-0259	1-1-2016	Adopt	2-1-2016	461-170-0103	1-1-2016	Amend	2-1-2016
461-145-0260	1-1-2016	Amend	2-1-2016	461-170-0103(T)	1-1-2016	Repeal	2-1-2016
461-145-0280	1-1-2016	Amend	2-1-2016	461-170-0150	1-1-2016	Amend	2-1-2016
461-145-0300	1-1-2016	Amend	2-1-2016	461-170-0150(T)	1-1-2016	Repeal	2-1-2016
461-145-0310	1-1-2016	Amend	2-1-2016	461-170-0160	1-1-2016	Amend	2-1-2016
461-145-0320	1-1-2016	Amend	2-1-2016	461-170-0160(T)	1-1-2016	Repeal	2-1-2016
461-145-0330	1-1-2016	Amend	2-1-2016	461-175-0200	1-1-2016	Amend	2-1-2016
461-145-0360	1-1-2016	Amend	2-1-2016	461-175-0200	4-1-2016	Amend	5-1-2016
461-145-0365	1-1-2016	Amend	2-1-2016	461-175-0200(T)	1-1-2016	Repeal	2-1-2016
461-145-0380	1-1-2016	Amend	2-1-2016	461-175-0210	4-1-2016	Amend	5-1-2016
461-145-0410	1-1-2016	Amend	2-1-2016	461-175-0220	1-1-2016	Amend	2-1-2016
461-145-0410	4-1-2016	Amend	5-1-2016	461-175-0222	1-1-2016	Amend	2-1-2016
461-145-0420	1-1-2016	Amend	2-1-2016	461-175-0222(T)	1-1-2016	Repeal	2-1-2016
461-145-0430	1-1-2016	Amend	2-1-2016	461-175-0250	1-1-2016	Amend	2-1-2016
461-145-0460	1-1-2016	Amend	2-1-2016	461-175-0300	1-1-2016	Amend	2-1-2016
461-145-0490	1-1-2016	Amend	2-1-2016	461-175-0300	4-1-2016	Amend	5-1-2016
461-145-0510	1-1-2016	Amend	2-1-2016	461-175-0300(T)	1-1-2016	Repeal	2-1-2016
461-145-0540	1-1-2016	Amend	2-1-2016	461-175-0305	1-1-2016	Amend	2-1-2016
461-145-0600	1-1-2016	Amend	2-1-2016	461-175-0310	1-1-2016	Amend	2-1-2016
461-145-0910	1-1-2016	Amend	2-1-2016	461-175-0340	1-1-2016	Amend	2-1-2016
461-145-0910(T)	1-1-2016	Repeal	2-1-2016	461-180-0010	12-15-2015	Amend(T)	1-1-2016
461-150-0050	1-1-2016	Amend	2-1-2016	461-180-0010	1-22-2016	Amend(T)	3-1-2016
461-150-0090	1-1-2016	Amend	2-1-2016	461-180-0010	4-1-2016	Amend	5-1-2016
461-155-0020	4-1-2016	Amend	5-1-2016	461-180-0010(T)	1-22-2016	Suspend	3-1-2016
461-155-0030	1-1-2016	Amend	2-1-2016	461-180-0010(T)	4-1-2016	Repeal	5-1-2016
461-155-0030	4-1-2016	Amend	5-1-2016	461-180-0050	4-1-2016	Amend	5-1-2016
461-155-0035	1-1-2016	Amend	2-1-2016	461-180-0090	12-15-2015	Amend(T)	1-1-2016
461-155-0150	1-1-2016	Amend(T)	2-1-2016	461-180-0090	1-22-2016	Amend(T)	3-1-2016
461-155-0150	3-1-2016	Amend(T)	4-1-2016	461-180-0090	4-1-2016	Amend	5-1-2016
461-155-0150	4-1-2016	Amend	5-1-2016	461-180-0090(T)	1-22-2016	Suspend	3-1-2016
461-155-0150(T)	3-1-2016	Suspend	4-1-2016	461-180-0090(T)	4-1-2016	Repeal	5-1-2016
461-155-0150(T)	4-1-2016	Repeal	5-1-2016	461-180-0135	4-1-2016	Adopt(T)	5-1-2016
461-155-0180	4-1-2016	Amend	5-1-2016	461-180-0140	12-15-2015	Amend(T)	1-1-2016
461-155-0290	3-1-2016	Amend	4-1-2016	461-180-0140	1-22-2016	Amend(T)	3-1-2016
461-155-0291	3-1-2016	Amend	4-1-2016	461-180-0140	4-1-2016	Amend	5-1-2016
461-155-0295	3-1-2016	Amend	4-1-2016	461-180-0140(T)	1-22-2016	Suspend	3-1-2016
461-155-0575	1-1-2016	Amend	2-1-2016	461-180-0140(T)	4-1-2016	Repeal	5-1-2016
461-160-0010	1-1-2016	Amend	2-1-2016	461-190-0211	12-28-2015	Amend	2-1-2016
461-160-0015	1-1-2016	Amend	2-1-2016	461-190-0310	4-1-2016	Amend	5-1-2016
461-160-0040	1-1-2016	Amend	2-1-2016	461-190-0360	11-30-2015	Amend(T)	1-1-2016
461-160-0040(T)	1-1-2016	Repeal	2-1-2016	461-190-0360	4-1-2016	Amend	5-1-2016
461-160-0100	4-1-2016	Amend	5-1-2016	461-190-0360(T)	4-1-2016	Repeal	5-1-2016
461-160-0300	1-1-2016	Amend	2-1-2016	461-190-0406	4-1-2016	Amend	5-1-2016
461-160-0300(T)	1-1-2016	Repeal	2-1-2016	461-190-0500	2-5-2016	Adopt(T)	3-1-2016
461-160-0410	4-1-2016	Amend(T)	5-1-2016	461-190-0500	4-1-2016	Adopt	5-1-2016
461-160-0550	1-1-2016	Amend	2-1-2016	461-190-0500(T)	4-1-2016	Repeal	5-1-2016
461-160-0551	1-1-2016	Amend	2-1-2016	461-195-0521	1-1-2016	Amend	2-1-2016
461-160-0552	1-1-2016	Amend	2-1-2016	461-195-0621	1-1-2016	Amend	2-1-2016
461-165-0030	1-1-2016	Amend	2-1-2016	462-220-0080	1-27-2016	Amend	3-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
471-010-0080	1-29-2016	Amend(T)	3-1-2016	575-037-0010	12-18-2015	Amend	2-1-2016
543-001-0010	1-11-2016	Amend(T)	2-1-2016	575-037-0020	12-18-2015	Amend	2-1-2016
543-010-0003	1-11-2016	Amend(T)	2-1-2016	575-037-0030	12-18-2015	Amend	2-1-2016
543-010-0016	1-11-2016	Amend(T)	2-1-2016	575-037-0040	12-18-2015	Amend	2-1-2016
543-010-0021	1-11-2016	Amend(T)	2-1-2016	575-038-0000	12-18-2015	Amend	2-1-2016
543-010-0022	1-11-2016	Suspend	2-1-2016	575-038-0010	12-18-2015	Amend	2-1-2016
543-010-0026	1-11-2016	Adopt(T)	2-1-2016	575-038-0020	12-18-2015	Amend	2-1-2016
543-010-0030	1-11-2016	Amend(T)	2-1-2016	575-038-0030	12-18-2015	Amend	2-1-2016
543-010-0032	1-11-2016	Suspend	2-1-2016	575-038-0040	12-18-2015	Amend	2-1-2016
543-020-0010	1-11-2016	Suspend	2-1-2016	575-045-0005	12-18-2015	Amend	2-1-2016
543-020-0025	1-11-2016	Suspend	2-1-2016	575-050-0005	12-18-2015	Amend	2-1-2016
543-020-0026	1-11-2016	Suspend	2-1-2016	575-050-0010	12-18-2015	Amend	2-1-2016
543-020-0030	1-11-2016	Suspend	2-1-2016	575-050-0015	12-18-2015	Amend	2-1-2016
543-020-0050	1-11-2016	Adopt(T)	2-1-2016	575-050-0020	12-18-2015	Amend	2-1-2016
543-020-0055	1-11-2016	Adopt(T)	2-1-2016	575-050-0025	12-18-2015	Amend	2-1-2016
543-020-0060	1-11-2016	Adopt(T)	2-1-2016	575-050-0030	12-18-2015	Amend	2-1-2016
543-020-0070	1-11-2016	Adopt(T)	2-1-2016	575-050-0035	12-18-2015	Amend	2-1-2016
543-020-0080	1-11-2016	Adopt(T)	2-1-2016	575-050-0040	12-18-2015	Amend	2-1-2016
543-060-0020	1-11-2016	Amend(T)	2-1-2016	575-050-0042	12-18-2015	Amend	2-1-2016
543-060-0030	1-11-2016	Amend(T)	2-1-2016	575-050-0045	12-18-2015	Amend	2-1-2016
543-060-0040	1-11-2016	Amend(T)	2-1-2016	575-050-0050	12-18-2015	Amend	2-1-2016
543-060-0070	1-11-2016	Amend(T)	2-1-2016	575-060-0005	12-18-2015	Amend	2-1-2016
575-001-0000	12-18-2015	Amend	2-1-2016	575-060-0020	12-18-2015	Amend	2-1-2016
575-001-0005	12-18-2015	Amend	2-1-2016	575-063-0010	12-18-2015	Amend	2-1-2016
575-001-0010	12-18-2015	Amend	2-1-2016	575-065-0001	12-18-2015	Amend	2-1-2016
575-001-0015	12-18-2015	Amend	2-1-2016	575-065-0045	12-18-2015	Amend	2-1-2016
575-001-0030	12-18-2015	Amend	2-1-2016	575-065-0055	12-18-2015	Amend	2-1-2016
575-001-0035	12-18-2015	Amend	2-1-2016	575-070-0005	12-18-2015	Amend	2-1-2016
575-007-0210	12-18-2015	Amend	2-1-2016	575-070-0010	12-18-2015	Amend	2-1-2016
575-007-0240	12-18-2015	Amend	2-1-2016	575-070-0020	12-18-2015	Amend	2-1-2016
575-007-0280	12-18-2015	Amend	2-1-2016	575-070-0030	12-18-2015	Amend	2-1-2016
575-007-0310	12-18-2015	Amend	2-1-2016	575-070-0040	12-18-2015	Amend	2-1-2016
575-007-0330	12-18-2015	Amend	2-1-2016	575-070-0045	12-18-2015	Amend	2-1-2016
575-007-0340	12-18-2015	Amend	2-1-2016	575-070-0050	12-18-2015	Amend	2-1-2016
575-007-0380	12-18-2015	Amend	2-1-2016	575-070-0060	12-18-2015	Amend	2-1-2016
575-030-0005	12-18-2015	Amend	2-1-2016	575-070-0070	12-18-2015	Amend	2-1-2016
575-031-0005	12-18-2015	Amend	2-1-2016	575-070-0080	12-18-2015	Amend	2-1-2016
575-031-0010	12-18-2015	Amend	2-1-2016	575-070-0090	12-18-2015	Amend	2-1-2016
575-031-0020	12-18-2015	Amend	2-1-2016	575-071-0000	12-18-2015	Amend	2-1-2016
575-031-0022	12-18-2015	Amend	2-1-2016	575-071-0040	12-18-2015	Amend	2-1-2016
575-031-0023	12-18-2015	Amend	2-1-2016	575-072-0000	12-18-2015	Amend	2-1-2016
575-031-0025	12-18-2015	Amend	2-1-2016	575-072-0010	12-18-2015	Amend	2-1-2016
575-031-0045	12-18-2015	Amend	2-1-2016	575-072-0040	12-18-2015	Amend	2-1-2016
575-035-0005	12-18-2015	Amend	2-1-2016	575-072-0050	12-18-2015	Amend	2-1-2016
575-035-0010	12-18-2015	Amend	2-1-2016	575-072-0060	12-18-2015	Amend	2-1-2016
575-035-0015	12-18-2015	Amend	2-1-2016	575-072-0080	12-18-2015	Amend	2-1-2016
575-035-0020	12-18-2015	Amend	2-1-2016	575-072-0090	12-18-2015	Amend	2-1-2016
575-035-0025	12-18-2015	Amend	2-1-2016	575-073-0000	12-18-2015	Amend	2-1-2016
575-035-0030	12-18-2015	Amend	2-1-2016	575-074-0000	12-18-2015	Amend	2-1-2016
