

# OREGON BULLETIN

*Supplements the 2016 Oregon Administrative Rules Compilation*

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**JEANNE P. ATKINS**  
Secretary of State  
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# INFORMATION ABOUT ADMINISTRATIVE RULES

## General Information

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

## Background on Oregon Administrative Rules

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

## OAR Citations

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

## Understanding an Administrative Rule’s “History”

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

## Locating Current Versions of Administrative Rules

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

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

## Locating Administrative Rule Publications

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

## Filing Administrative Rules and Notices

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

## Administrative Rules Coordinators and Delegation of Signing Authority

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

## Publication Authority

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

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

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# EXECUTIVE ORDERS

## EXECUTIVE ORDER NO. 16 - 13

### UNIFYING CYBER SECURITY IN OREGON

WHEREAS, information systems, networks, and critical infrastructure around the world are threatened by increasing and evermore sophisticated cyber-attacks; and

WHEREAS, the people of and businesses operating within Oregon have entrusted state government with a large repository of information that they expect will be protected and secured; and

WHEREAS, information is a strategic asset of the state of Oregon that should be managed and secured as a valuable state resource; and

WHEREAS, the continuous and efficient operation of state government information systems is both vital and necessary to the mission of providing government services in Oregon; and

WHEREAS, vulnerabilities of the state's information systems underscore the need to enhance the security of Oregon information systems, networks, and critical infrastructure; and

WHEREAS, aging information technology infrastructure and antiquated legacy information systems in use by state agencies remain vulnerable to cyberattack, placing private information about state employees and their dependents, consumers of state services, taxpayers, and the residents and businesses of Oregon at risk; and

WHEREAS, responsibility and accountability for the security of state information systems is currently dispersed and decentralized with the exception of the enterprise information resources, technology, and telecommunications infrastructure managed and overseen by the State Chief Information Officer.

WHEREAS, ORS 182.122 imposes on state agencies the responsibility to secure their information systems or implement information security plans, policies, standards, and procedures established by the State Chief Information Officer; and

WHEREAS, unification of the state's cyber security functions under the leadership of the State Chief Information Officer is necessary to protect the availability, integrity, and confidentiality of state information systems and the information stored in state information systems pursuant to ORS 182.122;

### NOW, THEREFORE IT IS HEREBY DIRECTED AND ORDERED:

1. All state agencies within the Executive department as defined in ORS 174.112, except the Secretary of State, State Treasurer, Attorney General of Oregon, Oregon Bureau of Labor and Industries, State Lottery, and public universities listed in ORS 352.002, shall carry out the actions necessary to unify information technology (IT) security functions.

2. Beginning on the effective date of this Executive Order, the State Chief Information Officer (CIO), or designee of the State CIO, and state agencies specified in section 1 shall work cooperatively to prepare for and develop a plan to execute the transfer of agency IT security functions and employees to the Office of the State CIO (OSCIO) by November 1, 2016.

3. In accordance with the plan, the Director of each state agency specified in section 1 shall deliver to the State CIO, or designee of the State CIO, all records related to the performance of the agency IT security functions transferred to OSCIO.

4. The Director of each state agency specified in section 1 shall execute a "Job Rotation — External Agreement" to assign

employees engaged primarily in the performance of agency IT security functions to OSCIO. The job rotation shall begin within one month of the effective date of this Executive Order and shall end on June 30, 2017, or at a time decided by the mutual agreement of the sending agency's Director and the CIO. The sending agency shall continue to be responsible for the employees' compensation for the duration of the job rotation assignment.

5. The State CIO shall take possession of the records, and take charge of the employees specified in section 4, subject to the terms of the "Job Rotation — External Agreement," the state's ordinary practices in performing such agreements, applicable collective bargaining agreements, and other applicable law. As necessary to accomplish the missions and goals of the state and state agencies, the State CIO, or the State CIO's designee, may immediately redeploy transferred employees back to their respective agency of origin under the continuing supervision of the State CIO, or the State CIO's designee.

6. State agencies shall assist OSCIO and provide access to personnel and other resources necessary to successfully execute the job rotation.

7. The DAS Director, or designee of the DAS Director, shall ensure compliance with all applicable policy provisions and collective bargaining agreements, including providing any notices required thereunder within the applicable time periods.

8. All state agencies shall cooperate in the development of and follow the plans, rules, policies, and standards adopted by the State CIO. Further, all state agencies shall provide OSCIO with full cooperation in the implementation of a statewide agency-by-agency risk-based security assessment and remediation program. The State CIO shall determine and charge the costs incurred by the program for third-party security evaluations, vulnerability assessments, other related technical services, and remediation measures to the state agencies that the State CIO serves. The state agency shall pay the cost to the State CIO in the same manner that other claims are paid. Additionally, state agencies will conduct and document the completion of OSCIO approved information security awareness training for all agency employees on an annual basis; report security metrics using methodologies developed by the OSCIO; and participate in activities coordinated by the OSCIO in order to better understand and address security incidents and critical cyber security threats to the state.

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

Done at Salem, Oregon, this 12th day of September, 2016.

/s/ Kate Brown

Kate Brown

GOVERNOR

ATTEST

/s/ Jeanne P. Atkins

Jeanne P. Atkins

SECRETARY OF STATE

## OTHER NOTICES

### REQUEST FOR COMMENTS PROPOSED CERTIFICATION OF COMPLETION FOR JOTZ, LLC AT FORMER ED'S MUFFLERS

**COMMENTS DUE:** 5 p.m. Oct. 31, 2016

**PROJECT LOCATION:** 17855 SE McLoughlin Boulevard, Milwaukie, OR

**PROPOSAL:** DEQ is preparing to certify that all actions required have been satisfactorily completed. This project has resulted in both environmental and economic benefits.

**HIGHLIGHTS:** In December 2015 JOTZ, LLC entered a Prospective Purchaser Agreement (Consent Judgment 15CV34367) with DEQ and agreed to complete a Scope of Work on the subject property, including: the decommissioning and removal of hydraulic lifts; extraction of residual water, oil and sludge from lift vaults; back-filling of the lift vaults and subsequent capping; and impervious sealing of the shop floor.

DEQ reviewed the requirements of the PPA and the corresponding actions, and has made a preliminary determination that all obligations of the PPA have been satisfactorily performed and that a Certification of Completion should be issued.

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The Certification of Completion confirms JOTZ, LLC's release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The consent judgment and certification of completion also provide JOTZ, LLC with third party liability protection.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Mike Greenburg at 700 NE Multnomah Street, Suite 600, Portland, OR, 97232 or [greenburg.michael@deq.state.or.us](mailto:greenburg.michael@deq.state.or.us). For more information contact the project manager at 503-229-5153.

Request DEQ project file review.

File review application form

Access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter 5909 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5909 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCController.aspx?SourceId=5909&SourceIdType=11>

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

**THE NEXT STEP:** DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the completion certification of the remedial actions taken at the site. A public notice of DEQ's final decision will be issued.

**ACCESSIBILITY INFORMATION:** Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

### PUBLIC NOTICE PROPOSED CLEANUP FOR DICKSON PROPERTY DEVELOPMENT

**COMMENTS DUE:** 5 p.m., Friday, Nov. 4, 2016

**PROJECT LOCATION:** Northwest of Missouri Avenue and Hawk Ridge Road, Tigard

**PROPOSAL:** Polygon Northwest Company proposes to maintain in-place pesticide-impacted soils beneath a neighborhood park north-

west of the intersection of SW Missouri Avenue and SW Hawk Ridge Road in Tigard.

**HIGHLIGHTS:** The Dickson Property was a 30-acre family farm that is being redeveloped into a residential subdivision. Surface soils on portions of the property were impacted with the pesticide dieldrin at concentrations exceeding DEQ standards for direct contact by future residents. The impacted soils were consolidated in the southwest corner of the development, covered with a geotextile fabric, and capped with two to seven feet of non-impacted soil to prevent direct contact. The capped area will be developed as a neighborhood park, and restrictive covenants will be placed on the park to monitor and maintain the integrity of the cap.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Kevin Dana at 700 NE Multnomah St., Suite 600, Portland, Oregon, 97232-4100 or [dana.kevin@deq.state.or.us](mailto:dana.kevin@deq.state.or.us). For more information contact the project manager at 503-229-5369.

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

Find the File Review Application form at: <https://www.oregon.gov/deq/Pages/prr.aspx>

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, select "Search complete ECSI database", then enter 5929 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5929 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/lq/ECSI/ecsidetail.asp?seqnbr=5929>.

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

**THE NEXT STEP:** DEQ will consider all public comments received by the close of the comment period before making a final decision regarding the proposed cleanup.

**ACCESSIBILITY INFORMATION:** Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

### REQUEST FOR COMMENTS PROPOSED CERTIFICATION OF COMPLETION FOR TRIMET AT TILIKUM CROSSING WEST LANDING

**COMMENTS DUE:** 5 p.m. Oct. 31, 2016

**PROJECT LOCATION:** Tilikum Crossing West Landing – South Waterfront, Portland

**PROPOSAL:** DEQ is preparing to certify that all actions required have been satisfactorily completed. This project has resulted in both environmental and economic benefits.

**HIGHLIGHTS:** In January 2011, TriMet entered a Prospective Purchaser Agreement (PPA) (Consent Judgment No. 1101-00271) with DEQ. TriMet was obligated to comply with applicable provisions of the Oregon Health Sciences University Record of Decision and the ZRZ Record of Decision including: constructing, monitoring and maintaining engineered caps; complying with a soil management plans; and constructing, operating and maintaining the bridge and temporary construction bridges in accordance with U.S. Army Corp of Engineers Section 401 certification requirements.

DEQ reviewed the requirements of the PPA and the corresponding actions, and has made a preliminary determination that all obligations of the PPA have been satisfactorily performed and that DEQ should issue a certification of completion..

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The certification of completion confirms TriMet's release from liability for claims by the State of Oregon under ORS 465.200 to

## OTHER NOTICES

465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The consent judgment and certification of completion also provide TriMet with third party liability protection.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Scott Manzano at 700 NE Multnomah Street, Suite 600, Portland, OR, 97232 or manzano.scott@deq.state.or.us. For more information contact the project manager at 503-229-6748.

Request DEQ project file review.

File review application form

Access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter 5713 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5713 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCcontroller.aspx?SourceId=5713&SourceIdType=11>

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

**THE NEXT STEP:** DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the completion certification of the remedial actions taken at the site. A public notice of DEQ's final decision will be issued.

**ACCESSIBILITY INFORMATION:** Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

### REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR THE DEBERRY LANDFILL

**COMMENTS DUE:** 5 p.m. Monday Oct. 31, 2016

**PROJECT LOCATION:** Deberry Road, Creswell

**PROPOSAL:** A 30-day public comment period is required prior to approval by the Oregon Department of Environmental Quality and issuance of a conditional No Further Action requiring a deed restriction or deed notice.

**HIGHLIGHTS:** The city operated an unlined municipal landfill on parts of the property between 1950 and 1975. The city owns the property, which is vacant. In 2016, environmental investigations were completed on the site to characterize the waste material and determine if the landfill was releasing hazardous substances to the soil, groundwater or air.

The investigations identified three areas: one across the northern part of the property, one in the east central part and one in the southeast corner. The waste included wood, glass, cloth and metal debris. Landfill materials were covered in most areas with up to six feet of clay or silty soils. The fill depth ranged from one to 25 feet below ground.

Landfill gas, soil, waste and samples of water within the fill were collected during the investigations. Water and sediment were collected from an adjacent creek. Landfill gas was not detected in significant quantities. Low levels of petroleum and metals were detected in soil and waste samples and landfill water contained typical contaminants as well as metals and petroleum. Except for the residential drinking water standard, the contaminants were either below the applicable DEQ risk standards or background levels for the site.

Arsenic, barium, lead and dioxin were detected at slightly elevated levels in the creek sediment or creek water samples. However, detected levels of these contaminants were similar in upstream and downstream samples and in some cases, higher in the upstream samples. Findings showed that contaminants in the creek water and sediment were likely originating from an upstream source, possibly runoff from Deberry Road, and not from the landfill.

Groundwater in the area is used for beneficial purposes. Based on the depth of area water wells (90 to 145 feet below ground) and first

encountered groundwater (60 to 140 feet below ground), contamination from the landfill is not expected to impact groundwater resources.

As a condition of the site closure, a Notice of Environmental Contamination will be recorded on the property. The purpose of the notice is to document the presence of the municipal waste landfill on the property. The notice also restricts development, construction or disturbance of the landfill without DEQ's prior approval.

DEQ determined that with the deed restriction the Deberry landfill does not pose a risk to public health and the environment and proposes that no further investigation or cleanup be required for the site.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Nancy Sawka, 4026 Fairview Industrial Drive, Salem, OR 97302 or [sawka.nancy@deq.state.or.us](mailto:sawka.nancy@deq.state.or.us). For more information contact 503-378-5075.

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

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

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, select "Search complete ECSI database", then enter 5927 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5927 in the Site ID/Info column.

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

**THE NEXT STEP:** All comments received will be addressed at the completion of the comment period. Once comments are adequately addressed, DEQ may approve, modify or deny the No Further Action.

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

### REQUEST FOR COMMENTS PROPOSED CERTIFICATION OF COMPLETION FOR THE RICHARDS CLEANERS SITE

**COMMENTS DUE:** 5 p.m., Monday Oct. 31, 2016

**PROJECT LOCATION:** Albany, Oregon

**PROPOSAL:** The Oregon Department of Environmental Quality seeks comments on its proposed Certificate of Completion for a prospective purchaser agreement with Albany concerning its acquisition of real property at 623 Lyons Street. The city entered into a Consent Judgment for a prospective purchaser agreement with DEQ on May 11, 2015 that required further investigation of contamination, and cleanup if necessary, at the former Richards Dry Cleaners site. The city is currently developing the property, including the former dry cleaners property, as a new fire station.

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The consent judgment provides the city with a release from liability for claims by the state under Oregon Revised Statutes 465.200 to 465.545 and 465.990, 466.640 and 468B.310 regarding existing hazardous substance releases at or from the property. The consent judgment also provides the city with third-party liability protection.

Following the closure and removal of the Richards Cleaners building and prior to construction activities, additional sampling of soil and groundwater was conducted to determine if cleanup was needed, or the site was protective of human health and the environment. DEQ has determined that the site is protective and that no further remedial actions are needed at the property.

## OTHER NOTICES

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The Certification of Completion confirms Goshen Properties LLC's release from liability for claims by the state under Oregon Revised Statutes 465.200 to 465.545 and 465.990, 466.640 and 468B.310 regarding existing hazardous substance releases at or from the property. The consent judgment and certification of completion also provide Goshen Properties LLC with third-party liability protection.

**HOW TO COMMENT:** Mail comments to DEQ Project Manager, Don Hanson, at 165 E. 7th Avenue, Suite 100, Eugene, OR 97401; or email [hanson.don@deq.state.or.us](mailto:hanson.don@deq.state.or.us). For more information contact Hanson at (541) 687-7349.

Request DEQ project file review.

File review application form

Access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter 1491 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 1491 in the Site ID/Info column. Alternatively, you may go directly to: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCController.ashx?SourceId=1491&SourceIdType=11>

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

**THE NEXT STEP:** DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the completion certification of the remedial actions taken at the site. A public notice of DEQ's final decision will be issued.

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

# 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.*

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**Board of Accountancy**  
**Chapter 801**

**Rule Caption:** Division wide changes with emphasis on retired and inactive statuses.

**Date:** 10-17-16      **Time:** 9 a.m.      **Location:** 3218 Pringle Rd SE  
Salem, OR

**Hearing Officer:** John Lauseng, CPA, Chair of Laws and Rules Committee

**Stat. Auth.:** ORS 673.010-673.457

**Other Auth.:** ORS 183 ORS 673, ORS 297, ORS 192

**Stats. Implemented:** ORS 673.010-673.457

**Proposed Amendments:** 801-001-0005, 801-001-0035, 801-005-0010, 801-010-0060, 801-010-0065, 801-010-0080, 801-010-0110, 801-010-0115, 801-010-0120, 801-010-0130, 801-010-0340, 801-010-0345, 801-020-0690, 801-020-0700, 801-030-0005, 801-030-0020, 801-040-0020, 801-040-0030, 801-040-0050, 801-050-0020, 801-050-0040

**Proposed Repeals:** 801-040-0090

**Last Date for Comment:** 10-17-16, 10 a.m.

**Summary:** The proposed revisions touch every aspect (and Division) of the Board's rules, including - but not limited to - a special focus in Division 010 on the boundaries of what is (and is not) permissible work activity if licensed with an inactive or retired status license. In addition, the changes in Division 030 rules include adding individual licensees to the 45-day reporting requirement for lawsuits that currently only applies to registered firms, while clarifying the scope for what types of lawsuits firms and individuals must report. In Division 050, the proposed rules no longer permit that firms can opt-out of reporting peer review results to the Facilitated State Board Access web site, as part of a national movement toward more uniform rules on peer review oversight

**Rules Coordinator:** Kimberly Fast

**Address:** Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

**Telephone:** (503) 378-2268

**Board of Massage Therapists**  
**Chapter 334**

**Rule Caption:** Establish fee for mid-cycle renewal of \$100. Corrected verbiage for class certification and discipline.

**Date:** 10-26-16      **Time:** 9 a.m.      **Location:** 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, ORS 182.456-182.472

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

**Proposed Amendments:** 334-001-0060, 334-010-0033, 334-010-0046, 334-040-0010

**Last Date for Comment:** 10-26-16, 9 a.m.

**Summary:** Fees: establish fee for mid-cycle inactive to active renewal of \$100. Class Certification: Corrected verbiage for class certification. Definitions: Corrected verbiage for certified classes definition. Discipline: Added verbiage for misrepresentation or fraud.

**Rules Coordinator:** Ekaette Udosenata

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

**Telephone:** (503) 365-8657

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**Board of Optometry**  
**Chapter 852**

**Rule Caption:** Updates agency rules for business ownership requirements and criminal records checks and fitness determinations

**Stat. Auth.:** ORS 683

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

**Proposed Amendments:** 852-020-0045, 852-050-0001, 852-050-0025, 852-060-0025, 852-070-0010

**Last Date for Comment:** 11-1-16, 11 a.m.

**Summary:** (1) Clarifies the legal requirements for owning an optometry practice and the Board's authority to take action for an illegally structured/operated business.

(2) Clarifies what work recent optometry graduates can do without a license.

(3) Grants 1 hour of CE credit for taking and passing the Oregon law exam.

(4) Updates the Board's background check rules to reflect new statewide rules adopted by the Oregon Department of Administrative Services (DAS). The rule changes are necessary due to House Bill 3168 (2013) and House Bill 2250 (2015). The bills gave DAS the authority to adopt statewide administrative rules for criminal records checks and require other agencies to repeal or amend their existing rules that may conflict with the statewide rules.

**Rules Coordinator:** Shelley Sneed

**Address:** Board of Optometry, 1500 Liberty St. SE, Suite 210, Salem, OR 97302

**Telephone:** (503) 399-0662, ext. 3

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**Bureau of Labor and Industries**  
**Chapter 839**

**Rule Caption:** Update and clarify division 7 rules relating to Oregon sick time.

**Stat. Auth.:** ORS 653.656

**Stats. Implemented:** ORS 653.601-653.661

**Proposed Adoptions:** Rules in 838-007, 839-007-0008

**Proposed Amendments:** Rules in 839-007, 839-007-0000, 839-007-0005, 839-007-0007, 839-007-0010, 839-007-0012, 839-007-0015, 839-007-0020, 839-007-0025, 839-007-0030, 839-007-032, 839-007-0035, 839-007-0040, 839-007-0045, 839-007-0050, 839-007-0055, 839-007-0060, 839-007-0065, 839-007-0100, 839-007-0120

**Last Date for Comment:** 10-21-16, 5 p.m.



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**Summary:** Add “employee” definitions. Clarify “regular rate of pay” in definitions. Update jointly employed employees rule. New rule explaining restoration of sick time. Clarify employer obligations if applying undue hardship provision in law. Update all division 7 rules to reflect statutory references. Other rule changes as needed to provide clarification.

**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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**Rule Caption:** Amend rule to delete sections regarding confidentiality of settlement discussions.

**Stat. Auth.:** ORS 659A.805

**Stats. Implemented:** ORS 659A.835, 659A.840 & 659A.850

**Proposed Amendments:** 839-003-0055, 839-003-0070

**Last Date for Comment:** 10-28-16, Close of Business

**Summary:** The proposed amendments would delete OAR 839-003-0055(7) and OAR 839-003-0070(5). Settlement discussion disclosure is determined by applicable law(s).

**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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**Rule Caption:** Amend OAR 839-005-0325 to correct statute citation.

**Stat. Auth.:** ORS 651.060

**Stats. Implemented:** ORS 345.240, 659.850 & 659.852

**Proposed Amendments:** 839-005-0325

**Last Date for Comment:** 10-28-16, Close of Business

**Summary:** OAR 839-005-0325 pertains to unlawful discrimination in career schools and cites unlawful employment practices under ORS 659A.030(1)(f). The intent behind this rule change is to amend OAR 839-005-0325 to correctly cite the applicable career school statute and to include relevant protections under ORS 659.852.

This proposed rule change amends OAR 839-005-0325, and other Division 5 rules as necessary.

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

**Rule Caption:** Amends the Oregon Electrical Specialty Code.

Date:	Time:	Location:
10-18-16	10 a.m.	1535 Edgewater St. NW Salem, OR 97304

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 479.540, 479.680, 479.730

**Stats. Implemented:** ORS 479.540, 479.680, 479.730

**Proposed Amendments:** 918-305-0105

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** This rule amends the Oregon Electrical Specialty Code by adding exceptions which allow temporary service equipment to be energized without posting the available fault current and without verification of equipment size relative to the available fault current.

**Rules Coordinator:** Holly A. Tucker

**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309-0404

**Telephone:** (503) 378-5331

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

**Rule Caption:** Clarifies references in previous administrative rules and orders refer to the Division of Financial Regulation.

Date:	Time:	Location:
10-27-16	10 a.m.	DCBS, Labor & Industries Bldg. 350 Winter St. NE, Conf. Rm. E Salem OR

**Hearing Officer:** Cece Newell

**Stat. Auth.:** ORS 705.135

**Stats. Implemented:** ORS 705.115

**Proposed Adoptions:** 440-001-9001

**Last Date for Comment:** 11-9-16, Close of Business

**Summary:** In 2016, the Director reorganized the department by combining two divisions, the Oregon Insurance Division and the Division of Finance and Corporate Securities, into one Division of Financial Regulation. This rule establishes the basis to maintain continuity between the actions the divisions have taken before and after the merger of the Oregon Insurance Division and the Division of Finance and Corporate Securities in particular regarding existing rules and orders. The proposed rules only provide greater clarity to readers of the administrative rules promulgated by the Department of Consumer and Business Services, through the administrative divisions the Director may reorganize from time to time under the director’s organic statutes. These rules do not impose any new substantive provisions on regulated entities, nor does the proposed rulemaking activity apply rules from one division to another division in a manner that was not already occurring.

**Rules Coordinator:** Jenny Craig

**Address:** Department of Consumer and Business Services, Director’s Office, PO Box 14480, Salem, OR 97309-0405

**Telephone:** (503) 947-7866

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**Rule Caption:** 2017 Workers’ Compensation Premium Assessment Rates

Date:	Time:	Location:
10-17-16	8:30 a.m.	DCBS, Labor & Industries Bldg. 350 Winter St. NE, Room 260 Salem, OR

**Hearing Officer:** Fred Bruyns

**Stat. Auth.:** ORS 705.135, 656.726 & 656.612

**Stats. Implemented:** ORS 656.612 & 656.614

**Proposed Amendments:** 440-045-0020, 440-045-0025

**Last Date for Comment:** 10-19-16, 5 p.m.

**Summary:** The public may also listen to the hearing or testify by telephone: Dial-in number is 1-213-787-0529; Access code is 9221262#; Lines open at 8:25am PDT.

Each year DCBS adopts by rule the workers’ compensation premium assessment rate that is paid by employers to fund workers’ compensation and workplace safety and health programs. The rule also adopts the rate for the amount that is collected from all self-insured employers and self-insured employer groups to fund the Self-Insured Employers Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. These funds ensure worker benefits are available in the event of a financial failure of a self-insured employer or self-insured employer group. Before recommending the 2017 rate, the department must analyze this financial data and review and authorize a proposed workers’ compensation pure premium rate filing filed by the National Council on Compensation Insurance. The proposed premium assessment rate for 2017 is 6.8 percent for all employers, self-insured employers, public self-insured employer groups and private self-insured employer groups. This is a preliminary rate and is subject to change during the rulemaking process.

Text of the proposed rule as well as other rulemaking documents can be found at: [http://www.cbs.state.or.us/external/dir/wc\\_cost/rulemaking.html](http://www.cbs.state.or.us/external/dir/wc_cost/rulemaking.html)

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Address questions to Kate Grover, Rules Coordinator, phone 503-947-7872, fax 503-378-6444 or email Kate.L.Grover@oregon.gov

**Rules Coordinator:** Jenny Craig

**Address:** Department of Consumer and Business Services, Director's Office, PO Box 14480, Salem, OR 97309-0405

**Telephone:** (503) 947-7866

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## Department of Consumer and Business Services, Finance and Securities Regulation Chapter 441

**Rule Caption:** Allows mortgage professionals to submit required surety bond information through the national licensing database.

**Stat. Auth.:** ORS 86A.106, 86A.109, 86A.136, 86A.212, 86A.227 & 86A.242

**Stats. Implemented:** ORS 86A.106, 86A.109, 86A.121, 86A.212 & 86A.227

**Proposed Amendments:** 441-730-0026, 441-860-0020, 441-860-0025, 441-860-0050, 441-885-0010

**Last Date for Comment:** 10-31-16, 5 p.m.

**Summary:** The Department of Consumer and Business Services has been working toward full utilization of the Nationwide Mortgage Licensing System and Registry's (NMLS) features. The NMLS released the first phase allowing for the electronic submission of surety bonds in January 2016. The feature will be fully available, and licensees will be able to electronically submit surety bonds to the Director of the Department through NMLS, by the end of 2016. Requiring electronic submission of the surety bond will make it easier for consumers to access the bond information and will streamline the mortgage licensing process. Currently, the surety bond is the only piece of paper that is still required for the mortgage licensing process. The proposed rules also remove the grace period after a bond is cancelled that was meant to provide time for new bonds to be sent through the U.S. mail. This protects consumers by reducing the period during which a mortgage loan originator may originate loans without the protection of a bond. Because NMLS can be used to quickly notify, and continually remind, licensees of their bond status licensees will receive more effective notice regarding their bonds.

**Rules Coordinator:** Shelley Greiner

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

**Telephone:** (503) 947-7484

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**Rule Caption:** Conforming Oregon's mortgage originator pre-licensing education requirements with the Nationwide Mortgage Licensing System.

**Stat. Auth.:** ORS 86A.206 & 86A.242

**Stats. Implemented:** ORS 86A.212 & 86A.215

**Proposed Amendments:** 441-880-0310

**Last Date for Comment:** 10-31-16, 5 p.m.

**Summary:** The Department of Consumer and Business Services has been working toward full utilization of and alignment with the Nationwide Mortgage Licensing System and Registry's (NMLS) features. Under the federal Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) each prospective mortgage loan originator licensee must complete pre-licensure education. Currently, within the NMLS pre-licensure education does not expire regardless of whether the person actually obtained a license. Department license specialists verify that the pre-licensing education has been completed but not how long ago. In July 2014, the NMLS issued a request for public comments on a proposed expiration of pre-licensure education credits. The NMLS determined that it will develop its licensing database so that pre-licensure education will expire within 3 years if a person has not obtained a license, or if a person fails to maintain an originator license or registration in any jurisdiction for 3 years. Currently, Oregon's rules do not align with the NMLS but all mortgage licensees must apply and renew through the NMLS. Oregon must amend its rules to correspond to NMLS processes.

**Rules Coordinator:** Shelley Greiner

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

**Telephone:** (503) 947-7484

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## Department of Consumer and Business Services, Insurance Regulation Chapter 836

**Rule Caption:** Disclosure of Information about Complaints Regarding Unlawful Claims Settlement Practices.

Date:	Time:	Location:
10-26-16	2 p.m.	Labor & Industries Bldg. 350 Winter St. NE, Rm. 260 Salem OR

**Hearing Officer:** Alex Cheng

**Stat. Auth.:** ORS 731.264

**Stats. Implemented:** ORS 731.264, 2016 Or Laws ch 62 (Enrolled SB 1591)

**Proposed Adoptions:** 836-005-0405

**Last Date for Comment:** 10-31-16, 5 p.m.

**Summary:** ORS 731.264 as amended by Senate Bill 1591, provides that the Director of the Department of Consumer and Business Services (DCBS) may provide to any requester information about complaints against insurers for unlawful practices described under ORS 746.230. The statute does not further define what types of records and under what circumstances records must be disclosed. The proposed rules would clarify the method in which individuals may request information about complaints, the types of records and information that DCBS could and could not disclose, and the circumstances and manner in which DCBS would disclose that information.

**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:** Modernization of Title Plant General Index Requirements.

Date:	Time:	Location:
10-26-16	10 a.m.	Labor & Industries Bldg. 350 Winter St. NE, Rm. 260 Salem OR

**Hearing Officer:** Alex Cheng

**Stat. Auth.:** ORS 731

**Stats. Implemented:** ORS 731.438

**Proposed Amendments:** 836-010-0135, 836-010-0140

**Last Date for Comment:** 10-31-16, 5 p.m.

**Summary:** ORS 731.438 requires that title plants post a general index, adequate maps, and tract or geographic indexes. The proposed amendment to OAR 836-010-0135 would revise the definition of "general index" so that title plants that are able to access records through a subscription to the Oregon Judicial Case Information Network (OJCIN) would no longer have to duplicate that information in the index. The proposed amendments would explicitly allow tract or geographic indexes to be stored electronically. The proposal would also make several technical and non-substantive corrections to the text of OAR 836-010-0135 and OAR 836-010-0140.

**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:** Adoption of Own Risk and Solvency Assessment Guidance Manual and Valuation Manual

Date:	Time:	Location:
10-24-16	10 a.m.	350 Winter St. NE, Conference Rm. E (Basement) Salem, OR

**Hearing Officer:** Gayle Woods

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**Stat. Auth.:** ORS 731.244, Ch. 547, OL 2015 (Enrolled HB 2469)  
**Stats. Implemented:** Ch. 547, OL 2015 (Enrolled HB 2469)  
**Proposed Adoptions:** 836-031-0605, 836-011-0030  
**Last Date for Comment:** 10-31-16, 5 p.m.

**Summary:** This rulemaking adopts the Own Risk and Solvency Assessment Guidance Manual insurers will use when conducting an own risk and solvency assessment. The rules clarify that insurers required to submit an Own Risk and Solvency Assessment summary report each year without waiting for a request from the Director will work with the Director to establish the date the report will be due. The rulemaking also adopts the Valuation Manual insurers will use when establishing reserves using a principle-based valuation.

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

**Rule Caption:** Adopt federal OSHA amendments: Improve Tracking of Workplace Injuries and Illnesses.

Date:	Time:	Location:
10-25-16	11 a.m.	Oregon OSHA, Red Oaks Square 1230 NE Third St., Suite A-115 Bend, OR 97701-4374
10-27-16	10 a.m.	Oregon OSHA, Durham Plaza 16760 SW Upper Boones Ferry Rd. Suite 200 Tigard, OR 97224
11-2-16	10 a.m.	Oregon OSHA 1140 Willagillespie Rd., Suite 42 Eugene, OR 97401-6730
11-3-16	10 a.m.	City of Medford Lausmann Annex, 200 S Ivy, Rm. 151 Medford, OR 97501

**Hearing Officer:** Sue Joye

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

**Stats. Implemented:** ORS 654.001–654.295, 654.412–654.423, 654.750–654.780

**Proposed Amendments:** 437-001-0700

**Last Date for Comment:** 11-4-16, 5 p.m.

**Summary:** This rulemaking is to keep Oregon OSHA in harmony with recent changes to federal OSHA standards.

On May 12, 2016, federal OSHA adopted rules to improve tracking of work-place injuries and illnesses for employers. Due to the unique nature of the national recordkeeping program, state-plan states must promulgate recordkeeping and recording requirements that are substantially identical to 29 CFR part 1904.

This rulemaking will increase prevention of workplace injuries and illnesses as a result of expanded access to timely establishment-specific injury/illness information by federal OSHA, employers, employees, potential customers, and researchers. The benefits of the final rule also include the promotion of complete and accurate reporting of work-related injuries and illnesses.

The final rule requires employers in certain industries to electronically submit to federal OSHA injury and illness data that employers are already required to keep under existing federal OSHA regulations. The frequency and content of these establishment-specific submissions is set out in the final rule and is dependent on the size and industry of the employer. Federal OSHA intends to post the data from these submissions on a publicly accessible website. Federal OSHA does not intend to post any information on the website that could be used to identify individual employees.

The final rule also amends federal OSHA’s recordkeeping regulation to update requirements on how employers inform employees to report work-related injuries and illnesses to their employer. The final rule requires employers to inform employees of their right to

report work-related injuries and illnesses free from retaliation; clarifies the existing implicit requirement that an employer’s procedure for reporting work-related injuries and illnesses must be reasonable and not deter or discourage employees from reporting; and incorporates the existing statutory prohibition on retaliating against employees for reporting work-related injuries or illnesses. The final rule also amends OSHA’s existing recordkeeping regulation to clarify the rights of employees and their representatives to access the injury and illness records.

Oregon OSHA proposes to amend OAR 437-001-0700 Recording Workplace Injuries and Illness, in Division 1, General Administrative Rules, to reflect federal OSHA’s final rule changes.

Please visit our website [osha.oregon.gov](http://osha.oregon.gov) Click ‘Rule changes’ in the Topics, rules, guidelines column and view our proposed rules; or, select other rule activity from the left vertical column on the Proposed Rules page.

**Rules Coordinator:** Sue C. Joye

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

**Telephone:** (503) 947-7449

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## Department of Consumer and Business Services, Workers’ Compensation Division Chapter 436

**Rule Caption:** Proposed amendments to rules governing workers’ compensation insurance and self-insurance

Date:	Time:	Location:
10-24-16	2 p.m.	Labor & Industries Bldg. 350 Winter St. NE, Rm. 260 Salem, OR

**Hearing Officer:** Fred Bruyns

**Stat. Auth.:** ORS 656.407, 656.430, 656.455, 656.726(4)

**Stats. Implemented:** ORS 656, primarily 656.017, 656.407, 656.430, 656.434, 656.443, 656.447, 656.455 & 731.475

**Proposed Adoptions:** Rules in 436-050

**Proposed Amendments:** Rules in 436-050

**Proposed Repeals:** Rules in 436-050, 436-050-0001, 436-050-0002, 436-050-0006, 436-050-0060

**Last Date for Comment:** 10-28-16, Close of Business

**Summary:** The public may also listen to the hearing or testify by telephone: Dial-in number is 1-213-787-0529; Access code is 9221262#.

The agency proposes to amend OAR 436-050, “Employer/Insurer Coverage Responsibility,” to:

- Improve the clarity of the rules through improved organization, plain language, repeal of obsolete provisions, and definition of terms;
- Explain the applicability of rules to self-insured employer groups;
- Complete implementation of Senate Bill 1558 (2014) by establishing standards for acceptable financial viability of self-insured employers, primarily by:
  - Requiring a self-insured employer to demonstrate acceptable financial strength equal to “strong” or “moderate” under the rules;
  - Requiring a self-insured employer to submit financial reports to the director that contain information sufficient to calculate the financial ratios described in the rules;
  - Describing the financial ratios that will be used to determine a self-insured employer’s financial strength; and
  - Explaining how the financial ratios will be used to determine the self-insured employer’s financial strength;
- Clarify procedures for requesting administrative review by the director;
- Clarify procedures for show-cause hearings regarding suspension or revocation of an insurer’s authorization to renew or issue workers’ compensation policies;
- Specify that in determining compliance with the limitation on the number of claims processing locations, the insurer or self-insured

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employer must count each physical location and where its claims are processed or its records maintained as one location;

- Require the insurer or self-insured employer to give the director notice of an email address for each claims processing location;

- Clarify that the director must approve a service agreement before the service company begins processing the insurer's, self-insured employer's, or self-insured employer group's claims in Oregon, regardless of the agreement's effective date;

- Require the insurer or self-insured employer to notify the estates of deceased workers and any beneficiaries receiving benefits under a claim when the insurer changes claims processing location or service company;

- Specify the claim information that must be sent to the director when only a portion of an insurer's claims will be transferred to a new processing location or service company;

- Explain that failure to provide proper notice of a change in claims processing location or service company may result in the assessment of a civil penalty against the insurer or self-insured employer;

- Specify that each location where a service company processes an insurer's or self-insured employer's claims counts as one of the insurer's or self-insured employer's allowed claims processing locations;

- Clarify claims record-keeping requirements for insurers and self-insured employers;

- Specify that an ISLOC or surety bond must be issued under the legal name or assumed business name of the self-insured employer as registered with the Oregon Secretary of State;

- Require that a self-insured employer must submit proposed changes in the retention level and policy limits of an excess insurance policy at least 30 days before the effective date of the change;

- Require a self-insured employer to include in its report of losses separate lists that include all claims with total incurred losses above and below the National Council on Compensation Insurance split point published in Bulletin 209;

- Provide that the values determined at audit will be used to calculate the self-insured employer's security deposit, experience rating factor, and retrospective rating adjustment;

- Describe additional criteria the director will use to determine a self-insured employer's required deposit;

- Allow a self-insured employer to submit a certified actuarial study (subject to some limitations) for determination of the security deposit amount;

- Specify that a self-insured employer may not transfer claims to any excess insurer or service company acting on behalf of an excess insurer for the processing of the employer's claims;

- Provide that, if given probable cause, the director may order a self-insured employer who is exempt from providing a security deposit to increase the amount of its loss reserve account, and that the self-insured employer must comply within 30 days of the director's order;

- Provide that if a self-insured employer submits a request to cancel self-insurance certification fewer than 60 days before the desired date of cancellation, the actual termination date may be later than the date requested;

- List required elements of the service agreement between a self-insured employer and a service company;

- Provide that a self-insured employer may add an amount to its security deposit equal to what is required for a common claims fund instead of maintaining a common claims fund; and

- Provide that a self-insured employer group is not required to create a common claims fund in any year in which the director applies an incurred but not reported factor of greater than zero percent in the determination of the self-insured employer group's security deposit.

**Rules Coordinator:** Fred Bruyns

**Address:** Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405

**Telephone:** (503) 947-7717

**Rule Caption:** Proposed amendment of rules governing claims administration

**Date:**  
10-24-16

**Time:**  
2 p.m.

**Location:**  
Labor & Industries Bldg.  
350 Winter St. NE, Rm. 260  
Salem, OR

**Hearing Officer:** Fred Bruyns

**Stat. Auth.:** ORS 656.210, 656.264, 656.265, 656.726(4)

**Stats. Implemented:** ORS 656, primarily 656.206, 656.210, 656.212, 656.262, 656.264, 656.265, 656.268, 656.307, 656.325, 656.704, 656.740 7 656.745

**Proposed Adoptions:** Rule in 436-060, 436-060-0011

**Proposed Amendments:** Rules in 436-060

**Proposed Repeals:** 436-060-0001, 436-060-0002, 436-060-0006

**Last Date for Comment:** 10-28-16, Close of Business

**Summary:** The public may also listen to the hearing or testify by telephone: Dial-in number is 1-213-787-0529; Access code is 9221262#.

The agency proposes to amend OAR 436-060, "Claims Administration," to:

- Improve the clarity of the rules through improved organization, plain language, repeal of obsolete or redundant provisions, and definition of terms;

- Clarify procedures for requesting administrative review by the director;

- Clarify procedures for obtaining public records;

- State that a worker may choose a medical service provider, attending physician or authorized nurse practitioner under ORS 656.245, 656.260, OAR 436-010 and 436-015, and if an employer restricts that choice, the director may impose a civil penalty of up to \$2000;

- Require that electronic forms, when allowed, must include the same fields and elements as their paper counterparts;

- Specify that Form 1502, "Insurer's Report," must include the employer's policy number;

- Require the insurer to provide an email address with the information it sends to the worker when it changes claims processing location, service company, or self-administration;

- Provide that an electronically produced date is acceptable evidence of initial date of receipt;

- Explain that if the worker is represented by an attorney, and the attorney is instrumental in obtaining an order from the director that reclassifies the claim from nondisabling to disabling, the director may award the attorney a reasonable assessed attorney fee under ORS 656.277;

- Explain that the insurer must reimburse the employer for any employer-paid temporary disability benefits;

- Streamline process for calculating the rate of temporary total disability (TTD) compensation by:

- Providing that for all workers with irregular wages, or earnings that are not based on wages alone, the rate of TTD must be calculated based on the worker's total earnings for the period up to 52 weeks before the date of injury, with some restrictions; and

- Removing the provision that the rate of TTD for workers employed through union hall call boards must be computed based on a forty-hour work week;

- Clarify how to calculate temporary partial disability (TPD), the conditions requiring payment of TPD, and required notice to the worker and the worker's attorney when the insurer stops paying TTD and starts paying TPD;

- Clarify procedures for an insurer's election to process and pay or not to process and pay supplemental disability (SD) compensation, eligibility criteria for SD, procedures for processing SD requests, and calculation and payment of SD;

- Provide that an insurer or assigned processing administrator must determine a worker's eligibility for SD within 14 days of receipt of a worker's verifiable documentation, or the end of the 60-day period in the insurer's request for documentation if the worker does not

# NOTICES OF PROPOSED RULEMAKING

provide verifiable documentation, and notify the worker of the determination;

- Clarify requirements related to independent medical exams, including reimbursement of a worker's costs to attend the exam;

- Provide that if a worker begins cooperating with an insurer's investigation after payment of compensation to the worker has been suspended, the insurer is not required to notify the director, but must immediately reinstate the worker's benefits;

- Clarify requirements related to vocational evaluations of workers receiving permanent total disability, including reimbursement of a worker's costs to attend the evaluation;

- Clarify that a condition for eligibility for a worker requested medical exam is that the denial is based on one or more independent medical exam reports with which the worker's attending physician "did not concur;"

- Increase the number of days the worker or the worker's representative has to respond to the director's list of appropriate physicians for a worker requested medical exam from 10 to 14 days of the mailing date of the notice providing the list;

- Implement the change from quarterly to annual performance audits by:

  - Clarifying provisions for auditing insurers' claims processing performance;

  - Removing provisions for quarterly performance targets and penalties; and

  - Deleting the matrix for assessing penalties for number of quarters below standard performance level per year;

- Clarify requirements for timely payment of permanent disability and fatal benefits;

- Clarify requirements for payment of compensation when a worker has a claim under the workers' compensation law of another state, territory, province or foreign nation for the same injury or occupational disease as the claim filed in Oregon;

- Provide that an employer may assume that a worker consents to having temporary disability benefits paid through a direct deposit system if that is the method the employer usually uses to pay the worker's wages;

- Remove the requirement that a worker must be able to make an initial withdrawal of the entire amount of an electronic deposit of compensation;

- Clarify requirements for requesting, processing, and issuing a penalty payable to a worker when the insurer unreasonably delays or unreasonably refuses to pay compensation, attorney fees or costs, or unreasonably delays acceptance or denial of a claim;

- Require that insurers involved in claim responsibility disputes must mail claim documents to the other insurers under the time frames in OAR 436-060-0017; and

- Specify that amounts in a third-party recovery that result in overpayment of a worker are considered invalid payments of supplemental disability.

**Rules Coordinator:** Fred Bruyns

**Address:** Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405

**Telephone:** (503) 947-7717

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**Rule Caption:** Proposed amendments to rules governing return-to-work incentive programs and vocational assistance

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-24-16	2 p.m.	Labor & Industries Bldg. 350 Winter St. NE, Rm. 260 Salem, OR

**Hearing Officer:** Fred Bruyns

**Stat. Auth.:** ORS 656.340, 656.622, 656.726(4)

**Stats. Implemented:** ORS 656.340, 656.622

**Proposed Amendments:** Rules in 436-105, 436-105-0003, 436-105-0005, 436-105-0006, 436-105-0008, 436-105-0500, 436-105-0510, 436-105-0511, 436-105-0512, 436-105-0520, 436-105-0530, 436-105-0540, 436-105-0550, 436-105-0560, Rules in 436-110, 436-110-

0003, 436-110-0005, 436-110-0006, 436-110-0007, 436-110-0150, 436-110-0240, 436-110-0290, 436-110-0310, 436-110-0320, 436-110-0325, 436-110-0330, 436-110-0335, 436-110-0336, 436-110-0337, 436-110-0345, 436-110-0346, 436-110-0347, 436-110-0350, 436-110-0351, 436-110-0352, 436-110-0850, 436-110-0900, Rules in 436-120, 436-120-0003, 436-120-0005, 436-120-0008, 436-120-0012, 436-120-0115, 436-120-0145, 436-120-0165, 436-120-0175, 436-120-0185, 436-120-0410, 436-120-0443, 436-120-0445, 436-120-0500, 436-120-0510, 436-120-0520, 436-120-0530, 436-120-0700, 436-120-0710, 436-120-0720, 436-120-0755, 436-120-0800, 436-120-0810, 436-120-0820, 436-120-0840, 436-120-0900, 436-120-0915

**Proposed Repeals:** Rules in 436-105, 436-105-0001, 436-105-0002, Rules in 436-110, 436-110-0001, 436-110-0002, Rules in 436-120, 436-120-0001, 436-120-0002, 436-120-0006, 436-120-0014, 436-120-0016, 436-120-0017, 436-120-0018, 436-120-0125, 436-120-0135, 436-120-0449, 436-120-0830

**Proposed Ren. & Amends:** 436-120-0007 to 436-120-0147, 436-120-0155 to 436-120-0117, 436-120-0340 to 436-120-0157, 436-120-0400 to 436-120-0177, 436-120-0430 to 436-120-0197, 436-120-0448 to 436-120-0523, 436-120-0451 to 436-120-0527, 436-120-0455 to 436-120-0187

**Last Date for Comment:** 10-28-16, Close of Business

**Summary:** The public may also listen to the hearing or testify by telephone:

Dial-in number is 1-213-787-0529; Access code is 9221262#.

The agency proposes to amend OAR 436-105, "Employer-at-Injury Program" (EAIP) to:

- Improve the clarity of the rules through improved organization, plain language, and definition of terms;

- Clarify the purpose of EAIP assistance;

- Clarify that monies in the Workers' Benefit Fund may not be used to provide concurrent benefits under the Employer-at-Injury Program and the Preferred Worker Program for the same worker for the same period of time, except for reimbursement of claims costs;

- Clarify how parties may request reconsideration if they are directly affected by a decision regarding the EAIP;

- Require that a medical release specify the worker's hourly restrictions if the release is for part-time work or fewer hours than the worker normally worked before the injury;

- Limit the effective period for a medical release to 30 days if the release does not specify an end date or follow-up date, no subsequent medical release is issued, and there is no indication that the worker followed up with the medical service provider;

- Require that all EAIP documentation be prepared and in the insurer's possession before reimbursement is requested from the division;

- More specifically describe what payroll records must include and require that they be compiled in accordance with generally accepted accounting procedures;

- Specify that EAIP eligibility ends when Preferred Worker Program benefits (except Claim Cost Reimbursement) begin;

- Clarify that the EAIP may be used only once per worker per claim opening or request for reopening;

- State that modifications and purchases must be ordered before the end of the EAIP;

- Expressly exclude reimbursement for extended warranties for worksite modifications and purchases that are in addition to the standard or manufacturer's warranty;

- Broaden the description of how an insurer must display receipt dates on documentation to accommodate non-physical date stamps and to be consistent with claim processing rules;

- State that if the director finds that procedures that led to disallowed reimbursements are still being used, the director may withhold further reimbursements until corrections satisfactory to the director are made, consistent with language in OAR 436-110; and

- Provide that if there is conflicting documentation regarding eligibility for reimbursement for EAIP services, the director will use a

## NOTICES OF PROPOSED RULEMAKING

preponderance-of-evidence standard to make its decision, and if there is no clear preponderance, reimbursement will be denied.

The agency proposes to amend OAR 436-110, "Preferred Worker Program" (PWP) to:

- Improve the clarity of the rules through improved organization, plain language, and definition of terms;

- Clarify that monies in the Workers' Benefit Fund may not be used to provide concurrent benefits under the Preferred Worker Program and the Employer-at-Injury Program for the same worker for the same period of time, except for reimbursement of claims costs;

- Clarify how parties may request reconsideration if they are directly affected by a decision of the Workers' Compensation Division regarding the PWP;

- Specify that if a claim disposition agreement is approved before the claim has been closed under ORS 656.268, the insurer must obtain medical information to determine the worker's permanent restrictions for purposes of the PWP;

- Explain that work experience program participants, apprentices, and trainees covered under ORS 656.033, 656.046, 656.135, or 656.138, are eligible for the PWP if they otherwise meet the eligibility requirements in the rules, and that the job for which the individual was being trained is regular work;

- Revise the requirements for premium exemption, requiring the employer to notify the division instead of the insurer;

- Require that requests for claim cost reimbursement must be submitted within 15 months of the date on which payment was made;

- More specifically describe what payroll records in support of reimbursement requests must include;

- Place a dollar maximum on wage subsidy for a worker and remove the limit on the number of times wage subsidy may be used unless the worker has an exceptional disability - if so the worker may use wage subsidy twice with no maximum total reimbursement;

- Provide that a worker may use a second wage subsidy with the same employer for a new job if the majority of job duties have changed and at least one year has passed from the end of the first wage subsidy period;

- Increase maximum allowed payments for several categories of employment purchases: tuition, books, and fees; lodging, meals, and mileage; tools and equipment; clothing; occupational certification, licenses, and related testing costs, drug screen testing, physical examinations, or membership fees required for the job; and worksite creation;

- Remove the limits on the number of uses for several categories of employment purchases: tuition, books, and fees; tools and equipment; and clothing;

- Add a new type of employment purchase - transportation-related purchases that enable a worker to commute to a job (does not include vehicles or vehicle maintenance);

- Describe placement services and provide that payment will be made up to a dollar maximum, regardless of whether the worker finds employment, but provide for additional payments if the worker is employed as a result of the services and again if the worker remains in that position for at least 30 days;

- Require that requests for payment for placement services be submitted within one year of the end date of the placement assistance agreement;

- Increase the dollar maximums allowed for worksite modification services and set a per-use cap;

- Increase the dollar maximums allowed for modifications to prevent further injury, rental of worksite modification items, and consultative services;

- For worker-activated worksite modification assistance, remove the limit on the number of times a worker may use the assistance, but limit use to once per employer, unless the job is a new job; and

- Provide that a worker can use a second worksite modification with the same employer for a new job if the majority of the job duties have changed.