575-035-0040	12-18-2015	Amend	2-1-2016	575-075-0001	12-18-2015	Amend	2-1-2016
575-035-0045	12-18-2015	Amend	2-1-2016	575-075-0005	12-18-2015	Amend	2-1-2016
575-035-0046	12-18-2015	Amend	2-1-2016	575-075-0007	12-18-2015	Amend	2-1-2016
575-035-0050	12-18-2015	Amend	2-1-2016	575-075-0008	12-18-2015	Amend	2-1-2016
575-035-0051	12-18-2015	Amend	2-1-2016	575-075-0010	12-18-2015	Amend	2-1-2016
575-035-0055	12-18-2015	Amend	2-1-2016	575-075-0030	12-18-2015	Amend	2-1-2016
575-037-0005	12-18-2015	Amend	2-1-2016	575-075-0040	12-18-2015	Amend	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
575-075-0043	12-18-2015	Amend	2-1-2016	581-017-0383	2-5-2016	Adopt	3-1-2016
575-075-0044	12-18-2015	Amend	2-1-2016	581-017-0386	2-5-2016	Adopt	3-1-2016
575-075-0045	12-18-2015	Amend	2-1-2016	581-017-0389	2-5-2016	Adopt	3-1-2016
575-075-0046	12-18-2015	Amend	2-1-2016	581-017-0392	2-5-2016	Adopt	3-1-2016
575-075-0047	12-18-2015	Amend	2-1-2016	581-017-0395	2-5-2016	Adopt	3-1-2016
575-075-0049	12-18-2015	Amend	2-1-2016	581-017-0432	2-5-2016	Adopt	3-1-2016
575-075-0050	12-18-2015	Amend	2-1-2016	581-017-0435	2-5-2016	Adopt	3-1-2016
575-075-0055	12-18-2015	Amend	2-1-2016	581-017-0438	2-5-2016	Adopt	3-1-2016
575-076-0010	12-18-2015	Amend	2-1-2016	581-017-0441	2-5-2016	Adopt	3-1-2016
575-080-0100	12-18-2015	Amend	2-1-2016	581-017-0444	2-5-2016	Adopt	3-1-2016
575-085-0000	12-18-2015	Amend	2-1-2016	581-017-0447	2-5-2016	Adopt	3-1-2016
575-085-0020	12-18-2015	Amend	2-1-2016	581-017-0450	2-5-2016	Adopt	3-1-2016
575-085-0030	12-18-2015	Amend	2-1-2016	581-017-0453	2-5-2016	Adopt	3-1-2016
575-085-0040	12-18-2015	Amend	2-1-2016	581-017-0456	2-5-2016	Adopt	3-1-2016
575-085-0050	12-18-2015	Amend	2-1-2016	581-017-0459	2-5-2016	Adopt	3-1-2016
575-085-0060	12-18-2015	Amend	2-1-2016	581-017-0462	2-5-2016	Adopt	3-1-2016
575-085-0070	12-18-2015	Amend	2-1-2016	581-017-0465	12-28-2015	Adopt(T)	2-1-2016
575-090-0020	12-18-2015	Amend	2-1-2016	581-017-0466	3-22-2016	Adopt	5-1-2016
575-090-0030	12-18-2015	Amend	2-1-2016	581-017-0469	12-28-2015	Adopt(T)	2-1-2016
575-090-0040	12-18-2015	Amend	2-1-2016	581-017-0470	3-22-2016	Adopt	5-1-2016
575-090-0050	12-18-2015	Amend	2-1-2016	581-017-0473	12-28-2015	Adopt(T)	2-1-2016
575-095-0005	12-18-2015	Amend	2-1-2016	581-017-0474	3-22-2016	Adopt	5-1-2016
581-001-0002	4-7-2016	Amend	5-1-2016	581-017-0477	12-28-2015	Adopt(T)	2-1-2016
581-005-0001	4-7-2016	Repeal	5-1-2016	581-017-0478	3-22-2016	Adopt	5-1-2016
581-015-2200	12-21-2015	Amend	2-1-2016	581-017-0481	12-28-2015	Adopt(T)	2-1-2016
581-015-2595	12-18-2015	Amend	2-1-2016	581-017-0482	3-22-2016	Adopt	5-1-2016
581-015-2930	12-22-2015	Amend	2-1-2016	581-017-0485	12-28-2015	Adopt(T)	2-1-2016
581-017-0287	12-18-2015	Adopt	2-1-2016	581-017-0486	3-22-2016	Adopt	5-1-2016
581-017-0291	12-18-2015	Adopt	2-1-2016	581-018-0110	2-5-2016	Amend	3-1-2016
581-017-0294	12-18-2015	Adopt	2-1-2016	581-018-0120	2-5-2016	Amend	3-1-2016
581-017-0297	12-18-2015	Adopt	2-1-2016	581-018-0130	12-18-2015	Amend	2-1-2016
581-017-0301	12-28-2015	Amend(T)	2-1-2016	581-018-0145	12-18-2015	Amend	2-1-2016
581-017-0309	12-28-2015	Amend(T)	2-1-2016	581-018-0148	12-18-2015	Amend	2-1-2016
581-017-0318	12-28-2015	Amend(T)	2-1-2016	581-020-0530	12-28-2015	Adopt(T)	2-1-2016
581-017-0321	12-28-2015	Amend(T)	2-1-2016	581-020-0531	3-22-2016	Adopt	5-1-2016
581-017-0321	3-22-2016	Amend	5-1-2016	581-020-0533	12-28-2015	Adopt(T)	2-1-2016
581-017-0324	12-28-2015	Amend(T)	2-1-2016	581-020-0534	3-22-2016	Adopt	5-1-2016
581-017-0324	3-22-2016	Amend	5-1-2016	581-020-0536	12-28-2015	Adopt(T)	2-1-2016
581-017-0327	12-28-2015	Amend(T)	2-1-2016	581-020-0537	3-22-2016	Adopt	5-1-2016
581-017-0327	3-22-2016	Amend	5-1-2016	581-020-0539	12-28-2015	Adopt(T)	2-1-2016
581-017-0330	12-28-2015	Amend(T)	2-1-2016	581-020-0540	3-22-2016	Adopt	5-1-2016
581-017-0330	3-22-2016	Amend	5-1-2016	581-020-0541	12-28-2015	Adopt(T)	2-1-2016
581-017-0333	12-28-2015	Amend(T)	2-1-2016	581-020-0542	3-22-2016	Adopt	5-1-2016
581-017-0333	3-22-2016	Amend	5-1-2016	581-020-0600	2-5-2016	Adopt	3-1-2016
581-017-0350	2-5-2016	Amend	3-1-2016	581-020-0603	2-5-2016	Adopt	3-1-2016
581-017-0353	2-5-2016	Amend	3-1-2016	581-020-0606	2-5-2016	Adopt	3-1-2016
581-017-0356	2-5-2016	Amend	3-1-2016	581-020-0609	2-5-2016	Adopt	3-1-2016
581-017-0359	2-5-2016	Amend	3-1-2016	581-020-0612	2-5-2016	Adopt	3-1-2016
581-017-0362	2-5-2016	Amend	3-1-2016	581-020-0615	2-5-2016	Adopt	3-1-2016
581-017-0365	4-7-2016	Adopt	5-1-2016	581-021-0037	3-22-2016	Amend	5-1-2016
581-017-0367	4-7-2016	Adopt	5-1-2016	581-021-0043	2-5-2016	Adopt	3-1-2016
581-017-0369	4-7-2016	Adopt	5-1-2016	581-021-0047	3-22-2016	Amend	5-1-2016
581-017-0371	4-7-2016	Adopt	5-1-2016	581-021-0065	2-5-2016	Amend	3-1-2016
581-017-0373	4-7-2016	Adopt	5-1-2016	581-021-0070	2-5-2016	Amend	3-1-2016
581-017-0375	4-7-2016	Adopt	5-1-2016	581-021-0077	2-5-2016	Amend	3-1-2016
581-017-0380	2-5-2016	Adopt	3-1-2016	581-021-0505	4-7-2016	Adopt	5-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
581-022-0102	12-18-2015	Amend	2-1-2016	583-030-0049(T)	2-19-2016	Repeal	4-1-2016
581-022-0421	12-22-2015	Amend	2-1-2016	583-030-0051	2-19-2016	Adopt	4-1-2016
581-022-0610	12-21-2015	Amend	2-1-2016	583-030-0051(T)	2-19-2016	Repeal	4-1-2016
581-022-0617	3-22-2016	Amend	5-1-2016	583-030-0052	2-19-2016	Adopt	4-1-2016
581-022-1310	4-7-2016	Amend	5-1-2016	583-030-0052(T)	2-19-2016	Repeal	4-1-2016
581-022-1420	12-22-2015	Amend	2-1-2016	583-030-0053	2-19-2016	Adopt	4-1-2016
581-022-1440	3-22-2016	Amend	5-1-2016	583-030-0053(T)	2-19-2016	Repeal	4-1-2016
581-022-1910	12-18-2015	Amend	2-1-2016	583-030-0054	2-19-2016	Adopt	4-1-2016
581-023-0006	2-5-2016	Amend	3-1-2016	583-030-0054(T)	2-19-2016	Repeal	4-1-2016
581-023-0040	2-5-2016	Amend	3-1-2016	583-030-0056	2-19-2016	Adopt	4-1-2016
581-023-0102	2-5-2016	Amend	3-1-2016	583-030-0056(T)	2-19-2016	Repeal	4-1-2016
581-023-0106	3-22-2016	Amend	5-1-2016	583-050-0006	2-19-2016	Amend	4-1-2016
581-023-0250	2-5-2016	Adopt	3-1-2016	583-050-0006(T)	2-19-2016	Repeal	4-1-2016
581-024-0275	12-22-2015	Amend	2-1-2016	583-050-0011	2-19-2016	Amend	4-1-2016
581-026-0210	12-18-2015	Amend	2-1-2016	583-050-0011(T)	2-19-2016	Repeal	4-1-2016
581-044-0250	12-18-2015	Amend	2-1-2016	583-050-0014	2-19-2016	Amend	4-1-2016
583-001-0000	2-19-2016	Amend	4-1-2016	583-050-0014(T)	2-19-2016	Repeal	4-1-2016
583-001-0000(T)	2-19-2016	Repeal	4-1-2016	583-050-0016	2-19-2016	Amend	4-1-2016
583-001-0005	2-19-2016	Amend	4-1-2016	583-050-0016(T)	2-19-2016	Repeal	4-1-2016
583-001-0005(T)	2-19-2016	Repeal	4-1-2016	583-050-0026	2-19-2016	Amend	4-1-2016
583-001-0015	2-19-2016	Amend	4-1-2016	583-050-0026(T)	2-19-2016	Repeal	4-1-2016
583-001-0015(T)	2-19-2016	Repeal	4-1-2016	583-050-0027	2-19-2016	Amend	4-1-2016
583-030-0005	2-19-2016	Amend	4-1-2016	583-050-0027(T)	2-19-2016	Repeal	4-1-2016
583-030-0005(T)	2-19-2016	Repeal	4-1-2016	583-050-0028	2-19-2016	Amend	4-1-2016
583-030-0009	2-19-2016	Amend	4-1-2016	583-050-0028(T)	2-19-2016	Repeal	4-1-2016
583-030-0009(T)	2-19-2016	Repeal	4-1-2016	583-050-0036	2-19-2016	Amend	4-1-2016
583-030-0010	2-19-2016	Amend	4-1-2016	583-050-0036(T)	2-19-2016	Repeal	4-1-2016
583-030-0010(T)	2-19-2016	Repeal	4-1-2016	583-050-0040	2-19-2016	Amend	4-1-2016
583-030-0011	2-19-2016	Repeal	4-1-2016	583-050-0040(T)	2-19-2016	Repeal	4-1-2016
583-030-0015	2-19-2016	Amend	4-1-2016	584-010-0090	1-1-2016	Suspend	2-1-2016
583-030-0015(T)	2-19-2016	Repeal	4-1-2016	584-017-1100	2-10-2016	Adopt	3-1-2016
583-030-0016	2-19-2016	Amend	4-1-2016	584-018-0110	1-1-2016	Suspend	2-1-2016
583-030-0016(T)	2-19-2016	Repeal	4-1-2016	584-018-0110(T)	4-15-2016	Repeal	5-1-2016
583-030-0020	2-19-2016	Amend	4-1-2016	584-040-0005	2-10-2016	Repeal	3-1-2016