The agency proposes to amend OAR 436-120, "Vocational Assistance to Injured Workers" to:

- Improve the clarity of the rules through improved organization, plain language, definition of terms, and removal of obsolete provisions;

- Provide that if the worker returns to work with the employer at injury, the division may verify whether the employment is suitable;

- Clarify procedural requirements for administrative review and resolution of disputes;

- State that all notices and warnings must be copied to the division;

- State that a notice is not effective until it is mailed to all required parties including the worker's legal representative;

- Repeal the rule addressing notification of employment and reinstatement rights and responsibilities, because these statutory provisions are sufficiently described in ORS 656.262, 656.340, and ORS chapter 659A;

- Repeal rules allowing postponement of a worker's vocational eligibility evaluation, and allow deferral in specified circumstances when the employer at injury has activated Preferred Worker Program benefits;

- Remove the definition of "likely eligible" and clarify when an eligibility evaluation is required;

- Clarify that if a worker requests vocational assistance when the insurer is not required to do an eligibility evaluation, the insurer may not deny eligibility;

- Clarify the timeframe for completing an eligibility evaluation, including notifying the worker of the results;

- Allow the counselor to extend the time to complete the eligibility evaluation if the counselor is unable to obtain needed information;

- Include specified circumstances in which the worker does not need to be available in Oregon;

- Explain that work experience program participants, apprentices, and trainees covered under ORS 656.033, 656.046, 656.135, or 656.138, are eligible for vocational assistance if they otherwise meet the eligibility criteria; and define employer at injury, regular employment, and suitable wage for those individuals;

- Clarify the circumstances under which the insurer may end vocational assistance after a worker has been employed in suitable employment due to an employer-at-injury use of the PWP;

- Specify that the insurer and worker must agree on a counselor rather than a vocational assistance provider;

- Require that if the worker and insurer do not agree on a counselor or on a change of counselor, the insurer must notify the division within five days;

- List the responsibilities of the worker and counselor in training and direct employment plans;

- Remove outdated language regarding vocational evaluations;

- Redefine "exceptional loss of earning capacity" to include the potential for the worker's income to increase with time as a result of training;

- Require that the insurer provide further training to a worker when the initial plan will not be or was not successful to prepare the worker for suitable employment;

- Increase the allowable time (months) for basic education, occupational skills training, and formal training;

- Require the training plan to notify the worker if temporary disability benefits may end before training ends;

- Require the insurer to approve or disapprove a training plan within 14 days;

- Require the insurer to issue a written warning before ending an academic program for specified reasons;

- Require the insurer to pay for approved direct worker purchases within 30 days after the insurer receives the worker's request or proof of payment, whichever is later;

- Remove as factors the insurer may consider in determining the necessity of direct worker purchases: pre-injury net income com-

# NOTICES OF PROPOSED RULEMAKING

pared with post-injury net income; family income; and evidence of financial hardship;

- Reduce the time within which an insurer must pay vocational assistance providers' bills for services from 60 to 30 days from receipt; and

- Allow continuing education credits for counselors who teach a class or provide a formal presentation to a group on a topic relating to vocational rehabilitation.

**Rules Coordinator:** Fred Bruyns

**Address:** Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405

**Telephone:** (503) 947-7717

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## Department of Corrections Chapter 291

**Rule Caption:** Shared Information Systems — Repeal

**Stat. Auth.:** ORS 179.040, 423.030, 423.040, 423.075

**Stats. Implemented:** ORS 179.040, 423.030, 423.040, 423.075

**Proposed Repeals:** 291-079-0030, 291-079-0040

**Last Date for Comment:** 11-15-16, 4:30 p.m.

**Summary:** The Shared Information System statute (ORS 657.732) was repealed in 2011. These rules are no longer necessary since the statute as been repealed.

**Rules Coordinator:** Janet R. Worley

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

**Telephone:** (503) 945-0933

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## Department of Energy Chapter 330

**Rule Caption:** Amending EIP Conservation tax credit rules including amendment and program sunset provisions.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-24-16	10 a.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR 97301

**Hearing Officer:** Elizabeth Ross

**Stat. Auth.:** ORS 469.040, 469B.279, 469B.285, 469B.303 & 469B.306

**Stats. Implemented:** ORS 469B.270-469B.306, 315.331

**Proposed Amendments:** 330-210-0000, 330-210-0010, 330-210-0020, 330-210-0030, 330-210-0040, 330-210-0045, 330-210-0050, 330-210-0060, 330-210-0070, 330-210-0080, 330-210-0090, 330-210-0100, 330-210-0110, 330-210-0150

**Last Date for Comment:** 10-26-16, 5 p.m.

**Summary:** The Oregon Department of Energy proposes rules for the Energy Incentives Program (EIP) energy conservation tax credit to update program procedures, expand amendment requests and include provisions for the program's sunset.

The conservation tax credits sunset at the end of tax year 2017. To align with statute and Oregon Laws, the draft rules propose that the department must receive an application for final certification prior to the end of the 2017 tax year of the applicant and for applicants choosing to sell the credit, the entity purchasing the credit must pay for it prior to the end of its 2017 tax year. For amendments, the draft rules propose allowing an applicant to submit an amendment request up until issuance of the final certificate rather than by the time the final application is submitted to the department.

Additionally the department through this rulemaking proposes:

- Updating cost term to better explain program practice for competitive and small premium projects,
- Adding requirements for combined heat and power and cogeneration projects,
- Adding a process for applicants to accept conditions on a preliminary certificate,
- Require at final certification that applicants provide itemized documentation of total project costs, and

- Allow reconsideration of a denial during the technical review phase or request for an amendment.

The department plans for the rules to be effective upon filing. 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-Energy\\_Incentive\\_Program.aspx](http://www.oregon.gov/energy/CONS/Pages/Rulemaking-Energy_Incentive_Program.aspx).

**Rules Coordinator:** Elizabeth Ross

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

**Telephone:** (503) 378-8534

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**Rule Caption:** Establishes process to issue renewable energy certificates for thermal energy from biomass-based electricity generation.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-2-16	10 a.m.	Oregon Dept. of Energy 625 Marion St. NE Salem OR 97301

**Hearing Officer:** Wendy Simons

**Stat. Auth.:** ORS 469.040, ORS 469A.130 & OL 2016, Ch. 28

**Stats. Implemented:** ORS 469A.010-469A.025, 469A.130-469A.145 & OL 2016, Ch. 28

**Proposed Adoptions:** 330-160-0080, 330-160-0090

**Proposed Amendments:** 330-160-0015, 330-160-0030, 330-160-0035

**Last Date for Comment:** 11-2-16, 5 p.m.

**Summary:** The primary purpose of these proposed rules is to implement Senate Bill 1547 (2016), Oregon Laws 2016 chapter 28, which requires the Oregon Department of Energy to establish a system for issuing renewable energy certificates for facilities generating electricity using biomass that also generate thermal energy for a secondary purpose. The proposed rules add definitions related to thermal renewable energy certificates; specify eligible facilities and qualifying thermal energy; and provide requirements for metering, monitoring and reporting of qualifying thermal energy.

The rules will become effective upon filing. Text of the proposed rules and hearing details can be found on the Department's website: <http://www.oregon.gov/energy/P-I/Pages/RPS-Rulemaking.aspx>.

**Rules Coordinator:** Elizabeth Ross

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

**Telephone:** (503) 378-8534

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## Department of Environmental Quality Chapter 340

**Rule Caption:** Updating Oregon's Air Quality Rules to Address Federal Regulations

**Stat. Auth.:** ORS 468.020 & 468A.025

**Stats. Implemented:** ORS 468A.025 & 468A.040

**Proposed Amendments:** 340-238-0040, 340-238-0060, 340-238-0030

**Last Date for Comment:** 10-28-16, 4 p.m.

**Summary:** DEQ is re-opening the public comment period for this rulemaking to add new and amended federal rules adopted between July 1, 2015 and July 1, 2016. The comment period closes at 4 p.m., Oct. 28, 2016.

DEQ proposes the following changes to OAR 340, divisions 238 and 244, which will:

Update Oregon rules to reflect new and amended federal standards for:

- a. Toxics of concern. DEQ proposes adopting the new residual risk and technology standards for aerospace manufacturing and rework, amino and phenolic resin manufacturing, electric arc furnace steel-making facilities, flexible polyurethane foam production, generic maximum achievable control technology, offsite waste and recovery, pesticide active ingredient production, phosphate fertilizer production, phosphoric acid manufacturing, polyether polyols production,

## NOTICES OF PROPOSED RULEMAKING

polymer and resin production, primary aluminum reduction, and secondary aluminum production. This would give DEQ the authority to include the new federal requirements in Title V air quality permits it oversees under authority from the U.S. Environmental Protection Agency.

b. Sources that may endanger public health and welfare. DEQ proposes adopting the new federal standards for crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after Sep. 18, 2015; greenhouse gas emissions from electric generating units; kraft pulp mills constructed, reconstructed or modified after May 23, 2013; and wool fiberglass manufacturing. This would give DEQ the authority to include the new federal requirements into Title V permits.

c. Revised federal standards. DEQ proposes adopting revised federal standards by reference.

**Rules Coordinator:** Meyer Goldstein

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

**Telephone:** (503) 229-6478

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**Rule Caption:** Oakridge PM2.5 Supplemental Attainment Plan 2014-2016

**Stat. Auth.:** ORS 468A.135, 468A.150

**Other Auth.:** OAR 340-200-0010(3)

**Stats. Implemented:** ORS 468A.135, 468A.150

**Proposed Amendments:** 340-200-0040

**Last Date for Comment:** 11-10-16, 12 p.m.

**Summary:** The Lane Regional Air Protection Agency (LRAPA) proposes rule amendments to adopt the Oakridge PM2.5 Supplemental Attainment Plan. The plan provides a pathway for continued improvement to reduce particulate emissions and to return the Oakridge Nonattainment Area to attainment for PM2.5 (state classification will be "maintenance") by achieving the more protective national health standards adopted in 2006 and 2012. The plan is meant to ensure Oakridge meets and maintains the 24-hour and annual National Ambient Air Quality Standards for PM2.5.

The plan complies with the applicable 1990 Federal Clean Air Act requirements and EPA guidance and policies. The plan provides strategies to meet the PM2.5 standards by 2016 and provides contingency measures should Oakridge not meet the deadline. To demonstrate "attainment" requires the collection of representative monitoring data using approved measuring instruments and procedures, with adequate quality assurance.

EPA will review the plan to determine if it is approvable and publish its findings in the Federal Register. Re-designation back to attainment is possible only after Oakridge meets the standards for three consecutive years and a maintenance plan is drafted, adopted by the LRAPA Board of Directors, the EQC and approved by EPA.

**Rules Coordinator:** Meyer Goldstein

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

**Telephone:** (503) 229-6478

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### Department of Forestry Chapter 629

**Rule Caption:** Expanding water protection rules to include small and medium salmon, steelhead and bull trout streams.

Date:	Time:	Location:
11-1-16	4 p.m.	Oregon Garden NREC Rm. 895 W. Main St. Silverton, OR 97381
11-3-16	4 p.m.	Keizer Civic Community Center 930 Chemawa Rd. NE Keizer, OR 97307
11-9-16	4 p.m.	Douglas County Fairgrounds 2110 SW Frear St. Roseburg, OR 97471
11-10-16	4 p.m.	Coos History Center 1210 N. Front St. Coos Bay, OR 97420

11-15-16	4 p.m.	Florence Events Center. 715 Quince St. Florence, OR 97439
11-16-16	4 p.m.	Columbia Hall/Clatsop CC 1651 Lexington Ave. Astoria, OR 97103
12-6-16	4 p.m.	Willamalane Ctr./Ken Long Rm. 250 S. 32nd St. Springfield, OR 97478
12-7-16	4:30 p.m.	Forest Grove Community Auditorium, 1915 Main St. Forest Grove, OR 97116
12-8-16	12 p.m.	Civic Center Rm., Dallas City Hall, 187 SE Court St. Dallas, OR 97338
12-8-16	4 p.m.	Oregon Department of Forestry Tillamook Rm., 2600 State St. Salem, OR 97310

**Hearing Officer:** Greg Wagenblast

**Stat. Auth.:** ORS 527.710, 527.630(3), 527.714, 526.016(4),

**Stats. Implemented:** ORS 527.630(5), 527.674, 527.714, 527.715, 527.765, 527.710, 527.919(9),

**Proposed Adoptions:** 629-642-0105, 629-642-0110

**Proposed Amendments:** 629-600-0100, 629-605-0170, 629-605-0173, 629-605-0500, 629-611-0000, 629-615-0300, 629-620-0300, 629-620-0400, 629-620-0800, 629-623-0300, 629-625-0100, 629-625-0430, 629-625-0700, 629-630-0600, 629-630-0700, 629-630-0800, 629-635-0100, 629-635-0110, 629-635-0200, 629-635-0210, 629-635-0310, 629-680-0020

**Proposed Ren. & Amends:** 629-640-0000 to 629-642-0000, 629-640-0100 to 629-642-0100, 629-640-0105 to 629-642-0200, 629-640-0110 to 629-642-0300, 629-640-0200 to 629-642-0400, 629-640-0210 to 629-642-0500, 629-640-0300 to 629-642-0600, 629-640-0400 to 629-642-0700, 629-640-0500 to 629-642-0800

**Last Date for Comment:** 3-1-17, 5 p.m.

**Summary:** The Oregon Department of Forestry (ODF) has revised and added proposed rule language for additional resource protection requirements on small and medium sized Salmon, Steelhead, and/or Bull Trout (SSBT) streams located in western Oregon. The new requirements also extend up within the immediate harvest unit above the end of mapped SSBT streams, along the main stem of fish-bearing streams.

The amendment of OAR 629-600-0100 includes definitions for Salmon, Steelhead, and Bull Trout and definitions to classify Type SSBT streams.

The amendment of OAR 629-635-0200 describes how to designate Type SSBT streams and SSBT use. The proposed rules also provide information on when the rules become effective and updates to beneficial use designations.

OAR 629-640 has been removed and renumbered to 629-642 with the inclusion of additional SSBT stream rules.

The adoption of OAR 629-642-0105 requires additional riparian overstory protection on SSBT streams. The proposed rule requires remaining trees in the riparian management area be well distributed and describes alternative prescriptions.

The adoption OAR 629-642-0110 allows relief to be provided to landowners who meet applicable criteria.

Review of this proposed rulemaking package may be accessed on the Department's web page at <http://www.oregon.gov/ODF/AboutODF/Pages/ProposedLawsRules.aspx> or at the office of the State Forester and are available upon request. Associated supporting materials presented at the September 2016 Board of Forestry meeting are available online. They may be accessed through the Board of Forestry website: [www.oregonforestry.gov](http://www.oregonforestry.gov).

Ten joint Open houses and public hearings regarding this rule-making process will be held in Silverton, Keizer, Roseburg, Coos Bay, Florence, Astoria, Springfield, Dallas and Salem throughout the month of November and early December. Notice of the meetings and



# NOTICES OF PROPOSED RULEMAKING

hearings will be promoted via flyers, email, media releases and our website prior to the meeting dates.

Written comments must be received by 5:00 p.m. on March 1st, 2017. Submissions should be addressed to: Private Forest SSBT Rulemaking, Oregon Department of Forestry, 2600 State Street, Oregon 97310; or send to RiparianRule@oregon.gov or via fax (503) 945-7490.

Comments received by 5:00 p.m. on March 1st, 2017 will be compiled and incorporated into information presented to the Board of Forestry for their review. From this information and the prior work with this rulemaking process, the Board of Forestry will decide whether to approve this proposed rulemaking package. The Department is planning to present this information at the April Board of Forestry meeting. The Department will propose an effective date of July 1, 2017.

**Rules Coordinator:** Sabrina Perez

**Address:** Department of Forestry, 2600 State St., Salem, OR 97310  
**Telephone:** (503) 945-7210

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

**Rule Caption:** Child Abuse Checks on Providers; Other Rule Corrections and Updates

Date:	Time:	Location:
10-17-16	10 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 137A-D Salem, OR 97301

**Hearing Officer:** Kris Skaro

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

**Other Auth.:** ORS 181A.215; 419B.035, 42USC1320a-7(a); 42USC12645g

**Stats. Implemented:** ORS 181A.195, 181A.200, 409.010, 409.027, 443.004 and Oregon Laws 2016, chapter 106, section 6

**Proposed Amendments:** 407-007-0210, 407-007-0250, 407-007-0279, 407-007-0290, 407-007-0320, 407-007-0330

**Proposed Repeals:** 407-007-0210(T), 407-007-0250(T), 407-007-0279(T), 407-007-0290(T), 407-007-0320, 407-007-0330(T)

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** Oregon Laws 2016, chapter 106, section 6 (2016 SB1515) became effective 7/1/2016. It added requirements regarding proctor foster parents applying for certification or recertification through a child-caring agency. These requirements were added to the rules on 7/1/2016; the current proposed rulemaking makes those changes permanent. The requirements include:

The addition of disclosure language needed in the background check request allows the Department to release information to the child-caring agency.

The requirement that the proctor foster parent disclose all substantiated or founded abuse, and all protective orders or restraining orders against the proctor foster parent.

The addition of serious adult neglect, protective orders or restraining orders against the proctor foster parent as potentially disqualifying.

The addition of the making of a false statement about abuse or protective orders, restraining orders by the proctor foster parent as a reason to close background check request.

OAR 407-007-0279 amendments were added to the rules on 7/1/2016; the current proposed rulemaking makes those amendments permanent. The proposed amendments follow CMS guidelines that the mandatory exclusion from holding a position due to certain convictions or conditions is only for 5 years. The previous rule language had an error that needed correcting immediately to match current requirements.

Proposed amendments to OAR 407-007-0290 broaden the abuse check on Department of Human Services' providers to include a check of child abuse records and all other SIs if in their position they will have direct contact with children. Any substantiated child abuse

against these SIs will be considered potentially disqualifying and require a weighing test under these provider rules.

Other updates include clarification to rules language, error corrections and alignment with current processes.

Proposed rules are available on the Department of Human Services website: <http://www.oregon.gov/DHS/POLICIES/Pages/ss-admin-rules.aspx>. Written comments may be submitted until Friday, October 21, 2016 at 5:00 p.m. via email to [kris.a.skaro@state.or.us](mailto:kris.a.skaro@state.or.us), faxed to 503-373-7032, or mailed to Kris Skaro, Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon, 97301.

**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:** Changes to Investigation of Reported Abuse in Child-Caring Agencies due to SB1515 (2016)

Date:	Time:	Location:
10-17-16	10 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 137A-D Salem, OR 97301

**Hearing Officer:** Kris Skaro

**Stat. Auth.:** ORS 409.050 & 418.005

**Stats. Implemented:** ORS 418.205–418.327, 419B.005–419B.050, 418.189, 418.702, 418.747, 418.751, 418.782, 409.185, 409.225 & OL 2016, Ch. 106

**Proposed Adoptions:** 407-045-0825, 407-045-0885, 407-045-0886, 407-045-0887, 407-045-0895, 407-045-0955

**Proposed Amendments:** 407-045-0800 through 407-045-0980

**Proposed Repeals:** 407-045-0810(T) through 407-045-0970(T)

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** The Department of Human Services (Department) is proposing to permanently adopt temporary rules that went into effect on July 1, 2016 to comply with SB 1515 (Oregon Laws 2016, chapter 2016). The law created new requirements relating to ensuring the safety of children and young adults residing in or receiving services from child-caring agencies licensed by the Department. The intent of this legislation is to enhance safety of children in child-caring agencies and proctor foster homes, align abuse definitions with paid caregiving expectations, define investigation outcomes, and improve communication within the Department.

The rules in OAR 407-045-0800 through 407-045-0980 outline the child-caring agencies or proctor foster homes in which the Office of Adult Abuse Prevention and Investigations (OAAPI) investigates allegations of abuse, and establishes requirements for OAAPI screeners and investigators when allegations of abuse are received in these settings. The rules require immediate screening and investigation of abuse allegations in a child-caring agency or proctor foster home. Changes the definition of child in care to include young adults up to the age of 21 if they are residing in or receiving care or services from a child-caring agency or proctor foster homes and requires OAAPI investigators and screeners to notify appropriate Department personnel of the abuse report and investigation, and requires OAAPI to collaborate with appropriate personnel to share information and determine the appropriate Department response to ensure safety of the children in care.

In addition, non-substantive edits were made to these rules to ensure consistent terminology throughout Department 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.

The Department is amending additional rules to implement SB 1515, including rules for the Office of Licensing and Regulatory Oversight, the Office of Child Welfare Programs, and the Background Check Unit. More information is available on the SB 1515

# NOTICES OF PROPOSED RULEMAKING

implementation webpage at: <https://www.oregon.gov/DHS/CHILDREN/Pages/sb1515.aspx>.

Proposed rules are available on the Department of Human Services website: <http://www.oregon.gov/DHS/POLICIES/Pages/ss-admin-rules.aspx>. Written comments may be submitted until Friday, October 21, 2016 at 5:00 p.m. via email to [kris.a.skaro@state.or.us](mailto:kris.a.skaro@state.or.us), faxed to 503-373-7032, or mailed to Kris Skaro, Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon, 97301.

**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, Child Welfare Programs Chapter 413

**Rule Caption:** Implementation of HB 2889 (2015)

Date:	Time:	Location:
10-19-16	11 a.m.	500 Summer St. NE, Rm. 255 Salem, OR 97301

**Hearing Officer:** Kris Skaro

**Stat. Auth.:** ORS 418.005, 418.708

**Stats. Implemented:** ORS 418.005, 418.015, 418.708

**Proposed Amendments:** 413-010-0170 through 413-010-0185

**Proposed Repeals:** 413-010-0180(T), 413-040-0013(T)

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** The Department is amending OAR 413-010-0180 about the rights of children and young adults in Department custody to implement HB 2889 (2015). Specifically, the rule is amended to state that children and young adults have the right to receive assistance from the Department to establish a savings account as provided in ORS 418.708. This was adopted by temporary rule on May 17, 2016. (OAR 413-040-0013 was also amended by temporary rule to require caseworkers to monitor a child or young adult's savings account to ensure continuation of receipt of state and federal benefits. That temporary rule is being repealed because it is covered by other current Department rules and procedures.)

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

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rules while reducing the negative economic impact of the rules on business. 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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**Rule Caption:** Implementation of SB 1515 (2016)

Date:	Time:	Location:
10-17-16	10 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 137 Salem, OR

**Hearing Officer:** Kris Skaro

**Stat. Auth.:** ORS 409.050, 418.005, 418.015, Or Laws 2016, Ch. 106

**Stats. Implemented:** ORS 409.010, 409.050, 418.005, 418.015, Or Laws 2016, Ch. 106

**Proposed Adoptions:** 413-215-0000, 413-215-0218, 413-215-0318, 413-215-0618

**Proposed Amendments:** Rules in 413-010, 413-215

**Proposed Repeals:** 413-215-0000(T), 413-215-0001(T), 413-215-0006, 413-215-0011(T), 413-215-0016(T), 413-215-0021(T), 413-215-0026(T), 413-215-0031(T), 413-215-0036(T), 413-215-0041(T), 413-215-0046(T), 413-215-0051(T), 413-215-0056(T), 413-215-0061(T), 413-215-0066(T), 413-215-0071(T), 413-215-0076(T), 413-215-0081(T), 413-215-0086(T), 413-215-0091(T), 413-215-0096, 413-215-0101(T), 413-215-0106(T), 413-215-0111(T), 413-215-0116(T), 413-215-0121(T), 413-215-0126(T), 413-215-0131(T), 413-215-0201(T), 413-215-0206, 413-215-0211(T), 413-215-0216(T), 413-215-0221(T), 413-215-0226(T), 413-215-0231(T), 413-215-0236(T), 413-215-0241(T), 413-215-0246(T), 413-215-0251(T), 413-215-0256, 413-215-0261(T), 413-215-0266(T), 413-215-0271(T), 413-215-0276(T), 413-215-0301(T), 413-215-0306, 413-215-0311(T), 413-215-0313(T), 413-215-0316(T), 413-215-0321(T), 413-215-0326(T), 413-215-0331(T), 413-215-0336(T), 413-215-0341(T), 413-215-0346, 413-215-0349(T), 413-215-0351(T), 413-215-0356(T), 413-215-0361(T), 413-215-0366(T), 413-215-0371(T), 413-215-0376(T), 413-215-0381(T), 413-215-0386(T), 413-215-0391(T), 413-215-0396(T), 413-215-0401(T), 413-215-0406, 413-215-0411(T), 413-215-0416(T), 413-215-0421(T), 413-215-0426(T), 413-215-0431(T), 413-215-0436(T), 413-215-0441(T), 413-215-0446(T), 413-215-0451(T), 413-215-0456(T), 413-215-0461(T), 413-215-0466(T), 413-215-0471(T), 413-215-0476(T), 413-215-0481(T), 413-215-0501(T), 413-215-0506, 413-215-0511(T), 413-215-0516(T), 413-215-0521(T), 413-215-0526(T), 413-215-0531(T), 413-215-0536(T), 413-215-0541(T), 413-215-0546(T), 413-215-0551(T), 413-215-0554(T), 413-215-0556(T), 413-215-0561(T), 413-215-0566(T), 413-215-0571(T), 413-215-0576(T), 413-215-0581(T), 413-215-0586(T), 413-215-0601(T), 413-215-0606, 413-215-0611(T), 413-215-0616(T), 413-215-0621(T), 413-215-0626(T), 413-215-0631(T), 413-215-0636(T), 413-215-0641(T), 413-215-0646(T), 413-215-0651(T), 413-215-0656(T), 413-215-0661(T), 413-215-0666(T), 413-215-0671(T), 413-215-0676(T), 413-215-0681(T), 413-215-0701(T), 413-215-0706, 413-215-0711(T), 413-215-0716(T), 413-215-0721(T), 413-215-0726(T), 413-215-0731(T), 413-215-0736(T), 413-215-0741(T), 413-215-0746(T), 413-215-0751(T), 413-215-0756(T), 413-215-0761(T), 413-215-0766(T), 413-215-0801(T), 413-215-0806, 413-215-0811(T), 413-215-0816(T), 413-215-0821(T), 413-215-0826(T), 413-215-0831(T), 413-215-0836(T), 413-215-0841(T), 413-215-0846(T), 413-215-0851(T), 413-215-0856(T), 413-215-0901(T), 413-215-0906, 413-215-0911, 413-215-0916(T), 413-215-0921(T), 413-215-0926(T), 413-215-0931(T), 413-215-0936(T), 413-215-0941(T), 413-215-0946(T), 413-215-0951(T), 413-215-0956(T), 413-215-0961(T), 413-215-0966(T), 413-215-0971(T), 413-215-0976(T), 413-215-0981(T), 413-215-0986(T), 413-215-0991(T), 413-215-0992(T), 413-215-0996(T), 413-215-1001(T), 413-215-1006(T), 413-215-1011(T), 413-215-1016(T), 413-215-1021(T), 413-215-1026(T), 413-215-1031(T)

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** The Department is adopting and amending rules to address gaps and improve the oversight by the Department of child-caring agencies, establish and implement new Department oversight requirements and enforcement authority including taking action on licensing violations and deficiencies, promote the safety and well-being of children residing in or receiving services from child-caring agencies licensed by the Department and proctor foster homes, and comply with and implement SB 1515 (Oregon Laws 2016, chapter 106.) A proctor foster home means a foster home certified by a child-caring agency. Most of these rule changes have been in place as temporary rules that took effect July 1, 2016.

These rule changes:

- Set out the standards child-caring agencies must comply with as provided in section 4 of SB 1515;
- Update definitions to align with SB 1515, including "child in care," "child-caring agency," and "proctor foster home" and consolidating definitions in an overarching definitions rule;

## NOTICES OF PROPOSED RULEMAKING

- Require compliance with all applicable laws and rules, and the internal policies and procedures of the child-caring agency as a condition of licensure;

- Establish new financial oversight requirements required in SB 1515;

- Add specific rights for children and families served by child-caring agencies, including a prohibition on the restriction of child-parent communication as a condition of program participation, and a requirement that child-caring agencies must afford the rights under ORS 418.200–418.202 to children in the care or custody of the Department;

- Require child-caring agencies to have child abuse reporting policies, procedures, and training as required in section 37 of SB 1515;

- Clarify requirements related to the internal written policies and procedures child-caring agencies must have, including the additional requirement to have a suicide prevention policy and requiring policies to be submitted at initial application and renewal;

- Require child-caring agencies to provide contact information for executive directors and board members and governmental agencies or units with whom they contract to provide services or care to children;

- Require child-caring agencies to provide access to children in care and the agencies' premises as required in section 20 of SB 1515 and, for those child-caring agencies who care for children on a 24-hour basis, to obtain parental consent to allow access to the child as required in SB 1515 and the licensing rules;

- Require child-caring agencies to provide the Department with information about children in its care and allow inspection of records and documents, including financial documents, when requested;

- State that the Department will investigate when it becomes aware that abuses, deficiencies, or failures to comply may be occurring in a child-caring agency;

- Update the civil penalty criteria consistent with section 31 of SB 1515;

- Require annual inspections of premises where children reside or receive services;

- Grant new authority for the Department to take licensing enforcement actions when licensing violations exist;

- Require licensing enforcement actions in certain circumstances;

- Update the foster care agency rules to align with the rules for Department-certified foster homes;

- Require prospective adoptive parents to sign a release of information regarding previous adoption application denials;

- Update requirements for therapeutic boarding schools;

- Update rules in OAR chapter 413, division 10 relating to client rights to reflect new terminology and align notice and hearing rights with SB 1515; and

- Make additional housekeeping changes to align requirements for different types of child-caring agencies; improve the organization of the rules; and update terminology to align with SB 1515.

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

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rules while reducing the negative economic impact of the rules on business. The rule text showing proposed changes is available at <http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm>.

The Department is amending additional rules to implement SB 1515, including rules for the Office of Child Welfare Programs (including Child Protective Services, Behavior Rehabilitation Services, and Monthly Contact and Monitoring Child and Young Adult Safety), the Office of Adult Abuse Prevention and Investigations, and the Background Check Unit. Those rule changes can be viewed at <http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm>.

More information about the implementation of SB 1515 is available at <https://www.oregon.gov/DHS/CHILDREN/Pages/sb1515.aspx>.

**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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**Rule Caption:** Implementation of SB 1515 (2016)

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-17-16	10 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 137 Salem, OR

**Hearing Officer:** Kris Skaro

**Stat. Auth.:** ORS 418.005, 418.015, 418.027, 418.495, Or Laws 2016, ch 106

**Stats. Implemented:** ORS 418.005, 418.015, 418.027, 418.495, 419B.005, 419B.010, 419B.015, 419B.020, Or Laws 2016, ch 106

**Proposed Adoptions:** 413-015-0620, 413-015-0625, 413-015-0630, 413-015-0640, 413-080-0051, 413-080-0070

**Proposed Amendments:** Rules in 413-015, 413-080, 413-090

**Proposed Repeals:** 413-015-0100(T), 413-015-0115(T), 413-015-0125(T), 413-015-0205(T), 413-015-0210(T), 413-015-0211(T), 413-015-0212(T), 413-015-0215(T), 413-015-0300(T), 413-015-0409(T), 413-015-0415(T), 413-015-0420(T), 413-015-0440(T), 413-015-0445(T), 413-015-0450(T), 413-015-0470(T), 413-015-0620(T), 413-015-0625(T), 413-015-0630(T), 413-015-0640(T), 413-015-1000(T), 413-015-9030(T), 413-015-9040(T), 413-080-0050(T), 413-080-0051(T), 413-080-0052(T), 413-080-0054(T), 413-080-0059(T), 413-080-0070(T), 413-090-0000(T), 413-090-0055(T), 413-090-0065(T), 413-090-0070(T), 413-090-0075(T), 413-090-0080(T), 413-090-0087(T), 413-090-0090(T)

**Last Date for Comment:** 10-21-16 5 p.m.

**Summary:** The Department is adopting and amending rules to improve the oversight by the Department of child-caring agencies and proctor foster homes, promote the safety of children residing in or receiving services from child-caring agencies licensed by the Department as well as proctor foster homes, and comply with and implement SB 1515 (Oregon Laws 2016, chapter 106.) A proctor foster home means a foster home certified by a child-caring agency. Most of these rule changes have been in place as temporary rules that took effect July 1, 2016.

Child Protective Services:

The Department is changing the rules setting requirements for screeners and CPS (Child Protective Services) workers when reports of abuse or neglect are received by the Department to state that when a report is received and the information indicates it involves a child-caring agency or proctor foster home, screeners will follow OAR 413-015-0620 through 413-015-0640. Under these rule changes, reports will be screened under a new definition of abuse (from section 36 of SB 1515); the Department will respond to reports on children through age 20; screeners and CPS workers will notify appropriate Department personnel to ensure notifications required by SB 1515 are made; and CPS workers will collaborate with appropriate personnel to share information and determine the appropriate Department response to ensure child safety.

Monthly Contact and Monitoring Child and Young Adult Safety:

The Department is changing the rules describing its responsibilities regarding monthly contact with children and young adults in Department custody, monitoring the safety, permanency, and well-being needs, and monitoring the ongoing safety plan to require Department staff to notify appropriate personnel when they have concerns, including when well-being needs are not being met, about a child or young adult residing in or receiving services from a child-caring agency or proctor foster home. Definitions are also amended to align with SB 1515. Additionally, OAR 413-080-0070 is being adopted to establish the persons and entities who must be notified whenever the Department receives reports of abuse or licensing or

# NOTICES OF PROPOSED RULEMAKING

contracting violations about a child-caring agency or when the Department takes certain actions on a child-caring agency license.

## Behavior Rehabilitation Services:

The Department is changing rules describing the requirements for BRS (Behavior Rehabilitation Services) contractors who provide BRS services to children to require the Department's Well Being Unit to investigate reports regarding child-caring agencies to determine if any material breach of the terms of the BRS contract have occurred and take appropriate action. Additionally, BRS contractors and providers, including proctor foster homes, will be required to permit immediate access to a child in their care and to the premises as provided in ORS 418.305 as amended by section 20 of SB 1515. BRS contractors will also be required to comply with all laws and regulations, including new SB 1515 licensing requirements in OAR chapter 413, division 215.

Additional edits may be made to the rules included in this Notice of Proposed Rulemaking Hearing to: ensure consistent terminology throughout child welfare program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rules while reducing the negative economic impact of the rules on business. The rule text showing proposed changes is available at <http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm>.

The Department is amending additional rules to implement SB 1515, including rules for the Office of Licensing and Regulatory Oversight, the Office of Adult Abuse Prevention and Investigations, and the Background Check Unit. Those rule changes can be viewed at <http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm>. More information about the implementation of SB 1515 is available at <https://www.oregon.gov/DHS/CHILDREN/Pages/sb1515.aspx>.

**Rules Coordinator:** Kris Skaro

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

**Telephone:** (503) 945-6067

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

**Rule Caption:** Amending rules relating to public assistance programs

**Stat. Auth.:** ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 412.006, 412.049

**Other Auth.:** 26 U.S.C. § 6409 as amended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010; Child Care and Development Block Grant Act of 2014 (CCDBG)

**Stats. Implemented:** ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.083, 412.006, 412.049, 412.064

**Proposed Amendments:** 461-001-0000, 461-025-0310, 461-110-0530, 461-115-0150, 461-120-0210, 461-145-0530, 461-165-0045, 461-165-0180, 461-165-0410, 461-165-0420, 461-170-0130, 461-180-0085

**Proposed Repeals:** 461-110-0530(T), 461-165-0180(T)

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** OAR 461-001-0000 about definitions is being amended to allow legal mothers and fathers to be considered parents.

OAR 461-025-0310 about hearing requests; OAR 461-115-0150 about offices where clients apply; OAR 461-170-0130 about acting on reported changes for OSIPM and QMB; and OAR 461-180-0085 about effective dates for OSIPM and QMB are being amended to remove outdated references to Cover Oregon.

OAR 461-110-0530 about financial groups is being amended to remove reference to the GA program.

OAR 461-120-0210 about the requirement to provide a Social Security Number (SSN) is being amended to allow the Department

to include newborns who are born in an Oregon hospital to the filing, need, and benefit groups for six months following the child's birth or until the next redetermination of the filing group, whichever is sooner.

OAR 461-145-0530 about the treatment of tax refunds is being amended to comply with federal requirements (see 26 U.S.C. § 6409 and Office of Family Assistance guidance) about how refunds received after January 1, 2010, are counted when determining eligibility for TANF.

OAR 461-165-0045 about emergency payees in the TANF program is being amended to allow caretaker relatives to access TANF benefits as an emergency payee even when there is another relative available to be the child's caretaker relative.

OAR 461-165-0180 about child care provider eligibility is being amended to require child care providers to develop and disclose their suspension or expulsion policies. This change will be adopted by temporary rule on October 1, 2016, to comply with federal Child Care and Development Fund (CCDF) regulations.

OAR 461-165-0410 about child care provider listing and disqualifying criminal history and OAR 461-165-0420 about child care provider listing and disqualifying child protective service history are being amended to update references to Department of Administrative Services (DAS) and Background Check Unit (BCU) rules that apply to child care providers paid by the Department through the child care subsidy program.

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.

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rules while reducing the negative economic impact of the rules on business. Rule text showing edits for the rules described above is available at [http://www.dhs.state.or.us/policy/selfsufficiency/ar\\_proposed.htm](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:** Determining length of disqualification due to an asset transfer in the OSIP and OSIPM programs

**Stat. Auth.:** ORS 411.060, 411.070, 411.706

**Other Auth.:** 42 USC 1396p

**Stats. Implemented:** ORS 411.060, 411.070, 411.706

**Proposed Amendments:** 461-140-0296

**Proposed Repeals:** 461-140-0296(T)

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** OAR 461-140-0296 about the length of disqualification due to a disqualifying asset transfer (transfer of an asset for less than its fair market value to become eligible for program benefits) in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs is being amended to update the amount used to calculate the number of months of ineligibility due to a disqualifying transfer of assets. This amount is calculated by using the average monthly cost to a private patient of nursing facility services in Oregon.

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

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rule while reducing the negative economic impact of the rule on

# NOTICES OF PROPOSED RULEMAKING

business. Rule text showing edits for the rule described above is available at [http://www.dhs.state.or.us/policy/selfsufficiency/ar\\_proposed.htm](http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm).

**Rules Coordinator:** Kris Skaro

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

**Telephone:** (503) 945-6067

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**Department of Justice**  
**Chapter 137**

**Rule Caption:** Addition of counseling benefits and payments to physicians through the SAVE Fund.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-17-16	1 p.m.	4035 12th St. Cutoff SE, Suite 200 Salem OR

**Hearing Officer:** Rebecca Shaw

**Stat. Auth.:** 2003 Oregon Laws, Chapter 789

**Stats. Implemented:** 2003 Oregon Laws, Chapter 789

**Proposed Amendments:** 137-084-0001, 137-084-0010, 137-084-0020, 137-084-0030

**Last Date for Comment:** 10-17-16, 5 p.m.

**Summary:** In order to address hospital and physician billing issues, the Sexual Assault Victims' Emergency Medical Response (SAVE) Fund will begin making separate payments to a Doctor of Medicine or a Doctor of Osteopathy who provides services for a sexual assault exam. The SAVE Fund will also offer five counseling sessions to any sexual assault survivor who has had a sexual assault exam that falls within the guidelines of the SAVE Fund. Other minor changes address vague or outdated rule language.

**Rules Coordinator:** Carol Riches

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

**Telephone:** (503) 378-5987

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**Rule Caption:** Amends rules regarding tobacco product manufacturers and adopts Model Escrow Agreement

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-27-16	9 a.m.	Dept. of Justice 2250 McGilchrist St. SE Salem, OR

**Hearing Officer:** Kristen A. Gilman

**Stat. Auth.:** ORS 180.415, 180.425, 180.435 & 180.445

**Stats. Implemented:** ORS 180.415, 180.425, 180.435 & 180.445

**Proposed Adoptions:** 137-105-0025

**Proposed Amendments:** 137-105-0001, 137-105-0010, 137-105-0020, 137-105-0030

**Last Date for Comment:** 10-27-16, Close of Business

**Summary:** OAR 137-105-0001 is being amended to correct a clerical error.

OAR 137-105-0010 is being amended to clarify that the Attorney General has authority to inspect manufacturers' facilities to determine whether the manufacturers are in compliance with ORS 180.400 to 180.455, ORS 323.806, and with the applicable administrative rules.

OAR 137-105-0020 is being amended to remove references to annual escrow deposits and clarify that all tobacco product manufacturers who are required to make escrow deposits are required to do so on a quarterly basis.

OAR 137-105-0025 is being adopted to define the form and content of the Attorney General's model escrow agreement.

OAR 137-105-0030 is being amended to clarify the requirements for distributor reports.

**Rules Coordinator:** Carol Riches

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

**Telephone:** (503) 378-5987

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**Rule Caption:** Adopting rules relating to smokeless tobacco products

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-27-16	9 a.m.	Dept. of Justice 2250 McGilchrist St. SE Salem, OR

**Hearing Officer:** Kristen A. Gilman

**Stat. Auth.:** ORS 180.477 and ORS 180.483

**Stats. Implemented:** ORS 180.477 and ORS 180.483

**Proposed Adoptions:** 137-106-0001, 137-106-0010, 137-106-0030, 137-106-0040

**Last Date for Comment:** 10-27-16, Close of Business

**Summary:** ORS 180.465 to 180.494 gives the Attorney General authority to regulate the sale of smokeless tobacco products.

OAR 137-106-0001 provides definitions for the proposed rules.

OAR 137-106-0010 provides criteria and procedure for the Attorney General to use in developing and maintaining a directory pursuant to ORS 180.477.

OAR 137-106-0030 provides guidance to regulated parties regarding reports required by ORS 180.483.

OAR 137-106-0040 provides guidance regarding the calculation of time periods under the proposed rules.

**Rules Coordinator:** Carol Riches

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

**Telephone:** (503) 378-5987

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**Department of Revenue**  
**Chapter 150**

**Rule Caption:** Interest rates, interest start dates, definition of interest period.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-22-16	9 a.m.	Revenue Bldg. 955 Center St NE, Fishbowl Conference Rm. Salem, OR 97301

**Hearing Officer:** Joshua Lawson

**Stat. Auth.:** ORS 305.100 & 305.220

**Stats. Implemented:** ORS 305.220

**Proposed Amendments:** 150-305-0140, 150-305-0142

**Last Date for Comment:** 11-22-16, 5 p.m.

**Summary:** 150-305-0140 — Amend to update annual interest rate charged on deficiencies and delinquencies from 4% to 5% based on increase of IRS' 2016 third quarter interest rate, per ORS 305.220; clarify the definition of 'interest period'.

150-305-0142 — Amend to update annual interest rate paid on refunds from 4% to 5% based on increase of IRS' 2016 third quarter interest rate, per ORS 305.220; clarify the definition of 'interest period'; define the refund interest start dates for personal income taxes, corporation taxes (excise and income) and other tax programs.

**Rules Coordinator:** Lois Williams

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

**Telephone:** (503) 945-8029

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

**Rule Caption:** Specifies DMV may issue a branded Oregon title based on information received from another jurisdiction

**Stat. Auth.:** ORS 184.616, 184.619, 646A.405, 802.012, 803.015, 819.016, 821.060

**Stats. Implemented:** ORS 646A.405, 803.015, 803.113, 803.117, 821.060

**Proposed Amendments:** 735-024-0015, 735-024-0025

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** To better protect Oregon vehicle consumers, DMV is amending its title brand rules to specify that in addition to ownership documents, DMV may consider information-such as a vehicle record

# NOTICES OF PROPOSED RULEMAKING

from another jurisdiction-in determining whether to issue a branded Oregon title.

**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:** Outdoor Advertising Sign Program miscellaneous rule updates

**Stat. Auth.:** 184.616, 184.619, 377.710, 377.715, 377.720, 377.725, 377.729, 377.735, 377.753, 377.992

**Stats. Implemented:** ORS 377.715, 377.720, 377.725, 377.735, 377.753, 377.992

**Proposed Adoptions:** 734-060-0180

**Proposed Amendments:** 734-059-0015, 734-059-0200, 734-060-0000, 734-060-0175, 734-060-0190, 734-065-0010, 734-065-0015, 734-065-0020, 734-065-0025, 734-065-0035, 734-065-0040, 734-065-0045

**Proposed Repeals:** 734-060-0010

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** These rules are being amended to:

1. Update incorrect reference, and add language in the definitions portion of chapter 734 that will assist the Department in communicating the scope of certain rules as they apply to the location of outdoor advertising signs.
2. Clarify the requirement to inform the Department of ownership changes of outdoor advertising sign permits or permitted signs removed from permitted locations
3. Consolidate all transit bench/shelter sign rules into Division 65.
4. Modify limits on temporary sign variance to better accommodate needs of citizens.
5. Add language to address limited or restricted permits for non-conforming signs.
6. Clarify standard for digital and LED signs at a place of business that are visible to a state highway.

**Rules Coordinator:** Lauri Kunze

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

**Telephone:** (503) 986-3171

.....  
**Rule Caption:** Contractor Performance Evaluations on Public Improvement Contracts for Highway and Bridge Construction

**Stat. Auth.:** ORS 184.616, 184.619, 279A.050, 279A.065, 279C.430

**Stats. Implemented:** ORS 279C.430

**Proposed Adoptions:** 734-010-0285

**Proposed Amendments:** 734-010-0290, 734-010-0300, 734-010-0320, 734-010-0330, 734-010-0340, 734-010-0360, 734-010-0380

**Proposed Repeals:** 734-010-0350

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** The rules describing ODOT's process for contractor pre-qualification for public improvement contracts were removed from OAR chapter 734, division 10 and added to OAR chapter 731, division 7 effective 04/29/16. Rules remaining in chapter 734, division 10 describe ODOT's process for contractor performance evaluations on public improvement contracts.

This rulemaking revises the title of chapter 734, division 10 to accurately reflect the contents of the division, adds an applicable definitions rule for the division, repeals rule 350 which does not apply to contractor performance evaluations, clarifies the original intent of the rules that contractor performance evaluations remain on record for 36 months for the purpose of determining cumulative occurrences of unacceptable performance and required corrective action, separates performance levels 2 and 3 so occurrences at each level are treated independently in determining corrective action, eliminates

redundant language and implements other minor typographical and grammatical edits.

**Rules Coordinator:** Lauri Kunze

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

**Telephone:** (503) 986-3171

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**Land Conservation and Development Department  
Chapter 660**

**Rule Caption:** Procedures for updating comprehensive plans after a simplified urban growth boundary evaluation

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-18-16	8 a.m.	Deschutes County Fairgrounds Expo Center North Sister Main Hall 3800 SW Airport Way Redmond, OR 97756

**Hearing Officer:** LCDC

**Stat. Auth.:** ORS 197.040 & 197A.325(3)

**Stats. Implemented:** ORS 197A.325(3)

**Proposed Adoptions:** 660-038-0210

**Proposed Amendments:** 660-025-0030, 660-038-0020

**Last Date for Comment:** 11-18-16, Close of Hearing

**Summary:** Creating procedures to ensure that comprehensive plan and land use regulations of a city complies with the statewide land use planning goals and are updated over time to reflect changing conditions and needs subsequent to an urban growth boundary evaluation under the simplified method in OAR chapter 660, division 38.

**Rules Coordinator:** Casaria Taylor

**Address:** Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301

**Telephone:** (503) 373-0050, ext. 322

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**Rule Caption:** Rulemaking regarding protection of historic resource sites under Statewide Planning Goal 5

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-18-16	8 a.m.	Deschutes County Fairgrounds Expo Center North Sister Main Hall 3800 SW Airport Way Redmond, OR 97756

**Hearing Officer:** LCDC

**Stat. Auth.:** ORS 197.040

**Other Auth.:** Statewide Planning Goal 5

**Stats. Implemented:** ORS 197.772

**Proposed Amendments:** 660-023-0200

**Last Date for Comment:** 11-18-16, Close of Hearing

**Summary:** The purpose of the proposed amendments are to achieve a well-articulated base level of protection for historic resources listed in the National Register of Historic Place that can be applied directly without the need to amend local codes; clarify the circumstances under which the owner consent provisions in ORS 197.772(1) apply to resources listed in the National Register; better explain how the standard Goal 5 process described is augmented by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, published by the National Park Service (NPS); and clarify who has standing under the owner consent provisions of ORS 197.772(2) and highlight an alternate path for removing a local historic designation.

**Rules Coordinator:** Casaria Taylor

**Address:** Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301

**Telephone:** (503) 373-0050, ext. 322

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**Occupational Therapy Licensing Board  
Chapter 339**

**Rule Caption:** Amending Rule 339-010-0005 Definitions (b) and (c) to allow routine and general supervision via telehealth.

# NOTICES OF PROPOSED RULEMAKING

**Stat. Auth.:** ORS 675.320

**Other Auth.:** Board Meetings held on 5/2/2016 and 8/5/2016. September 2016 newsletter. Board website.

**Stats. Implemented:** ORS 675.320

**Proposed Amendments:** 339-010-0005

**Last Date for Comment:** 10-21-16, Close of Business

**Summary:** 339-010-0005

## Definitions

(1) "Supervision," is a process in which two or more people participate in a joint effort to promote, establish, maintain and/or evaluate a level of performance. The occupational therapist is responsible for the practice outcomes and documentation to accomplish the goals and objectives. Levels of supervision:

(a) "Close supervision" requires daily, direct contact in person at the work site;

(b) "Routine supervision" requires the supervisor to have direct contact in person at least every two weeks at the work site or via telehealth as defined in OAR 339-010-0006 (9) with interim supervision occurring by other methods, such as telephone or written communication;

(c) "General supervision" requires the supervisor to have at least monthly direct contact in person with the supervisee at the work site or via telehealth as defined in OAR 339-010-0006 (9) with supervision available as needed by other methods.