583-030-0020(T)	2-19-2016	Repeal	4-1-2016	584-040-0008	2-10-2016	Repeal	3-1-2016
583-030-0025	2-19-2016	Amend	4-1-2016	584-040-0010	2-10-2016	Repeal	3-1-2016
583-030-0025(T)	2-19-2016	Repeal	4-1-2016	584-040-0030	2-10-2016	Repeal	3-1-2016
583-030-0030	2-19-2016	Amend	4-1-2016	584-040-0040	2-10-2016	Repeal	3-1-2016
583-030-0030(T)	2-19-2016	Repeal	4-1-2016	584-040-0050	2-10-2016	Repeal	3-1-2016
583-030-0032	2-19-2016	Amend	4-1-2016	584-040-0060	2-10-2016	Repeal	3-1-2016
583-030-0032(T)	2-19-2016	Repeal	4-1-2016	584-040-0080	2-10-2016	Repeal	3-1-2016
583-030-0035	2-19-2016	Amend	4-1-2016	584-040-0090	2-10-2016	Repeal	3-1-2016
583-030-0035(T)	2-19-2016	Repeal	4-1-2016	584-040-0100	2-10-2016	Repeal	3-1-2016
583-030-0036	2-19-2016	Amend	4-1-2016	584-040-0120	2-10-2016	Repeal	3-1-2016
583-030-0036(T)	2-19-2016	Repeal	4-1-2016	584-040-0130	2-10-2016	Repeal	3-1-2016
583-030-0041	2-19-2016	Amend	4-1-2016	584-040-0150	2-10-2016	Repeal	3-1-2016
583-030-0041(T)	2-19-2016	Repeal	4-1-2016	584-040-0160	2-10-2016	Repeal	3-1-2016
583-030-0042	2-19-2016	Amend	4-1-2016	584-040-0165	2-10-2016	Repeal	3-1-2016
583-030-0042(T)	2-19-2016	Repeal	4-1-2016	584-040-0170	2-10-2016	Repeal	3-1-2016
583-030-0043	2-19-2016	Amend	4-1-2016	584-040-0180	2-10-2016	Repeal	3-1-2016
583-030-0043(T)	2-19-2016	Repeal	4-1-2016	584-040-0200	2-10-2016	Repeal	3-1-2016
583-030-0045	2-19-2016	Amend	4-1-2016	584-040-0210	2-10-2016	Repeal	3-1-2016
583-030-0045(T)	2-19-2016	Repeal	4-1-2016	584-040-0230	2-10-2016	Repeal	3-1-2016
583-030-0046	2-19-2016	Amend	4-1-2016	584-040-0240	2-10-2016	Repeal	3-1-2016
583-030-0046(T)	2-19-2016	Repeal	4-1-2016	584-040-0241	2-10-2016	Repeal	3-1-2016
583-030-0049	2-19-2016	Amend	4-1-2016	584-040-0242	2-10-2016	Repeal	3-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
584-040-0243	2-10-2016	Repeal	3-1-2016	584-200-0005	2-10-2016	Adopt	3-1-2016
584-040-0250	2-10-2016	Repeal	3-1-2016	584-200-0010	1-1-2016	Amend(T)	2-1-2016
584-040-0260	2-10-2016	Repeal	3-1-2016	584-200-0010	2-10-2016	Adopt	3-1-2016
584-040-0265	2-10-2016	Repeal	3-1-2016	584-200-0020	2-10-2016	Adopt	3-1-2016
584-040-0270	2-10-2016	Repeal	3-1-2016	584-200-0030	2-10-2016	Adopt	3-1-2016
584-040-0280	2-10-2016	Repeal	3-1-2016	584-200-0040	2-10-2016	Adopt	3-1-2016
584-040-0290	2-10-2016	Repeal	3-1-2016	584-200-0050	1-1-2016	Amend(T)	2-1-2016
584-040-0300	2-10-2016	Repeal	3-1-2016	584-200-0050	2-10-2016	Adopt	3-1-2016
584-040-0310	2-10-2016	Repeal	3-1-2016	584-200-0060	2-10-2016	Adopt	3-1-2016
584-040-0315	2-10-2016	Repeal	3-1-2016	584-200-0070	2-10-2016	Adopt	3-1-2016
584-040-0350	2-10-2016	Repeal	3-1-2016	584-200-0080	2-10-2016	Adopt	3-1-2016
584-050-0150	2-10-2016	Adopt	3-1-2016	584-200-0090	2-10-2016	Adopt	3-1-2016
584-052-0005	2-10-2016	Repeal	3-1-2016	584-200-0100	2-10-2016	Adopt	3-1-2016
584-052-0010	2-10-2016	Repeal	3-1-2016	584-210-0030	2-10-2016	Amend	3-1-2016
584-052-0015	2-10-2016	Repeal	3-1-2016	584-210-0040	2-10-2016	Amend	3-1-2016
584-052-0021	2-10-2016	Repeal	3-1-2016	584-210-0050	2-10-2016	Amend	3-1-2016
584-052-0025	2-10-2016	Repeal	3-1-2016	584-210-0060	2-10-2016	Amend	3-1-2016
584-052-0027	2-10-2016	Repeal	3-1-2016	584-210-0070	2-10-2016	Amend	3-1-2016
584-065-0001	2-10-2016	Repeal	3-1-2016	584-210-0080	2-10-2016	Amend	3-1-2016
584-065-0060	2-10-2016	Repeal	3-1-2016	584-210-0090	2-10-2016	Amend	3-1-2016
584-065-0070	2-10-2016	Repeal	3-1-2016	584-210-0100	2-10-2016	Amend	3-1-2016
584-065-0080	2-10-2016	Repeal	3-1-2016	584-210-0110	2-10-2016	Amend	3-1-2016
584-065-0090	2-10-2016	Repeal	3-1-2016	584-210-0120	4-15-2016	Repeal	5-1-2016
584-065-0120	2-10-2016	Repeal	3-1-2016	584-210-0130	2-10-2016	Amend	3-1-2016
584-065-0125	2-10-2016	Repeal	3-1-2016	584-210-0140	2-10-2016	Amend	3-1-2016
584-066-0001	2-10-2016	Repeal	3-1-2016	584-210-0150	2-10-2016	Amend	3-1-2016
584-066-0010	2-10-2016	Repeal	3-1-2016	584-210-0160	2-10-2016	Amend	3-1-2016
584-066-0015	2-10-2016	Repeal	3-1-2016	584-210-0165	2-10-2016	Adopt	3-1-2016
584-066-0020	2-10-2016	Repeal	3-1-2016	584-210-0190	2-10-2016	Amend	3-1-2016
584-066-0025	2-10-2016	Repeal	3-1-2016	584-220-0010	2-10-2016	Amend	3-1-2016
584-066-0030	2-10-2016	Repeal	3-1-2016	584-220-0015	2-10-2016	Amend	3-1-2016
584-070-0012	2-10-2016	Amend	3-1-2016	584-220-0020	2-10-2016	Amend	3-1-2016
584-070-0014	2-10-2016	Repeal	3-1-2016	584-220-0025	2-10-2016	Amend	3-1-2016
584-070-0510	2-10-2016	Adopt	3-1-2016	584-220-0030	2-10-2016	Amend	3-1-2016
584-100-0002	4-15-2016	Repeal	5-1-2016	584-220-0035	2-10-2016	Amend	3-1-2016
584-100-0006	4-15-2016	Repeal	5-1-2016	584-220-0040	2-10-2016	Amend	3-1-2016
584-100-0007	4-15-2016	Repeal	5-1-2016	584-220-0045	2-10-2016	Amend	3-1-2016
584-100-0008	4-15-2016	Repeal	5-1-2016	584-220-0050	2-10-2016	Amend	3-1-2016
584-100-0011	4-15-2016	Repeal	5-1-2016	584-220-0055	2-10-2016	Amend	3-1-2016
584-100-0016	4-15-2016	Repeal	5-1-2016	584-220-0060	2-10-2016	Amend	3-1-2016
584-100-0017	4-15-2016	Repeal	5-1-2016	584-220-0065	2-10-2016	Amend	3-1-2016
584-100-0021	4-15-2016	Repeal	5-1-2016	584-220-0070	2-10-2016	Amend	3-1-2016
584-100-0026	4-15-2016	Repeal	5-1-2016	584-220-0075	2-10-2016	Amend	3-1-2016
584-100-0031	4-15-2016	Repeal	5-1-2016	584-220-0080	2-10-2016	Amend	3-1-2016
584-100-0036	4-15-2016	Repeal	5-1-2016	584-220-0085	2-10-2016	Amend	3-1-2016
584-100-0038	4-15-2016	Repeal	5-1-2016	584-220-0090	2-10-2016	Amend	3-1-2016
584-100-0041(T)	4-15-2016	Repeal	5-1-2016	584-220-0095	2-10-2016	Amend	3-1-2016
584-100-0051	4-15-2016	Repeal	5-1-2016	584-220-0100	2-10-2016	Amend	3-1-2016
584-100-0056	4-15-2016	Repeal	5-1-2016	584-220-0105	2-10-2016	Amend	3-1-2016
584-100-0061	4-15-2016	Repeal	5-1-2016	584-220-0110	2-10-2016	Amend	3-1-2016
584-100-0066	4-15-2016	Repeal	5-1-2016	584-220-0120	2-10-2016	Amend	3-1-2016
584-100-0071	4-15-2016	Repeal	5-1-2016	584-220-0130	2-10-2016	Amend	3-1-2016
584-100-0091	4-15-2016	Repeal	5-1-2016	584-220-0140	2-10-2016	Amend	3-1-2016
584-100-0096	4-15-2016	Repeal	5-1-2016	584-220-0145	2-10-2016	Amend	3-1-2016
584-100-0111	4-15-2016	Repeal	5-1-2016	584-220-0150	2-10-2016	Amend	3-1-2016
584-200-0004	1-1-2016	Adopt(T)	2-1-2016	584-220-0155	2-10-2016	Amend	3-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
584-220-0160	2-10-2016	Amend	3-1-2016	603-048-0200	1-29-2016	Amend(T)	3-1-2016
584-220-0165	2-10-2016	Amend	3-1-2016	603-048-0600	1-29-2016	Amend(T)	3-1-2016
584-220-0170	2-10-2016	Amend	3-1-2016	603-052-0052	11-18-2015	Adopt(T)	1-1-2016
584-220-0175	2-10-2016	Amend	3-1-2016	603-052-0347	2-12-2016	Amend	3-1-2016
584-220-0180	2-10-2016	Amend	3-1-2016	603-052-0385	2-12-2016	Amend	3-1-2016
584-220-0185	2-10-2016	Amend	3-1-2016	603-055-0100	4-5-2016	Amend	5-1-2016
584-220-0190	2-10-2016	Amend	3-1-2016	603-055-0200	4-5-2016	Adopt	5-1-2016
584-220-0195	2-10-2016	Amend	3-1-2016	603-056-0095	4-15-2016	Amend	5-1-2016
584-220-0200	2-10-2016	Amend	3-1-2016	603-057-0107	1-1-2016	Adopt(T)	1-1-2016
584-220-0205	2-10-2016	Amend	3-1-2016	603-057-0155	1-1-2016	Adopt(T)	1-1-2016
584-220-0210	2-10-2016	Amend	3-1-2016	603-057-0157	1-1-2016	Adopt(T)	1-1-2016
584-220-0215	2-10-2016	Amend	3-1-2016	603-057-0502	2-26-2016	Amend	4-1-2016
584-220-0220	2-10-2016	Amend	3-1-2016	603-057-0529	2-26-2016	Adopt	4-1-2016
584-220-0225	2-10-2016	Amend	3-1-2016	603-057-0530	2-26-2016	Amend	4-1-2016
584-220-0230	2-10-2016	Amend	3-1-2016	603-057-0531	2-26-2016	Adopt	4-1-2016
584-225-0010	2-10-2016	Adopt	3-1-2016	603-057-0532	2-26-2016	Amend	4-1-2016
584-225-0020	2-10-2016	Adopt	3-1-2016	629-025-0000	3-11-2016	Amend	4-1-2016
584-225-0030	2-10-2016	Adopt	3-1-2016	629-025-0005	3-11-2016	Amend	4-1-2016
584-225-0040	2-10-2016	Adopt	3-1-2016	629-025-0011	3-11-2016	Amend	4-1-2016
584-225-0050	2-10-2016	Adopt	3-1-2016	629-025-0020	3-11-2016	Amend	4-1-2016