**Rules Coordinator:** Nancy Schuberg

**Address:** Occupational Therapy Licensing Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

**Telephone:** (971) 673-0198

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## Oregon Board of Dentistry Chapter 818

**Rule Caption:** Adopts, amends and repeals multiple rules in the Dental Practice Act.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-20-16	7 p.m.	1500 SW 1st Ave., Suite 620 Portland, 97201

**Hearing Officer:** Board President

**Stat. Auth.:** ORS 181.534, 181A.195, 670.260, 676.185, 676.190, 676.195, 676.200, 679.010, 679.020, 679.025, 679.060, 679.090, 679.115, 679.120, 679.140, 679.160, 679.170, 679.250, 679.535, 680.050, 680.072, 680.075, 680.082, 680.100, 680.150, 680.200, 680.205

**Stats. Implemented:** ORS 181.534, 181A.195, 183.325-183.355, 183.400, 679.250, 679.255, 680.150, 680.200, 680.205

**Proposed Adoptions:** 818-001-0083, 818-005-0050, 818-012-0032, 818-042-0112, 818-042-0113

**Proposed Amendments:** 818-001-0082, 818-001-0087, 818-005-0035, 818-012-0005, 818-012-0010, 818-012-0030, 818-012-0040, 818-012-0060, 818-012-0070, 818-021-0011, 818-021-0025, 818-021-0026, 818-026-0030, 818-026-0050, 818-026-0060, 818-026-0065, 818-026-0070, 818-026-0080, 818-026-0110, 818-035-0040, 818-042-0020, 818-042-0050, 818-042-0070, 818-042-0115, 818-042-0120, 818-042-0130

**Proposed Repeals:** 818-005-0000, 818-005-0005, 818-005-0011, 818-005-0015, 818-005-0021, 818-005-0025, 818-005-0030, 818-005-0045

**Last Date for Comment:** 10-20-16, 4 p.m.

**Summary:** The Board is adopting OAR 818-001-0083 Relief from Public Disclosure. The addition of 818-001-0083 is to be in compliance with HB 4095 (2016) to clarify when a licensee can request relief from public disclosure.

The Board is adopting OAR 818-005-0050 Criminal Records Check for Employees, Volunteers and Applicants. The addition of 818-005-0050 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or

amend existing rules as needed in order to be consistent with the statewide rules.

The Board is adopting OAR 818-012-0032 Diagnostic Records. The addition of 818-012-0032 is to clarify the fees for digital patient records and how long the licensee has to release the digital patient records.

The Board is adopting OAR 818-042-0112 Expanded Functions Preventative Dental Assistants (EFPDA). The addition of 818-042-0112 is to add a new category of dental assistant.

The Board is adopting OAR 818-042-0113 Certification - Expanded Function Preventative Dental Assistants (EFPDA). The addition of 818-042-0113 is to add new duties for this level of expanded function dental assistants.

The Board is amending 818-001-0082 Access to Public Records. The amendment to 818-001-0082 is to clarify that public records requests must be in writing.

The Board is amending 818-001-0087 Fees. The amendment to 818-001-0087 is to clarify that the fee is for a background check and not for the permit itself.

The Board is amending 818-005-0035 Contesting a Fitness Determination. The amendment to 818-005-0035 is to correct a numbering and grammatical error in the rule.

The Board is amending 818-012-0005 Scope of Practice. The amendment to 818-012-0005 is to add the provision for dentists to utilize dermal fillers to treat a condition within the scope of the practice of dentistry and add 4 additional hours to education requirement.

The Board is amending 818-012-0010 Unacceptable Patient Care. The amendment to 818-012-0010 is to clarify that failure to determine and document dental justification prior to ordering a Cone Beam CT series documentation with a field greater than 10x10 cm for patients under 20 years of age, and for failure to advise a patient of any treatment complications or treatment outcomes.

The Board is amending 818-012-0030 Unprofessional Conduct. The amendment to 818-012-0030 is to clarify that duplicates of radiographs must be same quality as originals, to update the language as it pertains to substance use disorder, and to add additional language for what may be considered unprofessional conduct.

The Board is amending 818-012-0040 Infection Control Guidelines. The amendment to 818-012-0040 is to bring the rule in compliance with ORS 679.535.

The Board is amending 818-012-0060 Failure to Cooperate with Board. The amendment to 818-012-0060 is to include failure to attend a Board requested investigative interview and failure to fully cooperate in any way with the Board to the language of the rule.

The Board is amending 818-012-0070 Patient Records. The amendment to 818-012-0070 is to clarify that all licensees are required to prepare and maintain an accurate record and adding that the patient record must include documentation of informing patient of treatment outcomes. The Board is also adding that a licensee must notify the Board within 14 days of transferring patient records.

The Board is amending 818-021-0011 Application for License to Practice Dentistry without Further Examination. The amendment to 818-021-0011 is to clarify that teaching clinical dentistry at a CODA accredited dental school can count towards the 3,500 clinical practice hours.

The Board is amending 818-021-0025 Application for License to Practice Dental Hygiene without Further Examination. The amendment to 818-021-0025 is to clarify that 3,500 clinical teaching hours must be in a CODA accredited dental hygiene program.

The Board is amending 818-021-0026 State and Nationwide Criminal Background Checks, Fitness Determinations. The amendment to 818-021-0026 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

## NOTICES OF PROPOSED RULEMAKING

The Board is amending 818-026-0030 Requirement for Anesthesia Permit, Standards and Qualifications of an Anesthesia Monitor. The amendment to 818-026-0030 is to clarify that in addition to the BLS for Health Care Providers certificate or equivalent, dentist permit holders who induce moderate, deep or general anesthesia must also hold an ACLS and/or PALS certificate, or whichever is appropriate for the patient being sedated.

The Board is amending 818-026-0050 Minimal Sedation Permit. The amendment to 818-026-0050 is to clarify the rule and add to dentist, "dentist permit holder".

The Board is amending 818-026-0060 Moderate Sedation Permit. The amendment to 818-026-0060 is to clarify the rule and add to dentist, "dentist permit holder" and to clarify that the Certified Anesthesia Assistant is certified by the Oregon Board of Dentistry.

The Board is amending 818-026-0065 Deep Sedation. The amendment to 818-026-0065 is to clarify the rule and add to dentist, "dentist permit holder" and to clarify that the Certified Anesthesia Assistant is certified by the Oregon Board of Dentistry.

The Board is amending 818-026-0070 General Anesthesia Permit. The amendment to 818-026-0070 is to clarify the rule and add to dentist, "dentist permit holder" and to clarify that the Certified Anesthesia Assistant is certified by the Oregon Board of Dentistry.

The Board is amending 818-026-0080 Standards Applicable When a Dentist Performs Dental Procedures and a Qualified Provider Induces Anesthesia. The amendment to 818-026-0080 is to clarify that the qualified anesthesia provider who induces moderate sedation, deep sedation and general anesthesia has to monitor the patient's condition until the patient is discharged.

The Board is amending 818-026-0110 Office Evaluations. The amendment to 818-026-0110 is to clarify the rule and add to dentist, "dentist permit holder".

The Board is amending 818-035-0040 Expanded Functions of Dental Hygienists. The amendment to 818-035-0040 is add that upon successful completion of a course of instruction approved by the Oregon Health Authority a dental hygienist may purchase epinephrine and administer epinephrine in case of an emergency.

The Board is amending 818-042-0020 Dentist and Dental Hygienist Responsibility. The amendment to 818-042-0020 is to clarify that a dental hygienist may supervise one or more dental assistants at a time, and allows an Expanded Practice Dental Hygienist to hire and supervise one or more dental assistant at a time.

The Board is amending 818-042-0050 Taking of X-Rays- Exposing of Radiographs. The amendment to 818-042-0050 is to clarify that a dental hygienist can authorize an assistant to take radiographs.

The Board is amending 818-042-0070 Expanded Functions Dental Assistants (EFDA). The amendment to 818-042-0070 is to clarify that when an EFDA polishes the coronal surfaces with a brush or rubber cup, the patient must be checked by a dental hygienist or dentist prior to being discharged.

The Board is amending 818-042-0115 Expanded Functions - Certified Anesthesia Dental Assistant. The amendment to 818-042-0115 is to clarify that only a Certified Anesthesia Assistant by the Oregon Board of Dentistry can perform certain procedures.

The Board is amending 818-042-0120 Certification by Credential. The amendment to 818-042-0120 is to add an additional category of expanded functions to the certification by credentials pathway.

The Board is amending 818-042-0130 Application for Certification by Credential. The amendment to 818-042-0130 is to allow an additional category of expanded functions dental assistants to apply for certification by credentials.

The Board is repealing 818-005-0000 Definitions. Removal of 818-005-0000 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

The Board is repealing 818-005-0005 Employee Applicant/ Employee. The repeal of 818-005-0005 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

The Board is repealing 818-005-0011 Criminal Records Check Required. The repeal of 818-005-0011 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

The Board is repealing 818-005-0015 Criminal Records Check Process. The repeal of 818-005-0015 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

The Board is repealing 818-005-0021 Potentially Disqualifying Crimes. The repeal of 818-005-0021 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

The Board is repealing 818-005-0025 Final Fitness Determination. The repeal of 818-005-0025 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

The Board is repealing 818-005-0030 Incomplete Fitness Determination. The repeal of 818-005-0030 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

The Board is repealing 818-005-0045 Record Keeping, Confidentiality. The repeal of 818-005-0045 is required by House Bill 3168 (2013) and House Bill 2250 (2015), which gave the Department of Administrative Services (DAS) authority to adopt statewide administrative rules for criminal background checks and required other agencies to repeal or amend existing rules as needed in order to be consistent with the statewide rules.

**Rules Coordinator:** Stephen Prisby

**Address:** Oregon Board of Dentistry, 1500 SW 1st Ave., Suite 770, Portland, OR 97201

**Telephone:** (971) 673-3200

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**Oregon Criminal Justice Commission**  
**Chapter 213**

**Rule Caption:** Amends Oregon Sentencing Guidelines and rules to implement legislation and to update grid

**Stat. Auth.:** ORS 137.667

**Stats. Implemented:** ORS 137.667; HB 3400 (2015); SB 1567 (2016); HB 4014 (2016); HB 4082 (2016); HB 4128 (2016)

**Proposed Amendments:** Rules in 213-003, 213-004, 213-017, 213-018, 213-019

**Last Date for Comment:** 11-10-16, Close of Business

**Summary:** Under ORS 137.667(1), the Criminal Justice Commission ("Commission") is required to review legislation creating new crimes and modifying existing crimes, and adopt any necessary



# NOTICES OF PROPOSED RULEMAKING

changes to the sentencing guidelines. The Commission also may classify offenses as person crimes.

The 2016 Oregon Legislature enacted legislation creating new crimes and modifying existing crimes, including the felony crimes Promoting Prostitution and Extortion. The 2016 Oregon Legislature also created or modified misdemeanor crimes including Criminal Impersonation and Obstructing Governmental or Judicial Administration. Additionally, in both the 2015 and 2016 legislative sessions the legislature created new crimes and modified existing crimes with regard to controlled substances including marijuana.

With regard to these and other offenses, the Commission must decide whether to classify new and modified crimes as person crimes, and decide crime seriousness scale categorization (if any) for new and modified felony crimes for which it has not received an express legislative classification. These rule changes implement the Commission's categorizations and classifications with regard to 2015 and 2016 legislation relating to controlled substances. The legislature has mandated the crime seriousness scale of many of the controlled substances offenses pertaining to marijuana, and the rules reflect those mandatory categorizations. The rule changes also implement the Commission's categorizations and classifications with regard to 2016 legislation relating to other new and modified crimes.

The rule changes also include correcting and updating statutory citations, updating the sentencing guidelines grid to reflect current law, and deletion of a duplicative guidelines provision.

**Rules Coordinator:** Julie Vaughn

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

**Telephone:** (503) 378-4830

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## **Oregon Department of Aviation Chapter 738**

**Rule Caption:** Removes minimum grant amount available; allows multiple applications per airport up to \$150,000 per application

**Stat. Auth.:** ORS 835.035 & 835.112

**Stats. Implemented:** ORS 835.015, 835.025, 836.015, 836.070 & 319.020

**Proposed Amendments:** 738-125-0015, 738-125-0030

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** These amendments eliminate the minimum FAM grant dollar amount and remove the restriction of per application per airport per grant cycle found in OAR 738-125-0015 and 738-125-0030(2).

**Rules Coordinator:** Lauri Kunze

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

**Telephone:** (503) 986-3171

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## **Oregon Government Ethics Commission Chapter 199**

**Rule Caption:** Regarding policies specifying when a public official may directly supervise a relative under ORS 244.179

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-31-16	3 p.m.	3218 Pringle Rd. SE, Suite 220 Salem OR 97301

**Hearing Officer:** Marie Scheffers

**Stat. Auth.:** ORS 244.290

**Stats. Implemented:** ORS 244.179

**Proposed Adoptions:** 199-005-0080

**Last Date for Comment:** 10-31-16, Close of Business

**Summary:** Provides guidance to public bodies in creating and adopting a policy that specifies when a public official acting in an official capacity may directly supervise a person who is a relative or member of the household of the public official.

**Rules Coordinator:** Virginia Lutz

**Address:** Oregon Government Ethics Commission, 3218 Pringle Rd. SE, Suite 220, Salem, OR 97302

**Telephone:** (503) 378-5105

**Rule Caption:** Changes number of commissioners for a quorum and to remove chair or vice-chair

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-31-16	3 p.m.	3218 Pringle Rd. SE, Suite 220 Salem OR 97302

**Hearing Officer:** Marie Scheffers

**Stat. Auth.:** ORS 244.290

**Stats. Implemented:** ORS 244.250, 244.260, 244.290 & 244.310

**Proposed Amendments:** 199-001-0010

**Last Date for Comment:** 10-31-16, Close of Business

**Summary:** Changes number of commissioners required for quorum and to remove chair/vice-chair from four to five based on statutory change in total number of commissioners from seven to nine.

**Rules Coordinator:** Virginia Lutz

**Address:** Oregon Government Ethics Commission, 3218 Pringle Rd. SE, Suite 220, Salem, OR 97302

**Telephone:** (503) 378-5105

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**Rule Caption:** Adopts rule concerning executive session held under ORS 192.660(2)(a) to consider employment

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-31-16	3 p.m.	3218 Pringle Rd. SE, Suite 220 Salem OR 97301

**Hearing Officer:** Marie Scheffers

**Stat. Auth.:** ORS 244.290

**Stats. Implemented:** ORS 192.660(2)(a) & 192.660(7)(d)

**Proposed Adoptions:** 199-040-0027

**Last Date for Comment:** 10-31-16, Close of Business

**Summary:** Rule 199-040-0027 provides guidance to governing bodies that intend to hold an executive session to consider the employment of a public officer, employee, staff member or individual agent under ORS 192.660(2)(a).

**Rules Coordinator:** Virginia Lutz

**Address:** Oregon Government Ethics Commission, 3218 Pringle Rd. SE, Suite 220, Salem, OR 97302

**Telephone:** (503) 378-5105

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## **Oregon Health Authority, Health Licensing Office Chapter 331**

**Rule Caption:** Align electrology and tattoo rules with current industry and statewide rulemaking standards.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-14-16	10 a.m.	Health Licensing Office 700 Summer Suite NE, Suite 320 Salem, OR 97301

**Hearing Officer:** Samantha Patnode

**Stat. Auth.:** ORS 676.583, 676.586, 676.589, 676.615, 690.365, 690.370, 690.390, 690.405, 690.410

**Stats. Implemented:** ORS 676.583, 676.586, 676.589, 676.615, 690.365, 690.370, 690.390, 690.405, 690.410

**Proposed Amendments:** 331-910-0000, 331-910-0005, 331-910-0010, 331-910-0015, 331-910-0020, 331-910-0025, 331-910-0030, 331-910-0035, 331-910-0040, 331-910-0045, 331-910-0050, 331-910-0055, 331-910-0060, 331-910-0065, 331-910-0070, 331-910-0075, 331-910-0080, 331-910-0085, 331-915-0000, 331-915-0005, 331-915-0010, 331-915-0015, 331-915-0020, 331-915-0025, 331-915-0030, 331-915-0035, 331-915-0040, 331-915-0050, 331-915-0055, 331-915-0060, 331-915-0065, 331-915-0070, 331-915-0075, 331-915-0080, 331-915-0085

**Proposed Repeals:** 331-915-0045

**Last Date for Comment:** 10-28-16, 5 p.m.

**Summary:** General Changes:

Change Oregon Health Licensing Agency to Health Licensing Office under the Oregon Health Authority to align with statutory changes made in 2013.

Streamline prohibitions regarding examinations and redundant language.

# NOTICES OF PROPOSED RULEMAKING

Allow a temporary license in all fields of practice be for 21 days with 4 renewals.

Clean up various rule with new provisions.

Require that rinse bottles and clip cords for tattoos be bagged and require that tattoo artists do

Electrology Changes:

Add specific qualified organizations who are approved to provide continuing education if the subject matter relates to electrology including the American Medical Association and American Electrology Association.

Add antiseptic to acceptable skin cleaner.

Require the first (set up for electrology service) and the last (break down of electrology service) hand washing be done with soap and water not antibacterial hand sanitizer.

Allow high level disinfectant to be used in lieu of an ultrasonic cleaner or allow use of a self contained instrument washer.

If a facility becomes licensed after January 1, 2016 they must have hot and cold running water available outside of the bathroom.

Tattoo Changes:

Amend education requirement to allow the first 30 out of 50 procedures with direct supervision and the last 20 out of 50 be indirect supervision which means the teacher be onsite of the premises. Allow registered teachers to provide indirect supervision on a two-to-one student teacher ratio.

Allow tattoo artists coming from states that are not licensed to count 3 out of the last five years experience or five out of the last 10 years experience. Documentation may include tax records or a letter from employer.

Require tattoo artists bag rinse bottles and clip cords to ensure no cross contamination of blood or other potentially infectious material. Ensure tattoos are rinsed and inks diluted with either distilled or sterilized water.

Require a clean nonporous barrier or five feet between each client/teacher.

**Rules Coordinator:** Samantha Patnode

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

**Telephone:** (503) 373-1917

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## Oregon Health Authority, Health Licensing Office, Behavior Analysis Regulatory Board Chapter 824

**Rule Caption:** Senate Bill 696 changed Behavior Analysis Regulatory Board and who the Board licenses and registers.

Date:	Time:	Location:
10-28-16	9 a.m.	Health Licensing Office 700 Summer St. NE Suite 320 Salem, OR 97301

**Hearing Officer:** Anne Thompson

**Stat. Auth.:** ORS 676.802–676.830

**Stats. Implemented:** ORS 676.802–676.830

**Proposed Adoptions:** 824-036-0001, 824-070-0005, 824-070-0010

**Proposed Amendments:** 824-010-0005, 824-030-0040, 824-040-0010, 824-050-0010, 824-060-0010

**Proposed Repeals:** 824-035-0005

**Last Date for Comment:** 10-28-16, 11 a.m.

**Summary:** Senate Bill 696 changed the Behavior Analysis Regulatory Board and who the board licenses and registers. It directed the board to adopt rules to license behavior analysts and assistant behavior analysts and create a pathway to license a “grandfathered” group of practitioners as behavior analysts. It directed the Health Licensing Office to establish rules for registration of behavior analysis interventionists. These rules amend those established under ORS 676.800 to meet the requirements of SB 696.

**Rules Coordinator:** Samantha Patnode

**Address:** Health Licensing Office, Behavior Analysis Regulatory Board, 700 Summer St. NE, Suite 320, Salem, OR 97301

**Telephone:** (503) 373-1917

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## Oregon Health Authority, Health Licensing Office, Board of Certified Advanced Estheticians Chapter 819

**Rule Caption:** Permanently adopt requirements for certification in advanced esthetics.

Date:	Time:	Location:
10-12-16	10 a.m.	Health Licensing Office 700 Summer St. NE, Suite 320 Salem, OR 97301

**Hearing Officer:** Samantha Patnode

**Stat. Auth.:** Oregon Law 2015, Ch. 722, ORS 676.586, 676.615, 676.630, 676.655

**Stats. Implemented:** Oregon Law 2015, Ch. 722, ORS 676.586, 676.630, 676.655

**Proposed Adoptions:** 819-030-0015, 819-020-0020, 819-020-0030, 819-020-0040, 819-020-0050, 819-020-0060, 819-020-0070, 819-020-0080, 819-030-0000, 819-030-0010, 819-040-0000

**Last Date for Comment:** 10-28-16 a.m.

**Summary:** During the 2015 Legislative Session, House Bill 2642 was enacted, which created the Board of Certified Advanced Estheticians (Board) in Oregon. The purpose of the Board is to oversee and regulate the practice of advanced nonablative esthetics, including the use of lasers and other devices registered with the U.S. Food and Drug Administration. However, according to the bill, the Board does not have the authority to begin meeting or making decisions until July 1, 2016.

As of July 1, 2016 the Health Licensing Office (HLO) began issuing certificates to practice non ablative esthetics. Since this is a newly regulated profession there has been little standardized training available to individuals. The legislature contemplated these facts and provided provisions for grandfathering individuals into the profession until December 31, 2017.

In order to get temporary certificate holder fully certified the Board proposed grandfathering requirements an examination to be approved by the Board through January 1, 2018.

In order to establish requirements by July 1, 2016, HLO filed temporary administrative rules creating a provisional certification with supervision for individuals who need some or all the education training requested under the grandfathering provisions. Education and training requirements are 40 hours of theory and fundamentals and 24 hours in each of the following modalities: skin rejuvenation, photo rejuvenation, body contouring, dyschromia reduction, cellulite reduction, hair removal or reduction, and nonablative tattoo removal.

For individuals who obtained the required training prior to July 1, 2016 or who have worked at least 500 hours under a health care professional whose scope of practice includes non ablative esthetics a temporary certification has been created which does not require supervision.

The legislature approved fees during the 2015 Legislative Session which have been added to the fee schedule within the rule.

Practice standards and client records have been established.

**Rules Coordinator:** Samantha Patnode

**Address:** Oregon Health Authority, Health Licensing Office, Board of Certified Advanced Estheticians, 700 Summer St. NE, Suite 320, Salem, OR 97301

**Telephone:** (503) 373-1917

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## Oregon Health Authority, Health Policy and Analytics Chapter 409

**Rule Caption:** Establishes Criteria for Awarding Grants under Safety Net Capacity Grant Program

# NOTICES OF PROPOSED RULEMAKING

**Date:** 10-26-16  
**Time:** 1 p.m.  
**Location:** 500 Summer St. NE, Rm. 554  
Salem, OR 97301

**Hearing Officer:** Zarie Haverkate

**Stat. Auth.:** ORS 413.225

**Stats. Implemented:** ORS 413.225, 2015 c. 837 §34 & 414.231

**Proposed Adoptions:** 409-110-0025, 409-110-0030, 409-110-0035, 409-110-0040, 409-110-0045

**Proposed Repeals:** 409-110-0025(T), 409-110-0030(T), 409-110-0035(T), 409-110-0040(T), 409-110-0045(T)

**Last Date for Comment:** 10-28-16, 5 p.m.

**Summary:** The Oregon Health Authority is seeking to adopt permanent administrative rules to govern the operation of the Safety Net Capacity Grant Program (SNCGP). Senate Bill 5507, passed during the 2015 legislative session, appropriated resources to fund the SNCGP effective July 1, 2015. The grant ensures that safety net providers have the capacity to serve vulnerable and underserved children in Oregon with health care services to include physical, oral, mental, behavioral, and vision health services.

Proposed rules are available on the program's website at: <http://www.oregon.gov/OHA/OHPR/pages/rulemaking/index.aspx>

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

**Rules Coordinator:** Zarie Haverkate

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

**Telephone:** (503) 931-6420

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

**Rule Caption:** Permanent amendments related to changes in the certification of behavioral health treatment locations and services.

**Date:** 10-20-16  
**Time:** 12 p.m.  
**Location:** 500 Summer St. NE, Rm. 137-B  
Salem, OR 97301

**Hearing Officer:** Nola Russell

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 413.520, 426.060, 426.140, 430.010, 430.254, 430.335, 430.590, 430.620, 430.637, 813.021, 813.260, ORS 109.675, 179.505, 413.520-522, 430.205-210, 430.240-540, 430.850-430.955, 443.400-460, 443.991, 461.549, 743A.160, 743A.168, 813.200-270, ORS 109.675, 161.309-400, 179.505, 426.490-500, 430.205-210, 430.205-210, 443.400-460

**Proposed Amendments:** 415-012-0000, 415-012-0010, 415-012-0020, 415-012-0030, 415-012-0032, 415-012-0035, 415-012-0040, 415-012-0050, 415-012-0055, 415-012-0060, 415-012-0065, 415-012-0067, 415-012-0070, 415-012-0090, 415-020-0000, 415-020-0005, 415-020-0010, 415-054-0030, 415-054-0040, 415-020-0410, 415-020-0450, 415-020-0460, 415-020-0470, 415-020-0540, 415-020-0550, 415-020-0570, 415-057-0020

**Proposed Repeals:** 415-054-0580

**Last Date for Comment:** 10-24-16, Close of Business

**Summary:** Permanent new rules, and amendments to other rules, all which implement integrated changes to the Health Systems Division's (HSD) provider certification processes. The changes reflect that HSD will provide the certification of Community Mental Health Programs' (CMHP) subcontracted providers, a duty the CMHPs previously provided. The changes will also decrease the administrative burdens for HSD, and for the providers of related services.

**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:** Amending Prior Authorization Approval Criteria Guide

**Date:** 10-18-16  
**Time:** 10:30 a.m.  
**Location:** 500 Summer St. NE, Rm. 137D  
Salem, OR 97301

**Hearing Officer:** Nola Russell

**Stat. Auth.:** ORS 413.032, 413.042, 414.065, 414.325, 414.330 to 414.414, 414.312, 414.316

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

**Proposed Amendments:** 410-121-0040

**Proposed Repeals:** 410-121-0040(T)

**Last Date for Comment:** 10-20-16, 5 p.m.

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

**Rules Coordinator:** Sandy Cafourec

**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, Health Systems Division: Mental Health Services Chapter 309

**Rule Caption:** Permanent amendments related to changes in the certification of behavioral health treatment locations and services.

**Date:** 10-20-16  
**Time:** 12 p.m.  
**Location:** 500 Summer St. NE, Rm. 137-B  
Salem, OR 97301

**Hearing Officer:** Nola Russell

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 413.520, 426.060, 426.140, 430.010, 430.254, 430.335, 430.590, 430.620, 430.637, 813.021, 813.260, 109.675, 179.505, 413.520-522, 430.205-210, 430.240-540, 430.850-430.955, 443.400-460, 443.991, 461.549, 743A.160, 743A.168, 813.200-270, 109.675, 161.309-400, 179.505, 426.490-500, 430.205-210, 430.205-210, 443.400-460

**Proposed Adoptions:** 309-008-0100, 309-008-0200, 309-008-0250, 309-008-0300, 309-008-0400, 309-008-0500, 309-008-0600, 309-008-0700, 309-008-0800, 309-008-0900, 309-008-1000, 309-008-1100, 309-008-1200, 309-008-1300, 309-008-1400, 309-008-1500, 309-008-1600, 309-018-0107, 309-019-0225, 309-019-0230, 309-019-0235, 309-039-0240, 309-019-0245, 309-019-0248, 309-019-0250, 309-019-0255.

**Proposed Amendments:** 309-018-0100, 309-018-0160, 309-018-0210, 309-018-0215, 309-022-0100, 309-022-0105, 309-018-0135, 309-022-0175, 309-022-0205, 309-039-0510, 309-039-0520, 309-039-0530, 309-039-0540, 309-039-0580, 309-019-0100, 309-019-0105, 309-019-0135, 309-019-0175, 309-019-0110, 309-019-0125, 309-019-0130, 309-019-0140, 309-019-0145, 309-019-0195, 309-019-0210, 309-019-0220, 309-032-0860, 309-032-0870, 309-032-0890, 309-033-0510, 309-033-0530, 309-033-0710, 309-033-0720, 309-033-0970, 309-014-0000, 309-014-0005, 309-014-0010, 309-014-0015, 309-014-0020, 309-014-0025, 309-014-0030, 309-014-0035, 309-014-0037, 309-014-0040

**Proposed Repeals:** 309-012-0130(T), 309-012-0130, 309-012-0140(T), 309-012-0140, 309-012-0150(T), 309-012-0150, 309-012-0160(T), 309-012-0170, 309-012-0180(T), 309-012-0180, 309-012-0190(T), 309-012-0190, 309-012-0200(T), 309-012-0200,

# NOTICES OF PROPOSED RULEMAKING

309-012-0210(T), 309-012-0210, 309-012-0220(T), 309-012-0220, 309-012-0230(T), 309-012-0230.

**Last Date for Comment:** 10-24-16, Close of Business

**Summary:** Permanent amendments related to changes in the certification of behavioral health treatment locations and services.

**Rules Coordinator:** Nola Russell

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

**Telephone:** (503) 945-7652

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**Rule Caption:** Permanent amendments to OAR 309-011 regarding the Oregon Health Authority's Consumer Advisory Council.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-19-16	2 p.m.	500 Summer St. NE, Rm. 160 Salem, Or 97302

**Hearing Officer:** Nola Russell

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 430.073

**Proposed Amendments:** 309-011-0024, 309-011-0028, 309-011-0031, 309-011-0032, 309-011-0034, 309-011-0036

**Last Date for Comment:** 10-24-16, Close of Business

**Summary:** These rules implement ORS 430.073, related to the Oregon Health Authority's (OHA) Consumer Advisory Council (CAC). The scope of these rules is limited strictly to the CAC, and will clarify CAC's purpose, scope, membership, roles and responsibilities, and those of Oregon Health Authority.

**Rules Coordinator:** Nola Russell

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

**Telephone:** (503) 945-7652

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## Oregon Health Authority, Public Health Division Chapter 333

**Rule Caption:** Marijuana Labeling; Medical Marijuana Growers, Processors, Dispensaries and Cards

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-28-16	10 a.m.	Portland State Office Bldg. 800 NE Oregon St. Rm. 1A Portland, OR 97232

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 431A.010, 475B.415, 475B.418, 475B.420, 475B.435, 475B.440, 475B.450, 475B.525, 475B.555, 475B.605, 475B.610, 475B.625, OL 2015, ch. 614, sec. 105; OL 2015, ch. 699, sec. 21a; OL 2015, ch. 784, sec. 2; OL 2016, ch. 23, sec. 22; OL 2016, ch. 83, sec. 21; OL 2016, ch. 107

**Stats. Implemented:** ORS 475B.400-475B.525, 475B.555, 475B.605, 475B.610, 475B.625, OL 2015, ch. 614, sec. 105; OL 2015, ch. 699, sec. 21a; OL 2015, ch. 784, sec. 2; OL 2016, ch. 23, sec. 22; OL 2016, ch. 83, sec. 21; OL 2016, ch. 107

**Proposed Adoptions:** 333-008-1255

**Proposed Amendments:** 333-007-0010, 333-007-0090, 333-007-0100, 333-007-0200, 333-007-0210, 333-007-0220, 333-007-0300, 333-008-0010, 333-008-0023, 333-008-0040, 333-008-0600, 333-008-1020, 333-008-1110, 333-008-1200, 333-008-1230, 333-008-1500, 333-008-1505, 333-008-1620, 333-008-1730, 333-008-1740, 333-008-1760, 333-008-1770, 333-008-1820, 333-008-2080, 333-008-2120, 333-008-2190, 333-008-9900

**Proposed Repeals:** 333-008-1190, 333-008-1200(T), 333-008-1225, 333-008-1230(T), 333-008-1500(T), 333-008-1505(T), 333-008-2130

**Last Date for Comment:** 10-28-16, 5 p.m.

**Summary:** The Oregon Health Authority, Public Health Division, Oregon Medical Marijuana Program is proposing to adopt new regulations and amend Oregon Administrative Rules in chapter 333, division 7 and 8.

These rules will incorporate changes made to the Oregon Medical Marijuana Act from the 2016 legislative session by establishing stan-

dards non-profit dispensaries will need to meet in order to operate as a non-profit, and by removing the requirement for veterans with total and permanent disability or 100% disability ratings to submit an attending physician signature form each time they renew their patient card.

This rulemaking permanently adopts rule amendments pertaining to limited marijuana retail sales and reporting requirements. House-keeping changes related to marijuana labeling and medical marijuana grower, processors, dispensaries and registry identification cardholders are also a part of this rulemaking.

This rulemaking also permanently adopts rule amendments that change the compliance date for when processors need to be registered with the Oregon Health Authority and dispensaries need to be licensed by the Department of Agriculture from October 1, 2016 to January 1, 2017.

**Rules Coordinator:** Brittany Sande

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

**Telephone:** (971) 673-1291

\*\*\*\*\*

**Rule Caption:** Manufacturer Disclosure of High Priority Chemicals of Concern for Children's Health Used in Children's Products

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-18-16	1 p.m.	Portland State Office Bldg. 800 NE Oregon St. Rm. 1B Portland, OR 97232

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 413.042, 431A.258, 431A.268, 431.275

**Stats. Implemented:** ORS 431A.253-431A.280

**Proposed Adoptions:** 333-016-2035, 333-016-2040, 333-016-2050, 333-016-2060, 333-016-2070, 333-016-2090

**Last Date for Comment:** 10-31-16, 5 p.m.

**Summary:** The Oregon Health Authority (Authority), Public Health Division is proposing to permanently adopt administrative rules in chapter 333, division 16 related to high priority chemicals of concern for children's health.

SB 478 (Oregon Laws 2015, chapter 786) was passed by the Oregon Legislature during the 2015 legislative session. The law requires the Authority to develop rules to implement the Toxic Free Kids Program. These proposed rules require manufacturers of children's products to disclose high priority chemicals of concern for children's health used in children's products that are sold or offered for sale in Oregon. The proposed rules establish requirements for disclosure; a process for manufacturers to apply for an exemption from the disclosure requirements; and describe the Authority's civil penalty authority and enforcement process should a manufacturer not comply with the requirements of the rules.

**Rules Coordinator:** Brittany Sande

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

**Telephone:** (971) 673-1291

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**Rule Caption:** Amend Certification Requirements for Local School Dental Sealant Programs

**Stat. Auth.:** ORS 431A.725

**Stats. Implemented:** ORS 431A.725

**Proposed Amendments:** 333-028-0320

**Last Date for Comment:** 10-24-16, 5 p.m.

**Summary:** The Oregon Health Authority (OHA), Public Health Division, Oral Health Program is proposing to amend administrative rule 333-028-0320, "Certification Requirements" in chapter 333, division 28 "Certification for Local School Dental Sealant Programs" to clarify certification requirements in sections (4) and (6). These proposed changes are clarifications only and not a change to the existing rule.

**Rules Coordinator:** Brittany Sande

## NOTICES OF PROPOSED RULEMAKING

**Address:** Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232  
**Telephone:** (971) 673-1291

.....  
**Oregon Liquor Control Commission**  
**Chapter 845**

**Rule Caption:** The amendments re-organize the rule, clearly define violation sanctions and clarify aggravating and mitigating circumstances.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-19-16	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

**Hearing Officer:** Bryant Haley

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

**Stats. Implemented:** ORS 471.315, 471.322 & 471.327

**Proposed Amendments:** 845-006-0500

**Last Date for Comment:** 11-2-16, 5 p.m.

**Summary:** This rule describes the various sanctions the Commission imposes on licensees, including cancellation or suspension of a license, and civil penalties. The amendments re-organize the rule and clearly define violation sanctions. Further, the amendments clarify aggravating and mitigating circumstances.

**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:** Define Oriental massage within the acupuncture scope of practice

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
12-2-16	11 a.m.	Oregon Medical Board 1500 SW 1st Ave. Suite 620 Portland, OR 97201

**Hearing Officer:** Nicole Krishnaswami

**Stat. Auth.:** ORS 677.265, 677.759

**Stats. Implemented:** ORS 677.265, 677.757, 677.759, 677.780

**Proposed Amendments:** 847-070-0005

**Last Date for Comment:** 12-2-16, 11:30 a.m.

**Summary:** The proposed rule amendment adds a definition for Oriental massage and clarifies the definition for physician.

**Rules Coordinator:** Nicole Krishnaswami

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

**Telephone:** (971) 673-2667

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

**Rule Caption:** Housekeeping edits to reflect changes from recent legislative sessions and for comprehensiveness and clarity

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-25-16	2 p.m.	Boardroom, Public Employees Retirement System 11410 SW 68th Pkwy. Tigard, OR 97223

**Hearing Officer:** Daniel Rivas

**Stat. Auth.:** ORS 238.650

**Stats. Implemented:** ORS 238.078, 238.082, 238.088, 238.092, 399.075, 2007 OL Ch. 499 and 774, 2015 OL Ch. 108 and 475

**Proposed Amendments:** 459-017-0060

**Last Date for Comment:** 10-31-16, 5 p.m.

**Summary:** By statute, a Tier One or Tier Two retired member who returns to PERS-covered employment may continue to receive their retirement benefits so long as they work fewer than 1,040 hours in a calendar year. However, hour limits are not imposed on retirees who qualify for certain exceptions provided in statute.

During the 2015 and 2016 legislative sessions, three bills were adopted regarding the statutory exceptions to the hourly limit. Two bills amended existing statutory exceptions to extend the sunset dates, and one bill created a new exception for retired members employed as a teacher of career and technical education. A summary of those bills is provided below:

House Bill 2684 (2015) extended return-to-work exceptions for Tier One and Tier Two retirees who are employed by public employers as nursing instructors or as trainers for the Department of Public Safety Standards and Training (DPSST). The exception was scheduled to expire January 2, 2016, but was extended to January 2, 2026.

House Bill 3058 (2015) established a new exception to the hourly limitation for retired Tier One and Tier Two members who are re-employed by school districts or education service districts as teachers of career and technical education (CTE). Retirees must be certified by the Teacher Standards and Practices Commission (TSPC) as teachers of CTE. The exception is effective from June 18, 2015 through June 30, 2018.

House Bill 4022 (2016) reinstated the exemption that had expired for Tier One or Tier Two retirees who are employed by school districts or education service districts to provide services as speech-language pathologists or speech-language pathologist assistants. The bill applies to hours worked by retired members on or after January 1, 2016, and is set to expire January 2, 2026.

In addition, staff added the existing exception provided in Oregon Revised Statutes (ORS) 238.088, which had been inadvertently omitted. This exception allows certain appointed public officials to work unlimited hours if they are elected or appointed in a county with a population of fewer than 75,000 inhabitants, under certain conditions.

**Rules Coordinator:** Daniel Rivas

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

**Telephone:** (503) 603-7713

.....  
**Parks and Recreation Department**  
**Chapter 736**

**Rule Caption:** Close the beach to vehicle access at North 35th Court in Lincoln City

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-18-16	6:30 p.m.	Driftwood Public Library 801 SW Hwy 101 #201 Lincoln City, OR
10-20-16	6:30 p.m.	North Mall Office Bldg. 725 Summer St., Rm. 124A Salem, OR

**Hearing Officer:** Staff/Staff

**Stat. Auth.:** ORS 390.124, ORS 390.660

**Stats. Implemented:** ORS 390.678

**Proposed Amendments:** 736-024-0025

**Last Date for Comment:** 10-21-16, 5 p.m.

**Summary:** Close a 300 foot section of Ocean Shore open to vehicles at North 35th Court in Lincoln City Oregon

**NOTE:** Those who wish to make public comment at a scheduled hearing must register with the hearing officer within thirty minutes of the listed start time on the scheduled hearing dates.

**Rules Coordinator:** Claudia Ciobanu

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

**Telephone:** (503) 872-5295

.....  
**Public Utility Commission**  
**Chapter 860**

**Rule Caption:** In the Matter of Creating a New Division for Oregon Universal Service Fund (OUSF) Rules.

## NOTICES OF PROPOSED RULEMAKING

**Date:** 10-24-16  
**Time:** 10 a.m.  
**Location:** Public Utility Commission,  
Hearing Rm.  
201 High St. SE  
Salem, OR 97301

**Hearing Officer:** ALJ Arlow

**Stat. Auth.:** ORS Ch. 183, 192, 756, 759

**Stats. Implemented:** ORS 756.040, 759.005, 759.015, 759.020, 759.425

**Proposed Adoptions:** 860-100-0001, 860-100-0005

**Proposed Renumberings:** 860-032-0640 to 860-100-0130, 860-032-0650 to 860-100-0140, 860-032-0660 to 860-100-0150, 860-032-0670 to 860-100-0160

**Proposed Ren. & Amends:** 860-032-0610 to 860-100-0100, 860-032-0620 to 860-100-0110, 860-032-0630 to 860-100-0120

**Last Date for Comment:** 11-3-16, 5 p.m.

**Summary:** Currently, the administrative rules specific to the Oregon Universal Service Fund (OUSF) are found in OAR 860-032-0610 through 860-032-0670. OAR Chapter 860, Division 032 is large and unwieldy. This rulemaking is a step in reorganizing the OUSF information to create a comprehensive framework in the rules. While primarily housekeeping in nature, this rulemaking moves the rules from Division 032, with some minor grammatical corrections, into new Division 100, and creates new rules for similar scope and applicability, and definitions from Division 032. This reorganization

is intended to help telecommunications providers better understand their obligations to the OUSF and provide clarity of definitions and procedures.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 605 on comments and file them by e-mail to the Commission's Filing Center at PUC. [FilingCenter@state.or.us](mailto:FilingCenter@state.or.us).

Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=20381>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at [http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_001.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html).

Participants wishing to monitor the hearing by telephone must contact Diane Davis at [diane.davis@state.or.us](mailto:diane.davis@state.or.us) or (503) 378-4372 by close of business October 21, 2016, to request a dial-in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

**Rules Coordinator:** Diane Davis

**Address:** Public Utility Commission of Oregon, PO Box 1088, Salem, OR 97308-1088

**Telephone:** (503) 378-4372

# ADMINISTRATIVE RULES

## Board of Nursing Chapter 851

**Rule Caption:** To clarify certification requirements for faculty teaching at the graduate level.

**Adm. Order No.:** BN 6-2016(Temp)

**Filed with Sec. of State:** 9-13-2016

**Certified to be Effective:** 9-13-16 thru 3-5-17

**Notice Publication Date:**

**Rules Amended:** 851-050-0001

**Subject:** To clarify certification requirements for faculty teaching at the graduate level.

**Rules Coordinator:** Peggy A. Lightfoot—(971) 673-0638

### 851-050-0001

#### Standards for Nurse Practitioner Programs

The Board's standards for all nurse practitioner programs for initial applicants are as follows:

(1) The nurse practitioner program shall be a minimum of one academic year in length; however, programs completed before January 1, 1986 and post-Masters programs completed for the purpose of changing category of nurse practitioner certification may be less than one academic year in length if the program otherwise meets all requirements.

(2) Faculty who teach within the nurse practitioner program shall be educationally and clinically prepared in the same specialty area(s) as the theory and clinical areas they teach and shall include advanced practice nurses.

(3) The curriculum content shall contain theory and clinical experience in the nurse practitioner population focus specified in OAR 851-050-0005(6) for which application is being made, preparing the graduate to meet all competencies within the scope including physical assessment, pharmacology, pathophysiology, differential diagnosis and clinical management.

(4) The number of contact hours of clinical experience shall be equal to or greater than the number of contact hours of nurse practitioner theory. The clinical experience must consist of full scope preparation in the population focus for which application is being made.

(5) Post-graduate Nurse Practitioner programs which prepare an individual for dual role or population focus certification must meet all competencies designated for the Nurse Practitioner role including supervised clinical hours of no less than 500 hours for each role or population focus.

(6) Programs must provide documentation that students meet the program's curriculum requirements in effect at the time of enrollment.

(7) Written program materials shall accurately reflect the mission, philosophy, purposes, and objectives of the program.

(8) Programs shall demonstrate appropriate course sequencing and requirements for matriculation into the program, including completion of all pre-licensure nursing curriculum requirements before advancement into nurse practitioner clinical coursework.

(9) Preceptors shall meet clinical and licensure qualifications for the state in which they practice.

(10) Distance and asynchronous learning programs shall meet all standards of OAR 851-050-0001.

(11) All courses required for completion of the nurse practitioner program must be at the graduate level, if completed after January 1, 1986.

(12) Nurse practitioner programs outside of the United States must meet all standards of OAR 851-050-0001. Such programs shall be determined by Board approved or directed credentials review to be equivalent to graduate nurse practitioner programs offered in the United States which prepare the nurse practitioner for practice within the advanced nursing specialty scope. Nationally recognized nursing accreditation standards or guidelines may be applied by the Board at the Board's discretion, in accordance with the Oregon Office of Degree Authorization regulations.

(13) The Board's additional requirements for Oregon based Nurse Practitioner programs are as follows. The Dean or Director of the Nursing school which provides one or more Nurse Practitioner programs/tracks shall ensure that one or more qualified faculty are appointed and have defined position responsibility to address the administrative functions of the program/track. Administrative functions include budget and resource preparation, curricular design, oversight of program implementation and evaluation. The appointed faculty and preceptor(s) in the program shall meet the following requirements:

Nurse Practitioner Program Faculty, Administration and Preceptors

(a) Nurse Practitioner Program Administrator who has overall responsibility for one or more NP tracks shall meet the following requirements:

(A) A current active unencumbered Oregon Nurse Practitioner state certificate;

(B) National certification as a Nurse Practitioner in at least one population focus area;

(C) A doctoral degree in a health-related field;

(D) Educational preparation or experience in teaching and learning principles for adult education, including curriculum development and administration and at least two years of current clinical experience which meets Oregon's practice requirements;

(E) In a multi-track program, where only one Program Administrator is appointed by the Dean or Director of the school, there must be evidence of additional program administrators or lead Nurse Practitioner faculty to provide oversight for student supervision who are nationally certified in that specific program's population focus.

(b) The Nurse Practitioner Program Educator shall meet the following requirements:

(A) A current active unencumbered Oregon Nurse Practitioner state certificate;

(B) An earned doctoral degree in nursing; or

(C) A masters degree with a major in nursing and an appropriate advanced practice nurse credential; and

(D) Two years of clinical experience as a Nurse Practitioner; and

(E) Current knowledge, competence, and state certification as a Nurse Practitioner in the population foci consistent with teaching responsibilities; or National Board Certification and a minimum of 400 practice hours in the past 2 years in the population foci consistent with teaching responsibilities.

(F) Adjunct clinical faculty employed solely to supervise clinical nursing experiences of students shall meet all the faculty requirements.

(G) Inter-professional educators who teach non-clinical nursing courses shall have advanced preparation appropriate to the area of content.

(c) Clinical Preceptors in the Nurse Practitioner program shall meet the following requirements:

(A) Student preceptor ratio shall be appropriate to accomplishment of learning objectives, to provide for patient safety, and to the complexity of the clinical situation;

(B) Oregon licensure or certification appropriate to the health professional area of practice;

(C) Functions and responsibilities for the preceptor shall be clearly documented in a written agreement between the agency, the preceptor, and the clinical program

(D) Initial experiences in the clinical practicum and a majority of the clinical experiences shall be under the supervision of clinical preceptors who are licensed advanced practice registered nurses.

(d) Nurse Practitioner Educator responsibilities shall include:

(A) Making arrangements with agency personnel in advance of the clinical experience which provides and verifies student supervision, preceptor orientation, and faculty defined objectives;

(B) Monitoring student assignments, making periodic site visits to the agency, evaluating students' performance on a regular basis with input from the student and preceptor, and availability for direct supervision during students' scheduled clinical time;

(C) Providing direct supervision by a qualified faculty or experienced licensed clinical supervisor as required for patient safety and student skill attainment.

(e) Nurse Practitioner Program Administrator responsibilities shall include:

(A) Ensuring appropriate student faculty ratios to meet program goals and objectives;

(B) Provision of leadership and accountability for the administration, planning, implementation and evaluation of the program;

(C) Preparation and administration of the program budget;

(D) Facilitation of faculty recruitment, development, performance review, promotion and retention;

(E) Assurance that cooperative agreements with clinical practice sites are current.

Program Accreditation Required and Board Notification Process

(f) Currently accredited programs that prepare nurse practitioners for state certification under these rules and requirements shall submit to the Board:

(A) A copy of their most recent program self-evaluation reports;

(B) Current accreditation and survey reports from all nursing accrediting agencies; and

(C) Interim reports submitted to the national nursing accreditation agency.

# ADMINISTRATIVE RULES

(D) These documents must be submitted to the Board upon receipt to or release from the accrediting agency.

(g) Programs which prepare nurse practitioners for state certification under development or pre-accreditation review shall submit the following for review by the Board:

(A) Copies of the curricula within 30 days of sending the information to the accrediting agency;

(B) Copies of self-evaluation reports and any interim reports provided to all national nursing accreditation agencies, at the time of notification from the accrediting agency that the program has not been fully accredited;

(C) Verification of accreditation from all accrediting agencies within 30 days of receipt by the program;

(D) Annual reports which enable the monitoring of continued compliance with Board requirements.

(h) Grounds for denial of graduate nurse practitioner applicants for initial certification include failure of the Oregon based Nurse Practitioner program to:

(A) Maintain accreditation status through a US Department of Education recognized national accrediting body;

(B) Submit curricula, self-evaluation reports, interim reports or notice of accreditation reports as required by the Board;

(i) Students who graduate from a program which was accredited at the time of their completion shall be considered to have graduated from an accredited program regardless of the current program status for the purpose of licensure.

## Approval of a New Nurse Practitioner Educational Program

(j) Any university or college wishing to establish a Nurse Practitioner education program must make application to the Board on forms supplied by the Board no later than one year before proposed enrollment of students.

(k) The following information must be included with the initial application along with supporting documentation:

(A) Purpose for establishing the nursing education program;

(B) Community needs and studies made as the basis for establishing a nursing education program;

(C) Type of program including clear identification of proposed licensure role and population foci for graduates;

(D) Accreditation status, relationship of educational program to parent institution;

(E) Financial provision for the educational program;

(F) Potential student enrollment;

(G) Provision for qualified faculty;

(H) Proposed clinical facilities and other physical facilities;

(I) Proposed time schedule for initiating the program. If initial approval is denied, the applicant may request a hearing before the Board and the provisions of the Administrative Procedures Act shall apply.