584-225-0070	2-10-2016	Adopt	3-1-2016	629-025-0021	3-11-2016	Adopt	4-1-2016
584-225-0090	2-10-2016	Adopt	3-1-2016	629-025-0022	3-11-2016	Adopt	4-1-2016
584-225-0100	2-10-2016	Adopt	3-1-2016	629-025-0030	3-11-2016	Amend	4-1-2016
584-255-0010	2-10-2016	Amend	3-1-2016	629-025-0040	3-11-2016	Amend	4-1-2016
584-255-0030	2-10-2016	Amend	3-1-2016	629-025-0050	3-11-2016	Amend	4-1-2016
584-420-0010	2-10-2016	Adopt	3-1-2016	629-025-0060	3-11-2016	Amend	4-1-2016
584-420-0020	2-10-2016	Adopt	3-1-2016	629-025-0070	3-11-2016	Amend	4-1-2016
584-420-0030	2-10-2016	Adopt	3-1-2016	629-025-0080	3-11-2016	Amend	4-1-2016
584-420-0040	2-10-2016	Adopt	3-1-2016	629-025-0090	3-11-2016	Adopt	4-1-2016
584-420-0300	2-10-2016	Adopt	3-1-2016	629-025-0098	3-11-2016	Adopt	4-1-2016
584-420-0310	2-10-2016	Adopt	3-1-2016	629-025-0099	3-11-2016	Adopt	4-1-2016
584-420-0345	2-10-2016	Adopt	3-1-2016	632-030-0016	1-14-2016	Amend(T)	2-1-2016
584-420-0360	2-10-2016	Adopt	3-1-2016	632-030-0022	1-14-2016	Amend(T)	2-1-2016
584-420-0365	2-10-2016	Adopt	3-1-2016	635-001-0030	12-9-2015	Adopt	1-1-2016
584-420-0375	2-10-2016	Adopt	3-1-2016	635-001-0341	1-6-2016	Adopt	2-1-2016
584-420-0390	2-10-2016	Adopt	3-1-2016	635-004-0215	1-19-2016	Amend	3-1-2016
584-420-0415	2-10-2016	Adopt	3-1-2016	635-004-0275	11-25-2015	Amend(T)	1-1-2016
584-420-0420	2-10-2016	Adopt	3-1-2016	635-004-0275	1-19-2016	Amend	3-1-2016
584-420-0425	2-10-2016	Adopt	3-1-2016	635-004-0275(T)	11-25-2015	Suspend	1-1-2016
584-420-0440	2-10-2016	Adopt	3-1-2016	635-004-0295	1-19-2016	Amend	3-1-2016
584-420-0460	2-10-2016	Adopt	3-1-2016	635-004-0300	1-19-2016	Amend	3-1-2016
584-420-0475	2-10-2016	Adopt	3-1-2016	635-004-0340	1-19-2016	Amend	3-1-2016
584-420-0490	2-10-2016	Adopt	3-1-2016	635-004-0350	1-19-2016	Amend	3-1-2016
584-420-0600	2-10-2016	Adopt	3-1-2016	635-004-0355	1-19-2016	Amend	3-1-2016
584-420-0610	2-10-2016	Adopt	3-1-2016	635-004-0360	1-19-2016	Amend	3-1-2016
584-420-0620	2-10-2016	Adopt	3-1-2016	635-005-0290	1-1-2016	Amend	1-1-2016
584-420-0630	2-10-2016	Adopt	3-1-2016	635-005-0305	1-1-2016	Amend	1-1-2016
584-420-0640	2-10-2016	Adopt	3-1-2016	635-005-0310	1-1-2016	Amend	1-1-2016
584-420-0650	2-10-2016	Adopt	3-1-2016	635-005-0350	1-1-2016	Amend	1-1-2016
584-420-0660	2-10-2016	Adopt	3-1-2016	635-005-0355	1-1-2016	Amend	1-1-2016
589-002-0120	2-12-2016	Amend	3-1-2016	635-005-0355	2-23-2016	Amend(T)	4-1-2016
603-011-0212	4-5-2016	Amend	5-1-2016	635-005-0385	1-1-2016	Amend	1-1-2016
603-025-0150	2-9-2016	Amend	3-1-2016	635-005-0387	1-1-2016	Adopt	1-1-2016
603-025-0151	2-9-2016	Adopt	3-1-2016	635-005-0465	11-20-2015	Amend(T)	1-1-2016
603-025-0152	2-9-2016	Adopt	3-1-2016	635-005-0465	1-1-2016	Amend(T)	2-1-2016
603-025-0190	12-2-2015	Amend	1-1-2016	635-005-0465(T)	1-1-2016	Suspend	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-005-0790	4-1-2016	Amend	5-1-2016	635-039-0090	1-1-2016	Amend	2-1-2016
635-005-0795	4-1-2016	Amend	5-1-2016	635-039-0090	1-19-2016	Amend	3-1-2016
635-005-0800	4-1-2016	Amend	5-1-2016	635-039-0090	4-1-2016	Amend(T)	5-1-2016
635-005-0805	4-1-2016	Amend	5-1-2016	635-041-0065	2-1-2016	Amend(T)	3-1-2016
635-005-0810	4-1-2016	Amend	5-1-2016	635-041-0065	2-12-2016	Amend(T)	3-1-2016
635-005-0815	4-1-2016	Amend	5-1-2016	635-041-0065	2-19-2016	Amend(T)	4-1-2016
635-005-0820	4-1-2016	Amend	5-1-2016	635-041-0065	2-26-2016	Amend(T)	4-1-2016
635-005-0825	4-1-2016	Amend	5-1-2016	635-041-0065	3-5-2016	Amend(T)	4-1-2016
635-005-0830	4-1-2016	Amend	5-1-2016	635-041-0065(T)	2-12-2016	Suspend	3-1-2016
635-005-0835	4-1-2016	Amend	5-1-2016	635-041-0065(T)	2-19-2016	Suspend	4-1-2016
635-005-0840	4-1-2016	Amend	5-1-2016	635-041-0065(T)	2-26-2016	Suspend	4-1-2016
635-005-0845	4-1-2016	Amend	5-1-2016	635-041-0065(T)	3-5-2016	Suspend	4-1-2016
635-006-0210	2-1-2016	Amend(T)	3-1-2016	635-042-0022	3-28-2016	Amend(T)	5-1-2016
635-006-0232	1-19-2016	Amend	3-1-2016	635-042-0022	4-5-2016	Amend(T)	5-1-2016
635-007-0605	2-23-2016	Amend(T)	4-1-2016	635-042-0022(T)	4-5-2016	Suspend	5-1-2016
635-008-0123	11-25-2015	Amend	1-1-2016	635-042-0130	2-1-2016	Amend(T)	3-1-2016
635-008-0123(T)	11-25-2015	Repeal	1-1-2016	635-042-0145	2-8-2016	Amend(T)	3-1-2016
635-010-0015	11-25-2015	Amend	1-1-2016	635-042-0145	3-28-2016	Amend(T)	5-1-2016
635-011-0100	1-1-2016	Amend	2-1-2016	635-042-0145	4-6-2016	Amend(T)	5-1-2016
635-011-0100	4-1-2016	Amend(T)	5-1-2016	635-042-0145	4-13-2016	Amend(T)	5-1-2016
635-013-0004	1-1-2016	Amend	2-1-2016	635-042-0145(T)	3-28-2016	Suspend	5-1-2016
635-014-0080	1-1-2016	Amend	2-1-2016	635-042-0145(T)	4-6-2016	Suspend	5-1-2016
635-014-0090	1-1-2016	Amend	2-1-2016	635-042-0145(T)	4-13-2016	Suspend	5-1-2016
635-014-0090	4-1-2016	Amend(T)	5-1-2016	635-042-0160	2-8-2016	Amend(T)	3-1-2016
635-016-0080	1-1-2016	Amend	2-1-2016	635-042-0160	3-28-2016	Amend(T)	5-1-2016
635-016-0090	1-1-2016	Amend	2-1-2016	635-042-0160(T)	3-28-2016	Suspend	5-1-2016
635-016-0090	4-1-2016	Amend(T)	5-1-2016	635-042-0170	2-8-2016	Amend(T)	3-1-2016
635-017-0080	1-1-2016	Amend	2-1-2016	635-042-0180	2-8-2016	Amend(T)	3-1-2016
635-017-0090	1-1-2016	Amend	2-1-2016	635-042-0180	3-28-2016	Amend(T)	5-1-2016
635-017-0090	4-1-2016	Amend(T)	5-1-2016	635-042-0180(T)	3-28-2016	Suspend	5-1-2016
635-017-0090	4-8-2016	Amend(T)	5-1-2016	635-044-0200	12-9-2015	Repeal	1-1-2016
635-017-0090(T)	4-8-2016	Suspend	5-1-2016	635-044-0205	12-9-2015	Repeal	1-1-2016
635-017-0095	1-1-2016	Amend	2-1-2016	635-044-0210	12-9-2015	Repeal	1-1-2016
635-018-0080	1-1-2016	Amend	2-1-2016	635-044-0215	12-9-2015	Repeal	1-1-2016
635-018-0090	1-1-2016	Amend	2-1-2016	635-044-0240	12-9-2015	Repeal	1-1-2016
635-018-0090	4-15-2016	Amend(T)	5-1-2016	635-044-0245	12-9-2015	Repeal	1-1-2016
635-019-0080	1-1-2016	Amend	2-1-2016	635-044-0250	12-9-2015	Repeal	1-1-2016
635-019-0090	1-1-2016	Amend	2-1-2016	635-044-0255	12-9-2015	Repeal	1-1-2016
635-021-0080	1-1-2016	Amend	2-1-2016	635-044-0280	12-9-2015	Repeal	1-1-2016
635-021-0090	1-1-2016	Amend	2-1-2016	635-044-0300	12-9-2015	Repeal	1-1-2016
635-021-0090	4-1-2016	Amend(T)	5-1-2016	635-044-0305	12-9-2015	Repeal	1-1-2016
635-023-0080	1-1-2016	Amend	2-1-2016	635-044-0310	12-9-2015	Repeal	1-1-2016
635-023-0090	1-1-2016	Amend	2-1-2016	635-045-0000	11-25-2015	Amend	1-1-2016
635-023-0095	1-1-2016	Amend	2-1-2016	635-045-0002	11-25-2015	Amend	1-1-2016
635-023-0095	2-8-2016	Amend(T)	3-1-2016	635-060-0000	11-25-2015	Amend	1-1-2016
635-023-0125	1-1-2016	Amend	2-1-2016	635-060-0005	11-25-2015	Amend	1-1-2016
635-023-0125	3-1-2016	Amend(T)	3-1-2016	635-060-0018	11-25-2015	Amend	1-1-2016
635-023-0125	4-8-2016	Amend(T)	5-1-2016	635-062-0000	12-9-2015	Adopt	1-1-2016
635-023-0125(T)	4-8-2016	Suspend	5-1-2016	635-062-0005	12-9-2015	Adopt	1-1-2016
635-023-0128	1-1-2016	Amend	2-1-2016	635-062-0010	12-9-2015	Adopt	1-1-2016
635-023-0130	1-1-2016	Amend	2-1-2016	635-062-0015	12-9-2015	Adopt	1-1-2016
635-023-0134	1-1-2016	Amend	2-1-2016	635-062-0020	12-9-2015	Adopt	1-1-2016
635-023-0134	4-23-2016	Amend(T)	5-1-2016	635-062-0025	12-9-2015	Adopt	1-1-2016
635-023-0140	1-1-2016	Amend	2-1-2016	635-062-0030	12-9-2015	Adopt	1-1-2016
635-039-0080	1-1-2016	Amend	2-1-2016	635-062-0035	12-9-2015	Adopt	1-1-2016
635-039-0080	1-19-2016	Amend	3-1-2016	635-062-0040	12-9-2015	Adopt	1-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-062-0045	12-9-2015	Adopt	1-1-2016	660-024-0050	1-1-2016	Amend	2-1-2016
635-062-0050	12-9-2015	Adopt	1-1-2016	660-024-0060	1-1-2016	Amend	2-1-2016
635-062-0055	12-9-2015	Adopt	1-1-2016	660-024-0065	1-1-2016	Adopt	2-1-2016
635-062-0060	12-9-2015	Adopt	1-1-2016	660-024-0067	1-1-2016	Adopt	2-1-2016
635-065-0001	3-21-2016	Amend	5-1-2016	660-024-0070	1-1-2016	Amend	2-1-2016
635-065-0001	3-25-2016	Amend(T)	5-1-2016	660-025-0020	2-10-2016	Amend	3-1-2016