## Survey of Nurse Practitioner Programs, Survey Criteria

(l) Board representatives will conduct in person visits to nursing programs for the following purposes:

(A) Review of application for initial program approval;

(B) Initial and continuing full approval of an educational program;

(C) Receipt by the Board of cause for review including but not limited to:

(i) Significant curricular change which includes addition of a new state certification recognized population focus or role;

(ii) Evidence that graduates fail to meet national certification criteria;

(iii) Violation of Board standards.

(D) If approval is denied or withdrawn, the applicant may request a hearing before the Board and the provisions of the Administrative Procedures Act shall apply.

(m) Board representatives will contact nursing programs to schedule site visits:

(A) Within 60 days of receipt of an application for initial program approval;

(B) Upon receipt of national accreditation report for existing programs; one year after implementation of new programs, every 3-5 years for continuing approval;

(C) Within 30 days of receipt of a complaint.

(D) For purposes of reviewing a major curriculum change.

Stat. Auth.: ORS 678.380, 678.150

Stats. Implemented: ORS 678.380, 678.150

Hist.: NB 3-1990, f. & cert. ef. 4-2-90; NB 8-1993, f. & cert. ef. 8-23-93; BN 10-2003, f. & cert. ef. 10-2-03; BN 13-2006, f. & cert. ef. 10-5-06; BN 9-2009, f. 12-17-09, cert. ef. 1-1-10; BN 10-2013, f. 12-3-13, cert. ef. 1-1-14; BN 6-2016(Temp), f. & cert. ef. 9-13-16 thru 3-5-17

**Rule Caption:** Decrease Workforce Data Analysis surcharge from \$5 to \$4 per interagency agreement with OHA

**Adm. Order No.:** BN 7-2016

**Filed with Sec. of State:** 9-15-2016

**Certified to be Effective:** 9-22-16

**Notice Publication Date:** 9-1-2016

**Rules Amended:** 851-002-0010, 851-002-0040

**Subject:** Interagency Agreement with OHA a decrease in fee from \$5 to \$4 for the Workforce Data Analysis Fund will begin in July 2016. This is due to SB230 increasing participating Boards in the data analysis project which will allow OHA to process this data and spread the cost over more agencies.

**Rules Coordinator:** Peggy A. Lightfoot—(971) 673-0638

## 851-002-0010

### RN/LPN Schedule of Fees

(1) License Renewal — \$145.

(2) Delinquent fee — \$100.

(3) Surcharge to Support the Workforce Data Analysis Fund at Renewal — \$4.

(4) Surcharge to Support the Oregon Nursing Advancement Fund for Licensure by Examination, Licensure by Endorsement, and Renewal applications — \$9.

(5) License by Endorsement — \$195.

(6) Licensure by Examination — \$160.

(7) Written Verification of License — \$12.

(8) Limited Licenses:

(a) Reentry — \$95.

(b) Extension of Reentry — \$25.

(9) Limited Licenses for Educational Experience:

(a) International Graduate Nursing Students — \$65.

(b) Extension of International Graduate Nursing Students — \$25.

(c) International RN in Short-Term Educational Experience — \$35.

(d) International Exchange Students — \$25.

(e) U.S. RNs in Distance Learning — \$15.

(f) Extension of Distance Learning — \$15.

(10) Reexamination for Licensure — \$25.

(11) Reactivation — \$160.

(12) Reinstatement by Reactivation — \$160.

(13) Nurse Emeritus -\$50 (biennial)

Stat. Auth.: ORS 678.150 & 678.410

Stats. Implemented: ORS 678.410

Hist.: NER 26(Temp), f. & ef. 12-11-75; NER 32, f. & ef. 5-4-76; NER 5-1981, f. & ef. 11-24-81; NER 2-1982, f. & ef. 8-25-82; NER 5-1983, f. 12-9-83, ef. 1-1-84; NER 5-1985, f. 7-30-85, ef. 10-1-85; NER 6-1986, f. & ef. 12-3-86; NB 5-1987, f. & ef. 7-1-87; NB 7-1987, f. & ef. 10-5-87; NB 1-1988, f. & cert. ef. 4-18-88; NB 2-1989, f. 6-22-89, cert. ef. 7-1-89; NB 2-1991, f. 6-14-91, cert. ef. 7-1-91; NB 3-1991, f. & cert. ef. 9-25-91; NB 5-1993, f. 6-15-93, cert. ef. 7-1-93; NB 7-1993, f. & cert. ef. 7-1-93; NB 13-1993, f. & cert. ef. 12-20-93; NB 5-1994, f. & cert. ef. 9-15-94; Renumbered from 851-020-0295; NB 8-1994, f. & cert. ef. 12-7-94; NB 7-1995(Temp), f. & cert. ef. 6-23-95; NB 2-1996, f. & cert. ef. 3-12-96; NB 9-1997, f. 7-22-97, cert. ef. 9-1-97; BN 6-1998(Temp), f. & cert. ef. 7-15-98 thru 12-31-98; Administrative correction 8-5-98; BN 10-1998, f. & cert. ef. 8-7-98; BN 11-1998, f. & cert. ef. 9-22-98; BN 4-1999, f. 5-21-99, cert. ef. 7-1-99, Renumbered from 851-031-0200; BN 11-1999, f. & cert. ef. 12-1-99; BN 6-2000, f. & cert. ef. 4-24-00; BN 17-2002, f. & cert. ef. 10-18-02; BN 6-2003, f. & cert. ef. 7-7-03; BN 5-2007, f. 5-4-07, cert. ef. 7-1-07; BN 5-2009, f. & cert. ef. 10-7-09; BN 6-2009, f. 12-17-09, cert. ef. 1-1-10; BN 7-2010, f. & cert. ef. 6-25-10; BN 16-2010, f. & cert. ef. 11-29-10; BN 10-2012, f. 7-6-12, cert. ef. 8-1-12; BN 1-2015, f. 4-21-15, cert. ef. 6-1-15; BN 3-2015, f. 9-22-15, cert. ef. 10-1-15; BN 4-2015, f. & cert. ef. 10-29-15; BN 3-2016, f. 7-13-16, cert. ef. 8-1-16; BN 7-2016, f. 9-15-16, cert. ef. 9-22-16

## 851-002-0040

### Nursing Assistant Schedule of Fees

(1) Certification by Examination — \$106.

(2) Certification by Endorsement — \$60.

(3) Reexamination — Manual Skills — \$45.

(4) Reexamination — Written — \$25.

(5) Oral Administration of Written Examination — \$35.

(6) Written Verification of Certification — \$10.

(7) CNA Certificate Renewal — \$60.

(8) CNA Reactivation Fee — \$5.

(9) Surcharge to Support the Workforce Data Analysis Fund at Renewal — \$4.

(10) CNA Certification for RN or LPN — \$60.

(11) CNA Certification for Student Nurses — \$60.

(12) Initial Approval CNA Training Program — \$100.

(13) Approval of Revised CNA Training Program — \$75.

(14) Reapproval of CNA Training Program — \$50.

(15) CNA Primary Instructor Approval — \$10.



# ADMINISTRATIVE RULES

## (16) Initial Approval of CNA Program Director — \$25.

Stat. Auth.: ORS 678.150 & 678.410

Stats. Implemented: ORS 678.410

Hist.: NB 9-1989(Temp), f. & cert. ef. 11-24-89; NB 5-1990, f. & cert. ef. 5-7-90; NB 7-1990(Temp), f. & cert. ef. 7-11-90; NB 9-1990, f. & cert. ef. 10-9-90; NB 5-1991(Temp), f. & cert. ef. 10-15-91; NB 3-1992, f. & cert. ef. 2-13-92; NB 12-1992, f. 12-15-92, cert. ef. 1-1-93; NB 2-1993, f. 2-8-93, cert. ef. 2-16-93; NB 15-1993, f. 12-27-93, cert. ef. 6-1-94; NB 9-1997, f. 7-22-97, cert. ef. 9-1-97; BN 4-1999, f. 5-21-99, cert. ef. 7-1-99. Renumbered from 851-060-0300; BN 7-1999, f. 8-10-99, cert. ef. 11-1-99; BN 10-1999, f. & cert. ef. 12-1-99; BN 6-2003, f. & cert. ef. 7-7-03; BN 7-2004, f. & cert. ef. 2-26-04; BN 14-2004, f. & cert. ef. 10-26-04; BN 7-2007, f. 6-29-07, cert. ef. 1-1-08; BN 5-2009, f. & cert. ef. 10-7-09; BN 6-2009, f. 12-17-09, cert. ef. 1-1-10; BN 8-2010, f. & cert. ef. 6-25-10; BN 16-2010, f. & cert. ef. 11-29-10; BN 3-2015, f. 9-22-15, cert. ef. 10-1-15; BN 4-2015, f. & cert. ef. 10-29-15; BN 7-2016, f. 9-15-16, cert. ef. 9-22-16

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## Board of Parole and Post-Prison Supervision Chapter 255

**Rule Caption:** Procedures and number of Board members required for Board hearings and decisions.

**Adm. Order No.:** PAR 3-2016

**Filed with Sec. of State:** 8-29-2016

**Certified to be Effective:** 8-29-16

**Notice Publication Date:** 8-1-2016

**Rules Amended:** 255-030-0015

**Subject:** This rule amends the number of Board of Parole members required to conduct a hearing and to make a final decision. The change is necessary to conform Board rules with Oregon statutes now that the Board has added additional members.

The changes would eliminate the current conflict between what ORS 144.035, 144.054, and 144.110 expressly authorize and the more restrictive provisions of OAR 255-030-0015. The 2015 legislature provided funding for 5 Board Member positions. Previously only 3 positions were funded. The legislature also amended ORS 144.035, 144.054, and 144.110 to harmonize those statutes with the Board's increased membership. Those statutes, collectively, allow the Board to use hearings panels consisting of 2 Board members to conduct its business; they also specify when no fewer than 3 Board members are necessary to reach a decision. However, the current version of OAR 255-030-0015, which governs how many Board members are necessary to conduct a hearing and to reach a decision, was written when there were only 3 Board members.

Consequently, the current rule is more restrictive than the current versions of ORS 144.054, and 144.110. As written, OAR 255-030-0015 now prohibits a panel of 2 Board members from conducting certain hearings that are expressly allowed under ORS 144.035. Additionally, ORS 144.054 expressly allows for 3 Board members to decide all murder, aggravated murders, and cases where death was involved. However, because the current rules were written for a 3-member board, they require that the "Full Board" must decide those cases. As a result, the Board's current rule prevents it from conducting those hearings in a manner that is both lawful and more efficient - i.e., with 3 members instead of the Full Board.

This is the permanent adoption of a temporary rule adopted on April 26, 2016.

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

### 255-030-0015

#### When Full Board Is Required; Procedures for Board Decision

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

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

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

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

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

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

(e) A panel recommends unsumming a unified range.

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 144.035 & 144.054

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

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; 2PB 2-1986(Temp), f. & ef. 11-13-86; 2PB 3-1986(Temp), f. & ef. 12-2-86; PAR 2-1988(Temp), f. & ef. 3-25-88; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 2-2016(Temp), f. & cert. ef. 4-26-16 thru 10-21-16; PAR 3-2016, f. & cert. ef. 8-29-16

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## Board of Pharmacy Chapter 855

**Rule Caption:** Lists certain synthetic opioids and fentanyl analogues as Schedule I controlled substances.

**Adm. Order No.:** BP 3-2016(Temp)

**Filed with Sec. of State:** 8-22-2016

**Certified to be Effective:** 8-22-16 thru 2-17-17

**Notice Publication Date:**

**Rules Amended:** 855-080-0021

**Subject:** At the Board's August 2016 Board meeting, staff reported a request from the Oregon State Police Forensics Lab (OSP) to consider amendments to the Board's Controlled Substances Schedule I List in Division 080. The action came after initial research by the Board's staff and OSP to report that use of such substances and overdose deaths associated with their use are on the rise in Oregon.

By adding the illicit synthetic opioids and fentanyl analogue chemicals to Schedule I of the Oregon list of controlled substances (pursuant to ORS 475.035), the Board gives law enforcement the authority needed to prosecute the sale and possession of these substances under the Oregon Uniform Controlled Substances Act. This will have positive effect on public safety by limiting distribution and access to potentially deadly substances.

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

# ADMINISTRATIVE RULES

855-080-0021

## Schedule I

(1) Schedule I consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in 21CFR part 1308.11, and unless specifically excepted or unless listed in another schedule, any quantity of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (a) 1,4-butanediol;
- (b) gamma-butyrolactone
- (c) Methamphetamine, except as listed in OAR 855-080-0022;
- (d) dichloro-N-(2-(dimethylamino)cyclohexyl)-N-methylbenzamide (U-47700)

(e) 4-chloro-N-[1-[2-(4-nitrophenyl)ethyl]piperidin-2-ylidene]benzenesulfonamide (W-18) and positional isomers thereof, and any substituted derivative of W-18 and its positional isomers, and their salts, by any substitution on the piperidine ring (including replacement of all or part of the nitrophenylethyl group), any substitution on or replacement of the sulfonamide, or any combination of the above that are not FDA approved drugs, unless specifically excepted or when in the possession of an FDA registered manufacturer or a registered research facility, or a person for the purpose of sale to an FDA registered manufacturer or a registered research facility.

(f) Substituted derivatives of cathinone and methcathinone that are not listed in OARs 855-080-0022 through 0026 (Schedules II through V) or are not FDA approved drugs, including but not limited to,

- (A) Methylmethcathinone (Mephedrone);
- (B) Methylenedioxypropylvalerone (MDPV);
- (C) Methylenedioxymethylcathinone (Methylone);
- (D) 2-Methylamino-3',4'-(methylenedioxy)-butyrophenone (Butylone);

- (E) Fluoromethcathinone (Flephedrone);
- (F) 4-Methoxymethcathinone (Methedrone).

(2) Schedule I also includes any compounds in the following structural classes (2a–2k) and their salts, that are not FDA approved drugs, unless specifically excepted or when in the possession of an FDA registered manufacturer or a registered research facility, or a person for the purpose of sale to an FDA registered manufacturer or a registered research facility:

(a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, AM-1220, MAM-2201 and AM-2201;

(b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to: JWH-167, JWH-201, JWH-203, JWH-250, JWH-251, JWH-302 and RCS-8;

(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to: RCS-4, AM-694, AM-1241, and AM-2233;

(d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to: CP 47,497 and its C8 homologue (cannabicyclohexanol);

(e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl) indene structure with substitution at the 3-position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(h) Cyclopropanoylindoles: Any compound containing an 3-(cyclopropylmethanoyl)indole structure with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the cyclopropyl ring to any extent. Examples of this structural class include but are not limited to: UR-144, XLR-11 and A-796,260;

(i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Examples of this structural class include but are not limited to: AM-1248 and AB-001;

(j) Adamantylindolecarboxamides: Any compound containing an N-adamantyl-1-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Examples of this structural class include but are not limited to: STS-135 and 2NE1; and

(k) Adamantylindazolecarboxamides: Any compound containing an N-adamantyl-1-indazole-3-carboxamide with substitution at the nitrogen atom of the indazole ring, whether or not further substituted in the indazole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Examples of this structural class include but are not limited to: AKB48.

(3) Schedule I also includes any other cannabinoid receptor agonist that is not listed in OARs 855-080-0022 through 0026 (Schedules II through V) or is not an FDA approved drug.

(4) Schedule I also includes any substituted derivatives of fentanyl that are not listed in OARs 855-080-0022 through 0026 (Schedules II through V) or are not FDA approved drugs, and are derived from fentanyl by any substitution on or replacement of the phenethyl group, any substitution on the piperidine ring, any substitution on or replacement of the propanamide group, any substitution on the phenyl group, or any combination of the above.

(5) Exceptions. The following are exceptions to subsection (1) of this rule:

(a) 1, 4-butanediol and gamma-butyrolactone when in the possession of a person for the purpose of its sale to a legitimate manufacturer of industrial products and the person is in compliance with the Drug Enforcement Administration requirements for List I Chemicals;

(b) 1, 4-butanediol and gamma-butyrolactone when in the possession of a person for the purpose of the legitimate manufacture of industrial products;

(c) Marijuana and delta-9-tetrahydrocannabinol (THC).

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 475.035, 475.059 & 475.065

Hist.: PB 4-1987, f. & ef. 3-30-87; PB 8-1987, f. & ef. 9-30-87; PB 10-1987, f. & ef. 12-8-87; PB 15-1989, f. & cert. ef. 12-26-89; PB 9-1990, f. & cert. ef. 12-5-90; PB 5-1991, f. & cert. ef. 9-19-91; PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; PB 1-1997, f. & cert. ef. 9-22-97; BP 4-2000, f. & cert. ef. 2-16-00; BP 9-2000, f. & cert. ef. 6-29-00; BP 2-2002(Temp), f. & cert. ef. 2-4-02 thru 7-31-02; BP 3-2002(Temp), f. & cert. ef. 3-1-02 thru 8-23-02; BP 4-2002, f. 6-27-02, cert. ef. 7-1-02; BP 5-2002, f. & cert. ef. 11-14-02; BP 1-2003, f. & cert. ef. 1-14-03; BP 1-2007, f. & cert. ef. 6-29-07; BP 8-2010, f. & cert. ef. 6-29-10; BP 10-2010(Temp), f. & cert. ef. 10-15-10 thru 4-11-11; BP 2-2011, f. & cert. ef. 4-11-11; BP 9-2013, f. & cert. ef. 10-28-13; BP 11-2013(Temp), f. & cert. ef. 12-20-13 thru 6-18-14; BP 4-2014(Temp), f. 2-27-14, cert. ef. 2-28-14 thru 8-27-14; BP 5-2014(Temp), f. & cert. ef. 4-15-14 thru 8-27-14; BP 7-2014, f. & cert. ef. 6-18-14; BP 3-2016(Temp), f. & cert. ef. 8-22-16 thru 2-17-17

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**Rule Caption:** Amends Division 041 rules for acquisition of epinephrine by an entity, pursuant to a prescription.

**Adm. Order No.:** BP 4-2016

**Filed with Sec. of State:** 8-26-2016

**Certified to be Effective:** 8-26-16

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 855-041-2320

**Subject:** Rules are needed to incorporate a 2013 statute implemented in ORS 433.825 that specifically allows an entity to acquire epinephrine with a valid prescription when they employ someone who has completed an Oregon Health Authority approved training program for the treatment of allergic emergencies.

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

**855-041-2320**

**Epinephrine**

(1) A pharmacist may fill an order for epinephrine to be used by trainees to treat an anaphylactic reaction. Trainees must be 18 years of age or older and must have responsibility for or contact with at least one (1)

# ADMINISTRATIVE RULES

other person as a result of the trainee's occupation or volunteer status, such as, but not limited to, a camp counselor, scout leader, forest ranger, school employee, tour guide or chaperone.

(2) Individuals must successfully complete a training program approved by the Oregon Health Authority, Public Health Division. Upon successful completion, the trainee will receive the following certificates:

- (a) Statement of Completion; and
- (b) Authorization to Obtain Epinephrine.

(3) Acquisition of epinephrine from a pharmacy to be used for the treatment of allergic emergencies may occur in the following manners:

(a) A pharmacist may dispense epinephrine to a trainee upon presentation of the Statement of Completion and Authorization to Obtain Epinephrine certificate to a pharmacy when:

(A) A pharmacist may generate a prescription for, and dispense an emergency supply of epinephrine for not more than one adult and one child dose package, as specified by the supervising professional whose name, signature, and license number appear on the Authorization to Obtain Epinephrine certificate.

(B) The pharmacist who generates the hardcopy prescription for epinephrine in this manner shall reduce the prescription to writing, and file the prescription in a manner appropriate for a non-controlled substance.

(C) Once the pharmacist generates the epinephrine prescription, the pharmacist shall write in the appropriate space provided on the Authorization to Obtain Epinephrine certificate the date and the number of doses dispensed, and return the certificate to the trainee.

(D) The Statement of Completion and the Authorization to Obtain Epinephrine certificate may be used to obtain epinephrine up to four (4) times within three (3) years from the date of the initial training.

(E) Both the Statement of Completion and the Authorization to Obtain Epinephrine certificate expire three (3) years from the date of the trainee's last Oregon Health Authority approved allergy response training.

(F) Upon completion of the training, the trainee will receive a new Statement of Completion and Authorization to Obtain Epinephrine certificate, with a valid duration of three (3) years.

(b) A pharmacist may dispense epinephrine to an entity when:

(A) The epinephrine is acquired by a valid prescription presented to the pharmacy;

(B) The prescription identifies the entity as the patient for the purpose of prescribing;

(i) The pharmacist shall use the name of the entity as the patient for the purpose of labeling the prescription.

(ii) The prescription shall be limited to one adult and one child dose package per trained employee per location.

(C) For the purpose of this rule, an entity conducts business at a single physical location.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155, 433.825

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14; BP 2-2014, f. & cert. ef. 1-24-14; BP 4-2016, f. & cert. ef. 8-26-16

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**Rule Caption:** Permits pharmacists to prescribe packages of naloxone to prevent opioid overdose.

**Adm. Order No.:** BP 5-2016(Temp)

**Filed with Sec. of State:** 9-7-2016

**Certified to be Effective:** 9-7-16 thru 3-5-17

**Notice Publication Date:**

**Rules Adopted:** 855-019-0450, 855-019-0455, 855-019-0460, 855-041-2340

**Subject:** This rule incorporates new statutory language put forth by 2016 House Bill 4124, which is intended to improve access to naloxone.

2016 HB 4124 permits pharmacists to prescribe and distribute unit-of-use packages of naloxone to individuals who conduct or complete Oregon Health Authority (OHA) approved training. This new legislation builds on the original 2013 legislation (ORS 689.681) that allows a trainer to possess and distribute naloxone to trainees, and allows trainees to possess and administer naloxone to an individual experiencing an opiate overdose.

The rule gives the purpose; specifies the qualifications of participating pharmacists and mandatory counseling; and outlines the delivery of care expectations for the pharmacist and pharmacy, including documentation and recordkeeping.

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

## 855-019-0450

### Purpose

The purpose of OAR 855-019-0450 through 855-019-0460 is to develop standard procedures for the prescribing and recordkeeping of naloxone by a pharmacist in Oregon.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.305, 689.681 & 2016 OL Ch. 100

Hist.: BP 5-2016(Temp), f. & cert. ef. 9-7-16 thru 3-5-17

## 855-019-0455

### Qualifications

(1) A pharmacist educated in opiate overdose and naloxone rescue can prescribe unit-of-use naloxone and the necessary medical supplies to administer the naloxone for an individual who:

(a) Conducts training that meets that criteria established by the Oregon Health Authority (OHA) so that the person may possess and distribute naloxone and the necessary medical supplies to persons who successfully complete the training; or

(b) Has successfully completed training that meets criteria established by the OHA allowing the person to possess and administer naloxone to any individual who appears to be experiencing an opiate overdose.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.305, 689.681 & 2016 OL Ch. 100

Hist.: BP 5-2016(Temp), f. & cert. ef. 9-7-16 thru 3-5-17

## 855-019-0460

### Delivery of Care

(1) A pharmacist can prescribe naloxone and the necessary medical supplies for opiate overdose training to an OHA authorized person or organization.

(2) A pharmacist can prescribe naloxone and the necessary medical supplies to an individual who has completed an OHA approved training. The pharmacist shall determine that the individual seeking naloxone demonstrates understanding of educational materials related to opioid overdose prevention, recognition, response, and the administration of naloxone.

(3) The pharmacist may prescribe naloxone in any FDA approved dosage form and the necessary medical supplies needed to administer naloxone.

(4) The pharmacist shall dispense the naloxone product in a properly labeled container identifying the authorized recipient.

(5) Naloxone may not be dispensed without providing oral counseling to the authorized recipient, to include dose, effectiveness, adverse effects, storage conditions, and safety.

(6) The pharmacist must document the encounter and the prescription, and maintain records for three years.

(7) The pharmacy providing naloxone services must establish, maintain, and enforce written procedures including, but not limited to:

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

(b) Documentation and recordkeeping.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.305, 689.681 & 2016 OL Ch. 100

Hist.: BP 5-2016(Temp), f. & cert. ef. 9-7-16 thru 3-5-17

## 855-041-2340

### Pharmacist Prescribing of Naloxone

(1) A pharmacist educated in opiate overdose and naloxone rescue may prescribe unit-of-use naloxone and the necessary medical supplies to administer the naloxone to an individual who:

(a) Conducts training that meets that criteria established by the Oregon Health Authority (OHA) so that the person may possess and distribute naloxone and the necessary medical supplies to persons who successfully complete the training; or

(b) Has successfully completed training that meets criteria established by the OHA allowing the person to possess and administer naloxone to any individual who appears to be experiencing an opiate overdose.

(2) The pharmacy providing naloxone services must establish, maintain and enforce written procedures including, but not limited to:

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

(b) Documentation and recordkeeping.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.305, 689.681 & 2016 OL Ch. 100

Hist.: BP 5-2016(Temp), f. & cert. ef. 9-7-16 thru 3-5-17

# ADMINISTRATIVE RULES

## Bureau of Labor and Industries Chapter 839

**Rule Caption:** Corrects the prevailing rates of wage for the period beginning August 9, 2016

**Adm. Order No.:** BLI 5-2016

**Filed with Sec. of State:** 8-16-2016

**Certified to be Effective:** 8-16-16

**Notice Publication Date:** 8-1-2016

**Rules Amended:** 839-025-0700

**Subject:** The amended rule corrects the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning August 9, 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 for Public Works Contracts in Oregon dated July 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 July 1, 2016, and the effective dates of the applicable special wage determination and rates amendments. Corrections to Oregon Determination 2016-02 (effective August 9, 2016).

(2) Copies of Prevailing Wage Rates for Public Works Contracts in Oregon dated July 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](http://www.oregon.gov/boli) or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

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

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; 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. & 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; BLI 3-2016, f. 6-10-16, cert. ef. 7-1-16; BLI 5-2016, f. & cert. ef. 8-16-16

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**Rule Caption:** Modifies information to be included in wage statements provided to employees

**Adm. Order No.:** BLI 6-2016

**Filed with Sec. of State:** 8-29-2016

**Certified to be Effective:** 1-1-17

**Notice Publication Date:** 8-1-2016

**Rules Amended:** 839-020-0012, 839-020-0080, 839-020-0083

**Subject:** The rule amendments conform the requirements of OAR 839-020-0012 (Wage Statements to Be Provided to Employees) and OAR 839-020-0083 (Records Availability) in the minimum wage rules to related provisions in OL Ch. 115 (2016), which take effect on January 1, 2017. The rule amendments also correct an erroneous citation in OAR 839-020-0080.

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

### 839-020-0012

#### Wage Statements to Be Provided to Employees

(1) Except for employees who are otherwise specifically exempt under ORS 653.020, employers must furnish each employee, each time the employee receives a compensation payment from the employer, a written itemized statement of earnings. The written itemized statement must include:

- The date of the payment;
- The dates of work covered by the payment;
- The name of the employee;
- The name of the employer and the employer's business registry number or business identification number;
- The address and telephone number of the employer;
- The rate or rates of pay;
- Whether the employee is paid by the hour, shift, day or week or on a salary, piece or commission basis;
- Gross wages;
- Net wages;
- The amount and purpose of each deduction made during the respective period of service that the payment covers;
- Allowances, if any, claimed as part of minimum wage;
- The regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked and pay for those hours, and the number of overtime hours worked and pay for those hours;
- If the employee is paid a piece rate, the applicable piece rate or rates of pay, the number of pieces completed at each piece rate and the total pay for each rate.

(2) When a compensation payment is a draw or advance against future earnings, and no deductions are being made from the payment, the written itemized statement must include the information required in section (1) (a), (b), (c), (d), (e) and (h) of this rule. The employee must be provided with a statement containing all of the information required by section (1) of this rule at the employee's next regular payday, even if the employee is not entitled to payment of any further wages at that time.

(3) Pursuant to the Uniform Electronic Transactions Act (Chapter 535, Oregon Laws 2001) ORS 84.001 to 84.061, the itemized statement may be provided in an electronic format if:

- The employee expressly agrees; and
- The employee has the ability to print or store the electronic itemized statement at the time of receipt.

(4) In addition to this rule, ORS 652.610 establishes requirements for itemized statements to be provided to employees on regular paydays and at other times payment of wages, salary or commission is made.

Stat. Auth.: ORS 651.060

Stats. Implemented: ORS 652.610 & 652.640

# ADMINISTRATIVE RULES

Hist.: BLI 9-1996, f. & cert. ef. 10-8-96; BLI 1-2002, f. & cert. ef. 1-9-02; BLI 41-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 6-2016, f. 8-29-16, cert. ef. 1-1-17

## 839-020-0080

### General Requirements

(1) Every employer regulated under ORS 653.010 to 653.261 must maintain and preserve payroll or other records containing the following information and data with respect to each employee to whom the law applies:

(a) Name in full, as used for Social Security recordkeeping purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;

(b) Home address, including zip code;

(c) Date of birth, if under 19;

(d) Occupation in which employed;

(e) Time of day and day of week on which the employee's workweek begins. If the employee is part of a work force or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole work force or establishment will suffice;

(f) Regular hourly rate of pay for any workweek in which overtime compensation is due, and an explanation of the basis of pay by indicating the monetary amount paid on a per hour, per day, per week, per piece, commission on sales, or other basis, and the amount and nature of each payment which, pursuant to ORS 653.261(1) is excluded from the "regular rate of pay". (These records may be in the form of vouchers or other payment data.);

(g) Hours worked each workday and total hours worked each workweek (for purposes of this section, a "workday" is any fixed period of 24 consecutive hours and a "workweek" is any fixed and regularly recurring period of seven consecutive workdays);

(h) Total daily or weekly straight-time earnings or wages due for hours worked during the workday or workweek, exclusive of premium overtime compensation;

(i) Total premium pay for overtime hours. This amount excludes the straight-time earnings for overtime hours recorded under subsection (h) of this section;

(j) Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments. Also, in individual employee records, the dates, amounts, and nature of the items which make up the total additions and deductions;

(k) Total wages paid each pay period;

(l) Date of payment and the pay period covered by payment.

(2) Every employer who makes retroactive payment of wages or compensation under the supervision of the U.S. Department of Labor or the Oregon Bureau of Labor and Industries must record and preserve, as an entry on the pay records, the amount of such payment to each employee, the period covered by such payment, and the date of payment.

(3) With respect to employees working on fixed schedules, an employer may maintain records showing instead of the hours worked each day and each workweek as required by this rule, the schedule of daily and weekly hours the employee normally works, provided:

(a) In weeks in which an employee adheres to this schedule, indicates by check mark, statement or other method that such hours were in fact actually worked by the employee; and

(b) In week in which more or less than the scheduled hours are worked, shows that exact number of hours worked each day and each week.

(4) With respect to each employee in a bona fide executive, administrative, or professional capacity (including employees employed in the capacity of academic administrative personnel or teachers in elementary or secondary schools), or in outside sales, as defined in ORS 653.010(8), employers must maintain and preserve records containing all the information and data required by subsections (1)(a) through (e) of this rule and, in addition, the basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration for employment including fringe benefits and perquisites.

(5) With respect to each employee of hospitals and institutions primarily engaged in the care of persons who are sick or aged or have mental illness or mental retardation and who reside on the premises compensated for overtime work on the basis of a work period of 14 consecutive days pursuant to an agreement or understanding under OAR 839-020-0125(2)(e), employers must maintain and preserve:

(a) The records required by section (1) of this rule except subsections (1)(e) and (g) through (i) of this rule, and in addition:

(A) Time of day and day of week on which the employee's 14-day work period begins;

(B) Hours worked each workday and total hours worked each 14-day work period;

(C) Total straight-time wages paid for hours worked during the 14-day work period;

(D) Total overtime excess compensation paid for hours worked in excess of eight in a workday and 80 in the work period.

(b) A copy of the agreement or understanding with respect to using the 14-day period for overtime pay computations or, if such agreement or understanding is not in writing, a memorandum summarizing its terms and showing the date it was entered into and how long it remains in effect.

(6) With respect to each tipped employee, the employer must maintain and preserve payroll or other records containing all the information and data required in section (1) of this rule and, in addition, a symbol, letter or other notation placed on the pay records identifying each employee.

Stat. Auth.: ORS 653

Stats. Implemented: ORS 653.045

Hist.: BLI 1-1990, f. 2-27-90, cert. ef. 2-28-90; BLI 1-2002, f. & cert. ef. 1-9-02; BLI 41-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 6-2016, f. 8-29-16, cert. ef. 1-1-17

## 839-020-0083

### Records Availability

(1) All records required to be preserved and maintained by these rules shall be preserved and maintained for a period of at least two years.

(2) All employers shall keep such records in a safe and accessible place.

(3) All records required to be preserved and maintained by these rules shall be made available for inspections and transcription by the Commissioner or duly authorized representative of the Commissioner.

(4) Pursuant to ORS 652.750, an employer must keep an employee's time records for not less than two years from the last date of entry and an employee's payroll records for not less than three years from the last date of entry.

Stat. Auth.: ORS 653

Stats. Implemented: ORS 653.045

Hist.: BL 1-1990, f. 2-27-90, cert. ef. 2-28-90; BLI 6-2016, f. 8-29-16, cert. ef. 1-1-17

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**Rule Caption:** Amends the prevailing rates of wages for the period beginning October 1, 2016

**Adm. Order No.:** BLI 7-2016

**Filed with Sec. of State:** 9-13-2016

**Certified to be Effective:** 10-1-16

**Notice Publication Date:** 9-1-2016

**Rules Amended:** 839-025-0700

**Subject:** The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning October 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 July 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 July 1, 2016, and the effective dates of the applicable special wage determination and rates amendments: Amendments to Oregon Determination 2016-02 (effective October 1, 2016).

(2) Copies of Prevailing Wage Rates on Public Works Contracts in Oregon dated July 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](http://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

# ADMINISTRATIVE RULES

14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02, cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02, cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04, cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06, cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; 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; BLI 3-2016, f. 6-10-16, cert. ef. 7-1-16; BLI 5-2016, f. & cert. ef. 8-16-16; BLI 7-2016, f. 9-13-16, cert. ef. 10-1-16

## Department of Agriculture Chapter 603

**Rule Caption:** Amendments clarify definitions, require seed testing only, and change enforcement to Public Nuisance process.

**Adm. Order No.:** DOA 18-2016

**Filed with Sec. of State:** 8-16-2016

**Certified to be Effective:** 8-16-16

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 603-052-0862, 603-052-0870

**Subject:** The amendments add a definition for “Land Manager” and clarify the definitions for “Field”, “Department”, and “Director” in OAR 603-052-0862. In response to public comments received, the following genera have been excluded from the definition of Brassicaceae covered by subsequent regulations as these genera have not been reported as hosts of blackleg disease in scientific literature: *Arabis*, *Erysimum*, and *Iberis* (CABI Crop Protection Compendium, dated August 12, 2016, *Leptosphaeria maculans* Full Datasheet). For OAR 603-052-0870, the amendments expand the regulatory requirements for blackleg testing to include seed and transplants for home/personal use, and remove the requirements for seed treatment prior to planting and for mandatory crop rotation. Finally, the regulatory response to fields and volunteer Brassicaceae officially confirmed as infected with blackleg has been changed to the Public Nuisance process as described in ORS 570.170 to 570.180.

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

## 603-052-0862

### Definitions

Unless the context requires otherwise, the following terms are defined as indicated:

(1) “Blackleg” means the disease of crucifer crops and Brassicaceae species caused by the fungi *Leptosphaeria maculans* (asexual stage = *Phoma lingam*) and *Leptosphaeria biglobosa*.

(2) “Brassicaceae” means any genera and species in the plant family Brassicaceae including, but not limited to, all species of Brassica and Sinapis, and *Raphanus sativus* and excluding the ornamental genera *Arabis*, *Erysimum*, and *Iberis*.

(3) “Cover crop brassica” means any species of Brassica that is grown as a cover crop and is not allowed to flower.

(4) “Department” means the State Department of Agriculture.

(5) “Director” means the Director of the Department or the Director’s duly authorized representative.

(6) “Field” For the purpose of this rule a field is defined as a commercial production area in which Brassicaceae are planted directly into the ground. A field may include one or more contiguous plots of land managed as a single unit. These plots may be separated by an unimproved farm road, ditch or hedgerow.

(7) “Forage brassica” means any species of Brassica that is grown for animal/livestock feed and is not allowed to flower.

(8) “Land manager” means any person who is legally responsible for the maintenance, use, and development of resources for a section of land or piece of property.

(9) “Person” means an individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.

(10) “Producer” means any person who is the owner, tenant, or operator of land who has an interest in, and is entitled to receive all or any part of the proceeds from the sale of any commodity produced on that land.

(11) “Rapeseed” means plants of the species *Brassica napus*, *Brassica rapa*, *Brassica juncea*, or other Brassica species grown for the purpose of edible or industrial oil production. Canola is a rapeseed and means any plant of the genus Brassica in which seeds having a high oil content are the primary economically valuable product and that have a high erucic acid content suitable for industrial uses or a low erucic acid content suitable for edible oils.

Stat. Auth.: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450

Stats. Implemented: ORS 570.405 - 570.415 & 570.450

Hist.: DOA 1-2013, f. & cert. ef. 2-6-13; DOA 11-2013, f. & cert. ef. 10-21-13; DOA 1-2015, f. & cert. ef. 1-13-15; DOA 18-2016, f. & cert. ef. 8-16-16

## 603-052-0870

### General Production Area

All lands in Oregon constitute the General Production Area for the purposes of controlling pests and diseases of Brassicaceae. Brassicaceae production in the General Production Area is subject to the following best management practices:

(1) All Brassicaceae seed stock intended for planting for commercial or home use in the General Production Area must be accompanied by an official test report stating that the untreated seed is from a seed lot that has been tested and found free from blackleg. Only seed stock or transplants from seed stock that has tested free of blackleg may be planted or sold within the General Production Area. Producers must maintain a copy of the official test reports for a minimum of three (3) years from the time of planting;

(2) Brassicaceae crops grown in the General Production Area but transported into or through protected districts are subject to the transport and other requirements of the protected district through which the Brassicaceae is transported.

(3) Any volunteer or uncontrolled Brassicaceae in and around production fields that is determined by the Department to be infected with blackleg may be declared a Public Nuisance as described in Section (4) and, as such, must be rogued out or otherwise eliminated by the producer or the land manager.

(4) Any field that is determined after official inspection and testing by the Department to be infected with blackleg may be determined to be a Public Nuisance subject to the Public Nuisance abatement processes described in ORS 570.170 through 570.180

(5) The Department and other interested parties shall review these General Production Area requirements biennially for accuracy and effectiveness.

NOTE: Information on laboratories in Oregon approved by the Department for conducting official seed tests is available from the Oregon Department of Agriculture.

# ADMINISTRATIVE RULES

635 Capitol St. NE, Salem, OR 97301, 503-986-4620.  
Stat. Auth.: ORS 561.190 & 570.405  
Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450  
Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13; DOA 1-2013, f. & cert. ef. 2-6-13; DOA 11-2013, f. & cert. ef. 10-21-13; DOA 1-2015, f. & cert. ef. 1-13-15; DOA 18-2016, f. & cert. ef. 8-16-16

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

**Rule Caption:** Modification to the SEER requirement for certain air conditioners

**Adm. Order No.:** BCD 10-2016(Temp)

**Filed with Sec. of State:** 8-30-2016

**Certified to be Effective:** 8-30-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 918-460-0500

**Subject:** This temporary rule amends the energy provisions of the Oregon Structural Specialty Code by aligning the Oregon SEER standard for specific air conditioners with federal mandatory minimum manufacturing requirements.

**Rules Coordinator:** Holly A. Tucker—(503) 378-5331

**918-460-0500**

**Adopted Oregon Energy Efficiency Specialty Code**

(1) The energy provisions of the **Oregon Structural Specialty Code** are adopted pursuant to OAR chapter 918, division 8.

(2) Effective July 1, 2014, the energy provisions in Chapter 13 of the Oregon Structural Specialty Code are adopted in the publication titled **2014 Oregon Energy Efficiency Specialty Code**.

(3) The publication titled 2014 Oregon Energy Efficiency Specialty Code is based upon the 2010 edition of the Oregon Energy Efficiency Specialty Code, with additional Oregon amendments.

(4) For the purposes of implementing a phase-in period for the energy provisions of the Oregon Structural Specialty Code, the 2010 Oregon Energy Efficiency Specialty Code is adopted for the period beginning July 1, 2014 and ending September 30, 2014.

(5) During the phase-in period established in subsection (4), all building departments in the state are required to accept plans for structures designed to either the energy provisions in Chapter 13 of the Oregon Structural Specialty Code or to the **2010 Oregon Energy Efficiency Specialty Code**.

(6) Code requirements in effect at the time a plan review or permit application is filed controls the construction under the application unless the applicant agrees to be controlled by subsequent changes.

(7) All references and code provisions adopted in this rule, in OAR chapter 918, or in any specialty code adopted thereunder to the Oregon Energy Efficiency Specialty Code mean the energy provisions of the Oregon Structural Specialty Code found in Chapter 13 of the Oregon Structural Specialty Code.

(8) Effective March 4, 2016, the energy efficiency provisions of the Oregon Structural Specialty Code adopted in this rule are amended by modifying the SEER requirement in Table 503.2.3(1), Minimum Efficiency Requirements: Electrically Operated Unitary Air Conditioners and Condensing Units for air conditioners that are air cooled, less than 65,000 Btu/h, and single package equipment. The SEER requirement shall be 13.0. This amendment is retroactive to July 1, 2014.

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

Stat. Auth.: ORS 455.020, 455.030, 455.110, 455.505 & 455.511

Stats. Implemented: ORS 455.110 & 455.511

Hist.: BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 4-2011, f. & cert. ef. 3-11-11; BCD 2011, f. 7-26-11, cert. ef. 10-1-11; BCD 7-2014, f. 6-20-14, cert. ef. 7-1-14; BCD 3-2016(Temp), f. & cert. ef. 3-16-16 thru 8-29-16; BCD 10-2016(Temp), f. & cert. ef. 8-30-16 thru 12-31-16

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**Rule Caption:** Amends the Oregon Electrical Specialty Code.

**Adm. Order No.:** BCD 11-2016(Temp)

**Filed with Sec. of State:** 9-7-2016

**Certified to be Effective:** 9-7-16 thru 3-5-17

**Notice Publication Date:**

**Rules Amended:** 918-305-0105

**Subject:** This rule temporarily amends the Oregon Electrical Specialty Code by adding exceptions which allow temporary

service equipment to be energized without posting the available fault current and without verification of equipment size relative to the available fault current.

**Rules Coordinator:** Holly A. Tucker—(503) 378-5331

**918-305-0105**

**Amendments to the Oregon Electrical Specialty Code**

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

(2) Effective April 1, 2015 the Oregon Electrical Specialty Code Table 1-E is amended according to the following:

(a) Amend Section 110.26(C)(3) by adding a reference to Section 1008.1.10.1 of the Oregon Structural Specialty Code for listing and installation requirements for panic and fire exit hardware; and

(b) Amend Section 210.12(A) by deleting the reference to the statewide code interpretation for 210.12(A).

(3) Effective September 7, 2016 the Oregon Electrical Specialty Code Table 1-E is amended according to the following:

(a) Amend section 110.10 by adding an exception allowing a temporary service to be energized without demonstrating compliance with this section; and,

(b) Amend section 110.24(A) by adding an exception allowing a temporary service to be energized without demonstrating compliance with this section.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08; BCD 3-2011, f. 3-11-11, cert. ef. 4-1-11; BCD 5-2012(Temp), f. & cert. ef. 6-7-12 thru 10-31-12; BCD 11-2012(Temp), f. 10-5-12, cert. ef. 1-1-13 thru 6-29-13; BCD 14-2012(Temp), f. 11-16-12, cert. ef. 1-1-13 thru 6-29-13; BCD 5-2013, f. 4-12-13, cert. ef. 5-1-13; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 3-2015, f. 3-24-15, cert. ef. 4-1-15; BCD 11-2016(Temp), f. & cert. ef. 9-7-16 thru 3-5-17

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**Department of Consumer and Business Services,  
Finance and Securities Regulation  
Chapter 441**

**Rule Caption:** Commercial Construction Lending Exemption to Mortgage Loan Originator Licensing Requirements

**Adm. Order No.:** FSR 3-2016

**Filed with Sec. of State:** 9-9-2016

**Certified to be Effective:** 9-9-16

**Notice Publication Date:** 8-1-2016

**Rules Adopted:** 441-880-0009

**Subject:** The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act), 12 U.S.C. § 5101 et seq., requires states to license “loan originators” who are individuals that take a residential mortgage loan application and offer or negotiate terms of a “residential mortgage loan” for compensation or gain. The S.A.F.E. Act defines “residential mortgage loan” as “any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling... or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).”

To carry out the S.A.F.E. Act, ORS 86A.203 requires individuals engaged in business as a mortgage loan originator to obtain a license from DCBS. Subsection (5) grants authority to the DCBS Director to exempt an individual from the licensing requirement if the U.S. Consumer Financial Protection Bureau permits the exemption under 12 U.S.C. § 5101 et seq. Federal law only requires licensing for individual who deal in loans primarily for personal, family, or household use. This rule exempts lenders who make commercial construction loans from this licensing requirement under certain circumstances. To qualify for the exemption under this rule, a lender would have to verify that the borrower is a licensed general contractor, verify that the loan is for a business purpose and will be used to construct a residential structure, and refrain from certain other prohibited activities.

**Rules Coordinator:** Shelley Greiner—(503) 947-7484

# ADMINISTRATIVE RULES

441-880-0009

## Commercial Construction Lending Exemption

(1) An individual need not obtain a mortgage loan originator license under ORS 86A.200 to 86A.239 to make a residential mortgage loan in which the borrower will use the funds to construct, alter, move, enlarge, replace, repair, or develop land for one to four dwelling units designed or suitable for residential occupancy subject to the following conditions:

- (a) The borrower does not intend to reside in the completed dwelling;
- (b) The lender verifies that the borrower is licensed by the

Construction Contractors Board as a contractor and holds an endorsement as a:

- (A) Residential general contractor;
- (B) Residential specialty contractor;
- (C) Residential limited contractor; or
- (D) Residential developer.

(c) The lender determines that the loan is not for personal, family, or household purposes. In making this determination, the lender shall consider:

- (A) The borrower's relationship between her primary occupation and the acquisition;
- (B) The degree to which the borrower will personally manage the acquisition;
- (C) The ratio of income from the acquisition to the total income of borrower;
- (D) The size of the transaction;
- (E) The borrower's stated purpose of the loan; and
- (F) Other relevant factors that would indicate the loan is for commercial purposes.

(d) The lender does not collect a consumer's financial information that would require the lender to provide a loan estimate under 12 C.F.R. § 1026.19(e);

(e) The lender does not advertise that, or otherwise suggest by statements or conduct that, the limited liability company engages in the business of making residential mortgage loans;

(f) Neither the borrower nor the lender structures a transaction as to evade licensing requirements for mortgage bankers, mortgage brokers, or mortgage loan originators;

(g) The lender does not engage in prohibited conduct or activities under ORS 86A.183;

(h) The individual does not engage in prohibited conduct or activities under ORS 86A.236;

(i) The lender maintains records documenting its compliance with all conditions under this exemption and makes such records available to the Director upon request. Records must be maintained for a period of five years after each loan is made. A lender may maintain records in any electronic format capable of being reduced to written form; and

(j) In addition to the records that the lender is required to maintain under OAR 441-880-0010 (1)(k), the lender maintains records used to make the residential mortgage loan, including, but not limited to, tax returns, bank statements, financial statements, annual operating statements, and business operating statements. Applications for commercial construction loans should be limited to balance sheets and other information customarily collected for commercial real estate lending.

(2) Section (1) of this rule is self-executing and does not require filing or a fee.

(a) Persons relying on exemptions from licensing have the burden of proof in establishing the availability of the exemption.

(b) If the lender fails to document and maintain records of a transaction, the rebuttable presumption is that the transaction required a mortgage banker license and a mortgage loan originator should have taken the loan application.

Stat. Auth.: ORS 86A.242  
Stats. Implemented: ORS 86A.203  
Hist.: FSR 3-2016, f. & cert. ef. 9-9-16

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

**Rule Caption:** Establishes Requirements of COFA Premium and Cost-Sharing Payment Assistance Program

**Adm. Order No.:** HMP 3-2016

**Filed with Sec. of State:** 9-8-2016

**Certified to be Effective:** 9-8-16

**Notice Publication Date:** 8-1-2016

**Rules Adopted:** 945-060-0000, 945-060-0005, 945-060-0010, 945-060-0015, 945-060-0020, 945-060-0025, 945-060-0030, 945-060-0035, 945-060-0040

**Subject:** These rules establish the requirements for participation in the COFA Premium and Cost-Sharing Assistance Program mandated by Oregon Laws 2016, Chapter 94. The rules define necessary terms, both those used in the statute and those used in the rules. The rules set out the time line for submission of an application to participate in the program, authorize the department to obtain the necessary information from third parties to verify eligibility in the program and eligibility for reimbursement, set out the requirements applicable to the department related to its processing of applications and payment of cost-sharing and premiums, and provide appeal rights to program applicants and participants subject to an adverse decision by the department.

**Rules Coordinator:** Victor Garcia—(971) 283-1878

## 945-060-0000

### Definitions

The following definitions apply to Division 50 of this Chapter for purposes of administering the COFA Program:

(1) "COFA applicant" means an individual submitting a COFA application.

(2) "COFA application" means the application for the COFA Premium Assistance Program established by Oregon Laws 2016, Chapter 94, Section 3.

(3) "Coverage provided by the plan" as used in Oregon Laws 2016, Chapter 94, Section 3(2), means, for purposes of a prescription drug, the maximum out-of-pocket costs for a generic form of the drug prescribed when a generic form is available.

(4) "Participant" or "program participant" means a COFA applicant who has been accepted into the COFA Premium Assistance Program established by Oregon Laws 2016, Chapter 94, Section 3.