635-065-0011	3-21-2016	Amend	5-1-2016	660-025-0035	2-10-2016	Amend	3-1-2016
635-065-0015	3-21-2016	Amend	5-1-2016	660-025-0040	2-10-2016	Amend	3-1-2016
635-065-0090	3-21-2016	Amend	5-1-2016	660-025-0060	2-10-2016	Amend	3-1-2016
635-065-0401	3-21-2016	Amend	5-1-2016	660-025-0085	2-10-2016	Amend	3-1-2016
635-065-0625	3-21-2016	Amend	5-1-2016	660-025-0090	2-10-2016	Amend	3-1-2016
635-065-0720	3-21-2016	Amend	5-1-2016	660-025-0130	2-10-2016	Amend	3-1-2016
635-065-0735	3-21-2016	Amend	5-1-2016	660-025-0140	2-10-2016	Amend	3-1-2016
635-065-0740	3-21-2016	Amend	5-1-2016	660-025-0150	2-10-2016	Amend	3-1-2016
635-065-0760	3-21-2016	Amend	5-1-2016	660-025-0160	2-10-2016	Amend	3-1-2016
635-065-0765	2-25-2016	Amend(T)	4-1-2016	660-025-0175	2-10-2016	Amend	3-1-2016
635-065-0765	3-21-2016	Amend	5-1-2016	660-027-0070	2-10-2016	Amend	3-1-2016
635-066-0000	3-21-2016	Amend	5-1-2016	660-033-0020	3-24-2016	Amend	5-1-2016
635-067-0000	3-21-2016	Amend	5-1-2016	660-033-0030	2-10-2016	Amend	3-1-2016
635-067-0027	12-1-2015	Amend(T)	1-1-2016	660-033-0030	3-24-2016	Amend	5-1-2016
635-067-0030	3-21-2016	Amend	5-1-2016	660-033-0045	2-10-2016	Amend	3-1-2016
635-067-0036	3-21-2016	Adopt	5-1-2016	660-033-0100	3-24-2016	Amend	5-1-2016
635-068-0000	3-21-2016	Amend	5-1-2016	660-033-0120	2-10-2016	Amend	3-1-2016
635-069-0000	3-21-2016	Amend	5-1-2016	660-033-0130	2-10-2016	Amend	3-1-2016
635-070-0000	4-6-2016	Amend	5-1-2016	660-033-0135	2-10-2016	Amend	3-1-2016
635-071-0000	4-6-2016	Amend	5-1-2016	660-033-0150	2-10-2016	Repeal	3-1-2016
635-072-0000	3-21-2016	Amend	5-1-2016	660-038-0000	1-1-2016	Adopt	2-1-2016
635-073-0000	3-21-2016	Amend	5-1-2016	660-038-0010	1-1-2016	Adopt	2-1-2016
635-073-0100	3-21-2016	Adopt	5-1-2016	660-038-0020	1-1-2016	Adopt	2-1-2016
635-075-0020	3-21-2016	Amend	5-1-2016	660-038-0030	1-1-2016	Adopt	2-1-2016
635-075-0025	3-21-2016	Amend	5-1-2016	660-038-0040	1-1-2016	Adopt	2-1-2016
635-075-0026	3-21-2016	Amend	5-1-2016	660-038-0050	1-1-2016	Adopt	2-1-2016
635-415-0025	3-25-2016	Amend	5-1-2016	660-038-0060	1-1-2016	Adopt	2-1-2016
635-435-0000	12-9-2015	Amend	1-1-2016	660-038-0070	1-1-2016	Adopt	2-1-2016
635-435-0005	12-9-2015	Amend	1-1-2016	660-038-0080	1-1-2016	Adopt	2-1-2016
635-435-0010	12-9-2015	Amend	1-1-2016	660-038-0090	1-1-2016	Adopt	2-1-2016
635-435-0010	12-9-2015	Amend(T)	1-1-2016	660-038-0100	1-1-2016	Adopt	2-1-2016
635-435-0015	12-9-2015	Amend	1-1-2016	660-038-0110	1-1-2016	Adopt	2-1-2016
635-435-0020	12-9-2015	Amend	1-1-2016	660-038-0120	1-1-2016	Adopt	2-1-2016
635-435-0025	12-9-2015	Amend	1-1-2016	660-038-0130	1-1-2016	Adopt	2-1-2016
635-435-0030	12-9-2015	Repeal	1-1-2016	660-038-0140	1-1-2016	Adopt	2-1-2016
635-435-0035	12-9-2015	Repeal	1-1-2016	660-038-0150	1-1-2016	Adopt	2-1-2016
635-435-0040	12-9-2015	Amend	1-1-2016	660-038-0160	1-1-2016	Adopt	2-1-2016
635-435-0045	12-9-2015	Amend	1-1-2016	660-038-0170	1-1-2016	Adopt	2-1-2016
635-435-0050	12-9-2015	Amend	1-1-2016	660-038-0180	1-1-2016	Adopt	2-1-2016
635-435-0055	12-9-2015	Amend	1-1-2016	660-038-0190	1-1-2016	Adopt	2-1-2016
635-435-0060	12-9-2015	Amend	1-1-2016	660-038-0200	1-1-2016	Adopt	2-1-2016
660-004-0018	2-10-2016	Amend	3-1-2016	668-010-0010	3-9-2016	Amend	4-1-2016
660-006-0005	2-10-2016	Amend	3-1-2016	690-051-0000	1-1-2016	Amend	2-1-2016
660-006-0010	2-10-2016	Amend	3-1-2016	690-051-0010	1-1-2016	Amend	2-1-2016
660-006-0025	2-10-2016	Amend	3-1-2016	690-051-0020	1-1-2016	Amend	2-1-2016
660-006-0026	2-10-2016	Amend	3-1-2016	690-051-0030	1-1-2016	Amend	2-1-2016
660-006-0027	2-10-2016	Amend	3-1-2016	690-051-0050	1-1-2016	Amend	2-1-2016
660-015-0000	1-1-2016	Amend	2-1-2016	690-051-0060	1-1-2016	Amend	2-1-2016
660-023-0115	2-10-2016	Amend	3-1-2016	690-051-0090	1-1-2016	Amend	2-1-2016
660-024-0000	1-1-2016	Amend	2-1-2016	690-051-0095	1-1-2016	Amend	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
690-051-0130	1-1-2016	Amend	2-1-2016	731-070-0140	3-22-2016	Amend	5-1-2016
690-051-0140	1-1-2016	Amend	2-1-2016	731-070-0160	3-22-2016	Amend	5-1-2016
690-051-0150	1-1-2016	Amend	2-1-2016	731-070-0170	3-22-2016	Amend	5-1-2016
690-051-0160	1-1-2016	Amend	2-1-2016	731-070-0190	3-22-2016	Repeal	5-1-2016
690-051-0170	1-1-2016	Amend	2-1-2016	731-070-0195	3-22-2016	Repeal	5-1-2016
690-051-0180	1-1-2016	Amend	2-1-2016	731-070-0240	3-22-2016	Am. & Ren.	5-1-2016
690-051-0190	1-1-2016	Amend	2-1-2016	731-070-0245	3-22-2016	Am. & Ren.	5-1-2016
690-051-0200	1-1-2016	Amend	2-1-2016	731-070-0250	3-22-2016	Am. & Ren.	5-1-2016
690-051-0210	1-1-2016	Amend	2-1-2016	731-070-0260	3-22-2016	Am. & Ren.	5-1-2016
690-051-0220	1-1-2016	Amend	2-1-2016	731-070-0350	3-22-2016	Amend	5-1-2016
690-051-0230	1-1-2016	Amend	2-1-2016	731-070-0360	3-22-2016	Repeal	5-1-2016
690-051-0240	1-1-2016	Amend	2-1-2016	734-020-0018	11-20-2015	Amend	1-1-2016
690-051-0250	1-1-2016	Amend	2-1-2016	734-020-0019	11-20-2015	Amend	1-1-2016
690-051-0270	1-1-2016	Repeal	2-1-2016	734-074-0027	12-17-2015	Amend	2-1-2016
690-051-0280	1-1-2016	Amend	2-1-2016	734-082-0005	12-17-2015	Amend	2-1-2016
690-051-0290	1-1-2016	Amend	2-1-2016	734-082-0040	12-17-2015	Amend	2-1-2016
690-051-0310	1-1-2016	Repeal	2-1-2016	734-082-0045	12-17-2015	Amend	2-1-2016
690-051-0320	1-1-2016	Amend	2-1-2016	734-082-0070	12-17-2015	Amend	2-1-2016
690-051-0330	1-1-2016	Repeal	2-1-2016	735-032-0070	1-1-2016	Adopt	1-1-2016
690-051-0340	1-1-2016	Repeal	2-1-2016	735-062-0005	1-1-2016	Amend	2-1-2016
690-051-0350	1-1-2016	Amend	2-1-2016	735-062-0035	1-1-2016	Amend	2-1-2016
690-051-0360	1-1-2016	Repeal	2-1-2016	735-062-0110	1-1-2016	Amend	2-1-2016
690-051-0370	1-1-2016	Repeal	2-1-2016	735-062-0120	1-1-2016	Amend	2-1-2016
690-051-0380	1-1-2016	Amend	2-1-2016	735-064-0070	1-1-2016	Amend	2-1-2016
690-051-0400	1-1-2016	Amend	2-1-2016	735-070-0080	1-1-2016	Amend	2-1-2016
690-079-0010	12-2-2015	Amend(T)	1-1-2016	735-070-0082	1-1-2016	Amend	2-1-2016
690-079-0160	12-2-2015	Adopt(T)	1-1-2016	735-118-0000	1-1-2016	Amend	2-1-2016
690-509-0000	3-1-2016	Amend	4-1-2016	735-118-0050	1-1-2016	Amend	2-1-2016
690-509-0100	3-1-2016	Amend	4-1-2016	735-150-0010	1-1-2016	Amend	2-1-2016
690-512-0010	4-15-2016	Adopt	5-1-2016	735-150-0015	1-1-2016	Amend	2-1-2016
690-512-0020	4-15-2016	Adopt	5-1-2016	735-150-0017	1-1-2016	Amend	2-1-2016
690-512-0040	4-15-2016	Repeal	5-1-2016	735-150-0020	1-1-2016	Amend	2-1-2016
690-512-0090	4-15-2016	Adopt	5-1-2016	735-150-0037	1-1-2016	Amend	2-1-2016
715-013-0005	12-14-2015	Amend(T)	1-1-2016	735-150-0047	1-1-2016	Amend	2-1-2016
715-013-0005	2-19-2016	Amend	4-1-2016	735-150-0055	1-1-2016	Amend	1-1-2016
715-013-0005(T)	2-19-2016	Repeal	4-1-2016	735-150-0110	1-1-2016	Amend	2-1-2016
715-045-0001	3-9-2016	Amend	4-1-2016	735-150-0110	1-1-2016	Amend	2-1-2016
715-045-0007	3-9-2016	Amend	4-1-2016	735-150-0140	1-1-2016	Amend	1-1-2016
715-045-0012	3-9-2016	Amend	4-1-2016	736-015-0035	3-16-2016	Amend	5-1-2016
731-035-0010	12-17-2015	Amend	2-1-2016	738-001-0035	12-15-2015	Amend	1-1-2016
731-035-0020	12-17-2015	Amend	2-1-2016	738-010-0025	12-15-2015	Amend	1-1-2016
731-035-0030	12-17-2015	Amend	2-1-2016	738-010-0035	12-15-2015	Amend	1-1-2016
731-035-0040	12-17-2015	Amend	2-1-2016	738-010-0040	12-15-2015	Repeal	1-1-2016
731-035-0050	12-17-2015	Amend	2-1-2016	738-010-0050	12-15-2015	Amend	1-1-2016
731-035-0060	12-17-2015	Amend	2-1-2016	738-010-0060	12-15-2015	Amend	1-1-2016
731-035-0070	12-17-2015	Amend	2-1-2016	738-080-0010	12-15-2015	Amend	1-1-2016
731-035-0080	12-17-2015	Amend	2-1-2016	738-080-0015	12-15-2015	Adopt	1-1-2016
731-070-0010	3-22-2016	Amend	5-1-2016	738-080-0020	12-15-2015	Amend	1-1-2016
731-070-0020	3-22-2016	Amend	5-1-2016	738-080-0030	12-15-2015	Amend	1-1-2016
731-070-0030	3-22-2016	Repeal	5-1-2016	738-080-0040	12-15-2015	Repeal	1-1-2016
731-070-0050	3-22-2016	Amend	5-1-2016	738-080-0045	12-15-2015	Adopt	1-1-2016
731-070-0055	3-22-2016	Amend	5-1-2016	738-140-0005	12-15-2015	Adopt	1-1-2016
731-070-0060	3-22-2016	Amend	5-1-2016	738-140-0010	12-15-2015	Adopt	1-1-2016
731-070-0080	3-22-2016	Amend	5-1-2016	738-140-0015	12-15-2015	Adopt	1-1-2016
731-070-0110	3-22-2016	Amend	5-1-2016	738-140-0020	12-15-2015	Adopt	1-1-2016
731-070-0130	3-22-2016	Amend	5-1-2016	738-140-0025	12-15-2015	Adopt	1-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
738-140-0030	12-15-2015	Adopt	1-1-2016	813-300-0150	3-25-2016	Amend	5-1-2016
738-140-0035	12-15-2015	Adopt	1-1-2016	813-300-0150(T)	3-25-2016	Repeal	5-1-2016
738-140-0040	12-15-2015	Adopt	1-1-2016	813-330-0000	2-11-2016	Adopt	3-1-2016
741-520-0010	11-17-2015	Repeal	1-1-2016	813-330-0010	2-11-2016	Adopt	3-1-2016
800-020-0025	4-1-2016	Amend	5-1-2016	813-330-0020	2-11-2016	Adopt	3-1-2016
801-001-0035	1-1-2016	Amend(T)	2-1-2016	813-330-0030	2-11-2016	Adopt	3-1-2016
806-010-0010	12-14-2015	Amend	1-1-2016	813-330-0040	2-11-2016	Adopt	3-1-2016
806-010-0020	12-14-2015	Amend	1-1-2016	813-330-0050	2-11-2016	Adopt	3-1-2016
806-010-0035	12-14-2015	Amend	1-1-2016	813-330-0060	2-11-2016	Adopt	3-1-2016
808-002-0020	1-1-2016	Amend	2-1-2016	817-090-0025	4-4-2016	Amend	5-1-2016
808-002-0200	1-1-2016	Amend	2-1-2016	817-090-0035	4-4-2016	Amend	5-1-2016
808-002-0250	1-1-2016	Repeal	2-1-2016	817-090-0050	4-4-2016	Repeal	5-1-2016
808-002-0300	1-1-2016	Amend	2-1-2016	817-090-0080	4-4-2016	Amend	5-1-2016
808-002-0320	1-1-2016	Amend	2-1-2016	817-090-0090	4-4-2016	Amend	5-1-2016
808-002-0338	1-1-2016	Amend	2-1-2016	817-090-0100	4-4-2016	Amend	5-1-2016
808-002-0455	1-1-2016	Amend	2-1-2016	820-010-0505	2-16-2016	Amend	4-1-2016
808-002-0480	1-1-2016	Amend	2-1-2016	820-010-3020	1-14-2016	Adopt	2-1-2016
808-002-0490	1-1-2016	Amend	2-1-2016	820-010-4000	3-15-2016	Amend(T)	4-1-2016
808-002-0500	1-1-2016	Amend	2-1-2016	820-010-5000	1-15-2016	Amend(T)	2-1-2016
808-002-0730	1-1-2016	Amend	2-1-2016	820-015-0026	2-16-2016	Amend	4-1-2016
808-002-0780	1-1-2016	Amend	2-1-2016	820-020-0015	2-16-2016	Amend	4-1-2016
808-002-0810	1-1-2016	Repeal	2-1-2016	820-020-0025	2-16-2016	Amend	4-1-2016
808-002-0884	1-1-2016	Repeal	2-1-2016	820-020-0030	2-16-2016	Amend	4-1-2016
808-002-0920	1-1-2016	Amend	2-1-2016	820-020-0035	2-16-2016	Amend	4-1-2016
808-003-0015	1-1-2016	Amend	2-1-2016	820-020-0040	1-14-2016	Amend	2-1-2016
808-003-0018	1-1-2016	Amend	2-1-2016	820-025-0015	1-15-2016	Amend(T)	2-1-2016
808-003-0040	1-1-2016	Amend	2-1-2016	820-030-0005	2-16-2016	Adopt	4-1-2016
808-003-0060	1-1-2016	Amend	2-1-2016	820-040-0005	2-16-2016	Amend	4-1-2016
808-003-0095	1-1-2016	Amend	2-1-2016	830-011-0000	1-1-2016	Amend	2-1-2016
808-003-0125	1-1-2016	Amend	2-1-2016	830-011-0020	1-1-2016	Amend	2-1-2016
808-003-0126	1-1-2016	Amend	2-1-2016	830-011-0040	1-1-2016	Amend	2-1-2016
808-003-0230	1-1-2016	Amend	2-1-2016	830-011-0065	1-1-2016	Adopt	2-1-2016
808-003-0610	1-1-2016	Amend	2-1-2016	830-020-0000	1-1-2016	Amend	2-1-2016
808-003-0610(T)	1-1-2016	Repeal	2-1-2016	830-020-0030	1-1-2016	Amend	2-1-2016
808-003-0611	1-1-2016	Amend	2-1-2016	830-020-0040	1-1-2016	Amend	2-1-2016
808-003-0613	1-1-2016	Amend	2-1-2016	830-030-0004	1-1-2016	Amend	2-1-2016
808-004-0180	1-1-2016	Amend	2-1-2016	830-030-0090	1-1-2016	Amend	2-1-2016
808-004-0211	1-1-2016	Amend	2-1-2016	830-040-0095	1-1-2016	Adopt	2-1-2016
808-004-0320	1-1-2016	Amend	2-1-2016	833-120-0011	4-1-2016	Amend	5-1-2016
808-040-0020	1-1-2016	Amend	2-1-2016	834-020-0000	3-1-2016	Amend	4-1-2016
808-040-0025	4-8-2016	Amend	5-1-2016	834-030-0000	3-1-2016	Amend	4-1-2016
808-040-0050	4-8-2016	Amend	5-1-2016	834-030-0010	3-1-2016	Amend	4-1-2016
808-040-0060	4-8-2016	Amend	5-1-2016	834-040-0000	3-1-2016	Amend	4-1-2016
808-040-0080	1-1-2016	Amend	2-1-2016	834-050-0000	3-1-2016	Amend	4-1-2016
811-010-0085	5-2-2016	Amend	5-1-2016	834-050-0010	3-1-2016	Amend	4-1-2016
813-013-0001	11-30-2015	Amend(T)	1-1-2016	836-009-0020	4-8-2016	Repeal	5-1-2016
813-013-0005	11-30-2015	Amend(T)	1-1-2016	836-009-0025	4-8-2016	Repeal	5-1-2016
813-013-0010	11-30-2015	Amend(T)	1-1-2016	836-009-0030	4-8-2016	Repeal	5-1-2016
813-013-0015	11-30-2015	Amend(T)	1-1-2016	836-009-0035	4-8-2016	Repeal	5-1-2016
813-013-0020	11-30-2015	Amend(T)	1-1-2016	836-009-0040	4-8-2016	Repeal	5-1-2016
813-013-0035	11-30-2015	Amend(T)	1-1-2016	836-010-0013	4-8-2016	Amend	5-1-2016
813-013-0040	11-30-2015	Amend(T)	1-1-2016	836-011-0000	2-3-2016	Amend	3-1-2016
813-013-0050	11-30-2015	Amend(T)	1-1-2016	836-027-0005	3-3-2016	Amend	4-1-2016
813-013-0054	11-30-2015	Amend(T)	1-1-2016	836-027-0010	3-3-2016	Amend	4-1-2016
813-300-0005	3-25-2016	Amend	5-1-2016	836-027-0012	3-3-2016	Amend	4-1-2016
813-300-0120	3-25-2016	Amend	5-1-2016	836-027-0100	3-3-2016	Amend	4-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
836-027-0125	3-3-2016	Amend	4-1-2016	836-071-0370	1-20-2016	Amend	3-1-2016
836-027-0140	3-3-2016	Amend	4-1-2016	836-071-0380	1-1-2016	Amend	2-1-2016
836-027-0160	3-3-2016	Amend	4-1-2016	836-071-0380	1-20-2016	Amend	3-1-2016
836-051-0150	1-1-2016	Adopt	2-1-2016	837-012-0305	1-1-2016	Amend	2-1-2016
836-051-0153	1-1-2016	Adopt	2-1-2016	837-012-0310	1-1-2016	Amend	2-1-2016
836-051-0156	1-1-2016	Adopt	2-1-2016	837-012-0315	1-1-2016	Amend	2-1-2016
836-052-0142	1-1-2016	Amend	2-1-2016	837-012-0320	1-1-2016	Amend	2-1-2016
836-052-1000	4-8-2016	Amend	5-1-2016	837-012-0325	1-1-2016	Amend	2-1-2016
836-053-0002	12-17-2015	Amend(T)	2-1-2016	837-012-0330	1-1-2016	Amend	2-1-2016
836-053-0004	12-17-2015	Adopt(T)	2-1-2016	837-012-0340	1-1-2016	Amend	2-1-2016
836-053-0008	12-17-2015	Amend(T)	2-1-2016	837-012-0350	1-1-2016	Amend	2-1-2016
836-053-0009	12-17-2015	Amend(T)	2-1-2016	837-012-0360	1-1-2016	Amend	2-1-2016
836-053-0010	4-8-2016	Amend	5-1-2016	837-012-0370	1-1-2016	Amend	2-1-2016
836-053-0012	12-17-2015	Adopt(T)	2-1-2016	837-012-0500	1-1-2016	Amend	2-1-2016
836-053-0013	12-17-2015	Adopt(T)	2-1-2016	837-012-0510	1-1-2016	Amend	2-1-2016
836-053-0014(T)	4-8-2016	Repeal	5-1-2016	837-012-0515	1-1-2016	Amend	2-1-2016
836-053-0015	4-8-2016	Adopt	5-1-2016	837-012-0520	1-1-2016	Amend	2-1-2016
836-053-0015(T)	4-8-2016	Repeal	5-1-2016	837-012-0525	1-1-2016	Amend	2-1-2016
836-053-0021	4-8-2016	Amend	5-1-2016	837-012-0530	1-1-2016	Amend	2-1-2016
836-053-0030	4-8-2016	Amend	5-1-2016	837-012-0535	1-1-2016	Amend	2-1-2016
836-053-0050	4-8-2016	Amend	5-1-2016	837-012-0540	1-1-2016	Amend	2-1-2016
836-053-0066	4-8-2016	Amend	5-1-2016	837-012-0545	1-1-2016	Amend	2-1-2016
836-053-0230	4-8-2016	Amend	5-1-2016	837-012-0550	1-1-2016	Amend	2-1-2016
836-053-0410	4-8-2016	Amend	5-1-2016	837-012-0555	1-1-2016	Amend	2-1-2016
836-053-0431	4-8-2016	Amend	5-1-2016	837-012-0560	1-1-2016	Amend	2-1-2016
836-053-0465	4-8-2016	Amend	5-1-2016	837-012-0565	1-1-2016	Amend	2-1-2016
836-053-0472	4-8-2016	Amend	5-1-2016	837-012-0570	1-1-2016	Amend	2-1-2016
836-053-0510	4-8-2016	Amend	5-1-2016	837-012-0600	1-1-2016	Amend	2-1-2016
836-053-0600	1-1-2016	Adopt	2-1-2016	837-012-0610	1-1-2016	Amend	2-1-2016
836-053-0600(T)	1-1-2016	Repeal	2-1-2016	837-012-0615	1-1-2016	Amend	2-1-2016
836-053-0605	1-1-2016	Adopt	2-1-2016	837-012-0620	1-1-2016	Amend	2-1-2016
836-053-0605(T)	1-1-2016	Repeal	2-1-2016	837-012-0625	1-1-2016	Amend	2-1-2016
836-053-0610	1-1-2016	Adopt	2-1-2016	837-012-0630	1-1-2016	Amend	2-1-2016
836-053-0610(T)	1-1-2016	Repeal	2-1-2016	837-012-0635	1-1-2016	Amend	2-1-2016
836-053-0615	1-1-2016	Adopt	2-1-2016	837-012-0640	1-1-2016	Amend	2-1-2016
836-053-0615(T)	1-1-2016	Repeal	2-1-2016	837-012-0645	1-1-2016	Amend	2-1-2016
836-053-0825	4-8-2016	Amend	5-1-2016	837-012-0650	1-1-2016	Amend	2-1-2016
836-053-0830	4-8-2016	Amend	5-1-2016	837-012-0655	1-1-2016	Amend	2-1-2016