(5) "Program" means the COFA Premium Assistance Program established by Oregon Laws 2016, Chapter 94, Section 3.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

## 945-060-0005

### Eligible Qualified Health Plan

Pursuant to Oregon Laws 2016, Chapter 94, Section 3(4)(b), a qualified health plan eligible for reimbursement under the program is the standard version of the qualified health plan described in 45 CFR 156.420(a)(1) offered by each qualified health plan issuer offering qualified health plans in Oregon through the federally facilitated marketplace as set out on the department's website.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

## 945-060-0010

### Enrollment in a Qualified Health Plan

A COFA applicant "[e]nrolls in a qualified health plan" as used in Oregon Laws 2016, Chapter 94, Section 3(1)(c) if the applicant:

(1) Submits a complete application described in 45 CFR 155.405 to the relevant federal authority;

(2) Selects a qualified health plan described in 45 CFR 156.420(a)(1);

(3) Is eligible for coverage under the qualified health plan and reasonably expects to remain eligible for the entirety of the applicable plan year;

(4) Is issued coverage under the qualified health plan; and

(5) Elects to apply the maximum premium assistance amount described in 26 USC 36B(b)(2) to the qualified health plan monthly premium.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

## 945-060-0015

### Application for the COFA Premium Assistance Program

An individual applying for the COFA premium assistance program shall:

(1) Submit to the department a completed version of the application form set forth on the website for the Department of Consumer and Business



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Services at [www.oregonhealthcare.gov](http://www.oregonhealthcare.gov) within the timeframe prescribed by the department;

(2) Complete an incomplete application and submit it to the department no later than the fifth business day after the COFA applicant receives the notice described in OAR 945-050-0020(3). There is a rebuttable presumption that a COFA applicant receives a mailed notice on the third business day after mailing; and

(3) Authorize the department to obtain any and all information from a third party, including the individual's health insurer and health care provider, necessary for the department to verify the individual's eligibility for the program, continuing eligibility for the program, eligibility for reimbursement under the program, or premium assistance under the program.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

## 945-060-0020

### Review and Approval of COFA Premium Assistance Program Application by the Department; Waiting List

The department shall:

(1) Review and process applications in the order they are received;  
(2) Provide language assistance services for purposes of completing and submitting the application to the department to COFA applicants with limited English proficiency as defined in ORS 413.550.

(3) Within three business days of receipt of an incomplete application:

(a) Notify the COFA applicant that the application is incomplete;  
(b) Provide instructions to the COFA applicant on how to complete the application; and

(c) Notify the COFA applicant of the date, consistent with the timeline established in OAR 945-050-0015(2), by which the application must be completed and postmarked, or if not mailed, received by the department.

(4) Waitlist a COFA applicant who submits an application if enrollment in the program reaches a level at which the department reasonably determines that the COFA Premium Assistance Program Fund will be insufficient to pay the premium costs or out-of-pocket costs for the COFA applicant or one or more existing program participants during the entirety of the applicable plan year;

(5) Within five business days of receipt of a complete application:  
(a) Approve or hold the application;  
(b) Notify the COFA applicant of the approval or holding of the application; and

(c) If the application is held, notify the COFA applicant of the:  
(A) Reason for holding the application; and  
(B) COFA applicant's appeal rights under OAR 945-050-0040;  
(d) Waitlist a COFA applicant if required by paragraph (4) of this rule;

or

(e) If a COFA applicant is waitlisted, notify the COFA applicant of the:

(A) Reason the COFA applicant was waitlisted;  
(B) COFA applicant's position on the waiting list and  
(C) COFA applicant's appeal rights under OAR 945-050-0040.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

## 945-060-0025

### Requirements for Continued Eligibility for COFA Premium Assistance; Disenrollment from Program

(1) A COFA program participant shall:

(a) Comply with procedural or documentation requirements established by the department in accordance with Oregon Laws 2016, Chapter 94, Section 3(4)(c);

(b) Satisfy a request from the department within the time established by the department for information necessary to verify the participant's continued eligibility for the program; and

(c) Notify the department in writing within 15 calendar days of a change:

(A) Of address or telephone number;  
(B) In eligibility for:

(i) Coverage under, or eligibility for, the qualified health plan eligible for reimbursement;

(ii) The COFA Premium Assistance Program;  
(iii) Minimum essential coverage; or  
(iv) Medicaid.

(C) In the monthly premium costs or the payment amount of the advance premium tax credit; or

(D) In the COFA applicant's household size or income that affects eligibility for the qualified health plan described in OAR 945-050-0005

(2) In addition to the bases for disenrollment set out in Oregon Laws 2016, Chapter 94, Section 3(3), the department may disenroll a participant from the program if the participant fails, without good cause, to satisfy a requirement of paragraph (1) of this rule;

(3) The department:

(a) Shall establish the effective date of disenrollment for a reason specified in paragraph 2 of this rule;

(b) May choose not to pay a program participant's qualified health plan premium costs or reimburse a program participant's out-of-pocket costs incurred after the effective date of disenrollment; and

(c) May seek reimbursement of monies expended from the COFA Premium Assistance Program Fund for premium costs or out-of-pocket costs incurred after the effective date described in paragraph (a) of this subsection.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

## 945-060-0030

### Payment of Qualified Health Plan Premiums and Out-of-Pocket Costs

(1) The department shall pay qualified health plan premium costs only to the issuer of a qualified health plan unless the department determines good cause exists to directly reimburse a program participant for premium costs; and

(2) The department may cease payment of qualified health plan premium costs or payment of, or reimbursement for, out-of-pocket costs incurred after the following:

(a) The COFA Premium Assistance Program Fund becomes insufficient to cover the payment or reimbursement;

(b) The department cannot verify the address or residency of the participant after reasonable attempt;

(c) The participant fails to comply with the requirements of OAR 945-050-0025(1);

(d) The participant is disenrolled pursuant to OAR 945-050-0025(2);

(e) The participant becomes ineligible for the program;

(f) The participant becomes ineligible for the qualified health plan described in OAR 945-050-0005;

(g) The participant becomes eligible for:

(A) Medicaid; or

(B) Minimum essential coverage.

(3) A COFA participant may request reimbursement for out-of-pocket costs:

(a) When the participant's expenditures total \$50 or more; or

(b) No sooner than the last day of a month in which a participant's out-of-pocket costs do not total \$50 or more,

(4) If the department reimburses a participant for out-of-pocket costs for a claim that is subsequently denied by a qualified health plan, the department may:

(a) Withhold future payments to the participant until such payments equal the amount of the reimbursement; or

(b) Use all legal means available to collect from the participant the amount of the reimbursement if withholdings from future payments do not equal the amount of the reimbursement.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

## 945-060-0035

### Streamlined Application for Renewal of Participation in the COFA Premium Assistance Program

(1) The department may establish a streamlined application for program participants to reapply for the program in an immediately successive plan year.

(2) If the department establishes the streamlined application described in paragraph (1) of this rule, a participant reapplying for participation in the COFA premium assistance program for an immediate successive plan year shall submit to the department a completed streamlined application in a form, manner, and time prescribed by the department.

(3) Streamlined applications are subject to the standards set out in OAR 945-050-0015(2) and OAR 945-050-0020.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

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## 945-060-0040

### COFA Premium Assistance Program Participant Appeal Rights

(1) A COFA applicant or program participant may appeal an adverse decision by the department concerning the:

- (a) Disenrollment of the participant from the program;
- (b) Placement of a COFA applicant on a waiting list pursuant to OAR 945-050-0020(4); or

(c) Payment or reimbursement of qualified health plan premiums or payment or reimbursement of out-of-pocket costs.

(2) To appeal a decision described in paragraph (1) of this rule, a COFA applicant or program participant must submit a request in writing for a contested case hearing that explains the matter being appealed and states the bases for appeal.

(3) The request for appeal must be postmarked if mailed, or if not mailed, received by the department at the address specified in the notice of appeal, within ten business days of the date of the notice of the right to appeal.

(4) A hearing conducted pursuant to this rule, shall be conducted as a contested case as defined in ORS 183.310.

Stat. Auth.: OL 2016, Ch. 94  
Stats. Implemented: OL 2016, Ch. 94  
Hist.: HMP 3-2016, f. & cert. ef. 9-8-16

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## Department of Consumer and Business Services, Insurance Regulation Chapter 836

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

**Adm. Order No.:** ID 10-2016

**Filed with Sec. of State:** 9-14-2016

**Certified to be Effective:** 9-14-16

**Notice Publication Date:** 6-1-2016

**Rules Adopted:** 836-053-0300, 836-053-0310, 836-053-0320, 836-053-0330, 836-053-0340, 836-053-0350

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

**Rules Coordinator:** Karen Winkel—(503) 947-7694

## 836-053-0300

### Purpose; Statutory Authority; Applicability of Network Adequacy Requirements

(1) OAR 836-053-0300 to 836-053-0350 are adopted for the purpose of implementing ORS 743B.505.

(2) The requirements set forth in OAR 836-053-0320 to 836-053-0340 apply to all insurers offering individual or small group health benefit plans in this state that are issued or renewed on or after January 1, 2017.

(3) The requirements set forth in OAR 836-053-0310 and 836-053-0350 apply to all insurers offering individual, large group, or small group health benefit plans in this state that are issued or renewed on or after January 1, 2017.

Stat. Auth.: ORS 731.244 and 743B.505  
Stats. Implemented: 743B.505  
Hist.: ID 10-2016, f. & cert. ef. 9-14-16

## 836-053-0310

### Network Adequacy Definitions for OAR 836-053-0300 to 836-053-0350

(1) As used in these rules:

(a) "Enrollee" means an employee, dependent of the employee or an individual otherwise eligible for a group or individual health benefit plan who has enrolled for coverage under the terms of the plan.

(b) "Insurer includes a health care service contractor as defined in ORS 750.005.

(c) "Health benefit plan" means any:

(A) Hospital expense, medical expense or hospital or medical expense policy or certificate;

(B) Subscriber contract of a health care service contractor as defined in ORS 750.005; or

(C) Plan provided by a multiple employer welfare arrangement or by another benefit arrangement defined in the federal Employee Retirement Income Security Act of 1974, as amended, to the extent that the plan is subject to state regulation.

(d) "Network plan" means a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use health care providers managed, owned, under contract with or employed by the insurer.

(e) "Marketplace" means health insurance exchange as defined in OAR 945-001-002(21).

Stat. Auth.: ORS 731.244 and 743B.505  
Stats. Implemented: 743B.505  
Hist.: ID 10-2016, f. & cert. ef. 9-14-16

## 836-053-0320

### Annual Report Requirements for Network Adequacy

(1) An insurer offering individual or small group health benefits plans must submit its annual report for each network required under ORS 743B.505 no later than March 31 of each year.

(2) The annual report shall include at least the following information:

(a) Identification of the insurer's network, including plans to which the network applies, how the use of telemedicine or telehealth or other technology may be used to meet network access standards;

(b) The insurer's procedures for making and authorizing referrals within and outside its network, if applicable;

(c) The insurer's procedures for monitoring and assuring on an ongoing basis the sufficiency of the network to meet the health care needs of populations that enroll in network plans;

(d) The factors used by the insurer to build its provider network, including a description of the network and the criteria used to select or tier providers;

(e) The insurer's efforts to address the needs of enrollees, including, but not limited to children and adults, including those with limited English proficiency or illiteracy, diverse cultural or ethnic backgrounds, physical or mental disabilities, and serious, chronic or complex medical conditions. This information must include the insurer's efforts, when appropriate, to include various types of essential community providers in its network;

(f) The insurer's process for ensuring networks for plans sold outside of the marketplace provide enrollees who reside in low-income zip code areas or who reside in health professional shortage areas with adequate access to care without delay;

(g) The insurer's methods for assessing the health care needs of enrollees and their satisfaction with services;

(h) The insurer's method of informing enrollees of the plan's covered services and features, including but not limited to:

(A) The plan's grievance and appeals procedures;

(B) Its process for choosing and changing providers;

(C) Its process for updating its provider directories for each of its network plans;

(D) A statement of health care services offered, including those services offered through the preventive care benefit, if applicable; and

(E) Its procedures for covering and approving emergency, urgent and specialty care, if applicable.

(i) The insurer's system for ensuring the coordination and continuity of care:

(A) For enrollees referred to specialty physicians; and

(B) For enrollees using ancillary services, including social services and other community resources, and for ensuring appropriate discharge planning.

(j) The insurer's process for enabling enrollees to change primary care professionals, if applicable;

(k) The insurer's proposed plan for providing continuity of care in the event of contract termination between the insurer and any of its participating providers, or in the event of the insurer's insolvency or other inability to continue operations. The description shall explain how enrollees will be notified of the contract termination, or the insurer's insolvency or other cessation of operations, and transitioned to other providers in a timely manner; and

(l) The insurer's process for monitoring access to physician specialist services in emergency room care, anesthesiology, radiology, hospitalist care and pathology/laboratory services at their participating hospitals.

Stat. Auth.: ORS 731.244 and 743B.505  
Stats. Implemented: 743B.505  
Hist.: ID 10-2016, f. & cert. ef. 9-14-16

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## 836-053-0330

### Nationally Recognized Standards for Use in Demonstrating Compliance with Network Adequacy Requirements

(1) An insurer electing to demonstrate compliance with network adequacy requirements established in ORS 743B.505 by submitting for each network evidence of compliance with a nationally recognized standard may use either of the following two standards with modifications that the Director of the Department of Consumer and Business Services has specified by order or bulletin:

(a) Federal network adequacy standards applicable to Medicare Advantage plans, adjusted to reflect the age demographics of the enrollees in the plan; or

(b) Federal network adequacy standards applicable to Qualified Health Plans as outlined in the Final United States Department of Health and Human Services Notice of Benefit and Payment Parameters and Letter to Issuers in the Federally-facilitated Marketplaces.

(2) The evidence of compliance with a nationally recognized standard must be submitted to the Director no later than March 31 each year.

Stat. Auth: ORS 731.244 and 743B.505

Stats. Implemented: 743B.505

Hist.: ID 10-2016, f. & cert. ef. 9-14-16

## 836-053-0340

### Factor-Based Evidence of Compliance with Network Adequacy Requirements

(1) An insurer electing to demonstrate compliance with network adequacy requirements required under ORS 743.505B via the factor-based approach shall submit evidence of compliance to the Director by March 31 each year.

(2) The evidence must include a narrative description of how the insurer complies with the factor along with the source and methodology, where applicable, for at least one of the factors listed for each of these categories:

(a) Access to Care Consistent with the Needs of the Enrollees Served by the Network category:

(A) Access to Care Factor #1 – The insurer’s network ensures all covered services under the health benefit plan are accessible to enrollees without unreasonable delay.

(i) Submit median enrollee wait times for preventive care appointments for the prior calendar year.

(ii) Submit median length of time enrollees waited for access to mental health and substance abuse providers for the prior calendar year.

(iii) Submit median length of time enrollees waited to receive care for mental health conditions following intake evaluation.

(iv) Evidence that the network provides 24-hour access to clinical advice.

(v) Urgent care services outside of regular business hours are available in all covered regions or service areas.

(vi) Submit median enrollee wait times for routine care appointments for the prior calendar year.

(vii) Submit median enrollee wait times for specialist appointments for the prior calendar year.

(B) Access to Care Factor #2 – The network meets special needs of specific populations.

(i) The network has the capacity to accept new patients.

(ii) The network includes a full range of pediatric providers including pediatric subspecialists and providers that offer care to children with special needs.

(iii) Services are made available to enrollees residing in medically underserved areas of the state, if the insurer offers coverage in those areas.

(iv) All plans served by a network are included when determining whether the network is sufficient.

(v) The network provides access to culturally and linguistically appropriate services.

(C) Access to Care Factor #3 – The insurer actively manages the network including oversight of access to care.

(i) Providers who are not accepting new patients are not included when determining whether an adequate number of providers (including specialists) are in the network.

(ii) All plans served by a network are included when determining whether the network is sufficient.

(iii) The network adequacy monitoring process includes specific intervals between formal reviews, reporting of review results to senior management or board of directors, and formal reviews are used to monitor and improve accessibility for enrollees.

(b) Consumer Satisfaction category:

(A) Consumer Satisfaction Factor #1 – Insurer maintains accreditation status and can demonstrate consumers are satisfied with the plan.

(i) Submit insurer accreditation status from either the National Committee for Quality Assurance (NCQA), URAC, or the Accreditation Association for Ambulatory Health Care (AAAHC) including information regarding customer satisfaction rating from accreditation entity; or

(ii) Either of the following:

(I) Global rating of health plan (Enrollee Satisfaction Survey Consumer Assessment of Healthcare Providers and Systems) and

(II) Global rating of health care (Enrollee Satisfaction Survey Consumer Assessment of Healthcare Providers and Systems).

(B) Consumer Satisfaction Factor #2 – Consumers are able to access care when needed without unreasonable delay.

(i) Number of enrollee communications the insurer received during the previous calendar year regarding difficulty in obtaining an appointment with a provider, including but not limited to the inability to find a provider with an open practice or an unreasonable length of time to wait for an appointment.

(ii) Number of consumer complaints the insurer received during the previous calendar year regarding care received out of network due to consumer’s inability to receive care in network. Communications under this section include but are not limited to complaints, appeals and grievances from enrollees.

(iii) Median wait times for members to be seen at time of appointment.

(c) Transparency:

(A) Transparency Factor #1 – Insurer maintains an accurate provider directory which is available to the general public.

(i) Provider locations are transparent to the public.

(ii) Provide link to website where provider directory is located and explain how frequently the directory is updated and where this information is disclosed on the provider directory.

(iii) Explain how the insurer keeps information on which providers in the network have open practices and how often this information is updated.

(iv) Provide position and department of individual responsible for establishing and monitoring the network.

(B) Transparency Factor #2 – Consumers, enrollees and providers have access to accurate provider information.

(i) Providers have access to information about other providers in the network.

(ii) Consumers and enrollees are informed on how to locate in-network providers when scheduling medical services.

(iii) Explain how frequently enrollees are specifically notified of changes to the provider network and the method the insurer uses to communicate this information.

(iv) Provider directory discloses which providers are fluent in languages other than English and if so, what languages are available.

(v) Consumers and enrollees are informed of providers in the network with open practices.

(d) Quality of Care and Cost Containment:

(A) Quality of Care and Cost Containment Factor #1 – The insurer engages in provider quality improvement activities.

(i) Submit provider quality data the insurer uses.

(ii) Describe the specific quality designations required of specialists in the network.

(iii) Explain provider accreditation status requirements used by the insurer.

(iv) Provide the percentage of accredited patient-centered primary care homes in the network.

(v) Provide a list of all provider types included in the network and identify those who provide telemedicine services.

(B) Quality of Care and Cost Containment Factor #2 – The insurer is implementing quality improvement activities in addition to provider quality improvement.

(i) The insurer reports quality improvement strategies to the public.

(ii) The provider payment structure supports improved health outcomes, reduction of hospital readmissions, improved patient safety and reduction of medical errors, and reduction of health care disparities.

(iii) The insurer offers health promotion and wellness programs to enrollees.

(iv) Appointments with high volume specialists are available within the network without unreasonable delay.

(C) Quality of Care and Cost Containment Factor #3 – The insurer employs network design strategies to reduce cost and improve quality.

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- (i) The network design supports improved enrollee health and lower cost.
  - (ii) The insurer analyzes relevant information to promote good health outcomes.
  - (iii) The network can be considered a high-value network.
  - (iv) Electronic health records are used within the network.
- Stat. Auth: ORS 731.244 and 743B.505  
Stats. Implemented: ORS 743B.505  
Hist.: ID 10-2016, f. & cert. ef. 9-14-16

## 836-053-0350

### Provider Directory Requirements for Network Adequacy

(1)(a) An insurer shall post electronically a current, accurate and complete provider directory for each of its network plans with the information and search functions, as described in section (2) of this rule.

(b) In making the directory available electronically, the insurer shall ensure that the general public is able to view all of the current providers for a plan through a clearly identifiable link or tab and without creating or accessing an account or entering a policy or contract number.

(c)(A) An insurer shall update each network plan provider directory at least monthly. The provider directory shall disclose the frequency with which it is updated.

(B) The insurer shall include a disclosure in the directory that the information included in the directory is accurate as of the date posted to the web or printed and that enrollees or prospective enrollees should consult the insurer to obtain current provider directory information.

(d) An insurer shall provide a print copy, or a print copy of the requested directory information, of a current provider directory with the information described in section (2) of this rule upon request of an enrollee or a prospective enrollee.

(e) For each network plan, an insurer shall include in plain language in both the electronic and print directory, the following general information:

(A) A description of the criteria the insurer has used to build its provider network;

(B) If applicable, a description of the criteria the insurer has used to tier providers;

(C) If applicable, information about how the insurer designates the different provider tiers or levels in the network and identifies for each specific provider, hospital, or other type of facility in the network which tier each is placed, for example by name, symbols or grouping, in order for an enrollee or a prospective enrollee to be able to identify the provider tier; and

(D) If applicable, note that authorization or referral may be required to access some providers.

(f)(A) An insurer shall make it clear in both its electronic and print directories which provider directory applies to which network plan, such as including the specific name of the network plan as marketed and issued in this state.

(B) The insurer shall include in both its electronic and print directories a customer service email address and telephone number or electronic link that enrollees or the general public may use to notify the insurer of inaccurate provider directory information.

(g) For the pieces of information required under this section in a provider directory pertaining to a health care professional, a hospital or a facility other than a hospital, the insurer shall make available through the directory a general explanation of the source of the information and any limitations, if applicable.

(h) A provider directory, whether in electronic or print format, shall accommodate the communication needs of individuals with disabilities, and include a link to or information regarding available assistance for persons with limited English proficiency.

(2) The insurer shall make available through an electronic provider directory that includes search functions, for each network plan, all of the following information:

(a) For health care professionals:

- (A) Name;
- (B) Gender;
- (C) Participating office locations;
- (D) Specialty, if applicable;
- (E) Participating facility affiliations, if applicable;
- (F) Languages spoken by provider other than English, if applicable;
- (G) Whether accepting new patients;
- (H) Network affiliations;
- (I) Tier level, if applicable;
- (J) Contact information; and
- (K) Board certifications.

(b) For hospitals:

- (A) Hospital name;
- (B) Participating hospital location;
- (C) Hospital accreditation status;
- (D) Network affiliations;
- (E) Tier level, if applicable; and
- (F) Telephone number.

(c) For facilities, other than hospitals, by type:

- (A) Facility name;
- (B) Facility type;
- (C) Participating facility locations;
- (D) Network affiliations;
- (E) Tier level, if applicable; and
- (F) Telephone number.

Stat. Auth: ORS 731.244 and ORS 743B.505  
Stats. Implemented: ORS 743B.505  
Hist.: ID 10-2016, f. & cert. ef. 9-14-16

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

**Rule Caption:** Adopt federal OSHA updates to standards based on National Consensus Standards: eye and face protection.

**Adm. Order No.:** OSHA 3-2016

**Filed with Sec. of State:** 8-19-2016

**Certified to be Effective:** 8-19-16

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 437-002-0005, 437-002-0134, 437-002-0182, 437-003-0001, 437-003-0134, 437-005-0001, 437-005-0002, 437-005-0003

**Subject:** This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Some Oregon OSHA general industry, maritime and construction rules for personal protective equipment reference ANSI consensus standards Z87.1-1989 and Z87.1-1968. This rulemaking removes those older standards and will recognize ANSI/ISEA Z87.1-2010, ANSI Z87.1-2003, and ANSI Z87.1-1989 (R-1998).

The ANSI/ISEA Z87.1-2010 provides requirements for the selection, testing, use, and maintenance of protectors intended to minimize or prevent eye and face injuries including impact, non-ionizing radiation, and chemical exposures in occupational and educational environments. ANSI Z87.1-2003 and ANSI Z87.1-1989 (R-1998) are prior versions of this standard which are also incorporated by reference as alternative means of compliance with Oregon OSHA's eye and face protection requirements.

Oregon initiated PPE rules in Division 2, general industry and Division 3, construction are amended with the ANSI updates, as well as references in Oregon Rules for Firefighters in Division 2/L.

Please visit our web site [osha.oregon.gov](http://osha.oregon.gov) Click 'Rule changes' in the Topics, rules, guidelines column and view our proposed rules; or, select other rule activity from the left vertical column on the Proposed Rules page.

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

### 437-002-0005

#### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.1, Purpose and scope; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.

(2) 29 CFR 1910.2, Definitions; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.

(3) 29 CFR 1910.3, Petitions for the issuance, amendment, or repeal of a standard; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.

(4) 29 CFR 1910.4, Amendments to this part; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.

(5) 29 CFR 1910.5, Applicability of standards; published 6/30/93, FR vol. 58, no. 124, p. 35308.

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(6) 29 CFR 1910.6, Incorporation by reference; published 3/25/16, FR vol. 81, no. 58, p. 16085.

(7) 29 CFR 1910.7, Definition and requirements for a Nationally Recognized Testing Laboratory; published 5/11/88, FR vol. 53, no. 91, p. 16838.

(8) 29 CFR 1910.9, Compliance duties owed to each employee; published 12/12/08, Federal Register, vol. 73, no. 240, pp. 75568-75589.

These standards are on file at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stat. Implemented: ORS 654.001 - 654.295

Hist.: APD 17-1988, f. & ef. 11-10-88; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 4-2005, f. & cert. ef. 12-14-05; OSHA 4-2007, f. & cert. ef. 8-15-07; OSHA 7-2008, f. & cert. ef. 5-30-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 1-2010, f. & cert. ef. 2-19-10; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 7-2013, f. & cert. ef. 12-12-13; OSHA 3-2016, f. & cert. ef. 8-19-16

## 437-002-0134

### Personal Protective Equipment

Application. This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

**Note:** The assessment for eyes, face, head, hands, and feet are currently in effect. The torso and extremities (e.g. arms and legs) element of the body assessment will not be enforced until July 1, 2012.

(1) Hazard assessment and equipment selection.

(a) The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:

(A) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

(i) All protective equipment must be of safe design and construction for the work to be performed.

(ii) Protective equipment must be worn and used in a manner which will make full use of its protective properties.

(B) Communicate selection decisions to each affected employee; and,  
(C) Select PPE that properly fits each affected employee.

**NOTE:** Non-mandatory Appendix B contains an example of procedures that would comply with the requirement for a hazard assessment.

(b) The employer must verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

(2) Equipment.

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.

(c) Defective or damaged personal protective equipment must not be used.

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.

(3) Training.

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:

(A) When PPE is necessary;

(B) What PPE is necessary;

(C) How to properly don, doff, adjust, and wear PPE;

(D) The limitations of the PPE; and,

(E) The proper care, maintenance, useful life and disposal of the PPE.

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must

retrain each such employee. Circumstances where retraining is required include, but are not limited to situations where:

(A) Changes in the workplace render previous training obsolete; or

(B) Changes in the types of PPE to be used render previous training obsolete; or

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(4) Payment for protective equipment.

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(d) The employer is not required to pay for:

(A) The logging boots required by OAR 437-007-0330 in Division 7.

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.

(5) Fall Protection.

(a) All employees must be protected from fall hazards when working on unguarded surfaces more than 10 feet above a lower level or at any height above dangerous equipment.

(b) The employer must ensure that fall protection systems are provided, installed, and used according to the criteria in 1926.502(d), and 437-003-0502 in Division 3/M, Construction/Fall Protection.

(6) Work Clothing.

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must contrast with other colors in the area sufficiently to make the worker stand out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.

(8) Eye And Face Protection.

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

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(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. The following is a listing of appropriate shade numbers for various operations.

Tables.

(f) Protective eye and face protection devices must comply with any of the following consensus standards:

(A) ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in 1910.6;

(B) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6; or

(C) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6.

(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.

(9) Head Protection.

(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(c) Head protection must comply with any of the following consensus standards:

(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in §1910.6;

(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6; or

(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6.

(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.

(10) Foot Protection.

(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards, such as static-discharge or electric-shock hazard, that remains after the employer takes other necessary protective measures.

(b) Protective footwear must comply with any of the following consensus standards:

(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in 1910.6;

(B) ANSI Z41-1999, American National Standard for Personal Protection – Protective Footwear, which is incorporated by reference in 1910.6; or

(C) ANSI Z41-1991, American National Standard for Personal Protection – Protective Footwear, which is incorporated by reference in §1910.6.

(c) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.

(11) Leg protection

(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.

(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.

**NOTE** to 437-002-0134(11)(b): Employees working in the tree and shrub services industry must follow rules on this subject in Subdivision 2/R instead of the above.

(12) Hand Protection.

(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.

(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16; OSHA 3-2016, f. & cert. ef. 8-19-16

## 437-002-0182

### Oregon Rules for Fire Fighters

(1) Scope and Application. These rules apply to public and private employers who engage in structural fire service activities, including emergency first response.

**Note:** Employees subject to 437-002-0182 must comply with provisions of other applicable Oregon OSHA safety and health rules.

(2) Exceptions. These rules do not apply to the following firefighting activities:

(a) Private industry fire brigades covered under 1910.156, Division 2/L, Fire Protection.

(b) Forest and uncultivated wildland firefighting covered under Division 7/N, Wildland Fire Suppression and Prescribed Fire.

(c) Marine firefighting and rescue covered under CFR title 33, Navigation and Navigable Waters.

(d) Aircraft firefighting and rescue covered under CFR title 49, Transportation.

**Note:** Structural fire protection services who engage in activities listed under 437-002-0182(2)(a) through (d), must also comply with the applicable standard for the activity.

(3) Definitions.

(a) Aerial device — An aerial ladder, elevating platform, aerial ladder platform, or water tower that is designed to position personnel, handle materials, provide egress and discharge water.

(b) ANSI — American National Standards Institute.

(c) Apparatus — A mobile piece of firefighting equipment such as pumper, water tender, etc.

(d) Certified — Attested or confirmed in a formal written statement, or someone or something officially recognized as possessing certain qualifications or meeting certain standards.

(e) Confined space — A space that meets all of the following:

(A) Large enough and so configured that an employee can fully enter the space and perform work; and

(B) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and

(C) Is not designed for continuous occupancy.

(f) Designee — A person who has been officially chosen to do or be something.

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- (g) DOT — Department of Transportation.
- (h) DPSST — Department of Public Safety Standards and Training.
- (i) Drill tower — A structure, which may or may not be attached to the station, that is over two stories high and primarily used for non-classroom firefighter training in fire service techniques.
- (j) Emergency incident — Any situation where a fire department delivers emergency services, rescue, fire suppression, medical treatment, and other forms of hazard control and mitigation.
- (k) Emergency scene — The site where the suppression of a fire or the emergency exists.
  - (l) Enclosed structure — A structure with a roof or ceiling and at least two walls which may present fire hazards to employees, such as accumulations of smoke, toxic gases and heat, similar to those found in buildings.
  - (m) Firefighter — A person involved in performing fire department duties and responsibilities, including fire suppression, who may be a career or volunteer member of a fire department and may occupy any position or rank within the fire department.
  - (n) Fire ground — An emergency scene or location where firefighting or live fire training activities occur.
  - (o) Fire training — Training received by firefighters to maintain proficiency in performing their assigned duties.
  - (p) Hazardous material incident — The accidental release of hazardous materials from their containers.
  - (q) Helmet — An element of the protective ensemble designed to provide minimum protection to the user's head against impact, flying or falling objects, electric shock, penetration, heat, and flame.
  - (r) Hose tower — A vertical structure where a hose is hung to dry.
  - (s) IFSTA — International Fire Service Training Association.
  - (t) IMS — Incident Management System. Also referred to as an Incident Command System (ICS).
  - (u) Immediately dangerous to life or health (IDLH) — An atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.
  - (v) Incipient stage fire — A fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.
  - (w) Interior structural firefighting — The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage.
  - (x) Live fire training — Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate firefighter training under actual fire conditions.
    - (y) NFPA — National Fire Protection Association.
    - (z) NIOSH — National Institute of Occupational Safety and Health.
    - (aa) Private Industry Fire Brigades — A group of employees who are required to fight interior structural fires at their place of employment.
    - (bb) Protective ensemble — The clothing and personal protective equipment worn to provide limited protection to the user's head, body, and extremities from thermal, physical, chemical, and health hazards. Protective ensemble elements include firefighting coats and trousers, helmets, hoods, gloves, footwear, eye and face protection devices, and respirators.
    - (cc) Qualified — Certified as being trained to perform a particular job or activity.
    - (dd) Respirators:
      - (A) Atmosphere-supplying respirator is a respirator that supplies the user with air from a source independent of the ambient atmosphere and includes supplied-air respirators (SARS) and self-contained breathing apparatus (SCBA) units.
      - (B) Air-purifying respirator is a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.
      - (C) Positive pressure demand respirator is a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.
      - (D) Pressure-demand respirator is a positive pressure atmosphere-supplying respirator that admits air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.
      - (E) Self-Contained Breathing Apparatus SCBA is a self-contained breathing apparatus designed to provide the wearer with a supply of respirable air carried in and generated by the breathing apparatus. This apparatus requires no intake of oxygen from the outside atmosphere and can be designed to be a demand or pressure-demand type respirator.
  - (F) Supplied-air respirator (SAR) or airline respirator is an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.
    - (ee) Responder — A certified person who has the responsibility to respond to an emergency incident.
    - (ff) Station (Fire station) — Structure to house the fire service apparatus and personnel.
    - (gg) Tailboard — Standing space at rear of a fire apparatus where firefighters stand to access and reload hose and/or equipment.
    - (hh) Training — Instruction with hands-on practice in the operation of equipment, including respiratory protection equipment, that is expected to be used and in the performance of assigned duties.
    - (ii) Warning light — A flashing or rotating light.

(4) Organizational statement.

  - (a) The employer must develop and implement a written statement or policy that includes basic organizational structure, basic functions of the organization, and type, amount, and frequency of training to be provided.
  - (b) This statement must be made available for inspection by Oregon OSHA and by fire department employees or their designated representatives.
  - (5) Personnel.
    - (a) The employer must review and evaluate the physical capability of each firefighter annually to determine their ability to perform duties that may be assigned. The review and evaluation will be accomplished through physical examination, stress testing, or satisfactory performance demonstrated during the performance of their assigned duties.
    - (b) The employer must not permit a firefighter with a known medical condition that would significantly impair their ability to engage in fire suppression activities at the emergency scene unless a physician's certificate of the firefighter's fitness to participate in such activities is provided to the employer. This will not limit the employer's ability to assign firefighters to support activities (versus fire suppression activities).
  - (6) Employer's Responsibility.
    - (a) Each employer must comply with the provisions of this Division to protect the life, safety, and health of employees.
    - (b) It is the responsibility of the employer to establish and supervise:
      - (A) A safe and healthful working environment, as it applies to non-emergency conditions or to emergency conditions at the scene after the incident has been terminated, as determined by the officer in charge.
      - (B) Programs for training employees in the fundamentals of accident prevention.
      - (C) A safe and healthful working environment as it applies to live fire training exercises.
      - (c) The employer must maintain all equipment in a safe condition.
      - (d) The employer must ensure that firefighters who participate in exempted firefighting activities listed under 437-002-0182(2) are properly trained, protected, clothed, and equipped for the known hazards of that particular emergency operation.
    - (7) Employee's Responsibility.
      - (a) Each firefighter must comply with the requirements of 437-002-0182 that are applicable to their own actions and conduct in the course of their employment.
      - (b) Firefighters must notify the appropriate employer or safety committee representative of unsafe practices, equipment, or workplace conditions.
        - (c) All firefighters, at regularly scheduled times, must attend required training and orientation programs designed to increase their competency in occupational safety and health.
        - (d) Firefighters and other employees must apply the principles of accident prevention in their work. They must use all required safety devices and protective equipment.
        - (e) Each firefighter must take proper care of their protective equipment.
        - (f) Firefighters who are expected to perform firefighting operations must notify their employer when health conditions arise that will limit their capability of performing those duties.
      - (8) Safety Committee.
        - (a) Fire departments must have a separate safety committee or hold safety meetings according to the requirements of Division 1, 437-001-0765, Safety Committees and Safety Meetings.
        - (b) When applicable, the representation on the safety committee must include both career and volunteer firefighters.
      - (9) Incident Management.

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(a) The employer must develop and implement written procedures for incident management that meets the requirement of NFPA 1561 (2008): Standard on Emergency Services Incident Management System.

(b) These procedures must apply to all employees involved in emergency operations.

(c) Each employee involved in emergency operations must be familiar with these procedures.

(10) Accountability. The employer must develop and implement written procedures for a personnel accountability system that meets the requirement of NFPA 1561 (2008): Standard on Emergency Services Incident Management System.

(11) Firefighting Education and Training.

(a) The employer must develop and implement a policy for appropriately educating and training all department firefighting classifications (ranks) before they perform assigned duties.

(b) Firefighters who participate in interior structural firefighting activities must be trained according to NFPA 1001 (2013): Standard for Fire Fighter Professional Qualifications (Fire Fighter I), or they must meet the training levels required under 437-002-0182(11)(c) and be under the direct supervision of a firefighter trained to NFPA Fire Fighter I or higher.

**Note:** Department of Public Safety Standards and Training (DPSST) certification for NFPA Fire Fighter I or higher satisfies the training requirement in 437-002-0182(11)(b) but is not required by these rules.

(c) Firefighters who participate in live fire training in a structure, or only in structural firefighting activities not covered under 437-002-0182(11)(b), must be trained to meet the minimum job performance requirements for NFPA Fire Fighter I as prescribed by NFPA 1403 (2012): Standard on Live Fire Training Evolutions (Student Prerequisites).

(d) All live fire training must be conducted following the requirements of NFPA 1403 (2012): Standard on Live Fire Training Evolutions, or Appendix A (Mandatory), Minimum Requirements for Live Fire Training, of this standard.

(e) Live fire training must be conducted under the direction of the fire department's training officer or employer authorized representative.

(12) General Requirements for Protective Ensembles.

(a) Protective ensembles must protect the user's head, body, and extremities. Protective ensembles consist of the following elements: body protection; head protection; hand protection; foot and leg protection; eye and face protection; and respiratory protection.

**Note:** Employees must be protected from noise that exceeds the levels in Division 2/G, 1910.95, Occupational Noise Exposure.

(b) The employer must provide employees all protective ensemble elements at no cost to employees. The employer must not allow employee-owned protective ensemble elements that do not comply with the requirements under 437-002-0182(13) through (18) to be used for structural firefighting. See Appendix B (Non-mandatory), General Information and Recommendations, of this standard.

(c) Employees must wear all appropriate protective ensembles elements that meet the requirements under 437-002-0182(13) through (18) when engaged in interior structural firefighting.

(d) In situations other than interior structural firefighting, employees must wear the appropriate protective ensemble elements for the known hazards of that particular emergency operation.

(13) Body Protection. All structural firefighting coats and trousers must be at least equivalent to the requirements of NFPA 1971 (1991): Standard on Protective Clothing for Structural Fire Fighting. Structural firefighting coats and trousers purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

(14) Head Protection.

(a) All structural firefighting helmets must be at least equivalent to the requirements of NFPA 1971 (2000): Standard on Protective Ensemble for Structural Firefighting. Structural firefighting helmets purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

(b) Structural firefighting helmets must consist of a rigid shell; an energy absorbing system; a retention system; fluorescent and retroreflective trim; ear covers; and either a faceshield or goggles, or both.

(c) Use, care, alterations, and maintenance instructions for protective headgear must be supplied for each helmet.

(d) Care, maintenance, and alteration of helmets must conform to the manufacturer's recommendations.

(e) During structural firefighting, helmet accessories designed to provide or maintain protection from health and safety hazards must be worn in the manufacturer's recommended position. See Appendix B (Non-mandatory), General Information and Recommendations, of this standard.

(f) All flame-resistant protective hoods must be at least equivalent to the requirements of NFPA 1971 (1997): Standard on Protective Ensembles for Structural Fire Fighting. Flame-resistant protective hoods purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

(g) A flame-resistant protective hood that will not adversely affect the seal of a respirator facepiece must be worn during interior structural firefighting operations to protect the sides of the face and hair.

(15) Hand Protection.

(a) All structural firefighting hand protection must be at least equivalent to the requirements of NFPA 1973 (1988): Standard on Gloves for Structural Fire Fighting. Structural firefighting hand protection purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

(b) Hand protection for structural firefighting activities must consist of protective gloves or glove system that will provide protection against cut, puncture, and heat penetration.

(16) Foot and Leg Protection.

(a) All structural firefighting protective footwear must be at least equivalent to the requirements of NFPA 1971 (1997): Standard on Protective Ensembles for Structural Fire Fighting. Structural firefighting protective footwear purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensembles for Structural Fire Fighting.

(b) Resoled firefighting footwear must comply with the applicable NFPA standard under 437-002-0182(16)(a).

**Note:** Employees using chain saws for non-firefighting activities must wear chaps or leg protectors in accordance with Division 2/I, 437-002-0134, Personal Protective Equipment.

(17) Eye and Face Protection.

(a) Face protection must be used where there is a reasonable probability of injury that can be prevented by such protection. When face protection does not protect the eyes from foreign objects, additional protection for the eyes must be used.

(b) The employer must make available eye and face protection devices suitable for the work performed, and employees must use such protection devices as required by 437-002-0182(17)(a).

(c) Protection devices that can be worn over corrective lenses must be available for employees who need them.

(d) Eye and face protection devices worn by firefighters at the fire ground must comply with the following minimum requirements:

(A) They must comply with any of the following consensus standards:

(i) ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices;

(ii) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection; or

(iii) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection.

(B) They must be reasonably comfortable when worn under the designated conditions.

(C) They must be durable.

(D) They must be capable of being disinfected.

(E) They must be easy to clean.

(e) Faceshields, when used, must be an integral part of the firefighting helmet and may be installed in a fixed position or hinged allowing adjustment of the shields. Face shields must accommodate any of the following styles:

(A) Clear transparent

(B) Colored transparent

(f) Goggles, when used, must consist of a fully flexible frame, a lens holder or a rigid frame with integral lens or lenses, and a separate cushioned fitting surface on the full periphery of the facial contact area.

(A) Materials used for goggles must be chemical-resistant, nontoxic, nonirritating and slow-burning.

(B) There must be support on the face, such as an adjustable headband of suitable material or other appropriate support to hold the frame comfortably and snugly in front of the eyes.

**Note:** When NIOSH approved full face respiratory equipment is being used by firefighters, additional eye and face protection is not required.

(18) Respiratory Protection. The employer must develop and implement a respiratory protection program in accordance with Division 2/I, 1910.134, Respiratory Protection. The following note refers to the Respiratory Protection Standards, 1910.134(g)(3) Procedures for IDLH atmospheres and 1910.134(g)(4) Procedures for interior structural firefighting, ("two-in/two-out rule").



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**NOTE:** If, upon arriving at the emergency scene, firefighters find an imminent life threatening situation where immediate action may prevent the loss of life or serious injury, the requirements for firefighters in the outside standby mode may be suspended, when notification is given by radio to incoming responders that they must provide necessary support and backup upon their arrival.

## (19) Criteria for Approved Self-Contained Breathing Apparatus (SCBA).

(a) All compressed air cylinders used with approved SCBAs must meet DOT and NIOSH criteria.

(b) In emergency and lifesaving situations, approved SCBAs may be used with approved cylinders from other approved SCBAs provided that such cylinders are of the same capacity and pressure rating. Once the emergency is over, return SCBAs to their original approved condition.

(c) Approved SCBAs must be provided with at least one indicator that automatically sounds an alarm when the remaining air supply of the SCBA is reduced to within a range of 25 percent of its rated service time.

## (20) Personal Alert Safety System (PASS).

(a) Each member involved in rescue, fire suppression, or other hazardous duties, must be provided with and must use a PASS device in the hazardous area when self-contained breathing apparatus is in use.

(b) All PASS devices must be at least equivalent to the requirements of NFPA 1982 (1983): Standard on Personal Alert Safety Systems (PASS). PASS devices purchased on or after July 1, 2016 must be at least equivalent to the requirements of NFPA 1982 (2013): Standard on Personal Alert Safety Systems (PASS).

(c) Each PASS device must be tested at least monthly and must be maintained according to the manufacturer's instructions.

## (21) Breathing Air Compressors and Cylinders.

(a) In addition to the requirements contained in Division 2/I, 1910.134(i), breathing air quality and use, air samples must be taken every six months from the compressor and analyzed by the employer or an independent laboratory for Grade D breathing air.

(b) Air samples must also be taken and analyzed when the system is installed or repaired.

(c) Analysis required by 437-002-0182(21)(a) and (b) must be conducted according to ANSI/CGA Standard G7.1 (2011): Commodity Specification for Air.

## (22) Hazardous Material Response Plan.

(a) Fire departments that expect or plan to respond to hazardous material incidents must develop and implement a written response plan, and comply with additional requirements of Division 2/H, 1910.120(q), Emergency response to hazardous substance releases.

(b) The written response plan must contain the policies and procedures for:

- (A) Pre-emergency planning and coordination with outside parties,
- (B) Personnel roles, lines of authority, training, and communication,
- (C) Emergency recognition and prevention,
- (D) Safe distances,
- (E) Scene security and control,
- (F) Evacuation procedures,
- (G) Decontamination,
- (H) Emergency medical treatment and first aid,
- (I) Personnel withdrawal procedures,
- (J) Critique of response and follow-up, and
- (K) Personal protective equipment and emergency equipment and response procedures.

(c) The incident commander must be responsible for:

- (A) Identifying of the hazardous substance and condition,
- (B) Implementing emergency operations,
- (C) Ensuring personal protective equipment is worn,
- (D) Limiting access of hot zone to those with a specific mission assignment,

- (E) Implementing decontamination procedures,
- (F) Designating a safety officer,
- (G) Using appropriately trained personnel, and
- (H) Providing on-scene medical surveillance for emergency responders.

## (23) Fire Apparatus Area.

(a) Walkways around apparatus must be kept free of obstructions.

(b) The station's apparatus floors must be kept free of grease, oil, and tripping hazards.

(c) Exhaust gases from apparatus within buildings must be maintained within the limits of Division 2/Z, 437-002-0382, Oregon Air Contaminant Rules. See Appendix B (Non-mandatory), General Information and Recommendations, of this standard.

## (24) Fire Apparatus Design and Construction.

(a) Employers who have acquired used fire apparatus or used military equipment prior to July 1, 1985 are not required to bring them under a more stringent code than the one in force at the time the apparatus was manufactured. The exceptions to 437-002-0182(24)(a) are:

(A) Restraint systems as required by 437-002-0182(25)(e); and

(B) Roll-over protective structures (ROPS) on all open top off-road vehicles as required by 437-002-0182(24)(f).

(b) There must be steps, ladders or railing to allow safe access to and exit from areas on vehicles that employees access.

(c) Vehicle tailboards must not project outboard of the vehicle sides or fenders and must be designed to provide safe footing.

(d) Exhaust systems must be installed and properly maintained, and must be designed to minimize the exposure of exhaust gases by employees.

(e) The loaded gross weight and empty height of the vehicle must be posted in the vehicle such that it can be clearly read by the driver.

(f) Roll-over protective structures (ROPS) must be provided, installed and maintained on all open top off-road vehicles.

(g) Vehicles with an obstructed view to the rear of the vehicle when backing must be equipped or provided with:

(A) An automatic back-up alarm that must sound when backing and can be heard over the surrounding noise;

(B) A video camera that provides the driver a full and clear view of the path of travel behind the vehicle; or

(C) A spotter who stands to the rear of the vehicle, is visible to the driver in the driver-side mirror and uses unassisted voice communication, portable radio communication or hand signal communication to guide the driver while backing.

## (25) Fire Apparatus Operation.

(a) Employees must be trained in the safe operation of each type of vehicle they are authorized to drive.

(b) The employer must not allow an employee to drive a vehicle on a public highway or road unless they have a valid driver's license.

(c) Any item found that may affect the safe operation of a vehicle must be reported immediately to the officer in charge or other appropriate person.

(d) Employees must not drive or ride in any vehicle known to be unsafe.

(e) Employees being transported by fire department vehicles must ride in designated seat-belted or safety-harnessed positions.

(f) The employer must not allow employees to ride on tailboards, tail steps or running boards.

(g) Vehicles must come to a full stop before employees disembark.

(h) All equipment on a vehicle must be adequately secured when the vehicle is in motion.

(i) When traffic flow is inhibited, vehicles equipped with emergency warning lights must be used to control traffic at emergency scenes. The use of traffic cones, fire department personnel, police, or other traffic control measures must be used as soon as practical.

(26) Fire Apparatus Maintenance and Repair. Each employer must establish written records and procedures whereby apparatus has:

(a) At a minimum, a scheduled monthly maintenance check; or

(b) A maintenance check each time the apparatus is returned to the station following an emergency response, drill, or test drive.

## (27) Tires.

(a) No motor vehicle must be operated on any tire that:

(A) Has body ply or belt material exposed through the tread or sidewall;

(B) Has any tread or sidewall separation;

(C) Is flat or has an audible leak; or

(D) Has a cut to the extent that the ply or belt material is exposed.

(b) Any tire on the front wheels of a bus, truck, or truck tractor must have a tread groove pattern depth of at least 4/32 of an inch when measured at any point on a major tread groove. The measurements must not be made where tie bars, humps, or fillets are located.

(c) Except as provided in 437-002-0182(27)(b), tires must have a tread groove pattern depth of at least 2/32 of an inch when measured in a major tread groove. The measurement must not be made where tie bars, humps or fillets are located.

## (28) Aerial Devices.

(a) Aerial devices used for firefighting must be annually inspected and tested by a person qualified in performing such inspections and tests according to NFPA 1911 (2007): Standard for the Inspection, Maintenance, Testing, and Retirement of In-service Automotive Fire Apparatus.

(b) Where structural defects are found in critical components of an aerial device, the repairs must be tested and certified according to NFPA

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1911 (2007): Standard for the Inspection, Maintenance, Testing, and Retirement of In-service Automotive Fire Apparatus, by a registered professional engineer, the manufacturer of the apparatus, or an American Welding Society (AWS) Certified Welding Inspector.

(c) A permanent record of tests and repairs under 437-002-0182(28)(b) must be maintained for each aerial device.

(29) Hose Drying Towers.

(a) Floor openings on hose tower platforms must be equipped with a guardrail meeting the requirements of Division 2/D, 1910.23, Guarding Floor and Wall Openings and Holes.

**Note:** The toeboard requirements for elevated work platforms in Division 2/D, 1910.23, do not apply to hose drying towers unless hand tools or objects other than hoses are carried onto the platforms.

(b) Fixed ladders must meet the requirements of Division 2/D, 437-002-0027, Fixed Ladders.

(c) Ropes used to hoist hose in the hose towers must have a working load limit that maintains a minimum safety factor of 3:1.

(30) Drill Towers. Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from offset platform landings and ladder cage guards requirements of Division 2/D, 437-002-0027, Fixed Ladders.

(31) Testing, Maintenance and Inspection of Fire Service Equipment.

(a) The employer must inspect and maintain fire service equipment at least annually and perform all tests recommended by the manufacturer at the date of manufacture.

(b) When the manufacturer's recommendations required under 437-002-0182(31)(a) are not available from the manufacturer, the employer must identify and follow the recommendations of an applicable consensus standard or curriculum that is nationally recognized and generally accepted by the fire service industry.

**Note:** Examples of a consensus standard or curriculum under 437-002-0182(31)(b) include, but are not limited to, NFPA standards and IFSTA manuals.

(32) Confined spaces.

(a) Employers must comply with Division 2/J, 437-002-0146, Confined Spaces, for their own confined spaces.

(b) Employers must comply with Division 2/J, 437-002-0146, Confined Spaces, when they agree to serve as a designated rescue service provider.

(c) Employers that will respond to emergency calls for rescue from confined spaces must:

(A) Train responders to recognize inherent confined space hazards before assigning or attempting any related duties in confined space rescues.

(i) Provide responders with understanding, knowledge, and skills necessary for safe performance of confined space rescues.

(ii) Practice a confined space rescue operation at least once every year from a real or simulated confined space.

(B) Responders must be certified in writing to Department of Public Safety Standards and Training (DPSST) Firefighter 1 or equivalent.

(C) Use the Incident Management System (IMS) during confined space rescue incidents that meet the requirements of NFPA 1561 (2008): Standard on Emergency Services Incident Management System.

(D) Assess the situation and determine if it qualifies as a confined space incident.

(i) Classify the operation as a rescue or body recovery.

(ii) Assess and control physical hazards related to the incident or rescue.

(iii) Assess atmospheric hazards.

(I) Use calibrated direct-reading instruments to test the atmosphere in confined spaces for oxygen content, flammable gases and vapors, and toxic air contaminants.

(II) When calibrated direct-reading instruments are not available, the Incident Commander must assume the situation is IDLH and ensure that responders who enter are equipped with appropriate respiratory protective equipment that comply with Division 2/I, 1910.134, Respiratory Protection.

(iv) Determine if the space should be ventilated.

(v) Determine the precautions and procedures to follow for safe entry into the space.

(E) Provide the appropriate rescue, emergency, and personal protective equipment for safe entry into and rescue from confined spaces.

(F) Provide necessary equipment to facilitate non-entry retrieval for responders, unless the retrieval equipment would increase the overall risk or would not contribute to the rescue operations.

**Note:** For the reader's convenience, the following paragraphs are provided from Division 2/I, 1910.134(g)(3) and (g)(4), Respiratory Protection:

(g)(3) Procedures for IDLH atmospheres. For all IDLH atmospheres, the employer shall ensure that:

(i) One employee or, when needed, more than one employee is located outside the IDLH atmosphere;

(ii) Visual, voice, or signal line communication is maintained between the employee(s) in the IDLH atmosphere and the employee(s) located outside the IDLH atmosphere;

(iii) The employee(s) located outside the IDLH atmosphere are trained and equipped to provide effective emergency rescue;

(iv) The employer or designee is notified before the employee(s) located outside the IDLH atmosphere enter the IDLH atmosphere to provide emergency rescue;

(v) The employer or designee authorized to do so by the employer, once notified, provides necessary assistance appropriate to the situation;

(vi) Employee(s) located outside the IDLH atmospheres are equipped with:

(A) Pressure demand or other positive pressure SCBAs, or a pressure demand or other positive pressure supplied-air respirator with auxiliary SCBA; and either

(B) Appropriate retrieval equipment for removing the employee(s) who enter(s) these hazardous atmospheres where retrieval equipment would contribute to the rescue of the employee(s) and would not increase the overall risk resulting from entry; or

(C) Equivalent means for rescue where retrieval equipment is not required under paragraph (g)(3)(vi)(B).

(g)(4) Procedures for interior structural firefighting. In addition to the requirements set forth under paragraph (g)(3), in interior structural fires, the employer shall ensure that:

(i) At least two employees enter the IDLH atmosphere and remain in visual or voice contact with one another at all times;

(ii) At least two employees are located outside the IDLH atmosphere; and

(iii) All employees engaged in interior structural firefighting use SCBAs.

**Note 1** to paragraph (g): One of the two individuals located outside the IDLH atmosphere may be assigned to an additional role, such as incident commander in charge of the emergency or safety officer, so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any firefighter working at the incident.

**Note 2** to paragraph (g): Nothing in this section is meant to preclude firefighters from performing emergency rescue activities before an entire team has assembled.

**Table** [Table not included. See ED. NOTE.]

[ED. NOTE: Tables and Appendices referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1993, f. 7-29-93, cert. ef. 9-15-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 2-2000, f. & cert. ef. 1-28-00; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 3-2005, f. & cert. ef. 6-10-05; OSHA 9-2008, f. 9-19-08, cert. ef. 1-1-09; OSHA 8-2009, f. 7-9-09, cert. ef. 10-1-09; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 4-2015, f. 10-23-15, cert. ef. 7-1-16; OSHA 3-2016, f. & cert. ef. 8-19-16

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### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

(1) Subdivision A — GENERAL

(a) 29 CFR 1926.1 Purpose and Scope, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.2 Variances from safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections — right of entry, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.6 Incorporation by reference, published 3/25/16, FR vol. 81, no. 58, p. 16085.

(2) Subdivision B — GENERAL INTERPRETATIONS

(a) 29 CFR 1926.10 Scope of subpart, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 4/6/79, FR vol. 44, p. 20940.

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(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 4/6/79, FR vol. 44, p. 20940.

(3) Subdivision C — GENERAL SAFETY AND HEALTH PROVISIONS

(a) 29 CFR 1926.20 General safety and health provisions, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(b) 29 CFR 1926.21 Safety training and education, published 4/6/79, FR vol. 44, p. 20940; amended with Oregon OSHA AO 6-2012, repealed (b)(6), f. 9/28/12, ef. 4/1/13.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved)

(d) 29 CFR 1926.23 First aid and medical attention, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(j) 29 CFR 1926.29 Acceptable certifications, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 (Reserved).

(m) 29 CFR 1926.32 Definitions, published 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

(4) Subdivision D — OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS

(a) 29 CFR 1926.50 Medical services and first aid, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1926.60 Methylenedianiline (MDA), published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

NOTE: Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response

NOTE: Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

(5) Subdivision E — PERSONAL PROTECTIVE AND LIFE SAVING EQUIPMENT

(a) 29 CFR 1926.95 Criteria for personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(b) 29 CFR 1926.97 Electrical protective equipment, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(c) 29 CFR 1926.100 Head protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(d) 29 CFR 1926.101 Hearing protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(e) 29 CFR 1926.102 Eye and face protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(f) 29 CFR 1926.103 Respiratory protection, published 1/8/98, FR vol. 63, no. 5, p. 1297.

NOTE: 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(h) 29 CFR 1926.106 Working over or near water, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.107 Definitions applicable to this subpart, published 8/9/94, FR vol. 59, no. 152, p. 40729.

(6) Subdivision F — FIRE PROTECTION AND PREVENTION

(a) 29 CFR 1926.150 Fire protection, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire prevention, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.152 Flammable and combustible liquids, published 6/30/93, FR vol. 58, no. 124, p. 35162.

(d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 6/30/93, FR vol. 58, no. 124, p. 35170.

(e) 29 CFR 1926.154 Temporary heating devices, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.155 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(7) Subdivision G — SIGNS, SIGNALS, AND BARRICADES

(a) 29 CFR 1926.200 Accident prevention signs and tags, published 6/13/13, FR vol. 78, no. 114, p. 35559; 11/6/13, FR vol. 78, no. 215, p. 66641.

(b) 29 CFR 1926.201 Signaling, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(c) 29 CFR 1926.202 Barricades, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(8) Subdivision H — MATERIALS HANDLING, STORAGE, USE AND DISPOSAL

(a) 29 CFR 1926.250 General requirements for storage, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.251 Rigging equipment for material handling, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(c) 29 CFR 1926.252 Disposal of waste materials, published 4/6/79, FR vol. 44, p. 20940.

(9) Subdivision I — TOOLS — HAND AND POWER

(a) 29 CFR 1926.300 General requirements, published 3/7/96, FR vol. 61, no. 46, p. 9250.

(b) 29 CFR 1926.301 Hand tools, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.302 Power operated hand tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.

(d) 29 CFR 1926.303 Abrasive wheels and tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.

(e) 29 CFR 1926.304 Woodworking tools, published 3/7/96, FR vol. 61, no. 46, p. 9251.

(f) 29 CFR 1926.305 Jacks - lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.

(10) Subdivision J — WELDING AND CUTTING

(a) 29 CFR 1926.350 Gas welding and cutting. Repealed. Oregon OSHA Admin. Order 6-2014, f. 10/28/14, ef. 5/1/15. In Oregon, OAR 437-002-2253 applies.

(b) 29 CFR 1926.351 Arc welding and cutting, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.352 Fire prevention, published 4/6/79, FR vol. 44, p. 20940.

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- (d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 6/30/93, FR vol. 58, no. 124, p. 35179.
- (e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 4/6/79, FR vol. 44, p. 20940.
- (11) Subdivision K — ELECTRICAL
- (a) 29 CFR 1926.400 Introduction, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (b) 29 CFR 1926.401 (Reserved)
- (c) 29 CFR 1926.402 Applicability, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (d) 29 CFR 1926.403 General requirements, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (e) 29 CFR 1926.404 Wiring design and protection, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.
- (f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (g) 29 CFR 1926.406 Specific purpose equipment and installations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (h) 29 CFR 1926.407 Hazardous (classified) locations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (i) 29 CFR 1926.408 Special systems, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (j) 29 CFR 1926.409 (Reserved)
- (k) 29 CFR 1926.415 (Reserved)
- (l) 29 CFR 1926.416 General requirements, published 8/12/96, FR vol. 61, no. 156, p. 41738.
- (m) 29 CFR 1926.417 Lockout and tagging of circuits, published 8/12/96, FR vol. 61, no. 156, p. 41739.
- (n) 29 CFR 1926.418 (Reserved)
- (o) 29 CFR 1926.430 (Reserved)
- (p) 29 CFR 1926.431 Maintenance of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (q) 29 CFR 1926.432 Environmental deterioration of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (r) 29 CFR 1926.433 - 29 CFR 1926.440 (Reserved)
- (s) 29 CFR 1926.441 Battery locations and battery charging, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (t) 29 CFR 1926.442 - 29 CFR 1926.448 (Reserved)
- (u) 29 CFR 1926.449 Definitions applicable to this subpart, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (12) Subdivision L — SCAFFOLDING
- (a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.451 General requirements, published 11/25/96, FR vol. 61, no. 228, p. 59831.
- (c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.
- (d) 29 CFR 1926.453 Aerial lifts, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (j) Appendix E to Subpart L Drawing and illustrations, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (13) Subdivision M — FALL PROTECTION
- (a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart, published 4/11/14, FR vol. 79, no. 70, p. 20316; amended with AO 1-2016, f. 3/1/16, ef. 1/1/17.
- (b) 29 CFR 1926.501 Duty to have fall protection. REPEALED with AO 1-2016, f. 3/1/16, ef. 1/1/17. In Oregon, 437-003-1501 applies.
- (c) 29 CFR 1926.502 Fall protection systems criteria and practices, published 8/9/94, FR vol. 59, no. 152, p. 40733-40738; amended with AO 6-2002, f. and ef. 7/19/02.
- (d) 29 CFR 1926.503 Training requirements. REPEALED with AO 6-2002, f. and ef. 7/19/02, in Oregon, 437-003-0503 applies.
- (e) Appendix A to Subpart M Determining Roof Widths, published 8/9/94, FR vol. 59, no. 152, p. 40738-40742.
- (f) Appendix B to Subpart M Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.
- (g) Appendix C to Subpart M Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743-40746.
- (h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.
- (14) Subdivision N — HELICOPTERS, HOISTS, ELEVATORS, AND CONVEYORS
- (a) 29 CFR 1926.550 (Reserved).
- (b) 29 CFR 1926.551 Helicopters, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.553 Base-mounted drum hoist, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.554 Overhead hoists, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.555 Conveyors, published 4/6/79, FR vol. 44, p. 20940.
- (15) Subdivision O — MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS
- (a) 29 CFR 1926.600 Equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.601 Motor vehicles, REPEALED by OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07.
- (c) 29 CFR 1926.602 Material handling equipment, published 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.
- (d) 29 CFR 1926.603 Pile driving equipment, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.604 Site clearing, published 7/22/77, FR vol. 42, p. 37674.
- (f) 29 CFR 1926.605 Marine operations and equipment, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.606 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (16) Subdivision P — EXCAVATIONS
- (a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.
- (b) 29 CFR 1926.651 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.652 Requirements for protective systems, published 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.
- (d) Appendices A-F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.
- (17) Subdivision Q — CONCRETE AND MASONRY CONSTRUCTION
- (a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (b) 29 CFR 1926.701 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.702 Requirements for equipment and tools, published 6/16/88, FR vol. 53, p. 22612.
- (d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.
- (e) 29 CFR 1926.704 Requirements for precast concrete, published 10/5/89, FR vol. 54, no. 192, p. 41088.
- (f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.
- (18) Subdivision R — STEEL ERECTION
- (a) 29 CFR 1926.750 Scope, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (b) 29 CFR 1926.751 Definitions, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 7/17/01, FR vol. 66, no. 137, p. 37137.

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- (d) 29 CFR 1926.753 Hoisting and rigging, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.754 Structural steel assembly, published 4/3/06, FR vol. 71, no. 63, p. 16669.
- (f) 29 CFR 1926.755 Column anchorage, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (g) 29 CFR 1926.756 Beams and columns, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (h) 29 CFR 1926.757 Open web steel joists, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (i) 29 CFR 1926.758 Systems-engineered metal buildings, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (j) 29 CFR 1926.759 Falling object protection, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (k) 29 CFR 1926.760 Fall protection, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (l) 29 CFR 1926.761 Training, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Nonmandatory Guidelines for Complying with §1926.752(e), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (n) Appendix B to Subpart R Reserved.
- (o) Appendix C to Subpart R Illustrations of bridging terminus points: Nonmandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (p) Appendix D to Subpart R Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Nonmandatory Guidelines for Complying with §1926.760(c)(3), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (q) Appendix E to Subpart R Training: Nonmandatory Guidelines for Complying with §1926.761, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (r) Appendix F to Subpart R Perimeter columns: Nonmandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Nonmandatory Guidelines for Complying with Complying with §1926.760(d), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (t) Appendix H to Subpart R Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (19) Subdivision S — UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR
- (a) 29 CFR 1926.800 Underground construction, published 4/23/13, FR vol. 78, no. 78, p. 23837.
- (b) 29 CFR 1926.801 Caissons, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.802 Cofferdams, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.803 Compressed air, published 7/11/86, FR vol. 51, p. 25318.
- (e) 29 CFR 1926.804 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (f) Appendix A to Subpart S Decompression Tables, published 4/6/79, FR vol. 44, p. 20940.
- (20) Subdivision T — DEMOLITION
- (a) 29 CFR 1926.850 Preparatory operations, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.852 Chutes, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.853 Removal of materials through floor openings, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.855 Manual removal of floors, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 4/23/13, FR vol. 78, no. 78, p. 23837.
- (h) 29 CFR 1926.857 Storage, published 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.858 Removal of steel construction, published 4/23/13, FR vol. 78, no. 78, p. 23837.
- (j) 29 CFR 1926.859 Mechanical demolition, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.860 Selective demolition by explosives, published 4/6/79, FR vol. 44, p. 20940.
- (21) Subdivision U — BLASTING AND USE OF EXPLOSIVES
- (a) 29 CFR 1926.900 General provisions, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.901 Blaster qualifications, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.902 Surface transportation of explosives, published 6/30/93, FR vol. 58, no. 124, p. 35311.
- (d) 29 CFR 1926.903 Underground transportation of explosives, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35311.
- (f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35184.
- (g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 6/18/98, FR vol. 63, no. 117, p. 33469.
- (h) 29 CFR 1926.907 Use of safety fuse, published 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.908 Use of detonating cord, published 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.909 Firing the blast, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.910 Inspection after blasting, published 4/6/79, FR vol. 44, p. 20940.
- (l) 29 CFR 1926.911 Misfires, published 4/6/79, FR vol. 44, p. 20940.
- (m) 29 CFR 1926.912 Underwater blasting, published 4/6/79, FR vol. 44, p. 20940.
- (n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 4/6/79, FR vol. 44, p. 20940.
- (o) 29 CFR 1926.914 Definitions applicable to this subpart, published 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.
- (22) Subdivision V — POWER TRANSMISSION AND DISTRIBUTION
- 29 CFR 1926.950 through 1926.960 are repealed with Oregon OSHA Admin. Order 3-2015, f. 10/9/15, ef. 1/1/16. In Oregon, Division 2/R applies.
- (23) Subdivision W — ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION
- (a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 7/20/06, FR vol. 71, no. 139, p. 41127.
- (d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/28/06, FR vol. 71, no. 39, p. 9909.
- (24) Subdivision X — STAIRWAYS AND LADDERS
- (a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.
- (c) 29 CFR 1926.1052 Stairways, published 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.
- (d) 29 CFR 1926.1053 Ladders, published 4/11/14, FR vol. 79, no. 70, p. 20316.
- (e) 29 CFR 1926.1054 (Reserved)
- (f) 29 CFR 1926.1055 (Reserved)
- (g) 29 CFR 1926.1056 (Reserved)
- (h) 29 CFR 1926.1057 (Reserved)
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- (j) 29 CFR 1926.1059 (Reserved)
- (k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.
- (25) Subdivision Z — TOXIC AND HAZARDOUS SUBSTANCES
- (a) 29 CFR 1926.1101 Asbestos, published 2/8/13, FR vol. 78, no. 27, p. 9311.

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(b) 29 CFR 1926.1126 Chromium (VI), published 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.

(c) 29 CFR 1926.1127 Cadmium, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(d) 29 CFR 1926.1152 Methylene Chloride, published 12/18/97, FR vol. 62, no. 243, p. 66275.

(26) Subdivision AA – (Reserved)

(27) Subdivision BB – (Reserved)

(28) Subdivision CC – Cranes and Derricks in Construction

(a) 29 CFR 1926.1400 Scope, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(d) 29 CFR 1926.1403 Assembly/Disassembly — selection of manufacturer or employer procedures, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(e) 29 CFR 1926.1404 Assembly/Disassembly — general requirements (applies to all assembly and disassembly operations), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(f) 29 CFR 1926.1405 Disassembly — additional requirements for dismantling of booms and jibs (applies to both the use of manufacturer procedures and employer procedures), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(g) 29 CFR 1926.1406 Assembly/Disassembly — employer procedures — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(h) 29 CFR 1926.1407 Power line safety (up to 350 kV) — assembly and disassembly, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(i) 29 CFR 1926.1408 Power line safety (up to 350 kV) — equipment operations, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(j) 29 CFR 1926.1409 Power line safety (over 35 kV), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(k) 29 CFR 1926.1410 Power line safety (all voltages) — equipment operations closer than the Table A zone, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(l) 29 CFR 1926.1411 Power line safety — while traveling, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(m) 29 CFR 1926.1412 Inspections, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(n) 29 CFR 1926.1413 Wire rope — inspection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(o) 29 CFR 1926.1414 Wire rope — selection and installation criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(p) 29 CFR 1926.1415 Safety devices, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(q) 29 CFR 1926.1416 Operational aids, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(r) 29 CFR 1926.1417 Operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(s) 29 CFR 1926.1418 Authority to stop operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(t) 29 CFR 1926.1419 Signals — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(u) 29 CFR 1926.1420 Signals — radio, telephone or other electronic transmission of signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(v) 29 CFR 1926.1421 Signals — voice signals — additional requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(w) 29 CFR 1926.1422 Signals — hand signal chart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(x) 29 CFR 1926.1423 Fall protection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(y) 29 CFR 1926.1424 Work area control, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(z) 29 CFR 1926.1425 Keeping clear of the load, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(aa) 29 CFR 1926.1426 Free fall and controlled load lowering, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(bb) 29 CFR 1926.1427 Operator qualification and certification, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(cc) 29 CFR 1926.1428 Signal person qualifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(dd) 29 CFR 1926.1429 Qualifications of maintenance & repair employees, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ee) 29 CFR 1926.1430 Training, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ff) 29 CFR 1926.1431 Hoisting personnel, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(gg) 29 CFR 1926.1432 Multiple-crane/derrick lifts — supplemental requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(hh) 29 CFR 1926.1433 Design, construction and testing, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(kk) 29 CFR 1926.1436 Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ll) 29 CFR 1926.1437 Floating cranes/derricks and land cranes/derricks on barges, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(mmm) 29 CFR 1926.1438 Overhead & gantry cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(nn) 29 CFR 1926.1439 Dedicated pile drivers, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(oo) 29 CFR 1926.1440 Sideboom cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(pp) 29 CFR 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds or less, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(qq) 29 CFR 1926.1442 Severability, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(rr) Appendix A to Subdivision CC of 1926 — Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ss) Appendix B to Subdivision CC of 1926 — Assembly/Disassembly — Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(tt) Appendix C to Subdivision CC of 1926 — Operator Certification — Written Examination — Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)  
Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02, cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03, cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 8-2003, f. 12-30-03, cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 6-2007, f. & cert. ef. 9-26-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 1-2011, f. & cert. ef. 2-9-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2011, f. 12-8-11, cert. ef. 7-1-12; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 3-2012, f. & cert. ef. 8-20-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 1-2013, f. & cert. ef. 2-14-13; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13; OSHA 4-2013, f. & cert. ef. 7-19-13; OSHA 5-2013, f. & cert. ef. 9-13-13; OSHA 6-2013, f. & cert. ef. 10-9-13; OSHA 7-2013, f. & cert. ef. 12-12-13; OSHA 6-2014, f. 10-28-14, cert. ef. 5-1-15; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16; OSHA 1-2016, f. 3-1-16, cert. ef. 1-1-17; OSHA 3-2016, f. & cert. ef. 8-19-16

## 437-003-0134

### Personal Protective Equipment

Application. This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

## ADMINISTRATIVE RULES

(1) Hazard assessment and equipment selection. The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:

(a) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

(A) All protective equipment must be of safe design and construction for the work to be performed.

(B) Protective equipment must be worn and used in a manner which will make full use of its protective properties.

(b) Communicate selection decisions to each affected employee; and,

(c) Select PPE that properly fits each affected employee.

**NOTE:** Non-mandatory Appendix B to Subdivision 2/1, contains an example of procedures that would comply with the requirement for a hazard assessment.

(2) Equipment.

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.

(c) Defective or damaged personal protective equipment must not be used.

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.

(3) Training.

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:

(A) When PPE is necessary;

(B) What PPE is necessary;

(C) How to properly don, doff, adjust, and wear PPE;

(D) The limitations of the PPE; and,

(E) The proper care, maintenance, useful life and disposal of the PPE.

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must retrain each such employee. Circumstances where retraining is required include, but are not limited to situations where:

(A) Changes in the workplace render previous training obsolete; or

(B) Changes in the types of PPE to be used render previous training obsolete; or

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(4) Payment for protective equipment.

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(d) The employer is not required to pay for:

(A) The logging boots required by OAR 437-007-0330 in Division 7.

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee

for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.

(5) Fall Protection.

(a) All employees must be protected from fall hazards when working on unguarded surfaces more than 10 feet above a lower level or at any height above dangerous equipment.

(b) The employer must ensure that fall protection systems are provided, installed, and used according to the criteria in 1926.502(d), and 437-003-0502 in Division 3/M, Construction/Fall Protection.

(6) Work Clothing.

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must contrast with other colors in the area sufficiently to make the worker stand-out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.

(8) Eye And Face Protection.

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. Table 1 to 437-003-0134(8)(e) Table 2 to 437-003-0134(8)(e) [Table not included. See ED. NOTE.]

(f) Protective eye and face protection devices must comply with any of the following consensus Standards.

(A) ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in 1926.6;

(B) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1926.6; or

(C) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1926.6.

(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.

(9) Head Protection.

# ADMINISTRATIVE RULES

(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(c) Head protection must comply with any of the following consensus standards:

(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6;

(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6;

(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6; or

(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.

(10) Foot Protection.

(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards.

(b) Protective footwear must comply with any of the following consensus standards:

(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in 1926.6;

(B) ANSI Z41-1999, American National Standard for Personal Protection –Protective Footwear, which is incorporated by reference in 1926.6; or

(C) ANSI Z41-1991, American National Standard for Personal Protection –Protective Footwear, which is incorporated by reference in §1926.6.

(c) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.

(11) Leg protection.

(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.

(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.

(12) Hand Protection.

(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.

(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 3-2016, f. & cert. ef. 8-19-16

## 437-005-0001

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1915, in the Federal Register:

(1) Subdivision A

(a) 29 CFR 1915.1. Purpose and authority, published 4/20/82, Federal Register (FR) vol. 47, p. 16984.

(b) 29 CFR 1915.2. Scope and application, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.3. Responsibility, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.4. Definitions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.5. Incorporation by reference, published 3/25/16, FR vol. 81, no. 58, p. 16085.

(f) 29 CFR 1915.6. Commercial diving operations, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.7. Competent person, published 7/25/94, FR vol. 59, p. 37856.

(h) 29 CFR 1915.9. Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(2) Subdivision B

(a) 29 CFR 1915.11. Scope, application and definitions applicable to this Subpart, published 7/25/94, FR vol. 59, p. 37857.

(b) 29 CFR 1915.12. Precautions before entering confined and enclosed spaces and other dangerous atmospheres, published 3/16/95, FR vol. 60, no. 51, p. 14218.

(c) 29 CFR 1915.13. Cleaning and other cold work, published 7/25/94, FR vol. 59, p. 37859.

(d) 29 CFR 1915.14. Hot work, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.15. Maintenance of safe conditions, published 6/22/12, FR vol. 77, no. 121, p. 37587.

(f) 29 CFR 1915.16. Warning signs and labels, published 7/25/94, FR vol. 59, p. 37861. Appendix A to Subpart B published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590. Appendix B to Subpart B published 7/25/94, FR vol. 59, p. 37816.

(3) Subdivision C

(a) 29 CFR 1915.31. Scope & application of subdivision, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.32. Toxic cleaning solvents, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(c) 29 CFR 1915.33. Chemical paint & preservative remover, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(d) 29 CFR 1915.34. Mechanical paint removers, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(e) 29 CFR 1915.35. Painting, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.36. Flammable liquids, published 4/20/82, FR vol. 47, p. 16984.

(4) Subdivision D

(a) 29 CFR 1915.51. Ventilation & protection in welding, cutting and heating, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.52. Fire prevention. REMOVED 9/15/04, FR vol. 69, p. 55667.

(c) 29 CFR 1915.53. Welding, cutting and heating of hollow metal containers & structure not covered by 1915.12, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.55. Gas welding & cutting, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.56. Arc welding and cutting, published 4/20/82, FR vol. 47, p. 16984.

(f) 29 CFR 1915.57. Uses of fissionable material in ship repairing and shipbuilding, published 4/20/82, FR vol. 47, p. 16984.

(5) Subdivision E

(a) 29 CFR 1915.71. Scaffolds or staging, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.72. Ladders, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.73. Guarding of deck openings and edges, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.74. Access to vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.



# ADMINISTRATIVE RULES

- (e) 29 CFR 1915.75. Access to and guarding of dry docks and marine railways, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (f) 29 CFR 1915.76. Access to cargo spaces and confined spaces, published 4/20/82, FR vol. 47, p. 16984.
- (g) 29 CFR 1915.77. Working surfaces, published amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (6) Subdivision F
- (a) 29 CFR 1915.80. Scope, application, definitions and effective dates, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (b) 29 CFR 1915.81. Housekeeping, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (c) 29 CFR 1915.82. Lighting, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (d) 29 CFR 1915.83. Utilities, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (e) 29 CFR 1915.84. Working alone, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (f) 29 CFR 1915.85. Vessel radar and communication systems, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (g) 29 CFR 1915.86. Lifeboats, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (h) 29 CFR 1915.87. Medical services and first aid, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (i) 29 CFR 1915.88. Sanitation, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (j) 29 CFR 1915.89. Control of hazardous energy (lockout/tagout), published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (k) 29 CFR 1915.90. Safety color code for marking physical hazards, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (l) 29 CFR 1915.91. Accident prevention signs and tags, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (m) 29 CFR 1915.92. Retention of DOT markings, placards, and labels, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (n) 29 CFR 1915.93. Motor vehicle safety equipment, operation, and maintenance, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (o) 29 CFR 1915.94. Servicing of multi-piece and single-piece rim wheels, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (7) Subdivision G
- (a) 29 CFR 1915.111. Inspection, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.112. Ropes, chains and slings, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (c) 29 CFR 1915.113. Shackles and hooks, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (d) 29 CFR 1915.114. Chain falls and pull lifts, published 4/20/82, FR vol. 47, p. 16984.
- (e) 29 CFR 1915.115. Hoisting and hauling equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (f) 29 CFR 1915.116. Use of gear, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (g) 29 CFR 1915.117. Qualifications of operators, published 4/20/82, FR vol. 47, p. 16984.
- (h) 29 CFR 1915.118. Tables, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (8) Subdivision H
- (a) 29 CFR 1915.131. General precautions, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.132. Portable electric tools, published 4/20/82, FR vol. 47, p. 16984.
- (c) 29 CFR 1915.133. Hand tools, published 4/20/ 82, FR vol. 47, p. 16984.
- (d) 29 CFR 1915.134. Abrasive wheels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (e) 29 CFR 1915.135. Powder actuated fastening tools, published 5/24/96, FR vol. 61, no. 102, p. 26351.
- (f) 29 CFR 1915.136. Internal combustion engines other than ship's equipment, published 4/20/82, FR vol. 47, p. 16984.
- (9) Subdivision I
- (a) 29 CFR 1915.151. Scope, application and definitions, published 5/24/96, FR vol. 61, no. 102, p. 26352.
- (b) 29 CFR 1915.152. General requirements, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (c) 29 CFR 1915.153. Eye and face protection, published 3/25/16, FR vol. 81, no. 58, p. 16085.
- (d) 29 CFR 1915.154. Respiratory protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (e) 29 CFR 1915.155. Head protection, published 6/22/12, FR vol. 77, no. 121, p. 37587.
- (f) 29 CFR 1915.156. Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (g) 29 CFR 1915.157. Hand and body protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (h) 29 CFR 1915.158. Lifesaving equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (i) 29 CFR 1915.159. Personal fall arrest systems (PFAS), published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (j) 29 CFR 1915.160. Positioning device systems, published 7/3/02, FR vol. 67, no. 128, p. 44541. Appendix A to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541. Appendix B to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (10) Subdivision J
- (a) 29 CFR 1915.161. Scope and application of subdivision, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.162. Ship's boilers, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (c) 29 CFR 1915.163. Ship's piping systems, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (d) 29 CFR 1915.164. Ship's propulsion machinery, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (e) 29 CFR 1915.165. Ship's decking machinery, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (11) Subdivision K
- (a) 29 CFR 1915.171. Scope and application of subdivision, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.172. Portable air receiver and other unfired pressure vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.173. Drums and containers, published 4/20/82, FR vol. 47, p. 16984.
- (12) Subdivision L
- (a) 29 CFR 1915.181. Electrical circuits and distribution boards, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (13) Subdivisions M O (Reserved)
- (14) Subdivision P
- (a) 29 CFR 1915.501. General provisions, published 9/15/04, FR vol. 69, p. 55667.
- (b) 29 CFR 1915.502. Fire safety plan, published 9/15/04, FR vol. 69, p. 55667.
- (c) 29 CFR 1915.503. Precautions for hot work, published 9/15/04, FR vol. 69, p. 55667.
- (d) 29 CFR 1915.504. Fire watches, published 9/15/04, FR vol. 69, p. 55667.
- (e) 29 CFR 1915.505. Fire response, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (f) 29 CFR 1915.506. Hazards of fixed extinguishing systems on board vessels and vessel sections, published 9/15/04, FR vol. 69, p. 55667.
- (g) 29 CFR 1915.507. Land-side fire protection systems, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (h) 29 CFR 1915.508. Training, published 9/15/04, FR vol. 69, p. 55667.
- (i) 29 CFR 1915.509. Definitions applicable to this subpart, published 9/15/04, FR vol. 69, p. 55667.
- Appendix A to Subpart P, published 9/15/04, FR vol. 69, p. 55667.
- (15) Subdivision Q-Y (Reserved)
- (16) Subdivision Z
- (a) 29 CFR 1915.1000. Air Contaminants, published 12/27/11, FR vol. 76, no. 248, p. 80735.
- (b) 29 CFR 1915.1001. Asbestos, published 2/8/13, FR vol. 78, no. 27, p. 9311. Appendix A to 1915.1001, published 6/29/95, FR vol. 60, p. 33972. Appendix B to 1915.1001, published 6/29/95, FR vol. 60, p. 33972. Appendix C to 1915.1001, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590. Appendix D to 1915.1001, published 8/10/94, FR vol. 59, p. 40964. Appendix E to 1915.1001, published 6/29/95, FR vol. 60, p. 33972. Appendix F to 1915.1001, published 6/29/95, FR vol. 60, p. 33972. Appendix G to 1915.1001, published 8/10/94, FR vol. 59, p. 40964. Appendix H to 1915.1001, published 6/29/95, FR vol. 60, p. 33972. Appendix I to 1915.1001, published 8/10/94, FR vol. 59, p. 40964. Appendix J to 1915.1001, published 8/10/94, FR vol. 59, p. 40964. Appendix K to 1915.1001, published 6/29/95, FR vol. 60, p. 33972. Appendix L to 1915.1001, published 8/23/96, FR vol. 61, p. 43454.

# ADMINISTRATIVE RULES

(c) 29 CFR 1915.1002. Coal tar pitch volatiles; interpretation of term, published 6/20/96, FR vol. 61, p. 31427.

(d) 29 CFR 1915.1003. 13 Carcinogens (4 Nitrobiophenyl, etc.), published 6/20/96, FR vol. 61, p. 31427.

(e) 29 CFR 1915.1004. alpha Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.

(f) 29 CFR 1915.1005. (Reserved)

(g) 29 CFR 1915.1006. Methyl chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.

(h) 29 CFR 1915.1007. 3,3'-Dichlorobenzidene (and its salts), published 6/20/96, FR vol. 61, p. 31427.

(i) 29 CFR 1915.1008. bis Chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.

(j) 29 CFR 1915.1009. beta Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1915.1010. Benzidine, published 6/20/96, FR vol. 61, p. 31427.

(l) 29 CFR 1915.1011. 4 Aminodiphenyl, published 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1915.1012. Ethyleneimine, published 6/20/96, FR vol. 61, p. 31427.

(n) 29 CFR 1915.1013. beta Propiolactone, published 6/20/96, FR vol. 61, p. 31427.

(o) 29 CFR 1915.1014. 2 Acetylaminofluorene, published 6/20/96, FR vol. 61, p. 31427.

(p) 29 CFR 1915.1015. 4 Dimethylaminoazobenzene, published 6/20/96, FR vol. 61, p. 31427.

(q) 29 CFR 1915.1016. N Nitrosodimethylamine, published 6/20/96, FR vol. 61, p. 31427.

(r) 29 CFR 1915.1017. Vinyl chloride, published 6/20/96, FR vol. 61, p. 31427.

(s) 29 CFR 1915.1018. Inorganic arsenic, published 6/20/96, FR vol. 61, p. 31427.

(t) 29 CFR 1915.1020 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, p. 31427.

(u) 29 CFR 1915.1025. Lead, published 6/20/96, FR vol. 61, p. 31427.

(v) 29 CFR 1915.1026 Chromium (VI), published 3/26/12, FR vol. 77, no. 58, p. 17574.

(w) 29 CFR 1915.1027. Cadmium, published 6/20/96, FR vol. 61, p. 31427.

(x) 29 CFR 1915.1028. Benzene, published 6/20/96, FR vol. 61, p. 31427.

(y) 29 CFR 1915.1030. Bloodborne pathogens, published 6/20/96, FR vol. 61, p. 31427.

(z) 29 CFR 1915.1044. 1,2 dibromo 3 chloropropane, published 6/20/96, FR vol. 61, p. 31427.

(aa) 29 CFR 1915.1045. Acrylonitrile, published 6/20/96, FR vol. 61, p. 31427.

(bb) 29 CFR 1915.1047. Ethylene oxide, published 6/20/96, FR vol. 61, p. 31427.

(cc) 29 CFR 1915.1048. Formaldehyde, published 6/20/96, FR vol. 61, p. 31427.

(dd) 29 CFR 1915.1050. Methylenedianiline, published 6/20/96, FR vol. 61, p. 31427.

(ee) 29 CFR 1915.1052 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619.

(ff) 29 CFR 1915.1120 Access to employee exposure and medical records has been redesignated to §1915.1020.

(Note: 29 CFR 1915.99, Hazard Communication was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.)

(gg) 29 CFR 1915.1200. Hazard communication, published 6/20/96, FR vol. 61, p. 31427.

(hh) 29 CFR 1915.1450. Occupational exposure to hazardous chemicals in laboratories, published 6/20/96, FR vol. 61, p. 31427.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 19-1993, f. & cert. ef. 12-29-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 2-1995, f. & cert. ef. 1-25-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 4-2003, f. & cert. ef. 5-6-03; OSHA 8-2004, f. & cert. ef. 12-30-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 1-2007, f. 1-9-07 cert. ef. 1-16-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 3-2011, f.

& cert. ef. 11-1-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 4-2013, f. & cert. ef. 7-19-13; OSHA 3-2016, f. & cert. ef. 8-19-16

## 37-005-0002

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1917, in the Federal Register:

#### (1) Subdivision A

(a) 29 CFR 1917.1 Scope and applicability, published 2/28/06, FR vol. 71, no. 39, p. 10100.

(b) 29 CFR 1917.2 Definitions, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(c) 29 CFR 1917.3 Incorporation by reference, published 3/25/16, FR vol. 81, no. 58, p. 16085.

(d) 29 CFR 1917.5 Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589

#### (2) Subdivision B

(a) 29 CFR 1917.11 Housekeeping, published 7/25/97, FR vol. 62, no. 143, p. 40196.

(b) 29 CFR 1917.12 Slippery conditions, published 7/5/83, FR vol. 48, p. 30909.

(c) 29 CFR 1917.13 Slings, published 7/25/97, FR vol. 62, no. 143, p. 40197.

(d) 29 CFR 1917.14 Stacking of cargo and pallets, published 7/5/83, FR vol. 48, p. 30909.

(e) 29 CFR 1917.15 Coopering, published 7/5/83, FR vol. 48, p. 30909.

(f) 29 CFR 1917.16 Line handling, published 7/5/83, FR vol. 48, p. 30909.

(g) 29 CFR 1917.17 Railroad facilities, published 7/25/97, FR vol. 62, no. 143, p. 40197.

(h) 29 CFR 1917.18 Log handling, published 7/5/83, FR vol. 48, p. 30909.

(i) 29 CFR 1917.19 Movement of barges and rail cars, published 7/5/83, FR vol. 48, p. 30909.

(j) 29 CFR 1917.20 Interference with communications, published 7/25/97, FR vol. 62, no. 143, p. 40197.

(k) 29 CFR 1917.21 Open fires, published 7/5/83, FR vol. 48, p. 30909.

(l) 29 CFR 1917.22 Hazardous cargo (see 1917.2(p)), published 7/5/83, FR vol. 48, p. 30909.

(m) 29 CFR 1917.23 Hazardous atmospheres and substances (see 1917.2(p)), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(n) 29 CFR 1917.24 Carbon monoxide, published 7/25/97, FR vol. 62, no. 143, p. 40197.

(o) 29 CFR 1917.25 Fumigants, pesticides, insecticides and hazardous preservatives (see 1917.2(p)), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(p) 29 CFR 1917.26 First aid and lifesaving facilities, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(q) 29 CFR 1917.27 Personnel, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(r) 29 CFR 1917.28 Hazard communication (see also §1917.1(a)(2)(vi)), published 7/25/97, FR vol. 62, no. 143, p. 40198.

(s) 29 CFR 1917.29 Retention of DOT markings, placards and labels, published 7/19/94, Federal Register, vol. 59, no. 137, p. 36700.

(t) 29 CFR 1917.30 Emergency action plans, published 6/30/00, FR vol. 65, no. 127, p. 40938.

#### (3) Subdivision C

(a) 29 CFR 1917.41 House falls, published 7/5/83, FR vol. 48, p. 30909.

(b) 29 CFR 1917.42 Miscellaneous auxiliary gear, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1917.43 Powered industrial trucks, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(d) 29 CFR 1917.44 General rules applicable to vehicles, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(e) 29 CFR 1917.45 Cranes and derricks (see also §1917.50), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(f) 29 CFR 1917.46 Load indicating devices, published 7/25/97, FR vol. 62, no. 143, p. 40199.

(g) 29 CFR 1917.47 Winches, published 7/5/83, FR vol. 48, p. 30909.

# ADMINISTRATIVE RULES

- (h) 29 CFR 1917.48 Conveyors, published 7/25/97, FR vol. 62, no. 143, p. 40200.
- (i) 29 CFR 1917.49 Spouts, chutes, hoppers, bins, and associated equipment, published 7/5/83, FR vol. 48, p. 30909.
- (j) 29 CFR 1917.50 Certification of marine terminal material handling devices (see also Mandatory Appendix IV, Part 1918 of this chapter), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (k) 29 CFR 1917.51 Hand tools, published 7/5/83, FR vol. 48, p. 30909.
- (4) Subdivision D
- (a) 29 CFR 1917.70 General, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.71 Terminals handling intermodal container or roll on roll off operations, published 4/21/14, FR vol. 79, no. 76, p. 22018.
- (c) 29 CFR 1917.72 (Reserved)
- (d) 29 CFR 1917.73 Terminal facilities handling menhaden and similar species of fish (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (5) Subdivision E
- (a) 29 CFR 1917.91 Eye and face protection, published 3/25/16, FR vol. 81, no. 58, p. 16085.
- (b) 29 CFR 1917.92 Respiratory protection, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (c) 29 CFR 1917.93 Head protection, published 6/22/12, FR vol. 77, no. 121, p. 37587.
- (d) 29 CFR 1917.94 Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (e) 29 CFR 1917.95 Other protective measures, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (f) 29 CFR 1917.96 Payment for protective equipment, published 11/15/07, FR vol. 72, no. 220, p. 64342.
- (6) Subdivision F
- (a) 29 CFR 1917.111 Maintenance and load limits, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.112 Guarding of edges, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (c) 29 CFR 1917.113 Clearance heights, published 7/5/83, FR vol. 48, p. 30909.
- (d) 29 CFR 1917.114 Cargo doors, published 7/5/83, FR vol. 48, p. 30909.
- (e) 29 CFR 1917.115 Platforms and skids, published 7/5/83, FR vol. 48, p. 30909.
- (f) 29 CFR 1917.116 Elevators and escalators, published 7/13/84, FR vol. 49, p. 28551.
- (g) 29 CFR 1917.117 Manlifts, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (h) 29 CFR 1917.118 Fixed ladders, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (i) 29 CFR 1917.119 Portable ladders, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (j) 29 CFR 1917.120 Fixed stairways, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (k) 29 CFR 1917.121 Spiral stairways, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (l) 29 CFR 1917.122 Employee exits, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (m) 29 CFR 1917.123 Illumination, published 7/25/97, FR vol. 62, no. 143, p. 40201.
- (n) 29 CFR 1917.124 Dockboards (car and bridge plates), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (o) 29 CFR 1917.125 Guarding temporary hazards, published 7/5/83, FR vol. 48, p. 30909.
- (p) 29 CFR 1917.126 River banks, published 7/25/97, FR vol. 62, no. 143, p. 40201.
- (q) 29 CFR 1917.127 Sanitation, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (r) 29 CFR 1917.128 Signs and marking, published 7/5/83, FR vol. 48, p. 30909.
- (7) Subdivision G
- (a) 29 CFR 1917.151 Machine guarding, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (b) 29 CFR 1917.152 Welding, cutting and heating (hot work) (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1917.153 Spray painting (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(d) 29 CFR 1917.154 Compressed air, published 7/5/83, FR vol. 48, p. 30909.

(e) 29 CFR 1917.155 Air receivers, published 7/5/83, FR vol. 48, p. 30909.

(f) 29 CFR 1917.156 Fuel handling and storage, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(g) 29 CFR 1917.157 Battery charging and changing, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1917.158 Prohibited operations, published 7/5/83, FR vol. 48, p. 30909.

These standards are available at the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 9-1997, f. & cert. ef. 12-31-97; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 9-2000, f. & cert. ef. 10-10-00; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 6-2009, f. & cert. ef. 6-5-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 4-2014, f. & cert. ef. 10-17-14; OSHA 3-2016, f. & cert. ef. 8-19-16

## 437-005-0003

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1918, in the Federal Register:

#### (1) Subdivision A

(a) 29 CFR 1918.1 Scope and application, published 2/28/06, FR vol. 71, no. 39, p. 10100.

(b) 29 CFR 1918.2 Definitions, published 6/8/11, Federal Register, vol. 76, no. 110, 33590.

(c) 29 CFR 1918.3 Incorporation by reference, published 3/25/16, FR vol. 81, no. 58, p. 16085.

(d) 29 CFR 1918.5 Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

#### (2) Subdivision B

(a) 29 CFR 1918.11 Gear certification (see also §§1918.2 and 1918.51), published 7/25/97, FR vol. 62, no. 143, p. 40202.

#### (3) Subdivision C

(a) 29 CFR 1918.21 General requirements, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.22 Gangways, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.23 Jacob's ladders, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.24 Fixed and portable ladders, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(e) 29 CFR 1918.25 Bridge plates and ramps (see also §1918.86), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(f) 29 CFR 1918.26 Access to barges and river towboats, published 7/25/97, FR vol. 62, no. 143, p. 40202.

#### (4) Subdivision D

(a) 29 CFR 1918.31 Hatch coverings, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.32 Stowed cargo and temporary landing surfaces, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.33 Deck loads, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.34 Other decks, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.35 Open hatches, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(f) 29 CFR 1918.36 Weather deck rails, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(g) 29 CFR 1918.37 Barges, published 6/30/00, FR vol. 65, no. 127, p. 40938.

#### (5) Subdivision E

(a) 29 CFR 1918.41 Coaming clearances, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(b) 29 CFR 1918.42 Hatch beam and pontoon bridles, published 6/30/00, FR vol. 65, no. 127, p. 40938.

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(c) 29 CFR 1918.43 Handling hatch beams and covers, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(6) Subdivision F

(a) 29 CFR 1918.51 General requirements (see also §1918.11 and Appendix III of this part), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(b) 29 CFR 1918.52 Specific requirements, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1918.53 Cargo winches, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.54 Rigging gear, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(e) 29 CFR 1918.55 Cranes (see also §1918.11), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(7) Subdivision G

(a) 29 CFR 1918.61 General (see also Appendix IV of this part), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(b) 29 CFR 1918.62 Miscellaneous auxiliary gear, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1918.63 Chutes, gravity conveyors and rollers, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.64 Powered conveyors, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.65 Mechanically powered vehicles used aboard vessels, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(f) 29 CFR 1918.66 Cranes and derricks other than vessel's gear, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(g) 29 CFR 1918.67 Notifying ship's officers before using certain equipment, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.68 Grounding, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(i) 29 CFR 1918.69 Tools, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(j) 29 CFR 1918.70 - 1918.80 (Reserved)

(8) Subdivision H

(a) 29 CFR 1918.81 Slings, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.82 Building drafts, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.83 Stowed cargo, tiering and breaking down, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.84 Bulling cargo, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.85 Containerized cargo operations, published 12/10/08, FR vol. 73, no. 238, pp. 75246-75290.

(f) 29 CFR 1918.86 Roll-on roll-off (Ro-Ro) operations (see also §1918.25), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(g) 29 CFR 1918.87 Ship's cargo elevators, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.88 Log operations, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(i) 29 CFR 1918.89 Handling hazardous cargo (see also §§1918.2 and 1918.99), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(9) Subdivision I

(a) 29 CFR 1918.90 Hazard communication (see also §1918.1(b)(4)), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.91 Housekeeping, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.92 Illumination, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.93 Hazardous atmospheres and substances (see also §1918.2(j)), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.94 Ventilation and atmospheric conditions (see also §1918.2), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(f) 29 CFR 1918.95 Sanitation, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(g) 29 CFR 1918.96 Maintenance and repair work in the vicinity of longshoring operations, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.97 First aid and lifesaving facilities (see also Appendix V of this part), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(i) 29 CFR 1918.98 Qualifications of machinery operators and supervisory training, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(j) 29 CFR 1918.99 Retention of DOT markings, placards and labels, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(k) 29 CFR 1918.100 Emergency action plans, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(10) Subdivision J

(a) 29 CFR 1918.101 Eye and face protection, published 3/25/16, FR vol. 81, no. 58, p. 16085.

(b) 29 CFR 1918.102 Respiratory protection, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1918.103 Head protection, published 6/22/12, FR vol. 77, no. 121, p. 37587.

(d) 29 CFR 1918.104 Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.

(e) 29 CFR 1918.105 Other protective measures, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(f) 29 CFR 1918.106 Payment for protective equipment, published 11/15/07, FR vol. 72, no. 220, p. 64342.

(11) Appendix I – Cargo Gear Register and Certificates (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(12) Appendix II – Tables for Selected Miscellaneous Auxiliary Gear (Mandatory), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(13) Appendix III – The Mechanics of Conventional Cargo Gear (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(14) Appendix IV – Special Cargo Gear (Mandatory), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(15) Appendix V – Basic Elements of a First Aid Training Program (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

These standards are available at the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 9-1997, f. & cert. ef. 12-31-97; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 9-2000, f. & cert. ef. 10-10-00; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 6-2009, f. & cert. ef. 6-5-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 3-2016, f. & cert. ef. 8-19-16

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**Rule Caption:** Adopt federal OSHA updates to standards based on National Consensus Standards: eye and face protection.