836-053-0835	4-8-2016	Amend	5-1-2016	837-012-0660	1-1-2016	Amend	2-1-2016
836-053-1020	12-17-2015	Amend(T)	2-1-2016	837-012-0665	1-1-2016	Amend	2-1-2016
836-053-1404	12-17-2015	Amend(T)	2-1-2016	837-012-0670	1-1-2016	Amend	2-1-2016
836-053-1405	12-17-2015	Amend(T)	2-1-2016	837-012-0675	1-1-2016	Amend	2-1-2016
836-053-1500	4-8-2016	Adopt	5-1-2016	837-012-0700	1-1-2016	Amend	2-1-2016
836-053-1500(T)	4-8-2016	Repeal	5-1-2016	837-012-0710	1-1-2016	Amend	2-1-2016
836-053-1505	4-8-2016	Adopt	5-1-2016	837-012-0720	1-1-2016	Amend	2-1-2016
836-053-1505(T)	4-8-2016	Repeal	5-1-2016	837-012-0730	1-1-2016	Amend	2-1-2016
836-053-1510	4-8-2016	Adopt	5-1-2016	837-012-0740	1-1-2016	Amend	2-1-2016
836-053-1510(T)	4-8-2016	Repeal	5-1-2016	837-012-0750	1-1-2016	Amend	2-1-2016
836-054-0000	1-1-2016	Amend	2-1-2016	837-012-0760	1-1-2016	Amend	2-1-2016
836-054-0000(T)	1-1-2016	Repeal	2-1-2016	837-012-0770	1-1-2016	Amend	2-1-2016
836-054-0020	1-1-2016	Adopt	2-1-2016	837-012-0780	1-1-2016	Amend	2-1-2016
836-071-0354	1-1-2016	Adopt	2-1-2016	837-012-0790	1-1-2016	Amend	2-1-2016
836-071-0354	1-20-2016	Adopt	3-1-2016	837-012-0800	1-1-2016	Amend	2-1-2016
836-071-0355	1-1-2016	Amend	2-1-2016	837-012-0810	1-1-2016	Amend	2-1-2016
836-071-0355	1-20-2016	Amend	3-1-2016	837-012-0820	1-1-2016	Amend	2-1-2016
836-071-0370	1-1-2016	Amend	2-1-2016	837-012-0830	1-1-2016	Amend	2-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
837-012-0835	1-1-2016	Amend	2-1-2016	839-020-0030	1-1-2016	Amend	2-1-2016
837-012-0840	1-1-2016	Amend	2-1-2016	839-020-0042	1-1-2016	Amend	2-1-2016
837-012-0850	1-1-2016	Amend	2-1-2016	839-020-0052	1-1-2016	Adopt	2-1-2016
837-012-0855	1-1-2016	Amend	2-1-2016	839-020-0125	1-1-2016	Amend	2-1-2016
837-012-0860	1-1-2016	Amend	2-1-2016	839-020-1010	1-1-2016	Amend	2-1-2016
837-012-0865	1-1-2016	Amend	2-1-2016	839-025-0004	3-31-2016	Amend	5-1-2016
837-012-0870	1-1-2016	Amend	2-1-2016	839-025-0020	3-31-2016	Amend	5-1-2016
837-012-0875	1-1-2016	Amend	2-1-2016	839-025-0037	3-31-2016	Amend	5-1-2016
837-012-0880	1-1-2016	Amend	2-1-2016	839-025-0100	3-31-2016	Amend	5-1-2016
837-012-0890	1-1-2016	Amend	2-1-2016	839-025-0320	3-31-2016	Amend	5-1-2016
837-012-0900	1-1-2016	Amend	2-1-2016	839-025-0530	3-31-2016	Amend	5-1-2016
837-012-0910	1-1-2016	Amend	2-1-2016	839-025-0700	1-1-2016	Amend	1-1-2016
837-012-0920	1-1-2016	Amend	2-1-2016	839-025-0700	4-1-2016	Amend	5-1-2016
837-012-0940	1-1-2016	Amend	2-1-2016	845-003-0210	2-23-2016	Amend(T)	4-1-2016
837-012-0950	1-1-2016	Amend	2-1-2016	845-003-0220	2-23-2016	Amend(T)	4-1-2016
837-012-0960	1-1-2016	Amend	2-1-2016	845-003-0270	2-23-2016	Amend(T)	4-1-2016
837-012-0970	1-1-2016	Amend	2-1-2016	845-003-0331	2-23-2016	Amend(T)	4-1-2016
837-012-1000	1-1-2016	Amend	2-1-2016	845-004-0015	2-23-2016	Amend(T)	4-1-2016
837-012-1010	1-1-2016	Amend	2-1-2016	845-004-0101	2-1-2016	Amend	2-1-2016
837-012-1020	1-1-2016	Amend	2-1-2016	845-004-0105	2-1-2016	Repeal	2-1-2016
837-012-1030	1-1-2016	Amend	2-1-2016	845-005-0400	3-1-2016	Amend	4-1-2016
837-012-1040	1-1-2016	Amend	2-1-2016	845-005-0413	2-1-2016	Amend	2-1-2016
837-012-1050	1-1-2016	Amend	2-1-2016	845-005-0417	1-1-2016	Amend(T)	2-1-2016
837-012-1060	1-1-2016	Amend	2-1-2016	845-005-0420	1-1-2016	Suspend	2-1-2016
837-012-1070	1-1-2016	Amend	2-1-2016	845-005-0428	4-1-2016	Amend	5-1-2016
837-012-1080	1-1-2016	Amend	2-1-2016	845-005-0431	2-1-2016	Amend	2-1-2016
837-012-1090	1-1-2016	Amend	2-1-2016	845-006-0392	1-1-2016	Amend(T)	2-1-2016
837-012-1100	1-1-2016	Amend	2-1-2016	845-006-0396	1-1-2016	Amend(T)	2-1-2016
837-012-1110	1-1-2016	Amend	2-1-2016	845-006-0446	4-1-2016	Adopt	5-1-2016
837-012-1120	1-1-2016	Amend	2-1-2016	845-006-0450	4-1-2016	Amend	5-1-2016
837-012-1130	1-1-2016	Amend	2-1-2016	845-006-0452	2-1-2016	Amend	2-1-2016
837-012-1140	1-1-2016	Amend	2-1-2016	845-013-0040	4-1-2016	Amend	5-1-2016
837-012-1150	1-1-2016	Amend	2-1-2016	845-025-1000	1-1-2016	Adopt(T)	1-1-2016
837-012-1160	1-1-2016	Amend	2-1-2016	845-025-1015	1-1-2016	Adopt(T)	1-1-2016
839-005-0003	1-1-2016	Amend	2-1-2016	845-025-1030	1-1-2016	Adopt(T)	1-1-2016
839-005-0400	1-1-2016	Amend	2-1-2016	845-025-1045	1-1-2016	Adopt(T)	1-1-2016
839-007-0000	1-1-2016	Adopt	1-1-2016	845-025-1060	1-1-2016	Adopt(T)	1-1-2016
839-007-0005	1-1-2016	Adopt	1-1-2016	845-025-1070	1-1-2016	Adopt(T)	1-1-2016
839-007-0007	1-1-2016	Adopt	1-1-2016	845-025-1080	1-1-2016	Adopt(T)	1-1-2016
839-007-0010	1-1-2016	Adopt	1-1-2016	845-025-1090	1-1-2016	Adopt(T)	1-1-2016
839-007-0012	1-1-2016	Adopt	1-1-2016	845-025-1100	1-1-2016	Adopt(T)	1-1-2016
839-007-0015	1-1-2016	Adopt	1-1-2016	845-025-1115	1-1-2016	Adopt(T)	1-1-2016
839-007-0020	1-1-2016	Adopt	1-1-2016	845-025-1115	1-1-2016	Amend(T)	2-1-2016
839-007-0025	1-1-2016	Adopt	1-1-2016	845-025-1130	1-1-2016	Adopt(T)	1-1-2016
839-007-0030	1-1-2016	Adopt	1-1-2016	845-025-1145	1-1-2016	Adopt(T)	1-1-2016
839-007-0032	1-1-2016	Adopt	1-1-2016	845-025-1160	1-1-2016	Adopt(T)	1-1-2016
839-007-0035	1-1-2016	Adopt	1-1-2016	845-025-1175	1-1-2016	Adopt(T)	1-1-2016
839-007-0040	1-1-2016	Adopt	1-1-2016	845-025-1190	1-1-2016	Adopt(T)	1-1-2016
839-007-0045	1-1-2016	Adopt	1-1-2016	845-025-1200	1-1-2016	Adopt(T)	1-1-2016
839-007-0050	1-1-2016	Adopt	1-1-2016	845-025-1215	1-1-2016	Adopt(T)	1-1-2016
839-007-0055	1-1-2016	Adopt	1-1-2016	845-025-1230	1-1-2016	Adopt(T)	1-1-2016
839-007-0060	1-1-2016	Adopt	1-1-2016	845-025-1245	1-1-2016	Adopt(T)	1-1-2016
839-007-0065	1-1-2016	Adopt	1-1-2016	845-025-1260	1-1-2016	Adopt(T)	1-1-2016
839-007-0100	1-1-2016	Adopt	1-1-2016	845-025-1275	1-1-2016	Adopt(T)	1-1-2016
839-007-0120	1-1-2016	Adopt	1-1-2016	845-025-1290	1-1-2016	Adopt(T)	1-1-2016
839-009-0270	1-1-2016	Amend	2-1-2016	845-025-1295	1-1-2016	Adopt(T)	1-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
845-025-1300	1-1-2016	Adopt(T)	1-1-2016	845-025-7040	1-1-2016	Adopt(T)	1-1-2016
845-025-1400	1-1-2016	Adopt(T)	1-1-2016	845-025-7060	1-1-2016	Adopt(T)	1-1-2016
845-025-1410	1-1-2016	Adopt(T)	1-1-2016	845-025-7500	1-1-2016	Adopt(T)	1-1-2016
845-025-1420	1-1-2016	Adopt(T)	1-1-2016	845-025-7520	1-1-2016	Adopt(T)	1-1-2016
845-025-1430	1-1-2016	Adopt(T)	1-1-2016	845-025-7540	1-1-2016	Adopt(T)	1-1-2016
845-025-1440	1-1-2016	Adopt(T)	1-1-2016	845-025-7560	1-1-2016	Adopt(T)	1-1-2016
845-025-1450	1-1-2016	Adopt(T)	1-1-2016	845-025-7580	1-1-2016	Adopt(T)	1-1-2016
845-025-1460	1-1-2016	Adopt(T)	1-1-2016	845-025-7590	1-1-2016	Adopt(T)	1-1-2016
845-025-1470	1-1-2016	Adopt(T)	1-1-2016	845-025-7700	1-1-2016	Adopt(T)	1-1-2016
845-025-1600	1-1-2016	Adopt(T)	1-1-2016	845-025-7750	1-1-2016	Adopt(T)	1-1-2016
845-025-1620	1-1-2016	Adopt(T)	1-1-2016	845-025-8000	1-1-2016	Adopt(T)	1-1-2016
845-025-2000	1-1-2016	Adopt(T)	1-1-2016	845-025-8020	1-1-2016	Adopt(T)	1-1-2016
845-025-2020	1-1-2016	Adopt(T)	1-1-2016	845-025-8040	1-1-2016	Adopt(T)	1-1-2016
845-025-2030	1-1-2016	Adopt(T)	1-1-2016	845-025-8060	1-1-2016	Adopt(T)	1-1-2016
845-025-2040	1-1-2016	Adopt(T)	1-1-2016	845-025-8080	1-1-2016	Adopt(T)	1-1-2016
845-025-2050	1-1-2016	Adopt(T)	1-1-2016	845-025-8500	1-1-2016	Adopt(T)	1-1-2016
845-025-2060	1-1-2016	Adopt(T)	1-1-2016	845-025-8520	1-1-2016	Adopt(T)	1-1-2016
845-025-2070	1-1-2016	Adopt(T)	1-1-2016	845-025-8540	1-1-2016	Adopt(T)	1-1-2016
845-025-2080	1-1-2016	Adopt(T)	1-1-2016	845-025-8560	1-1-2016	Adopt(T)	1-1-2016
845-025-2400	1-1-2016	Adopt(T)	1-1-2016	845-025-8580	1-1-2016	Adopt(T)	1-1-2016
845-025-2800	1-1-2016	Adopt(T)	1-1-2016	845-025-8590	1-1-2016	Adopt(T)	1-1-2016
845-025-2820	1-1-2016	Adopt(T)	1-1-2016	847-001-0015	1-8-2016	Amend	2-1-2016
845-025-2840	1-1-2016	Adopt(T)	1-1-2016	847-005-0005	1-8-2016	Amend	2-1-2016
845-025-2860	1-1-2016	Adopt(T)	1-1-2016	847-008-0020	1-8-2016	Amend	2-1-2016
845-025-2880	1-1-2016	Adopt(T)	1-1-2016	847-008-0022	1-8-2016	Amend	2-1-2016