**Adm. Order No.:** OSHA 4-2016

**Filed with Sec. of State:** 9-7-2016

**Certified to be Effective:** 9-7-16

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 437-002-0005, 437-002-0134, 437-002-0182, 437-003-0001, 437-003-0134, 437-005-0001, 437-005-0002, 437-005-0003

**Subject:** This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Some Oregon OSHA general industry, maritime and construction rules for personal protective equipment reference ANSI consensus standards Z87.1-1989 and Z87.1-1968. This rulemaking removes those older standards and will recognize ANSI/ISEA Z87.1-2010, ANSI Z87.1-2003, and ANSI Z87.1-1989 (R-1998).

The ANSI/ISEA Z87.1-2010 provides requirements for the selection, testing, use, and maintenance of protectors intended to minimize or prevent eye and face injuries including impact, non-ionizing radiation, and chemical exposures in occupational and educational environments. ANSI Z87.1-2003 and ANSI Z87.1-1989 (R-1998) are prior versions of this standard which are also incorporated by reference as alternative means of compliance with Oregon OSHA's eye and face protection requirements.

Oregon initiated PPE rules in Division 2, general industry and Division 3, construction are amended with the ANSI updates, as well as references in Oregon Rules for Firefighters in Division 2/L.

Please visit our web site [osha.oregon.gov](http://osha.oregon.gov) Click 'Rule changes' in the Topics, rules, guidelines column and view our proposed rules; or, select other rule activity from the left vertical column on the Proposed Rules page.

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

**437-002-0005**

**Adoption by Reference**

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the fol-

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lowing federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

- (1) 29 CFR 1910.1, Purpose and scope; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.
- (2) 29 CFR 1910.2, Definitions; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.
- (3) 29 CFR 1910.3, Petitions for the issuance, amendment, or repeal of a standard; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.
- (4) 29 CFR 1910.4, Amendments to this part; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.
- (5) 29 CFR 1910.5, Applicability of standards; published 6/30/93, FR vol. 58, no. 124, p. 35308.
- (6) 29 CFR 1910.6, Incorporation by reference; published 3/25/16, FR vol. 81, no. 58, p. 16085.
- (7) 29 CFR 1910.7, Definition and requirements for a Nationally Recognized Testing Laboratory; published 5/11/88, FR vol. 53, no. 91, p. 16838.
- (8) 29 CFR 1910.9, Compliance duties owed to each employee; published 12/12/08, Federal Register, vol. 73, no. 240, pp. 75568-75589.  
These standards are on file at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.  
Stat. Auth.: ORS 654.025(2) & 656.726(4)  
Stat. Implemented: ORS 654.001 - 654.295  
Hist.: APD 17-1988, f. & ef. 11-10-88; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 4-2005, f. & cert. ef. 12-14-05; OSHA 4-2007, f. & cert. ef. 8-15-07; OSHA 7-2008, f. & cert. ef. 5-30-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 1-2010, f. & cert. ef. 2-19-10; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 7-2013, f. & cert. ef. 12-12-13; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16

## 437-002-0134

### Personal Protective Equipment

Application. This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

**Note:** The assessment for eyes, face, head, hands, and feet are currently in effect. The torso and extremities (e.g. arms and legs) element of the body assessment will not be enforced until July 1, 2012.

#### (1) Hazard assessment and equipment selection.

(a) The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:

(A) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

(i) All protective equipment must be of safe design and construction for the work to be performed.

(ii) Protective equipment must be worn and used in a manner which will make full use of its protective properties.

(B) Communicate selection decisions to each affected employee; and,  
(C) Select PPE that properly fits each affected employee.

**NOTE:** Non-mandatory Appendix B contains an example of procedures that would comply with the requirement for a hazard assessment.

(b) The employer must verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

#### (2) Equipment.

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.

(c) Defective or damaged personal protective equipment must not be used.

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.

#### (3) Training.

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:

(A) When PPE is necessary;

(B) What PPE is necessary;

(C) How to properly don, doff, adjust, and wear PPE;

(D) The limitations of the PPE; and,

(E) The proper care, maintenance, useful life and disposal of the PPE.

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must retrain each such employee. Circumstances where retraining is required include, but are not limited to situations where:

(A) Changes in the workplace render previous training obsolete; or

(B) Changes in the types of PPE to be used render previous training obsolete; or

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(4) Payment for protective equipment.

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(d) The employer is not required to pay for:

(A) The logging boots required by OAR 437-007-0330 in Division 7.

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.

(5) Fall Protection.

(a) All employees must be protected from fall hazards when working on unguarded surfaces more than 10 feet above a lower level or at any height above dangerous equipment.

(b) The employer must ensure that fall protection systems are provided, installed, and used according to the criteria in 1926.502(d), and 437-003-0502 in Division 3/M, Construction/Fall Protection.

(6) Work Clothing.

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must

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contrast with other colors in the area sufficiently to make the worker stand out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.

(8) Eye And Face Protection.

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. The following is a listing of appropriate shade numbers for various operations. Tables.

(f) Protective eye and face protection devices must comply with any of the following consensus standards:

(A) ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in 1910.6;

(B) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6; or

(C) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6.

(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.

(9) Head Protection.

(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(c) Head protection must comply with any of the following consensus standards:

(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in §1910.6;

(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6; or

(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6.

(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.

(10) Foot Protection.

(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards, such as stat-

ic-discharge or electric-shock hazard, that remains after the employer takes other necessary protective measures.

(b) Protective footwear must comply with any of the following consensus standards:

(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in 1910.6;

(B) ANSI Z41-1999, American National Standard for Personal Protection –Protective Footwear, which is incorporated by reference in 1910.6; or

(C) ANSI Z41-1991, American National Standard for Personal Protection – Protective Footwear, which is incorporated by reference in §1910.6.

(d) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.

(11) Leg protection

(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.

(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.

NOTE to 437-002-0134(11)(b): Employees working in the tree and shrub services industry must follow rules on this subject in Subdivision 2/R instead of the above.

(12) Hand Protection.

(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.

(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16

## 437-002-0182

### Oregon Rules for Fire Fighters

(1) Scope and Application. These rules apply to public and private employers who engage in structural fire service activities, including emergency first response.

Note: Employers subject to 437-002-0182 must comply with provisions of other applicable Oregon OSHA safety and health rules.

(2) Exceptions. These rules do not apply to the following firefighting activities:

(a) Private industry fire brigades covered under 1910.156, Division 2/L, Fire Protection.

(b) Forest and uncultivated wildland firefighting covered under Division 7/N, Wildland Fire Suppression and Prescribed Fire.

(c) Marine firefighting and rescue covered under CFR title 33, Navigation and Navigable Waters.

(d) Aircraft firefighting and rescue covered under CFR title 49, Transportation.

Note: Structural fire protection services who engage in activities listed under 437-002-0182(2)(a) through (d), must also comply with the applicable standard for the activity.

(3) Definitions.

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(a) Aerial device — An aerial ladder, elevating platform, aerial ladder platform, or water tower that is designed to position personnel, handle materials, provide egress and discharge water.

(b) ANSI — American National Standards Institute.

(c) Apparatus — A mobile piece of firefighting equipment such as pumper, water tender, etc.

(d) Certified — Attested or confirmed in a formal written statement, or someone or something officially recognized as possessing certain qualifications or meeting certain standards.

(e) Confined space — A space that meets all of the following:

(A) Large enough and so configured that an employee can fully enter the space and perform work; and

(B) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and

(C) Is not designed for continuous occupancy.

(f) Designee — A person who has been officially chosen to do or be something.

(g) DOT — Department of Transportation.

(h) DPSST — Department of Public Safety Standards and Training.

(i) Drill tower — A structure, which may or may not be attached to the station, that is over two stories high and primarily used for non-classroom firefighter training in fire service techniques.

(j) Emergency incident — Any situation where a fire department delivers emergency services, rescue, fire suppression, medical treatment, and other forms of hazard control and mitigation.

(k) Emergency scene — The site where the suppression of a fire or the emergency exists.

(l) Enclosed structure — A structure with a roof or ceiling and at least two walls which may present fire hazards to employees, such as accumulations of smoke, toxic gases and heat, similar to those found in buildings.

(m) Firefighter — A person involved in performing fire department duties and responsibilities, including fire suppression, who may be a career or volunteer member of a fire department and may occupy any position or rank within the fire department.

(n) Fire ground — An emergency scene or location where firefighting or live fire training activities occur.

(o) Fire training — Training received by firefighters to maintain proficiency in performing their assigned duties.

(p) Hazardous material incident — The accidental release of hazardous materials from their containers.

(q) Helmet — An element of the protective ensemble designed to provide minimum protection to the user's head against impact, flying or falling objects, electric shock, penetration, heat, and flame.

(r) Hose tower — A vertical structure where a hose is hung to dry.

(s) IFSTA — International Fire Service Training Association.

(t) IMS — Incident Management System. Also referred to as an Incident Command System (ICS).

(u) Immediately dangerous to life or health (IDLH) — An atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.

(v) Incipient stage fire — A fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.

(w) Interior structural firefighting — The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage.

(x) Live fire training — Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate firefighter training under actual fire conditions.

(y) NFPA — National Fire Protection Association.

(z) NIOSH — National Institute of Occupational Safety and Health.

(aa) Private Industry Fire Brigades — A group of employees who are required to fight interior structural fires at their place of employment.

(bb) Protective ensemble — The clothing and personal protective equipment worn to provide limited protection to the user's head, body, and extremities from thermal, physical, chemical, and health hazards. Protective ensemble elements include firefighting coats and trousers, helmets, hoods, gloves, footwear, eye and face protection devices, and respirators.

(cc) Qualified — Certified as being trained to perform a particular job or activity.

(dd) Respirators;

(A) Atmosphere-supplying respirator is a respirator that supplies the user with air from a source independent of the ambient atmosphere and includes supplied-air respirators (SARS) and self-contained breathing apparatus (SCBA) units.

(B) Air-purifying respirator is a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

(C) Positive pressure demand respirator is a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

(D) Pressure-demand respirator is a positive pressure atmosphere-supplying respirator that admits air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

(E) Self-Contained Breathing Apparatus SCBA is a self-contained breathing apparatus designed to provide the wearer with a supply of respirable air carried in and generated by the breathing apparatus. This apparatus requires no intake of oxygen from the outside atmosphere and can be designed to be a demand or pressure-demand type respirator.

(F) Supplied-air respirator (SAR) or airline respirator is an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

(ee) Responder — A certified person who has the responsibility to respond to an emergency incident.

(ff) Station (Fire station) — Structure to house the fire service apparatus and personnel.

(gg) Tailboard — Standing space at rear of a fire apparatus where firefighters stand to access and reload hose and/or equipment.

(hh) Training — Instruction with hands-on practice in the operation of equipment, including respiratory protection equipment, that is expected to be used and in the performance of assigned duties.

(ii) Warning light — A flashing or rotating light.

(4) Organizational statement.

(a) The employer must develop and implement a written statement or policy that includes basic organizational structure, basic functions of the organization, and type, amount, and frequency of training to be provided.

(b) This statement must be made available for inspection by Oregon OSHA and by fire department employees or their designated representatives.

(5) Personnel.

(a) The employer must review and evaluate the physical capability of each firefighter annually to determine their ability to perform duties that may be assigned. The review and evaluation will be accomplished through physical examination, stress testing, or satisfactory performance demonstrated during the performance of their assigned duties.

(b) The employer must not permit a firefighter with a known medical condition that would significantly impair their ability to engage in fire suppression activities at the emergency scene unless a physician's certificate of the firefighter's fitness to participate in such activities is provided to the employer. This will not limit the employer's ability to assign firefighters to support activities (versus fire suppression activities).

(6) Employer's Responsibility.

(a) Each employer must comply with the provisions of this Division to protect the life, safety, and health of employees.

(b) It is the responsibility of the employer to establish and supervise:

(A) A safe and healthful working environment, as it applies to non-emergency conditions or to emergency conditions at the scene after the incident has been terminated, as determined by the officer in charge.

(B) Programs for training employees in the fundamentals of accident prevention.

(C) A safe and healthful working environment as it applies to live fire training exercises.

(c) The employer must maintain all equipment in a safe condition.

(d) The employer must ensure that firefighters who participate in exempted firefighting activities listed under 437-002-0182(2) are properly trained, protected, clothed, and equipped for the known hazards of that particular emergency operation.

(7) Employee's Responsibility.

(a) Each firefighter must comply with the requirements of 437-002-0182 that are applicable to their own actions and conduct in the course of their employment.

(b) Firefighters must notify the appropriate employer or safety committee representative of unsafe practices, equipment, or workplace conditions.

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(c) All firefighters, at regularly scheduled times, must attend required training and orientation programs designed to increase their competency in occupational safety and health.

(d) Firefighters and other employees must apply the principles of accident prevention in their work. They must use all required safety devices and protective equipment.

(e) Each firefighter must take proper care of their protective equipment.

(f) Firefighters who are expected to perform firefighting operations must notify their employer when health conditions arise that will limit their capability of performing those duties.

(8) Safety Committee.

(a) Fire departments must have a separate safety committee or hold safety meetings according to the requirements of Division 1, 437-001-0765, Safety Committees and Safety Meetings.

(b) When applicable, the representation on the safety committee must include both career and volunteer firefighters.

(9) Incident Management.

(a) The employer must develop and implement written procedures for incident management that meets the requirement of NFPA 1561 (2008): Standard on Emergency Services Incident Management System.

(b) These procedures must apply to all employees involved in emergency operations.

(c) Each employee involved in emergency operations must be familiar with these procedures.

(10) Accountability. The employer must develop and implement written procedures for a personnel accountability system that meets the requirement of NFPA 1561 (2008): Standard on Emergency Services Incident Management System.

(11) Firefighting Education and Training.

(a) The employer must develop and implement a policy for appropriately educating and training all department firefighting classifications (ranks) before they perform assigned duties.

(b) Firefighters who participate in interior structural firefighting activities must be trained according to NFPA 1001 (2013): Standard for Fire Fighter Professional Qualifications (Fire Fighter I), or they must meet the training levels required under 437-002-0182(11)(c) and be under the direct supervision of a firefighter trained to NFPA Fire Fighter I or higher.

**Note:** Department of Public Safety Standards and Training (DPSST) certification for NFPA Fire Fighter I or higher satisfies the training requirement in 437-002-0182(11)(b) but is not required by these rules.

(c) Firefighters who participate in live fire training in a structure, or only in structural firefighting activities not covered under 437-002-0182(11)(b), must be trained to meet the minimum job performance requirements for NFPA Fire Fighter I as prescribed by NFPA 1403 (2012): Standard on Live Fire Training Evolutions (Student Prerequisites).

(d) All live fire training must be conducted following the requirements of NFPA 1403 (2012): Standard on Live Fire Training Evolutions, or Appendix A (Mandatory), Minimum Requirements for Live Fire Training, of this standard.

(e) Live fire training must be conducted under the direction of the fire department's training officer or employer authorized representative.

(12) General Requirements for Protective Ensembles.

(a) Protective ensembles must protect the user's head, body, and extremities. Protective ensembles consist of the following elements: body protection; head protection; hand protection; foot and leg protection; eye and face protection; and respiratory protection.

**Note:** Employees must be protected from noise that exceeds the levels in Division 2/G, 1910.95, Occupational Noise Exposure.

(b) The employer must provide employees all protective ensemble elements at no cost to employees. The employer must not allow employee-owned protective ensemble elements that do not comply with the requirements under 437-002-0182(13) through (18) to be used for structural firefighting. See Appendix B (Non-mandatory), General Information and Recommendations, of this standard.

(c) Employees must wear all appropriate protective ensemble elements that meet the requirements under 437-002-0182(13) through (18) when engaged in interior structural firefighting.

(d) In situations other than interior structural firefighting, employees must wear the appropriate protective ensemble elements for the known hazards of that particular emergency operation.

(13) Body Protection. All structural firefighting coats and trousers must be at least equivalent to the requirements of NFPA 1971 (1991): Standard on Protective Clothing for Structural Fire Fighting. Structural firefighting coats and trousers purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

(14) Head Protection.

(a) All structural firefighting helmets must be at least equivalent to the requirements of NFPA 1971 (2000): Standard on Protective Ensemble for Structural Firefighting. Structural firefighting helmets purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

(b) Structural firefighting helmets must consist of a rigid shell; an energy absorbing system; a retention system; fluorescent and retroreflective trim; ear covers; and either a faceshield or goggles, or both.

(c) Use, care, alterations, and maintenance instructions for protective headgear must be supplied for each helmet.

(d) Care, maintenance, and alteration of helmets must conform to the manufacturer's recommendations.

(e) During structural firefighting, helmet accessories designed to provide or maintain protection from health and safety hazards must be worn in the manufacturer's recommended position. See Appendix B (Non-mandatory), General Information and Recommendations, of this standard.

(f) All flame-resistant protective hoods must be at least equivalent to the requirements of NFPA 1971 (1997): Standard on Protective Ensembles for Structural Fire Fighting. Flame-resistant protective hoods purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

(g) A flame-resistant protective hood that will not adversely affect the seal of a respirator facepiece must be worn during interior structural firefighting operations to protect the sides of the face and hair.

(15) Hand Protection.

(a) All structural firefighting hand protection must be at least equivalent to the requirements of NFPA 1973 (1988): Standard on Gloves for Structural Fire Fighting. Structural firefighting hand protection purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

(b) Hand protection for structural firefighting activities must consist of protective gloves or glove system that will provide protection against cut, puncture, and heat penetration.

(16) Foot and Leg Protection.

(a) All structural firefighting protective footwear must be at least equivalent to the requirements of NFPA 1971 (1997): Standard on Protective Ensembles for Structural Fire Fighting. Structural firefighting protective footwear purchased on or after July 1, 2016, must be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensembles for Structural Fire Fighting.

(b) Resoled firefighting footwear must comply with the applicable NFPA standard under 437-002-0182(16)(a).

**Note:** Employees using chain saws for non-firefighting activities must wear chaps or leg protectors in accordance with Division 2/I, 437-002-0134, Personal Protective Equipment.

(17) Eye and Face Protection.

(a) Face protection must be used where there is a reasonable probability of injury that can be prevented by such protection. When face protection does not protect the eyes from foreign objects, additional protection for the eyes must be used.

(b) The employer must make available eye and face protection devices suitable for the work performed, and employees must use such protection devices as required by 437-002-0182(17)(a).

(c) Protection devices that can be worn over corrective lenses must be available for employees who need them.

(d) Eye and face protection devices worn by firefighters at the fire ground must comply with the following minimum requirements:

(A) They must comply with any of the following consensus standards:

(i) ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices;

(ii) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection; or

(iii) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection.

(B) They must be reasonably comfortable when worn under the designated conditions.

(C) They must be durable.

(D) They must be capable of being disinfected.

(E) They must be easy to clean.

(e) Faceshields, when used, must be an integral part of the firefighting helmet and may be installed in a fixed position or hinged allowing



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adjustment of the shields. Face shields must accommodate any of the following styles:

- (A) Clear transparent
- (B) Colored transparent

(f) Goggles, when used, must consist of a fully flexible frame, a lens holder or a rigid frame with integral lens or lenses, and a separate cushioned fitting surface on the full periphery of the facial contact area.

(A) Materials used for goggles must be chemical-resistant, nontoxic, nonirritating and slow-burning.

(B) There must be support on the face, such as an adjustable headband of suitable material or other appropriate support to hold the frame comfortably and snugly in front of the eyes.

**Note:** When NIOSH approved full face respiratory equipment is being used by firefighters, additional eye and face protection is not required.

(18) Respiratory Protection. The employer must develop and implement a respiratory protection program in accordance with Division 2/I, 1910.134, Respiratory Protection.

The following note refers to the Respiratory Protection Standards, 1910.134(g)(3) Procedures for IDLH atmospheres and 1910.134(g)(4) Procedures for interior structural firefighting, ("two-in/two-out rule").

**NOTE:** If, upon arriving at the emergency scene, firefighters find an imminent life threatening situation where immediate action may prevent the loss of life or serious injury, the requirements for firefighters in the outside standby mode may be suspended, when notification is given by radio to incoming responders that they must provide necessary support and backup upon their arrival.

(19) Criteria for Approved Self-Contained Breathing Apparatus (SCBA).

(a) All compressed air cylinders used with approved SCBAs must meet DOT and NIOSH criteria.

(b) In emergency and lifesaving situations, approved SCBAs may be used with approved cylinders from other approved SCBAs provided that such cylinders are of the same capacity and pressure rating. Once the emergency is over, return SCBAs to their original approved condition.

(c) Approved SCBAs must be provided with at least one indicator that automatically sounds an alarm when the remaining air supply of the SCBA is reduced to within a range of 25 percent of its rated service time.

(20) Personal Alert Safety System (PASS).

(a) Each member involved in rescue, fire suppression, or other hazardous duties, must be provided with and must use a PASS device in the hazardous area when self-contained breathing apparatus is in use.

(b) All PASS devices must be at least equivalent to the requirements of NFPA 1982 (1983): Standard on Personal Alert Safety Systems (PASS). PASS devices purchased on or after July 1, 2016 must be at least equivalent to the requirements of NFPA 1982 (2013): Standard on Personal Alert Safety Systems (PASS).

(c) Each PASS device must be tested at least monthly and must be maintained according to the manufacturer's instructions.

(21) Breathing Air Compressors and Cylinders.

(a) In addition to the requirements contained in Division 2/I, 1910.134(i), breathing air quality and use, air samples must be taken every six months from the compressor and analyzed by the employer or an independent laboratory for Grade D breathing air.

(b) Air samples must also be taken and analyzed when the system is installed or repaired.

(c) Analysis required by 437-002-0182(21)(a) and (b) must be conducted according to ANSI/CGA Standard G7.1 (2011): Commodity Specification for Air.

(22) Hazardous Material Response Plan.

(a) Fire departments that expect or plan to respond to hazardous material incidents must develop and implement a written response plan, and comply with additional requirements of Division 2/H, 1910.120(q), Emergency response to hazardous substance releases.

(b) The written response plan must contain the policies and procedures for:

- (A) Pre-emergency planning and coordination with outside parties,
- (B) Personnel roles, lines of authority, training, and communication,
- (C) Emergency recognition and prevention,
- (D) Safe distances,
- (E) Scene security and control,
- (F) Evacuation procedures,
- (G) Decontamination,
- (H) Emergency medical treatment and first aid,
- (I) Personnel withdrawal procedures,
- (J) Critique of response and follow-up, and
- (K) Personal protective equipment and emergency equipment and response procedures.

(c) The incident commander must be responsible for:

- (A) Identifying of the hazardous substance and condition,
- (B) Implementing emergency operations,
- (C) Ensuring personal protective equipment is worn,
- (D) Limiting access of hot zone to those with a specific mission assignment,
- (E) Implementing decontamination procedures,
- (F) Designating a safety officer,
- (G) Using appropriately trained personnel, and
- (H) Providing on-scene medical surveillance for emergency responders.

(23) Fire Apparatus Area.

(a) Walkways around apparatus must be kept free of obstructions.

(b) The station's apparatus floors must be kept free of grease, oil, and tripping hazards.

(c) Exhaust gases from apparatus within buildings must be maintained within the limits of Division 2/Z, 437-002-0382, Oregon Air Contaminant Rules. See Appendix B (Non-mandatory), General Information and Recommendations, of this standard.

(24) Fire Apparatus Design and Construction.

(a) Employers who have acquired used fire apparatus or used military equipment prior to July 1, 1985 are not required to bring them under a more stringent code than the one in force at the time the apparatus was manufactured. The exceptions to 437-002-0182(24)(a) are:

(A) Restraint systems as required by 437-002-0182(25)(e); and

(B) Roll-over protective structures (ROPS) on all open top off-road vehicles as required by 437-002-0182(24)(f).

(b) There must be steps, ladders or railing to allow safe access to and exit from areas on vehicles that employees access.

(c) Vehicle tailboards must not project outboard of the vehicle sides or fenders and must be designed to provide safe footing.

(d) Exhaust systems must be installed and properly maintained, and must be designed to minimize the exposure of exhaust gases by employees.

(e) The loaded gross weight and empty height of the vehicle must be posted in the vehicle such that it can be clearly read by the driver.

(f) Roll-over protective structures (ROPS) must be provided, installed and maintained on all open top off-road vehicles.

(g) Vehicles with an obstructed view to the rear of the vehicle when backing must be equipped or provided with:

(A) An automatic back-up alarm that must sound when backing and can be heard over the surrounding noise;

(B) A video camera that provides the driver a full and clear view of the path of travel behind the vehicle; or

(C) A spotter who stands to the rear of the vehicle, is visible to the driver in the driver-side mirror and uses unassisted voice communication, portable radio communication or hand signal communication to guide the driver while backing.

(25) Fire Apparatus Operation.

(a) Employees must be trained in the safe operation of each type of vehicle they are authorized to drive.

(b) The employer must not allow an employee to drive a vehicle on a public highway or road unless they have a valid driver's license.

(c) Any item found that may affect the safe operation of a vehicle must be reported immediately to the officer in charge or other appropriate person.

(d) Employees must not drive or ride in any vehicle known to be unsafe.

(e) Employees being transported by fire department vehicles must ride in designated seat-belted or safety-harnessed positions.

(f) The employer must not allow employees to ride on tailboards, tail steps or running boards.

(g) Vehicles must come to a full stop before employees disembark.

(h) All equipment on a vehicle must be adequately secured when the vehicle is in motion.

(i) When traffic flow is inhibited, vehicles equipped with emergency warning lights must be used to control traffic at emergency scenes. The use of traffic cones, fire department personnel, police, or other traffic control measures must be used as soon as practical.

(26) Fire Apparatus Maintenance and Repair. Each employer must establish written records and procedures whereby apparatus has:

(a) At a minimum, a scheduled monthly maintenance check; or

(b) A maintenance check each time the apparatus is returned to the station following an emergency response, drill, or test drive.

(27) Tires.

(a) No motor vehicle must be operated on any tire that:

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(A) Has body ply or belt material exposed through the tread or sidewall;

(B) Has any tread or sidewall separation;

(C) Is flat or has an audible leak; or

(D) Has a cut to the extent that the ply or belt material is exposed.

(b) Any tire on the front wheels of a bus, truck, or truck tractor must have a tread groove pattern depth of at least 4/32 of an inch when measured at any point on a major tread groove. The measurements must not be made where tie bars, humps, or fillets are located.

(c) Except as provided in 437-002-0182(27)(b), tires must have a tread groove pattern depth of at least 2/32 of an inch when measured in a major tread groove. The measurement must not be made where tie bars, humps or fillets are located.

(28) Aerial Devices.

(a) Aerial devices used for firefighting must be annually inspected and tested by a person qualified in performing such inspections and tests according to NFPA 1911 (2007): Standard for the Inspection, Maintenance, Testing, and Retirement of In-service Automotive Fire Apparatus.

(b) Where structural defects are found in critical components of an aerial device, the repairs must be tested and certified according to NFPA 1911 (2007): Standard for the Inspection, Maintenance, Testing, and Retirement of In-service Automotive Fire Apparatus, by a registered professional engineer, the manufacturer of the apparatus, or an American Welding Society (AWS) Certified Welding Inspector.

(c) A permanent record of tests and repairs under 437-002-0182(28)(b) must be maintained for each aerial device.

(29) Hose Drying Towers.

(a) Floor openings on hose tower platforms must be equipped with a guardrail meeting the requirements of Division 2/D, 1910.23, Guarding Floor and Wall Openings and Holes.

**Note:** The toeboard requirements for elevated work platforms in Division 2/D, 1910.23, do not apply to hose drying towers unless hand tools or objects other than hoses are carried onto the platforms.

(b) Fixed ladders must meet the requirements of Division 2/D, 437-002-0027, Fixed Ladders.

(c) Ropes used to hoist hose in the hose towers must have a working load limit that maintains a minimum safety factor of 3:1.

(30) Drill Towers. Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from offset platform landings and ladder cage guards requirements of Division 2/D, 437-002-0027, Fixed Ladders.

(31) Testing, Maintenance and Inspection of Fire Service Equipment.

(a) The employer must inspect and maintain fire service equipment at least annually and perform all tests recommended by the manufacturer at the date of manufacture.

(b) When the manufacturer's recommendations required under 437-002-0182(31)(a) are not available from the manufacturer, the employer must identify and follow the recommendations of an applicable consensus standard or curriculum that is nationally recognized and generally accepted by the fire service industry.

**Note:** Examples of a consensus standard or curriculum under 437-002-0182(31)(b) include, but are not limited to, NFPA standards and IFSTA manuals.

(32) Confined spaces.

(a) Employers must comply with Division 2/J, 437-002-0146, Confined Spaces, for their own confined spaces.

(b) Employers must comply with Division 2/J, 437-002-0146, Confined Spaces, when they agree to serve as a designated rescue service provider.

(c) Employers that will respond to emergency calls for rescue from confined spaces must:

(A) Train responders to recognize inherent confined space hazards before assigning or attempting any related duties in confined space rescues.

(i) Provide responders with understanding, knowledge, and skills necessary for safe performance of confined space rescues.

(ii) Practice a confined space rescue operation at least once every year from a real or simulated confined space.

(B) Responders must be certified in writing to Department of Public Safety Standards and Training (DPSST) Firefighter 1 or equivalent.

(C) Use the Incident Management System (IMS) during confined space rescue incidents that meet the requirements of NFPA 1561 (2008): Standard on Emergency Services Incident Management System.

(D) Assess the situation and determine if it qualifies as a confined space incident.

(i) Classify the operation as a rescue or body recovery.

(ii) Assess and control physical hazards related to the incident or rescue.

(iii) Assess atmospheric hazards.

(I) Use calibrated direct-reading instruments to test the atmosphere in confined spaces for oxygen content, flammable gases and vapors, and toxic air contaminants.

(II) When calibrated direct-reading instruments are not available, the Incident Commander must assume the situation is IDLH and ensure that responders who enter are equipped with appropriate respiratory protective equipment that comply with Division 2/I, 1910.134, Respiratory Protection.

(iv) Determine if the space should be ventilated.

(v) Determine the precautions and procedures to follow for safe entry into the space.

(E) Provide the appropriate rescue, emergency, and personal protective equipment for safe entry into and rescue from confined spaces.

(F) Provide necessary equipment to facilitate non-entry retrieval for responders, unless the retrieval equipment would increase the overall risk or would not contribute to the rescue operations.

**Note:** For the reader's convenience, the following paragraphs are provided from Division 2/I, 1910.134(g)(3) and (g)(4), Respiratory Protection:

(g)(3) Procedures for IDLH atmospheres. For all IDLH atmospheres, the employer shall ensure that:

(i) One employee or, when needed, more than one employee is located outside the IDLH atmosphere;

(ii) Visual, voice, or signal line communication is maintained between the employee(s) in the IDLH atmosphere and the employee(s) located outside the IDLH atmosphere;

(iii) The employee(s) located outside the IDLH atmosphere are trained and equipped to provide effective emergency rescue;

(iv) The employer or designee is notified before the employee(s) located outside the IDLH atmosphere enter the IDLH atmosphere to provide emergency rescue;

(v) The employer or designee authorized to do so by the employer, once notified, provides necessary assistance appropriate to the situation;

(vi) Employee(s) located outside the IDLH atmospheres are equipped with:

(A) Pressure demand or other positive pressure SCBAs, or a pressure demand or other positive pressure supplied-air respirator with auxiliary SCBA; and either

(B) Appropriate retrieval equipment for removing the employee(s) who enter(s) these hazardous atmospheres where retrieval equipment would contribute to the rescue of the employee(s) and would not increase the overall risk resulting from entry; or

(C) Equivalent means for rescue where retrieval equipment is not required under paragraph (g)(3)(vi)(B).

(g)(4) Procedures for interior structural firefighting.

In addition to the requirements set forth under paragraph (g)(3), in interior structural fires, the employer shall ensure that:

(i) At least two employees enter the IDLH atmosphere and remain in visual or voice contact with one another at all times;

(ii) At least two employees are located outside the IDLH atmosphere; and

(iii) All employees engaged in interior structural firefighting use SCBAs.

**Note 1** to paragraph (g): One of the two individuals located outside the IDLH atmosphere may be assigned to an additional role, such as incident commander in charge of the emergency or safety officer, so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any firefighter working at the incident.

**Note 2** to paragraph (g): Nothing in this section is meant to preclude firefighters from performing emergency rescue activities before an entire team has assembled.

**Table** [Table not included. See ED. NOTE.]

[ED. NOTE: Tables and Appendices referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1993, f. 7-29-93, cert. ef. 9-15-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 2-2000, f. & cert. ef. 1-28-00; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 3-2005, f. & cert. ef. 6-10-05; OSHA 9-2008, f. 9-19-08, cert. ef. 1-1-09; OSHA 8-2009, f. 7-9-09, cert. ef. 10-1-09; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 4-2015, f. 10-23-15, cert. ef. 7-1-16; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16

## 437-003-0001

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

(1) Subdivision A — GENERAL

(a) 29 CFR 1926.1 Purpose and Scope, published 4/6/79, FR vol. 44, p. 20940.

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(b) 29 CFR 1926.2 Variances from safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections — right of entry, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.6 Incorporation by reference, published 3/25/16, FR vol. 81, no. 58, p. 16085.

## (2) Subdivision B — GENERAL INTERPRETATIONS

(a) 29 CFR 1926.10 Scope of subpart, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 4/6/79, FR vol. 44, p. 20940.

## (3) Subdivision C — GENERAL SAFETY AND HEALTH PROVISIONS

(a) 29 CFR 1926.20 General safety and health provisions, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(b) 29 CFR 1926.21 Safety training and education, published 4/6/79, FR vol. 44, p. 20940; amended with Oregon OSHA AO 6-2012, repealed (b)(6), f. 9/28/12, ef. 4/1/13.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved)

(d) 29 CFR 1926.23 First aid and medical attention, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(j) 29 CFR 1926.29 Acceptable certifications, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 (Reserved).

(m) 29 CFR 1926.32 Definitions, published 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

## (4) Subdivision D — OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS

(a) 29 CFR 1926.50 Medical services and first aid, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1926.60 Methylenedianiline (MDA), published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

NOTE: Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response

NOTE: Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

## (5) Subdivision E — PERSONAL PROTECTIVE AND LIFE SAVING EQUIPMENT

(a) 29 CFR 1926.95 Criteria for personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(b) 29 CFR 1926.97 Electrical protective equipment, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(c) 29 CFR 1926.100 Head protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(d) 29 CFR 1926.101 Hearing protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(e) 29 CFR 1926.102 Eye and face protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(f) 29 CFR 1926.103 Respiratory protection, published 1/8/98, FR vol. 63, no. 5, p. 1297.

NOTE: 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(h) 29 CFR 1926.106 Working over or near water, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.107 Definitions applicable to this subpart, published 8/9/94, FR vol. 59, no. 152, p. 40729.

## (6) Subdivision F — FIRE PROTECTION AND PREVENTION

(a) 29 CFR 1926.150 Fire protection, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire prevention, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.152 Flammable and combustible liquids, published 6/30/93, FR vol. 58, no. 124, p. 35162.

(d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 6/30/93, FR vol. 58, no. 124, p. 35170.

(e) 29 CFR 1926.154 Temporary heating devices, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.155 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

## (7) Subdivision G — SIGNS, SIGNALS, AND BARRICADES

(a) 29 CFR 1926.200 Accident prevention signs and tags, published 6/13/13, FR vol. 78, no. 114, p. 35559; 11/6/13, FR vol. 78, no. 215, p. 66641.

(b) 29 CFR 1926.201 Signaling, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(c) 29 CFR 1926.202 Barricades, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

## (8) Subdivision H — MATERIALS HANDLING, STORAGE, USE AND DISPOSAL

(a) 29 CFR 1926.250 General requirements for storage, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.251 Rigging equipment for material handling, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(c) 29 CFR 1926.252 Disposal of waste materials, published 4/6/79, FR vol. 44, p. 20940.

## (9) Subdivision I — TOOLS — HAND AND POWER

(a) 29 CFR 1926.300 General requirements, published 3/7/96, FR vol. 61, no. 46, p. 9250.

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- (b) 29 CFR 1926.301 Hand tools, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.302 Power operated hand tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.
- (d) 29 CFR 1926.303 Abrasive wheels and tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.
- (e) 29 CFR 1926.304 Woodworking tools, published 3/7/96, FR vol. 61, no. 46, p. 9251.
- (f) 29 CFR 1926.305 Jacks - lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.
- (10) Subdivision J — WELDING AND CUTTING
- (a) 29 CFR 1926.350 Gas welding and cutting. Repealed. Oregon OSHA Admin. Order 6-2014, f. 10/28/14, ef. 5/1/15. In Oregon, OAR 437-002-2253 applies.
- (b) 29 CFR 1926.351 Arc welding and cutting, published 7/11/86, FR vol. 51, p. 25318.
- (c) 29 CFR 1926.352 Fire prevention, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 6/30/93, FR vol. 58, no. 124, p. 35179.
- (e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 4/6/79, FR vol. 44, p. 20940.
- (11) Subdivision K — ELECTRICAL
- (a) 29 CFR 1926.400 Introduction, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (b) 29 CFR 1926.401 (Reserved)
- (c) 29 CFR 1926.402 Applicability, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (d) 29 CFR 1926.403 General requirements, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (e) 29 CFR 1926.404 Wiring design and protection, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.
- (f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (g) 29 CFR 1926.406 Specific purpose equipment and installations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (h) 29 CFR 1926.407 Hazardous (classified) locations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (i) 29 CFR 1926.408 Special systems, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (j) 29 CFR 1926.409 (Reserved)
- (k) 29 CFR 1926.415 (Reserved)
- (l) 29 CFR 1926.416 General requirements, published 8/12/96, FR vol. 61, no. 156, p. 41738.
- (m) 29 CFR 1926.417 Lockout and tagging of circuits, published 8/12/96, FR vol. 61, no. 156, p. 41739.
- (n) 29 CFR 1926.418 (Reserved)
- (o) 29 CFR 1926.430 (Reserved)
- (p) 29 CFR 1926.431 Maintenance of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (q) 29 CFR 1926.432 Environmental deterioration of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (r) 29 CFR 1926.433 - 29 CFR 1926.440 (Reserved)
- (s) 29 CFR 1926.441 Battery locations and battery charging, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (t) 29 CFR 1926.442 - 29 CFR 1926.448 (Reserved)
- (u) 29 CFR 1926.449 Definitions applicable to this subpart, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (12) Subdivision L — SCAFFOLDING
- (a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.451 General requirements, published 11/25/96, FR vol. 61, no. 228, p. 59831.
- (c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.
- (d) 29 CFR 1926.453 Aerial lifts, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (j) Appendix E to Subpart L Drawing and illustrations, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (13) Subdivision M — FALL PROTECTION
- (a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart, published 4/11/14, FR vol. 79, no. 70, p. 20316; amended with AO 1-2016, f. 3/1/16, ef. 1/1/17.
- (b) 29 CFR 1926.501 Duty to have fall protection. REPEALED with AO 1-2016, f. 3/1/16, ef. 1/1/17. In Oregon, 437-003-1501 applies.
- (c) 29 CFR 1926.502 Fall protection systems criteria and practices, published 8/9/94, FR vol. 59, no. 152, p. 40733-40738; amended with AO 6-2002, f. and ef. 7/19/02.
- (d) 29 CFR 1926.503 Training requirements. REPEALED with AO 6-2002, f. and ef. 7/19/02, in Oregon, 437-003-0503 applies.
- (e) Appendix A to Subpart M Determining Roof Widths, published 8/9/94, FR vol. 59, no. 152, p. 40738-40742.
- (f) Appendix B to Subpart M Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.
- (g) Appendix C to Subpart M Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743-40746.
- (h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.
- (14) Subdivision N — HELICOPTERS, HOISTS, ELEVATORS, AND CONVEYORS
- (a) 29 CFR 1926.550 (Reserved).
- (b) 29 CFR 1926.551 Helicopters, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.553 Base-mounted drum hoist, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.554 Overhead hoists, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.555 Conveyors, published 4/6/79, FR vol. 44, p. 20940.
- (15) Subdivision O — MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS
- (a) 29 CFR 1926.600 Equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.601 Motor vehicles, REPEALED by OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07.
- (c) 29 CFR 1926.602 Material handling equipment, published 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.
- (d) 29 CFR 1926.603 Pile driving equipment, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.604 Site clearing, published 7/22/77, FR vol. 42, p. 37674.
- (f) 29 CFR 1926.605 Marine operations and equipment, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.606 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (16) Subdivision P — EXCAVATIONS
- (a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.
- (b) 29 CFR 1926.651 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.652 Requirements for protective systems, published 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.
- (d) Appendices A-F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.
- (17) Subdivision Q — CONCRETE AND MASONRY CONSTRUCTION
- (a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (b) 29 CFR 1926.701 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.702 Requirements for equipment and tools, published 6/16/88, FR vol. 53, p. 22612.
- (d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.

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- (e) 29 CFR 1926.704 Requirements for precast concrete, published 10/5/89, FR vol. 54, no. 192, p. 41088.
- (f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.
- (18) Subdivision R — STEEL ERECTION
- (a) 29 CFR 1926.750 Scope, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (b) 29 CFR 1926.751 Definitions, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (d) 29 CFR 1926.753 Hoisting and rigging, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.754 Structural steel assembly, published 4/3/06, FR vol. 71, no. 63, p. 16669.
- (f) 29 CFR 1926.755 Column anchorage, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (g) 29 CFR 1926.756 Beams and columns, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (h) 29 CFR 1926.757 Open web steel joists, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (i) 29 CFR 1926.758 Systems-engineered metal buildings, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (j) 29 CFR 1926.759 Falling object protection, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (k) 29 CFR 1926.760 Fall protection, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (l) 29 CFR 1926.761 Training, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Nonmandatory Guidelines for Complying with §1926.752(e), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (n) Appendix B to Subpart R Reserved.
- (o) Appendix C to Subpart R Illustrations of bridging terminus points: Nonmandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (p) Appendix D to Subpart R Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Nonmandatory Guidelines for Complying with §1926.760(c)(3), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (q) Appendix E to Subpart R Training: Nonmandatory Guidelines for Complying with §1926.761, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (r) Appendix F to Subpart R Perimeter columns: Nonmandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Nonmandatory Guidelines for Complying with Complying with §1926.760(d), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (t) Appendix H to Subpart R Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (19) Subdivision S — UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR
- (a) 29 CFR 1926.800 Underground construction, published 4/23/13, FR vol. 78, no. 78, p. 23837.
- (b) 29 CFR 1926.801 Caissons, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.802 Cofferdams, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.803 Compressed air, published 7/11/86, FR vol. 51, p. 25318.
- (e) 29 CFR 1926.804 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (f) Appendix A to Subpart S Decompression Tables, published 4/6/79, FR vol. 44, p. 20940.
- (20) Subdivision T — DEMOLITION
- (a) 29 CFR 1926.850 Preparatory operations, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.852 Chutes, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.853 Removal of materials through floor openings, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.855 Manual removal of floors, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 4/23/13, FR vol. 78, no. 78, p. 23837.
- (h) 29 CFR 1926.857 Storage, published 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.858 Removal of steel construction, published 4/23/13, FR vol. 78, no. 78, p. 23837.
- (j) 29 CFR 1926.859 Mechanical demolition, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.860 Selective demolition by explosives, published 4/6/79, FR vol. 44, p. 20940.
- (21) Subdivision U — BLASTING AND USE OF EXPLOSIVES
- (a) 29 CFR 1926.900 General provisions, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.901 Blaster qualifications, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.902 Surface transportation of explosives, published 6/30/93, FR vol. 58, no. 124, p. 35311.
- (d) 29 CFR 1926.903 Underground transportation of explosives, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35311.
- (f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35184.
- (g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 6/18/98, FR vol. 63, no. 117, p. 33469.
- (h) 29 CFR 1926.907 Use of safety fuse, published 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.908 Use of detonating cord, published 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.909 Firing the blast, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.910 Inspection after blasting, published 4/6/79, FR vol. 44, p. 20940.
- (l) 29 CFR 1926.911 Misfires, published 4/6/79, FR vol. 44, p. 20940.
- (m) 29 CFR 1926.912 Underwater blasting, published 4/6/79, FR vol. 44, p. 20940.
- (n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 4/6/79, FR vol. 44, p. 20940.
- (o) 29 CFR 1926.914 Definitions applicable to this subpart, published 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.
- (22) Subdivision V — POWER TRANSMISSION AND DISTRIBUTION
- 29 CFR 1926.950 through 1926.960 are repealed with Oregon OSHA Admin. Order 3-2015, f. 10/9/15, ef. 1/1/16. In Oregon, Division 2/RR applies.
- (23) Subdivision W — ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION
- (a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 7/20/06, FR vol. 71, no. 139, p. 41127.
- (d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/28/06, FR vol. 71, no. 39, p. 9909.
- (24) Subdivision X — STAIRWAYS AND LADDERS
- (a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

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- (b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.
- (c) 29 CFR 1926.1052 Stairways, published 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.
- (d) 29 CFR 1926.1053 Ladders, published 4/11/14, FR vol. 79, no. 70, p. 20316.
- (e) 29 CFR 1926.1054 (Reserved)
- (f) 29 CFR 1926.1055 (Reserved)
- (g) 29 CFR 1926.1056 (Reserved)
- (h) 29 CFR 1926.1057 (Reserved)
- (i) 29 CFR 1926.1058 (Reserved)
- (j) 29 CFR 1926.1059 (Reserved)
- (k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.
- (25) Subdivision Z – TOXIC AND HAZARDOUS SUBSTANCES
- (a) 29 CFR 1926.1101 Asbestos, published 2/8/13, FR vol. 78, no. 27, p. 9311.
- (b) 29 CFR 1926.1126 Chromium (VI), published 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.
- (c) 29 CFR 1926.1127 Cadmium, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (d) 29 CFR 1926.1152 Methylene Chloride, published 12/18/97, FR vol. 62, no. 243, p. 66275.
- (26) Subdivision AA – (Reserved)
- (27) Subdivision BB – (Reserved)
- (28) Subdivision CC – Cranes and Derricks in Construction
- (a) 29 CFR 1926.1400 Scope, published 4/11/14, FR vol. 79, no. 70, p. 20316.
- (b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (d) 29 CFR 1926.1403 Assembly/Disassembly – selection of manufacturer or employer procedures, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.1404 Assembly/Disassembly – general requirements (applies to all assembly and disassembly operations), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (f) 29 CFR 1926.1405 Disassembly – additional requirements for dismantling of booms and jibs (applies to both the use of manufacturer procedures and employer procedures), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (g) 29 CFR 1926.1406 Assembly/Disassembly – employer procedures – general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (h) 29 CFR 1926.1407 Power line safety (up to 350 kV) – assembly and disassembly, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (i) 29 CFR 1926.1408 Power line safety (up to 350 kV) – equipment operations, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (j) 29 CFR 1926.1409 Power line safety (over 35 kV), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (k) 29 CFR 1926.1410 Power line safety (all voltages) – equipment operations closer than the Table A zone, published 4/11/14, FR vol. 79, no. 70, p. 20316.
- (l) 29 CFR 1926.1411 Power line safety – while traveling, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (m) 29 CFR 1926.1412 Inspections, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (n) 29 CFR 1926.1413 Wire rope – inspection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (o) 29 CFR 1926.1414 Wire rope – selection and installation criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (p) 29 CFR 1926.1415 Safety devices, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (q) 29 CFR 1926.1416 Operational aids, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (r) 29 CFR 1926.1417 Operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (s) 29 CFR 1926.1418 Authority to stop operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (t) 29 CFR 1926.1419 Signals – general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (u) 29 CFR 1926.1420 Signals – radio, telephone or other electronic transmission of signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (v) 29 CFR 1926.1421 Signals – voice signals – additional requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (w) 29 CFR 1926.1422 Signals – hand signal chart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (x) 29 CFR 1926.1423 Fall protection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (y) 29 CFR 1926.1424 Work area control, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (z) 29 CFR 1926.1425 Keeping clear of the load, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (aa) 29 CFR 1926.1426 Free fall and controlled load lowering, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (bb) 29 CFR 1926.1427 Operator qualification and certification, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (cc) 29 CFR 1926.1428 Signal person qualifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (dd) 29 CFR 1926.1429 Qualifications of maintenance & repair employees, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (ee) 29 CFR 1926.1430 Training, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (ff) 29 CFR 1926.1431 Hoisting personnel, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (gg) 29 CFR 1926.1432 Multiple-crane/derrick lifts – supplemental requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (hh) 29 CFR 1926.1433 Design, construction and testing, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (kk) 29 CFR 1926.1436 Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (ll) 29 CFR 1926.1437 Floating cranes/derricks and land cranes/derricks on barges, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (mm) 29 CFR 1926.1438 Overhead & gantry cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (nn) 29 CFR 1926.1439 Dedicated pile drivers, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (oo) 29 CFR 1926.1440 Sideboom cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (pp) 29 CFR 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds or less, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (qq) 29 CFR 1926.1442 Severability, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (rr) Appendix A to Subdivision CC of 1926 – Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (ss) Appendix B to Subdivision CC of 1926 – Assembly/Disassembly – Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (tt) Appendix C to Subdivision CC of 1926 – Operator Certification – Written Examination – Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.  
Stat. Auth.: ORS 654.025(2) & 656.726(4)  
Stats. Implemented: ORS 654.001 - 654.295  
Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02, cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03, cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 8-2003, f. 12-30-03, cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 6-2007, f. & cert. ef. 9-26-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA

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5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 1-2011, f. & cert. ef. 2-9-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2011, f. 12-8-11, cert. ef. 7-1-12; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 3-2012, f. & cert. ef. 8-20-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 1-2013, f. & cert. ef. 2-14-13; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13; OSHA 4-2013, f. & cert. ef. 7-19-13; OSHA 5-2013, f. & cert. ef. 9-13-13; OSHA 6-2013, f. & cert. ef. 10-9-13; OSHA 7-2013, f. & cert. ef. 12-12-13; OSHA 6-2014, f. 10-28-14, cert. ef. 5-1-15; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16; OSHA 1-2016, f. 3-1-16, cert. ef. 1-1-17; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16

## 437-003-0134

### Personal Protective Equipment

**Application.** This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(1) Hazard assessment and equipment selection. The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:

(a) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

(A) All protective equipment must be of safe design and construction for the work to be performed.