845-025-2890	1-1-2016	Adopt(T)	1-1-2016	847-008-0023	1-8-2016	Amend	2-1-2016
845-025-3200	1-1-2016	Adopt(T)	1-1-2016	847-008-0025	1-8-2016	Amend	2-1-2016
845-025-3210	1-1-2016	Adopt(T)	1-1-2016	847-008-0030	1-8-2016	Amend	2-1-2016
845-025-3220	1-1-2016	Adopt(T)	1-1-2016	847-008-0035	1-8-2016	Amend	2-1-2016
845-025-3230	1-1-2016	Adopt(T)	1-1-2016	847-008-0037	1-8-2016	Amend	2-1-2016
845-025-3240	1-1-2016	Adopt(T)	1-1-2016	847-008-0050	1-8-2016	Amend	2-1-2016
845-025-3250	1-1-2016	Adopt(T)	1-1-2016	847-008-0055	1-8-2016	Amend	2-1-2016
845-025-3260	1-1-2016	Adopt(T)	1-1-2016	847-008-0056	1-8-2016	Repeal	2-1-2016
845-025-3280	1-1-2016	Adopt(T)	1-1-2016	847-008-0070	4-8-2016	Amend	5-1-2016
845-025-3290	1-1-2016	Adopt(T)	1-1-2016	847-010-0073	1-8-2016	Amend	2-1-2016
845-025-3500	1-1-2016	Adopt(T)	1-1-2016	847-017-0003	4-8-2016	Amend	5-1-2016
845-025-5000	1-1-2016	Adopt(T)	1-1-2016	847-017-0015	4-8-2016	Amend	5-1-2016
845-025-5030	1-1-2016	Adopt(T)	1-1-2016	847-017-0020	4-8-2016	Amend	5-1-2016
845-025-5045	1-1-2016	Adopt(T)	1-1-2016	847-020-0135	1-1-2016	Adopt	1-1-2016
845-025-5060	1-1-2016	Adopt(T)	1-1-2016	847-023-0005	4-8-2016	Amend	5-1-2016
845-025-5075	1-1-2016	Adopt(T)	1-1-2016	847-050-0025	1-8-2016	Amend	2-1-2016
845-025-5300	1-1-2016	Adopt(T)	1-1-2016	847-050-0025(T)	1-8-2016	Repeal	2-1-2016
845-025-5350	1-1-2016	Adopt(T)	1-1-2016	847-050-0043	1-8-2016	Amend	2-1-2016
845-025-5500	1-1-2016	Adopt(T)	1-1-2016	847-050-0063	1-8-2016	Repeal	2-1-2016
845-025-5520	1-1-2016	Adopt(T)	1-1-2016	847-050-0065	1-8-2016	Repeal	2-1-2016
845-025-5540	1-1-2016	Adopt(T)	1-1-2016	847-070-0045	1-8-2016	Amend	2-1-2016
845-025-5560	1-1-2016	Adopt(T)	1-1-2016	847-080-0010	4-8-2016	Amend	5-1-2016
845-025-5580	1-1-2016	Adopt(T)	1-1-2016	847-080-0018	4-8-2016	Amend	5-1-2016
845-025-5590	1-1-2016	Adopt(T)	1-1-2016	847-080-0021	4-8-2016	Amend	5-1-2016
845-025-5700	1-1-2016	Adopt(T)	1-1-2016	847-080-0022	4-8-2016	Amend	5-1-2016
845-025-5720	1-1-2016	Adopt(T)	1-1-2016	847-080-0035	4-8-2016	Amend	5-1-2016
845-025-5740	1-1-2016	Adopt(T)	1-1-2016	850-005-0190	12-30-2015	Amend	2-1-2016
845-025-5760	1-1-2016	Adopt(T)	1-1-2016	850-060-0226	12-30-2015	Amend	2-1-2016
845-025-7000	1-1-2016	Adopt(T)	1-1-2016	851-031-0005	1-1-2016	Amend	1-1-2016
845-025-7020	1-1-2016	Adopt(T)	1-1-2016	851-031-0086	1-1-2016	Amend	1-1-2016
845-025-7020	2-23-2016	Amend(T)	4-1-2016	851-050-0138	11-24-2015	Amend(T)	1-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
851-050-0138	4-1-2016	Amend	4-1-2016	859-050-0005	3-17-2016	Amend	5-1-2016
851-056-0000	11-30-2015	Amend(T)	1-1-2016	859-050-0010	3-17-2016	Amend	5-1-2016
851-056-0000	4-1-2016	Amend	4-1-2016	859-050-0015	3-17-2016	Amend	5-1-2016
851-056-0020	11-30-2015	Amend(T)	1-1-2016	859-050-0020	3-17-2016	Amend	5-1-2016
851-056-0020	4-1-2016	Amend	4-1-2016	859-050-0025	3-17-2016	Amend	5-1-2016
852-010-0015	4-1-2016	Amend	4-1-2016	859-050-0030	3-17-2016	Amend	5-1-2016
852-010-0080	4-1-2016	Amend	4-1-2016	859-050-0035	3-17-2016	Amend	5-1-2016
852-010-0080	4-8-2016	Amend	5-1-2016	859-050-0040	3-17-2016	Amend	5-1-2016
852-050-0006	4-1-2016	Amend	4-1-2016	859-050-0045	3-17-2016	Amend	5-1-2016
852-050-0014	4-1-2016	Amend	4-1-2016	859-050-0050	3-17-2016	Amend	5-1-2016
852-050-0018	4-1-2016	Amend	4-1-2016	859-050-0055	3-17-2016	Amend	5-1-2016
852-050-0025	4-1-2016	Amend	4-1-2016	859-050-0060	3-17-2016	Amend	5-1-2016
852-050-0025	4-8-2016	Amend	5-1-2016	859-050-0065	3-17-2016	Amend	5-1-2016
852-070-0010	4-1-2016	Amend	4-1-2016	859-050-0070	3-17-2016	Amend	5-1-2016
852-070-0020	4-1-2016	Amend	4-1-2016	859-050-0075	3-17-2016	Amend	5-1-2016
852-070-0035	4-1-2016	Amend	4-1-2016	859-050-0080	3-17-2016	Amend	5-1-2016
852-070-0037	4-1-2016	Adopt	4-1-2016	859-050-0083	3-17-2016	Adopt	5-1-2016
852-070-0047	4-1-2016	Adopt	4-1-2016	859-050-0085	3-17-2016	Amend	5-1-2016
855-006-0005	12-23-2015	Amend	2-1-2016	859-050-0090	3-17-2016	Amend	5-1-2016
855-019-0110	12-23-2015	Amend	2-1-2016	859-050-0095	3-17-2016	Amend	5-1-2016
855-019-0200	12-23-2015	Amend	2-1-2016	859-050-0100	3-17-2016	Amend	5-1-2016
855-019-0264	12-23-2015	Adopt	2-1-2016	859-050-0105	3-17-2016	Amend	5-1-2016
855-019-0270	12-23-2015	Amend	2-1-2016	859-200-0070	3-17-2016	Amend	5-1-2016
855-019-0280	12-23-2015	Amend	2-1-2016	859-400-0001	3-17-2016	Adopt	5-1-2016
855-025-0015	12-23-2015	Amend	2-1-2016	859-400-0005	3-17-2016	Adopt	5-1-2016
855-025-0015(T)	12-23-2015	Repeal	2-1-2016	859-400-0010	3-17-2016	Adopt	5-1-2016
855-041-1120	7-1-2016	Amend	2-1-2016	859-400-0015	3-17-2016	Adopt	5-1-2016
855-043-0130	12-23-2015	Amend	2-1-2016	859-400-0020	3-17-2016	Adopt	5-1-2016
855-043-0130(T)	12-23-2015	Repeal	2-1-2016	859-400-0025	3-17-2016	Adopt	5-1-2016
855-062-0040	12-23-2015	Amend	2-1-2016	859-400-0030	3-17-2016	Adopt	5-1-2016
855-062-0040(T)	12-23-2015	Repeal	2-1-2016	859-400-0035	3-17-2016	Adopt	5-1-2016
855-090-0005	12-23-2015	Repeal	2-1-2016	859-400-0040	3-17-2016	Adopt	5-1-2016
856-010-0010	3-31-2016	Amend	5-1-2016	859-400-0045	3-17-2016	Adopt	5-1-2016
856-010-0012	1-25-2016	Amend	3-1-2016	860-038-0300	3-10-2016	Amend	4-1-2016
856-010-0012	2-10-2016	Amend	3-1-2016	877-001-0020	1-1-2016	Amend	2-1-2016
856-010-0026	3-31-2016	Amend	5-1-2016	877-015-0108	3-14-2016	Amend(T)	4-1-2016
858-010-0007	2-1-2016	Amend	3-1-2016	877-020-0005	12-15-2015	Amend	1-1-2016
858-010-0020	2-1-2016	Amend	3-1-2016	877-020-0009	3-14-2016	Amend(T)	4-1-2016
858-010-0036	2-2-2016	Amend	3-1-2016	877-020-0021	12-15-2015	Adopt	1-1-2016
858-040-0035	2-1-2016	Amend	3-1-2016	877-030-0110	1-1-2016	Adopt	2-1-2016
858-040-0055	2-1-2016	Amend	3-1-2016	918-020-0090	1-1-2016	Amend	1-1-2016
858-040-0065	2-1-2016	Amend	3-1-2016	918-020-0090(T)	1-1-2016	Repeal	1-1-2016
859-010-0005	12-3-2015	Amend(T)	1-1-2016	918-098-1010	1-26-2016	Amend(T)	3-1-2016
859-020-0005	3-17-2016	Amend	5-1-2016	918-098-1010	4-1-2016	Amend	5-1-2016
859-020-0010	3-17-2016	Amend	5-1-2016	918-098-1010(T)	4-1-2016	Repeal	5-1-2016
859-020-0015	3-17-2016	Amend	5-1-2016	918-098-1012	4-1-2016	Amend	5-1-2016
859-030-0005	3-17-2016	Amend	5-1-2016	918-098-1015	4-1-2016	Amend	5-1-2016
859-030-0010	3-17-2016	Amend	5-1-2016	918-098-1025	1-26-2016	Amend(T)	3-1-2016
859-040-0005	3-17-2016	Amend	5-1-2016	918-098-1025	4-1-2016	Amend	5-1-2016
859-040-0010	3-17-2016	Amend	5-1-2016	918-098-1025(T)	4-1-2016	Repeal	5-1-2016
859-040-0015	3-17-2016	Amend	5-1-2016	918-098-1210	4-1-2016	Amend	5-1-2016
859-040-0020	3-17-2016	Amend	5-1-2016	918-098-1215	4-1-2016	Amend	5-1-2016
859-040-0025	3-17-2016	Amend	5-1-2016	918-098-1305	4-1-2016	Amend	5-1-2016
859-045-0005	3-17-2016	Adopt	5-1-2016	918-098-1320	4-1-2016	Amend	5-1-2016
859-045-0010	3-17-2016	Adopt	5-1-2016	918-098-1470	1-26-2016	Amend(T)	3-1-2016
859-050-0001	3-17-2016	Adopt	5-1-2016	918-098-1470	4-1-2016	Amend	5-1-2016

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-098-1470(T)	4-1-2016	Repeal	5-1-2016	918-309-0040	4-1-2016	Amend	5-1-2016
918-098-1480	1-26-2016	Amend(T)	3-1-2016	918-309-0060	4-1-2016	Amend	5-1-2016
918-098-1480	4-1-2016	Amend	5-1-2016	918-309-0070	4-1-2016	Amend	5-1-2016
918-098-1480(T)	4-1-2016	Repeal	5-1-2016	918-309-0075	4-1-2016	Adopt	5-1-2016
918-098-1900	1-26-2016	Amend(T)	3-1-2016	918-460-0015	2-1-2016	Amend	3-1-2016
918-098-1900	4-1-2016	Amend	5-1-2016	918-460-0500	3-3-2016	Amend(T)	4-1-2016
918-098-1900(T)	4-1-2016	Repeal	5-1-2016	918-480-0010	2-1-2016	Amend	3-1-2016
918-271-0040	1-1-2016	Amend	1-1-2016	918-695-0410	4-1-2016	Amend	5-1-2016
918-271-0105	4-1-2016	Adopt	5-1-2016	945-030-0020	3-25-2016	Amend(T)	5-1-2016
918-309-0000	4-1-2016	Amend	5-1-2016	945-030-0030	4-12-2016	Amend	5-1-2016
918-309-0030	4-1-2016	Amend	5-1-2016	945-030-0035	4-12-2016	Repeal	5-1-2016