(B) Protective equipment must be worn and used in a manner which will make full use of its protective properties.

(b) Communicate selection decisions to each affected employee; and,  
(c) Select PPE that properly fits each affected employee.

**NOTE:** Non-mandatory Appendix B to Subdivision 2/I, contains an example of procedures that would comply with the requirement for a hazard assessment.

(2) Equipment.

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.

(c) Defective or damaged personal protective equipment must not be used.

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.

(3) Training.

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:

(A) When PPE is necessary;

(B) What PPE is necessary;

(C) How to properly don, doff, adjust, and wear PPE;

(D) The limitations of the PPE; and,

(E) The proper care, maintenance, useful life and disposal of the PPE.

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must retrain each such employee. Circumstances where retraining is required include, but are not limited to situations where:

(A) Changes in the workplace render previous training obsolete; or

(B) Changes in the types of PPE to be used render previous training obsolete; or

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(4) Payment for protective equipment.

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-

specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(d) The employer is not required to pay for:

(A) The logging boots required by OAR 437-007-0330 in Division 7.

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.

(5) Fall Protection.

(a) All employees must be protected from fall hazards when working on unguarded surfaces more than 10 feet above a lower level or at any height above dangerous equipment.

(b) The employer must ensure that fall protection systems are provided, installed, and used according to the criteria in 1926.502(d), and 437-003-0502 in Division 3/M, Construction/Fall Protection.

(6) Work Clothing.

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must contrast with other colors in the area sufficiently to make the worker stand-out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.

(8) Eye And Face Protection.

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. Table 1 to 437-003-0134(8)(e), Table 2 to 437-003-0134(8)(e)

(f) Protective eye and face protection devices must comply with any of the following consensus Standards.

(A) ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in 1926.6;

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(B) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1926.6; or

(C) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1926.6.

(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.

(9) Head Protection.

(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(c) Head protection must comply with any of the following consensus standards:

(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6;

(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6;

(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6; or

(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.

(10) Foot Protection.

(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards.

(b) Protective footwear must comply with any of the following consensus standards:

(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in 1926.6;

(B) ANSI Z41-1999, American National Standard for Personal Protection –Protective Footwear, which is incorporated by reference in 1926.6; or

(C) ANSI Z41-1991, American National Standard for Personal Protection –Protective Footwear, which is incorporated by reference in §1926.6.

(c) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.

(11) Leg protection.

(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.

(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.

(12) Hand Protection.

(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.

(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16

## 437-005-0001

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1915, in the Federal Register:

(1) Subdivision A

(a) 29 CFR 1915.1. Purpose and authority, published 4/20/82, Federal Register (FR) vol. 47, p. 16984.

(b) 29 CFR 1915.2. Scope and application, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.3. Responsibility, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.4. Definitions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.5. Incorporation by reference, published 3/25/16, FR vol. 81, no. 58, p. 16085.

(f) 29 CFR 1915.6. Commercial diving operations, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.7. Competent person, published 7/25/94, FR vol. 59, p. 37856.

(h) 29 CFR 1915.9. Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(2) Subdivision B

(a) 29 CFR 1915.11. Scope, application and definitions applicable to this Subpart, published 7/25/94, FR vol. 59, p. 37857.

(b) 29 CFR 1915.12. Precautions before entering confined and enclosed spaces and other dangerous atmospheres, published 3/16/95, FR vol. 60, no. 51, p. 14218.

(c) 29 CFR 1915.13. Cleaning and other cold work, published 7/25/94, FR vol. 59, p. 37859.

(d) 29 CFR 1915.14. Hot work, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.15. Maintenance of safe conditions, published 6/22/12, FR vol. 77, no. 121, p. 37587.

(f) 29 CFR 1915.16. Warning signs and labels, published 7/25/94, FR vol. 59, p. 37861.

Appendix A to Subpart B published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

Appendix B to Subpart B published 7/25/94, FR vol. 59, p. 37816.

(3) Subdivision C

(a) 29 CFR 1915.31. Scope & application of subdivision, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.32. Toxic cleaning solvents, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(c) 29 CFR 1915.33. Chemical paint & preservative remover, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(d) 29 CFR 1915.34. Mechanical paint removers, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(e) 29 CFR 1915.35. Painting, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.36. Flammable liquids, published 4/20/82, FR vol. 47, p. 16984.

(4) Subdivision D

(a) 29 CFR 1915.51. Ventilation & protection in welding, cutting and heating, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.52. Fire prevention. REMOVED 9/15/04, FR vol. 69, p. 55667.

(c) 29 CFR 1915.53. Welding, cutting and heating of hollow metal containers & structure not covered by 1915.12, published 7/3/02, FR vol. 67, no. 128, p. 44541.



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- (d) 29 CFR 1915.55. Gas welding & cutting, published 4/20/82, FR vol. 47, p. 16984.
- (e) 29 CFR 1915.56. Arc welding and cutting, published 4/20/82, FR vol. 47, p. 16984.
- (f) 29 CFR 1915.57. Uses of fissionable material in ship repairing and shipbuilding, published 4/20/82, FR vol. 47, p. 16984.
- (5) Subdivision E
- (a) 29 CFR 1915.71. Scaffolds or staging, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.72. Ladders, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.73. Guarding of deck openings and edges, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (d) 29 CFR 1915.74. Access to vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (e) 29 CFR 1915.75. Access to and guarding of dry docks and marine railways, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (f) 29 CFR 1915.76. Access to cargo spaces and confined spaces, published 4/20/82, FR vol. 47, p. 16984.
- (g) 29 CFR 1915.77. Working surfaces, published amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (6) Subdivision F
- (a) 29 CFR 1915.80. Scope, application, definitions and effective dates, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (b) 29 CFR 1915.81. Housekeeping, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (c) 29 CFR 1915.82. Lighting, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (d) 29 CFR 1915.83. Utilities, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (e) 29 CFR 1915.84. Working alone, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (f) 29 CFR 1915.85. Vessel radar and communication systems, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (g) 29 CFR 1915.86. Lifeboats, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (h) 29 CFR 1915.87. Medical services and first aid, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (i) 29 CFR 1915.88. Sanitation, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (j) 29 CFR 1915.89. Control of hazardous energy (lockout/tagout), published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (k) 29 CFR 1915.90. Safety color code for marking physical hazards, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (l) 29 CFR 1915.91. Accident prevention signs and tags, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (m) 29 CFR 1915.92. Retention of DOT markings, placards, and labels, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (n) 29 CFR 1915.93. Motor vehicle safety equipment, operation, and maintenance, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (o) 29 CFR 1915.94. Servicing of multi-piece and single-piece rim wheels, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (7) Subdivision G
- (a) 29 CFR 1915.111. Inspection, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.112. Ropes, chains and slings, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (c) 29 CFR 1915.113. Shackles and hooks, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (d) 29 CFR 1915.114. Chain falls and pull lifts, published 4/20/82, FR vol. 47, p. 16984.
- (e) 29 CFR 1915.115. Hoisting and hauling equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (f) 29 CFR 1915.116. Use of gear, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (g) 29 CFR 1915.117. Qualifications of operators, published 4/20/82, FR vol. 47, p. 16984.
- (h) 29 CFR 1915.118. Tables, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (8) Subdivision H
- (a) 29 CFR 1915.131. General precautions, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.132. Portable electric tools, published 4/20/82, FR vol. 47, p. 16984.
- (c) 29 CFR 1915.133. Hand tools, published 4/20/ 82, FR vol. 47, p. 16984.
- (d) 29 CFR 1915.134. Abrasive wheels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (e) 29 CFR 1915.135. Powder actuated fastening tools, published 5/24/96, FR vol. 61, no. 102, p. 26351.
- (f) 29 CFR 1915.136. Internal combustion engines other than ship's equipment, published 4/20/82, FR vol. 47, p. 16984.
- (9) Subdivision I
- (a) 29 CFR 1915.151. Scope, application and definitions, published 5/24/96, FR vol. 61, no. 102, p. 26352.
- (b) 29 CFR 1915.152. General requirements, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (c) 29 CFR 1915.153. Eye and face protection, published 3/25/16, FR vol. 81, no. 58, p. 16085.
- (d) 29 CFR 1915.154. Respiratory protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (e) 29 CFR 1915.155. Head protection, published 6/22/12, FR vol. 77, no. 121, p. 37587.
- (f) 29 CFR 1915.156. Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (g) 29 CFR 1915.157. Hand and body protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (h) 29 CFR 1915.158. Lifesaving equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (i) 29 CFR 1915.159. Personal fall arrest systems (PFAS), published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (j) 29 CFR 1915.160. Positioning device systems, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix A to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix B to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (10) Subdivision J
- (a) 29 CFR 1915.161. Scope and application of subdivision, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.162. Ship's boilers, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (c) 29 CFR 1915.163. Ship's piping systems, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (d) 29 CFR 1915.164. Ship's propulsion machinery, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (e) 29 CFR 1915.165. Ship's decking machinery, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (11) Subdivision K
- (a) 29 CFR 1915.171. Scope and application of subdivision, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.172. Portable air receiver and other unfired pressure vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.173. Drums and containers, published 4/20/82, FR vol. 47, p. 16984.
- (12) Subdivision L
- (a) 29 CFR 1915.181. Electrical circuits and distribution boards, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (13) Subdivisions M O (Reserved)
- (14) Subdivision P
- (a) 29 CFR 1915.501. General provisions, published 9/15/04, FR vol. 69, p. 55667.
- (b) 29 CFR 1915.502. Fire safety plan, published 9/15/04, FR vol. 69, p. 55667.
- (c) 29 CFR 1915.503. Precautions for hot work, published 9/15/04, FR vol. 69, p. 55667.
- (d) 29 CFR 1915.504. Fire watches, published 9/15/04, FR vol. 69, p. 55667.
- (e) 29 CFR 1915.505. Fire response, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (f) 29 CFR 1915.506. Hazards of fixed extinguishing systems on board vessels and vessel sections, published 9/15/04, FR vol. 69, p. 55667.
- (g) 29 CFR 1915.507. Land-side fire protection systems, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (h) 29 CFR 1915.508. Training, published 9/15/04, FR vol. 69, p. 55667.
- (i) 29 CFR 1915.509. Definitions applicable to this subpart, published 9/15/04, FR vol. 69, p. 55667.
- Appendix A to Subpart P, published 9/15/04, FR vol. 69, p. 55667.

# ADMINISTRATIVE RULES

- (15) Subdivision Q-Y (Reserved)
- (16) Subdivision Z
- (a) 29 CFR 1915.1000, Air Contaminants, published 12/27/11, FR vol. 76, no. 248, p. 80735.
- (b) 29 CFR 1915.1001, Asbestos, published 2/8/13, FR vol. 78, no. 27, p. 9311.
- Appendix A to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix B to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix C to 1915.1001, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- Appendix D to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix E to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix F to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix G to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix H to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix I to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix J to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix K to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix L to 1915.1001, published 8/23/96, FR vol. 61, p. 43454.
- (c) 29 CFR 1915.1002. Coal tar pitch volatiles; interpretation of term, published 6/20/96, FR vol. 61, p. 31427.
- (d) 29 CFR 1915.1003. 13 Carcinogens (4 Nitrobiphenyl, etc.), published 6/20/96, FR vol. 61, p. 31427.
- (e) 29 CFR 1915.1004. alpha Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.
- (f) 29 CFR 1915.1005. (Reserved)
- (g) 29 CFR 1915.1006. Methyl chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.
- (h) 29 CFR 1915.1007. 3,3'-Dichlorobenzidene (and its salts), published 6/20/96, FR vol. 61, p. 31427.
- (i) 29 CFR 1915.1008. bis Chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.
- (j) 29 CFR 1915.1009. beta Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.
- (k) 29 CFR 1915.1010. Benzidine, published 6/20/96, FR vol. 61, p. 31427.
- (l) 29 CFR 1915.1011. 4 Aminodiphenyl, published 6/20/96, FR vol. 61, p. 31427.
- (m) 29 CFR 1915.1012. Ethyleneimine, published 6/20/96, FR vol. 61, p. 31427.
- (n) 29 CFR 1915.1013. beta Propiolactone, published 6/20/96, FR vol. 61, p. 31427.
- (o) 29 CFR 1915.1014. 2 Acetylaminofluorene, published 6/20/96, FR vol. 61, p. 31427.
- (p) 29 CFR 1915.1015. 4 Dimethylaminoazobenzene, published 6/20/96, FR vol. 61, p. 31427.
- (q) 29 CFR 1915.1016. N Nitrosodimethylamine, published 6/20/96, FR vol. 61, p. 31427.
- (r) 29 CFR 1915.1017. Vinyl chloride, published 6/20/96, FR vol. 61, p. 31427.
- (s) 29 CFR 1915.1018. Inorganic arsenic, published 6/20/96, FR vol. 61, p. 31427.
- (t) 29 CFR 1915.1020 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, p. 31427.
- (u) 29 CFR 1915.1025. Lead, published 6/20/96, FR vol. 61, p. 31427.
- (v) 29 CFR 1915.1026 Chromium (VI), published 3/26/12, FR vol. 77, no. 58, p. 17574.
- (w) 29 CFR 1915.1027. Cadmium, published 6/20/96, FR vol. 61, p. 31427.
- (x) 29 CFR 1915.1028. Benzene, published 6/20/96, FR vol. 61, p. 31427.
- (y) 29 CFR 1915.1030. Bloodborne pathogens, published 6/20/96, FR vol. 61, p. 31427.
- (z) 29 CFR 1915.1044. 1,2 dibromo 3 chloropropane, published 6/20/96, FR vol. 61, p. 31427.
- (aa) 29 CFR 1915.1045. Acrylonitrile, published 6/20/96, FR vol. 61, p. 31427.
- (bb) 29 CFR 1915.1047. Ethylene oxide, published 6/20/96, FR vol. 61, p. 31427.
- (cc) 29 CFR 1915.1048. Formaldehyde, published 6/20/96, FR vol. 61, p. 31427.
- (dd) 29 CFR 1915.1050. Methylene dianiline, published 6/20/96, FR vol. 61, p. 31427.
- (ee) 29 CFR 1915.1052 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619.
- (ff) 29 CFR 1915.1120 Access to employee exposure and medical records has been redesignated to §1915.1020.
- (Note: 29 CFR 1915.99, Hazard Communication was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.)
- (gg) 29 CFR 1915.1200. Hazard communication, published 6/20/96, FR vol. 61, p. 31427.
- (hh) 29 CFR 1915.1450. Occupational exposure to hazardous chemicals in laboratories, published 6/20/96, FR vol. 61, p. 31427.
- Stat. Auth.: ORS 654.025(2) & 656.726(4)
- Stats. Implemented: ORS 654.001 - 654.295
- Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 19-1993, f. & cert. ef. 12-29-93; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 2-1995, f. & cert. ef. 1-25-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 4-2003, f. & cert. ef. 5-6-03; OSHA 8-2004, f. & cert. ef. 12-30-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 1-2007, f. 1-9-07 cert. ef. 1-16-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 3-2011, f. & cert. ef. 11-1-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 4-2013, f. & cert. ef. 7-19-13; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16

## 437-005-0002

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1917, in the Federal Register:

#### (1) Subdivision A

(a) 29 CFR 1917.1 Scope and applicability, published 2/28/06, FR vol. 71, no. 39, p. 10100.

(b) 29 CFR 1917.2 Definitions, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(c) 29 CFR 1917.3 Incorporation by reference, published 3/25/16, FR vol. 81, no. 58, p. 16085.

(d) 29 CFR 1917.5 Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589

#### (2) Subdivision B

(a) 29 CFR 1917.11 Housekeeping, published 7/25/97, FR vol. 62, no. 143, p. 40196.

(b) 29 CFR 1917.12 Slippery conditions, published 7/5/83, FR vol. 48, p. 30909.

(c) 29 CFR 1917.13 Slings, published 7/25/97, FR vol. 62, no. 143, p. 40197.

(d) 29 CFR 1917.14 Stacking of cargo and pallets, published 7/5/83, FR vol. 48, p. 30909.

(e) 29 CFR 1917.15 Coopering, published 7/5/83, FR vol. 48, p. 30909.

(f) 29 CFR 1917.16 Line handling, published 7/5/83, FR vol. 48, p. 30909.

(g) 29 CFR 1917.17 Railroad facilities, published 7/25/97, FR vol. 62, no. 143, p. 40197.

(h) 29 CFR 1917.18 Log handling, published 7/5/83, FR vol. 48, p. 30909.

(i) 29 CFR 1917.19 Movement of barges and rail cars, published 7/5/83, FR vol. 48, p. 30909.

(j) 29 CFR 1917.20 Interference with communications, published 7/25/97, FR vol. 62, no. 143, p. 40197.

(k) 29 CFR 1917.21 Open fires, published 7/5/83, FR vol. 48, p. 30909.

(l) 29 CFR 1917.22 Hazardous cargo (see 1917.2(p)), published 7/5/83, FR vol. 48, p. 30909.

(m) 29 CFR 1917.23 Hazardous atmospheres and substances (see 1917.2(p)), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(n) 29 CFR 1917.24 Carbon monoxide, published 7/25/97, FR vol. 62, no. 143, p. 40197.

(o) 29 CFR 1917.25 Fumigants, pesticides, insecticides and hazardous preservatives (see 1917.2(p)), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(p) 29 CFR 1917.26 First aid and lifesaving facilities, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(q) 29 CFR 1917.27 Personnel, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(r) 29 CFR 1917.28 Hazard communication (see also §1917.1(a)(2)(vi)), published 7/25/97, FR vol. 62, no. 143, p. 40198.

(s) 29 CFR 1917.29 Retention of DOT markings, placards and labels, published 7/19/94, Federal Register, vol. 59, no. 137, p. 36700.

# ADMINISTRATIVE RULES

- (t) 29 CFR 1917.30 Emergency action plans, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (3) Subdivision C
- (a) 29 CFR 1917.41 House falls, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.42 Miscellaneous auxiliary gear, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (c) 29 CFR 1917.43 Powered industrial trucks, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (d) 29 CFR 1917.44 General rules applicable to vehicles, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (e) 29 CFR 1917.45 Cranes and derricks (see also §1917.50), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (f) 29 CFR 1917.46 Load indicating devices, published 7/25/97, FR vol. 62, no. 143, p. 40199.
- (g) 29 CFR 1917.47 Winches, published 7/5/83, FR vol. 48, p. 30909.
- (h) 29 CFR 1917.48 Conveyors, published 7/25/97, FR vol. 62, no. 143, p. 40200.
- (i) 29 CFR 1917.49 Spouts, chutes, hoppers, bins, and associated equipment, published 7/5/83, FR vol. 48, p. 30909.
- (j) 29 CFR 1917.50 Certification of marine terminal material handling devices (see also Mandatory Appendix IV, Part 1918 of this chapter), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (k) 29 CFR 1917.51 Hand tools, published 7/5/83, FR vol. 48, p. 30909.
- (4) Subdivision D
- (a) 29 CFR 1917.70 General, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.71 Terminals handling intermodal container or roll on roll off operations, published 4/21/14, FR vol. 79, no. 76, p. 22018.
- (c) 29 CFR 1917.72 (Reserved)
- (d) 29 CFR 1917.73 Terminal facilities handling menhaden and similar species of fish (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (5) Subdivision E
- (a) 29 CFR 1917.91 Eye and face protection, published 3/25/16, FR vol. 81, no. 58, p. 16085.
- (b) 29 CFR 1917.92 Respiratory protection, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (c) 29 CFR 1917.93 Head protection, published 6/22/12, FR vol. 77, no. 121, p. 37587.
- (d) 29 CFR 1917.94 Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (e) 29 CFR 1917.95 Other protective measures, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (f) 29 CFR 1917.96 Payment for protective equipment, published 11/15/07, FR vol. 72, no. 220, p. 64342.
- (6) Subdivision F
- (a) 29 CFR 1917.111 Maintenance and load limits, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.112 Guarding of edges, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (c) 29 CFR 1917.113 Clearance heights, published 7/5/83, FR vol. 48, p. 30909.
- (d) 29 CFR 1917.114 Cargo doors, published 7/5/83, FR vol. 48, p. 30909.
- (e) 29 CFR 1917.115 Platforms and skids, published 7/5/83, FR vol. 48, p. 30909.
- (f) 29 CFR 1917.116 Elevators and escalators, published 7/13/84, FR vol. 49, p. 28551.
- (g) 29 CFR 1917.117 Manlifts, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (h) 29 CFR 1917.118 Fixed ladders, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (i) 29 CFR 1917.119 Portable ladders, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (j) 29 CFR 1917.120 Fixed stairways, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (k) 29 CFR 1917.121 Spiral stairways, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (l) 29 CFR 1917.122 Employee exits, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (m) 29 CFR 1917.123 Illumination, published 7/25/97, FR vol. 62, no. 143, p. 40201.

- (n) 29 CFR 1917.124 Dockboards (car and bridge plates), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (o) 29 CFR 1917.125 Guarding temporary hazards, published 7/5/83, FR vol. 48, p. 30909.
- (p) 29 CFR 1917.126 River banks, published 7/25/97, FR vol. 62, no. 143, p. 40201.
- (q) 29 CFR 1917.127 Sanitation, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (r) 29 CFR 1917.128 Signs and marking, published 7/5/83, FR vol. 48, p. 30909.
- (7) Subdivision G
- (a) 29 CFR 1917.151 Machine guarding, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (b) 29 CFR 1917.152 Welding, cutting and heating (hot work) (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (c) 29 CFR 1917.153 Spray painting (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (d) 29 CFR 1917.154 Compressed air, published 7/5/83, FR vol. 48, p. 30909.
- (e) 29 CFR 1917.155 Air receivers, published 7/5/83, FR vol. 48, p. 30909.
- (f) 29 CFR 1917.156 Fuel handling and storage, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (g) 29 CFR 1917.157 Battery charging and changing, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40202.
- (h) 29 CFR 1917.158 Prohibited operations, published 7/5/83, FR vol. 48, p. 30909.

These standards are available at the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)  
Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 9-1997, f. & cert. ef. 12-31-97; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 9-2000, f. & cert. ef. 10-10-00; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 6-2009, f. & cert. ef. 6-5-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 4-2014, f. & cert. ef. 10-17-14; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16

## 437-005-0003

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1918, in the Federal Register:

- (1) Subdivision A
- (a) 29 CFR 1918.1 Scope and application, published 2/28/06, FR vol. 71, no. 39, p. 10100.
- (b) 29 CFR 1918.2 Definitions, published 6/8/11, Federal Register, vol. 76, no. 110, 33590.
- (c) 29 CFR 1918.3 Incorporation by reference, published 3/25/16, FR vol. 81, no. 58, p. 16085.
- (d) 29 CFR 1918.5 Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (2) Subdivision B
- (a) 29 CFR 1918.11 Gear certification (see also §§1918.2 and 1918.51), published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (3) Subdivision C
- (a) 29 CFR 1918.21 General requirements, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (b) 29 CFR 1918.22 Gangways, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (c) 29 CFR 1918.23 Jacob's ladders, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (d) 29 CFR 1918.24 Fixed and portable ladders, published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (e) 29 CFR 1918.25 Bridge plates and ramps (see also §1918.86), published 6/30/00, FR vol. 65, no. 127, p. 40938.
- (f) 29 CFR 1918.26 Access to barges and river towboats, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (4) Subdivision D
- (a) 29 CFR 1918.31 Hatch coverings, published 7/25/97, FR vol. 62, no. 143, p. 40202.

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(b) 29 CFR 1918.32 Stowed cargo and temporary landing surfaces, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.33 Deck loads, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.34 Other decks, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.35 Open hatches, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(f) 29 CFR 1918.36 Weather deck rails, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(g) 29 CFR 1918.37 Barges, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(5) Subdivision E

(a) 29 CFR 1918.41 Coaming clearances, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(b) 29 CFR 1918.42 Hatch beam and pontoon bridles, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1918.43 Handling hatch beams and covers, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(6) Subdivision F

(a) 29 CFR 1918.51 General requirements (see also §1918.11 and Appendix III of this part), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(b) 29 CFR 1918.52 Specific requirements, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1918.53 Cargo winches, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.54 Rigging gear, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(e) 29 CFR 1918.55 Cranes (see also §1918.11), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(7) Subdivision G

(a) 29 CFR 1918.61 General (see also Appendix IV of this part), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(b) 29 CFR 1918.62 Miscellaneous auxiliary gear, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1918.63 Chutes, gravity conveyors and rollers, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.64 Powered conveyors, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.65 Mechanically powered vehicles used aboard vessels, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(f) 29 CFR 1918.66 Cranes and derricks other than vessel's gear, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(g) 29 CFR 1918.67 Notifying ship's officers before using certain equipment, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.68 Grounding, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(i) 29 CFR 1918.69 Tools, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(j) 29 CFR 1918.70 - 1918.80 (Reserved)

(8) Subdivision H

(a) 29 CFR 1918.81 Slings, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.82 Building drafts, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.83 Stowed cargo, tiering and breaking down, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.84 Bulling cargo, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.85 Containerized cargo operations, published 12/10/08, FR vol. 73, no. 238, pp. 75246-75290.

(f) 29 CFR 1918.86 Roll-on roll-off (Ro-Ro) operations (see also §1918.25), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(g) 29 CFR 1918.87 Ship's cargo elevators, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.88 Log operations, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(i) 29 CFR 1918.89 Handling hazardous cargo (see also §§1918.2 and 1918.99), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(9) Subdivision I

(a) 29 CFR 1918.90 Hazard communication (see also §1918.1(b)(4)), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.91 Housekeeping, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.92 Illumination, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.93 Hazardous atmospheres and substances (see also §1918.2(j)), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.94 Ventilation and atmospheric conditions (see also §1918.2), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(f) 29 CFR 1918.95 Sanitation, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(g) 29 CFR 1918.96 Maintenance and repair work in the vicinity of longshoring operations, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.97 First aid and lifesaving facilities (see also Appendix V of this part), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(i) 29 CFR 1918.98 Qualifications of machinery operators and supervisory training, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(j) 29 CFR 1918.99 Retention of DOT markings, placards and labels, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(k) 29 CFR 1918.100 Emergency action plans, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(10) Subdivision J

(a) 29 CFR 1918.101 Eye and face protection, published 3/25/16, FR vol. 81, no. 58, p. 16085.

(b) 29 CFR 1918.102 Respiratory protection, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(c) 29 CFR 1918.103 Head protection, published 6/22/12, FR vol. 77, no. 121, p. 37587.

(d) 29 CFR 1918.104 Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.

(e) 29 CFR 1918.105 Other protective measures, published 6/30/00, FR vol. 65, no. 127, p. 40938.

(f) 29 CFR 1918.106 Payment for protective equipment, published 11/15/07, FR vol. 72, no. 220, p. 64342.

(11) Appendix I – Cargo Gear Register and Certificates (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(12) Appendix II – Tables for Selected Miscellaneous Auxiliary Gear (Mandatory), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(13) Appendix III – The Mechanics of Conventional Cargo Gear (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(14) Appendix IV – Special Cargo Gear (Mandatory), published 6/30/00, FR vol. 65, no. 127, p. 40938.

(15) Appendix V – Basic Elements of a First Aid Training Program (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

These standards are available at the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 9-1997, f. & cert. ef. 12-31-97; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 9-2000, f. & cert. ef. 10-10-00; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 6-2009, f. & cert. ef. 6-5-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16

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## Department of Consumer and Business Services, Workers' Compensation Board Chapter 438

**Rule Caption:** Amends OAR 438-005-0046(1)(f) (e-mail filing - compliance not jurisdictional); OAR 438-006-0100(1) (applies amended ORS 9.320).

**Adm. Order No.:** WCB 1-2016

**Filed with Sec. of State:** 9-15-2016

**Certified to be Effective:** 11-1-16

**Notice Publication Date:** 6-1-2016

**Rules Amended:** 438-005-0046, 438-006-0100

**Subject:** Amends OAR 438-005-0046(1)(f), which provides for e-mail filing, as follows: (1) Provide that strict compliance with paragraph (B) of this subsection is not jurisdictional and, consistent with OAR 438-005-0035(3), an unrepresented party shall not be held strictly accountable for a failure to comply with Board rules; (2) Delete the specific listing of formats for the attachments and, instead, provide that these attachments must be in a format that can be viewed by the Board; and (3) Provide that, for purposes of this rule, the date

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of an electronic filing is determined by the date the Board receives the e-mail described in paragraph (A) of this subsection.

Amends OAR 438-006-0100 to apply amendments to ORS 9.320 and replace the word “corporations” with the phrase “parties that are not natural persons” in the list of entities that must be represented by members of the Oregon State Bar.

**Rules Coordinator:** Karen Burton—(503) 934-0123

### 438-005-0046

#### Filing and Service of Documents; Correspondence

(1) Filing:

(a) Except as otherwise provided in these rules, “filing” means the physical delivery of a thing to any permanently staffed office of the Board, or the date of mailing;

(b) In addition to the procedures otherwise described in these rules, “filing” may also be accomplished in the manner prescribed in OAR chapter 436, division 009 or 010 for filing a request for administrative review with the Director provided that the request involves a dispute that requires a determination of either the compensability of the medical condition for which medical services are proposed or whether a sufficient causal relationship exists between medical services and an accepted claim to establish compensability;

(c) If filing of a request for hearing or Board review of either an Administrative Law Judge’s order or a Director’s order finding no bona fide medical services dispute is accomplished by mailing, it shall be presumed that the request was mailed on the date shown on a receipt for registered or certified mail bearing the stamp of the United States Postal Service showing the date of mailing. If the request is not mailed by registered or certified mail and the request is actually received by the Board after the date for filing, it shall be presumed that the mailing was untimely unless the filing party establishes that the mailing was timely;

(d) If a settlement stipulation, disputed claim settlement, or claim disposition agreement results from a mediation, “filing” also includes the physical delivery of the settlement stipulation, disputed claim settlement, or claim disposition agreement to the Administrative Law Judge who mediated the settlement or agreement, regardless of location.

(e) The following things may be filed by electronic mail (e-mail) pursuant to subsection (f) of this section:

(A) Request for hearing;

(B) Request for Board review of an Administrative Law Judge’s order;

(C) Request for Board review of a Director’s order finding no bona fide medical services dispute;

(D) Request for extension of the briefing schedule under OAR 438-011-0020;

(E) Request for waiver of the Board’s rules under OAR 438-011-0030; or

(F) Response to issues under OAR 438-006-0036.

(f) To electronically file the requests listed in subsection (e) of this section by e-mail, a party shall:

(A) Send an e-mail to: [request.wcb@oregon.gov](mailto:request.wcb@oregon.gov); and

(B) Attach an electronic copy of a completed Workers’ Compensation Board “Request for Hearing Form,” or a completed request for Board review, or a completed request for extension of the briefing schedule, or a completed request for waiver of the Board’s rules, or a completed Board “Response to Issues Form.” These attachments must be in a format that can be viewed by the Board. Strict compliance with paragraph (B) of this subsection is not jurisdictional. Also, consistent with the Board’s policy in OAR 438-005-0035(3), an unrepresented party shall not be held strictly accountable for failure to comply with Board rules.

(C) For purposes of this rule, the date of an electronic filing is determined by the date the Board receives the e-mail described in paragraph (A) of this subsection. An electronic filing under subsections (e) and (f) of this section received by the Board by 11:59 p.m. of a non-holiday, weekday is filed on that date.

(g) The following things may be filed by website portal pursuant to subsection (h) of this section:

(A) All actions described in subsection (e) of this section; and

(B) Filing of any other thing that the Board makes available for filing by website portal.

(h) To electronically file the things listed in subsection (g) of this section by website portal, a party shall:

(A) Register as a “user” of the portal at: <https://portal.wcb.oregon.gov>; and

(B) For subparagraph (g)(A) of this section, as appropriate, complete the electronic version of the Workers’ Compensation Board “Request for Hearing Form,” or complete a request for Board review, or complete a request for extension of a briefing schedule, or complete a request for waiver of the Board’s rules, or complete a Board “Response to Issues Form”; or

(C) For subparagraph (g)(B) of this section, complete the appropriate items on the website portal.

(D) For the purposes of this rule, the date of a portal filing is determined by the date the Board receives the appropriate portal version of the form.

(E) A portal filing under subsections (g) and (h) of this section received by the Board by 11:59 p.m. of a non-holiday, weekday is filed as of that date.

(i) “Filing” includes the submission of any document (other than the exchange of exhibits and indexes under OAR 438-007-0018) to any permanently staffed office of the Board by means of a telephone facsimile communication device (FAX) provided that:

(A) The document transmitted indicates at the top that it has been delivered by FAX;

(B) The Board’s facsimile transmission number is used; and

(C) The Board receives the complete FAX-transmitted document by 11:59 p.m. of a non-holiday, weekday.

(j) Except for the documents specified in subsections (c), (e), or (g) of this section, filing of any other thing required to be filed within a prescribed time may be accomplished by mailing by first class mail, postage prepaid. An attorney’s certificate that a thing was deposited in the mail on a stated date is proof of mailing on that date. If the thing is not received within the prescribed time and no certificate of mailing is furnished, it shall be presumed that the filing was untimely unless the filing party establishes that the filing was timely.

(2) Service:

(a) A true copy of any thing delivered for filing under these rules shall be simultaneously served personally, by means of a facsimile transmission, by means of e-mail or website portal regarding requests, responses, or any other thing filed under OAR 438-005-0046(1)(e), (f), (g), or (h), or by mailing by first-class mail, postage prepaid, through the United States Postal Service, to each other party, or to their attorneys. Service by mail is complete upon mailing, service by facsimile transmission is complete upon disconnection following an error-free transmission, and service by e-mail or website portal regarding requests, responses, or any other thing filed under 438-005-0046(1)(e), (f), (g), or (h), is complete upon successful transmission, provided that the copy is sent in a format readable by the recipient;

(b) Any thing delivered for filing under these rules shall include or have attached thereto either an acknowledgment of service by the person served or proof of service in the form of a certificate executed by the person who made service showing personal delivery, service by means of a facsimile transmission, service by means of e-mail or website portal regarding requests, responses, or any other thing filed under OAR 438-005-0046(1)(e), (f), (g), or (h), or deposit in the mails together with the names and addresses of the persons served.

(3) Correspondence. All correspondence to the Board shall be captioned with the name of the claimant, the WCB Case number and the insurer or self-insured employer claim number. Correspondence to the Hearings Division shall also be captioned with the date of the hearing and name of the assigned Administrative Law Judge, if any.

(4) Signatures.

(a) Any thing delivered for filing under these rules shall include the signature of the party or the party’s attorney, which may be provided in writing, by facsimile transmission, by electronic scanning, by the website portal, or by other electronic means.

(b) The user name and password required to file a document with the Board by means of the website portal shall constitute the signature of the filer and for any other purpose for which a signature is required.

(c) Except for documents filed under subsection (b) of this section, any document filed by electronic means must include a signature block that includes the printed name of the filer, preceded by an electronic symbol intended to substitute for a signature (such as a scan of the filer’s handwritten signature or “s/”) in the space where the signature would otherwise appear.

(d) Any order, notice, or any other document issued by an Administrative Law Judge or a Board Member may include his/her signature in writing, by facsimile transmission, by electronic scanning, by the website portal, or by other electronic means permitted under the Board’s rules.

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(e) Any electronically transmitted signature shall have the same force and effect as an original signature, provided that the electronically transmitted signature is executed or adopted by a person with the intent to sign the document as prescribed in ORS Chapter 84 (Uniform Electronic Transactions Act).

Stat. Auth.: ORS 656.726(5)  
Stats. Implemented: ORS 656.726(5)  
Hist.: WCB 5-1987, f. 12-18-87, cert. ef. 1-1-88; WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90; WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90; WCB 3-1991(Temp), f. 5-24-91, cert. ef. 5-28-91; WCB 8-1991, f. 11-6-91, cert. ef. 11-7-91; WCB 1-1999, f. 8-24-99, cert. ef. 11-1-99; WCB 2-1999(Temp), f. 9-24-99, cert. ef. 10-23-99 thru 4-14-00; WCB 1-2000, f. 3-29-00, cert. ef. 4-3-00; WCB 1-2007, f. 1-19-07, cert. ef. 3-1-07; WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08; WCB 1-2012, f. 8-22-12, cert. ef. 11-1-12; WCB 2-2013, f. 12-10-13, cert. ef. 4-1-14; WCB 1-2014, f. 6-20-14, cert. ef. 9-1-14; WCB 1-2016, f. 9-15-16, cert. ef. 11-1-16

## 438-006-0100

### Representation by Counsel

(1) Except as permitted by ORS 656.291 and this rule, parties that are not natural persons and state agencies must be represented by members of the Oregon State Bar. The Board encourages injured workers also to be represented in formal hearings.

(2) Notwithstanding section (1) of this rule, a state agency officer or employee may represent the Director as permitted by rule of the Director.

(3)(a) A law student authorized to appear before courts and administrative tribunals of this state in accordance with Rule 13.05 through 13.30 of the Supreme Court Rules for Admission of Attorneys (Law Student Appearance Program) has the consent of the Board to appear on behalf of a client at a hearing if:

(A) All of the following documents have been filed with the Presiding Administrative Law Judge prior to the hearing:

(i) A true copy of the student's certification to appear under the Law Student Appearance Program showing approval by the Supreme Court and filing with the State Court Administrator;

(ii) The client's written consent to representation under the Law Student Appearance Program, which shall be made a part of the official record of each case; and

(iii) The student's supervising attorney has introduced the student to the Presiding Administrative Law Judge in a letter of introduction signed by the supervising attorney; and

(B) The Presiding Administrative Law Judge has approved the law student's appearance prior to the hearing.

(b) The supervising attorney is encouraged, though not required, to personally introduce the law student to the assigned Administrative Law Judge in each case.

Stat. Auth.: ORS 656.726(5)  
Stats. Implemented: ORS 656.726(5) & 9.320  
Hist.: WCB 1-1984, f. 4-5-84, ef. 5-1-84; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-1990, f. 1-24-90, cert. ef. 2-28-90; WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90; WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90; WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08; WCB 1-2016, f. 9-15-16, cert. ef. 11-1-16

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## Department of Corrections Chapter 291

**Rule Caption:** Prison Term Modification for Department of Corrections Inmates as it applies to Earned Time Credits

**Adm. Order No.:** DOC 10-2016

**Filed with Sec. of State:** 9-15-2016

**Certified to be Effective:** 9-15-16

**Notice Publication Date:** 7-1-2016

**Rules Adopted:** 291-097-0236

**Rules Amended:** 291-097-0200, 291-097-0210, 291-097-0215, 291-097-0220, 291-097-0230, 291-097-0231, 291-097-0240, 291-097-0245, 291-097-0260, 291-097-0225

**Subject:** These revision are necessary to capture the process change to apply earned time credits to the prison term set by the Board of Parole and Post-Prison Supervision for life sentences following an Oregon Supreme Court decision in Engweiler vs. Oregon Department of Corrections; to implement legislative changes for HB 2423 (2015); and other housekeeping changes to update terminology and statutory references.

HB 2423 removed the 60 day earned time credit for education for crimes committed on or after July 1, 2015 and clarified that sentences for crimes committed on or after July 1, 2015 for Murder and Aggravated Murder (ORS 163.105, 163.115) are not eligible for earned time credits per ORS 421.121.

**Rules Coordinator:** Janet R. Worley—(503) 945-0933

## 291-097-0200

### 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 137.635, 144.108, 144.110, 161.610, 179.040, 421.120, 421.121, 421.122, 423.020, 423.030 and 423.075.

(2) The purpose of this rule is to establish procedures for calculating, applying, retracting, and restoring earned time, statutory good time and extra good time credits, and for recommending modifications of parole release dates to the Board of Parole and Post-Prison Supervision, for inmates sentenced for crimes committed on or after November 1, 1989 (sentencing guidelines), and for inmates sentenced for crimes committed prior to November 1, 1989 (matrix sentences).

(3) Policy:

(a) It is the policy of the Department of Corrections that inmates serving sentences for crimes committed on or after November 1, 1989 (sentencing guidelines), may be considered for a reduction in their term of incarceration pursuant to ORS 421.121, as set forth in these rules.

(A) Inmates sentenced under sentencing guidelines may be eligible to earn sentence reduction credits (earned time credits) up to a maximum of 20 percent or 30 percent of each sentencing guidelines sentence, pursuant to ORS 421.121, as set forth in these rules.

(B) Earned time credits are designed to provide incentive for appropriate institutional behavior, program participation, and for certain inmates, obtaining a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010.

(b) It is the policy of the Department of Corrections that inmates serving sentences for crimes committed prior to November 1, 1989 (pre-sentencing guidelines sentences), may be eligible for prison term reduction credits (statutory good time and extra good time credits) pursuant to ORS 421.120, as set forth in these rules.

(c) It is the policy of the Department of Corrections that inmates sentenced for crimes committed prior to November 1, 1989 (pre-sentencing guidelines sentences), may be eligible to receive a recommendation from the Department to the Board of Parole and Post-Prison Supervision that the inmate receive prison term reduction credits for an earlier date, as set forth in these rules.

(d) It is the policy of the Department of Corrections to develop case plans on all inmates assigned to a Department of Corrections facility.

(e) It is the policy of the Department of Corrections to not calculate earned time for boarders from another state or those inmates serving only pre-sentencing guidelines sentences.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; Renumbered from 291-097-0005 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0005 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0210

### Definitions

(1) Case Plan: A dynamic document created by Department of Corrections counselors collaboratively with an inmate that specifically identifies the inmate's evidence-based assessed risk and needs, accompanied by risk reduction strategies and plans of action, with timelines.

(2) Certificate or Degree from a Post-Secondary Education Institution: A certificate or degree awarded by a post-secondary education institution as defined in ORS 337.511 for satisfactory completion of a course of study, which has been approved by the State Board of Education.

(3) Earned Time Credits: Sentence reduction credits (days), up to 30 percent of the sentence imposed, that can be earned by an inmate sentenced under sentencing guidelines, pursuant to ORS 421.121, and these rules.

(4) Earned Time Release Date: The release date that has been achieved by an inmate calculated by subtracting the earned time credits accrued from the maximum date.

(5) Extra Good Time Credits: Sentence reduction credits (days) that can be earned by an inmate sentenced for crimes committed prior to November 1, 1989 (pre-sentencing guidelines), for satisfactory work assignment or participation in an educational program, pursuant to ORS 421.120(1)(c), (d) and (e) and 421.122, and these rules. Days earned reduce

# ADMINISTRATIVE RULES

the statutory good time date. Methods of computation are delineated in OAR 291-097-0070.

(6) Final Review Period: An increment of at least four months prior to an inmate's projected release date.

(7) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(8) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, or an Assistant Director and has responsibility for the delivery of program services or coordination of program operations.

(9) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(10) Judgment: Document issued by the court that commits an inmate to the legal and physical custody of the Department of Corrections, and reflects the inmate's term of incarceration, term of post-prison supervision, and court-ordered supervision conditions, if any.

(11) Multi-disciplinary Team (MDT): Stakeholders from different divisions within a functional unit who come together to provide comprehensive assessment, consultation and perspectives concerning an inmate's incarceration and successful reentry to the community.

(12) Non-Prison Leave: A period of leave not to exceed 90 days preceding an established release date granted to inmates successfully completing the institution phase of an Alternative Incarceration Program. Non-prison leave is designed to provide inmates with transitional opportunities that promote successful reintegration into the community and is granted in accordance with ORS 137.751, ORS 421.508, ORS 421.510 and the department's rule on Alternative Incarceration Programs (OAR 291-062).

(13) Offender: Any person under the supervision of the Department of Corrections, local supervisory authority or community corrections who is on probation, parole or post-prison supervision status.

(14) Offender Information & Sentence Computation Unit (OISC): The functional unit charged to administrate applicable statutes pertaining to sentencing; develop, implement and revise applicable processes for inmate and offender sentence computation; respond to public information requests with regard to inmates and offenders; certify an inmate's release date; and provide supportive services to department facilities with regard to inmate sentencing.

(15) Parole Release Date: The date on which an inmate is ordered to be released from an indeterminate prison sentence(s) to parole by the Board of Parole and Post-Prison Supervision. Parole release may be to the community, detainer or to another Department of Corrections sentence.

(16) Post-Secondary Education Institution: An education institution as defined in ORS 337.511.

(17) Pre-Sentence: That period of time a defendant spends in physical custody or incarceration from the point of arrest to the date of delivery to the Department to serve that sentence.

(18) Prison Term:

(a) Sentencing Guidelines Sentences: The length of incarceration time within a Department of Corrections facility as established by the court in the judgment for each crime of conviction.

(b) Pre-Sentencing Guidelines Sentences: The length of required incarceration time within a Department of Corrections facility as established by the order of the Board of Parole and Post-Prison Supervision setting of a parole release date.

(19) Projected Release Date: The date upon which an inmate is anticipated to complete service of the prison term.

(20) Restoration of Earned Time, Statutory Good Time, Extra Good Time Credits: Where previously retracted earned time, statutory good time, extra good time and previously forfeited statutory good time and extra good time for parole violators are granted and applied back to the inmate's sentence.

(21) Retraction: Where previously granted earned time, statutory good time or extra good time credits are forfeited by an inmate as a result of a significant negative action on the part of the inmate, in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105), or forfeiture of program earned time credits, advanced at the beginning of the final review period, for failure to comply with the case plan during the final review period.

(22) Review Period: A six-month increment, beginning with an inmate's admission date, used to determine an inmate's compliance with institution behavior and his/her case plan.

(23) Short-Term Transitional Leave: A period of leave not to exceed 90 days preceding an established release date designed to provide inmates

with transitional opportunities that promote successful reintegration into the community. Short-term transitional leave shall be granted in accordance with ORS 421.168 and the department's rules on Short-Term Transitional Leave and Emergency Leaves (OAR 291-063).

(24) Statutory Good Time Credits: Prison term reduction credits (days) applicable to sentences for crimes committed prior to November 1, 1989 (matrix sentences) consisting of a reduction of one day for every two days served, pursuant to ORS 421.120(1)(a) and (b), and these rules. The application of statutory good time days establishes the initial statutory good time date and is re-calculated upon parole revocation based on the length of the remaining sentence.

(25) Supplemental Judgment: The form of judgment prepared by and transmitted to a sentencing court pursuant to Oregon Laws 2009, Chapter 660, §18 (House Bill 3508) which authorizes the Department to consider the inmate for a reduction in the term of incarceration under ORS 421.121 that may not exceed 30 percent of the total term of incarceration in a DOC facility.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2000, f. & cert. ef. 6-26-00; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; DOC 14-2010(Temp), f. & cert. ef. 10-19-10 thru 4-15-11; DOC 7-2011, f. & cert. ef. 4-8-11; Renumbered from 291-097-0010 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0010 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0215

### Earned Time Credits for Crimes Committed on or after November 1, 1989 through June 30, 2009 and Sentenced Prior to July 1, 2009

(1) Pursuant to ORS 421.121, inmates with eligible crimes committed on or after November 1, 1989 through June 30, 2009 and sentenced prior to July 1, 2009, may earn sentence reduction credits up to 20 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates:

(a) Serving a sentence subject to ORS 137.635;

(b) Serving presumptive sentences or required incarceration terms under ORS 161.737;

(c) Serving statutory minimum sentences under ORS 137.700 or 137.707;

(d) Serving a presumptive sentence under ORS 137.719;

(e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;

(f) Serving time as a sanction for violation of conditions of post-prison supervision; or

(g) Subject to any other Oregon statutes restricting earned time credits.

(2) Pursuant to ORS 421.121, inmates sentenced under the sentencing guidelines prior to July 1, 2009 and for whom the sentencing court has issued a supplemental judgment authorizing the Department of Corrections to consider the inmate eligible for additional earned time credits, may earn sentence reduction credits up to 30 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates described in 291-097-0215(1)(a-g) or inmates:

(a) Whose prison term reached its earned time release date prior to or on August 31, 2009;

(b) Whose prison term reached its earned time release date prior to the date the sentencing court enters a supplemental judgment;

(c) Whose supplemental judgment approving a reduction in the term of incarceration under ORS 421.121 that may not exceed 30 percent is:

(A) Dated after February 17, 2010 at 10 a.m.; or

(B) Dated on or after February 17, 2010, and the court made the order on the record in open court after February 17, 2010, at 10 a.m.; or

(d) Serving a sentence for the following crimes:

(A) Rape in the Third Degree under ORS 163.355;

(B) Sodomy in the Third Degree under ORS 163.385;

(C) Sexual Abuse in the Second Degree under ORS 163.425;

(D) Criminally Negligent Homicide under ORS 163.145;

(E) Assault in the Third Degree under ORS 163.165;

(F) Assault in the Fourth Degree under ORS 163.160(3);

(G) A crime listed in ORS 137.700; or

(H) An attempt to commit a crime described in this subsection.

# ADMINISTRATIVE RULES

(3) Pursuant to ORS 475.930(2) and as outlined in OAR 291-097-0235, for eligible crimes committed on or after January 1, 2009, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence imposed under ORS 164.061, 475.907, 475.924 or 475.925.

(4) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 3-1998(Temp), f. & cert. ef. 2-20-98 thru 8-17-98; DOC 19-1998, f. & cert. ef. 8-14-98; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; Renumbered from 291-097-0015 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0015 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0220

### Earned Time Credits for Crimes Committed on or after November 1, 1989 through February 16, 2010 and Sentenced on or after July 1, 2009

(1) Pursuant to ORS 421.121, inmates with eligible crimes committed on or after November 1, 1989 through February 16, 2010 and sentenced on or after July 1, 2009, may earn sentence reduction credits up to 30 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except for inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;
- (e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;
- (f) Serving time as a sanction for violation of conditions of post prison supervision; or
- (g) Subject to any other Oregon statutes restricting earned time credits.

(2) If otherwise eligible for earned time, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence for the following crimes:

- (a) Rape in the Third Degree under ORS 163.355;
- (b) Sodomy in the Third Degree under ORS 163.385;
- (c) Sexual Abuse in the Second Degree under ORS 163.425;
- (d) Criminally Negligent Homicide under ORS 163.145;
- (e) Assault in the Third Degree under ORS 163.165;
- (f) Assault in the Fourth Degree under ORS 163.160(3);
- (g) A crime listed in ORS 137.700; or
- (h) An attempt to commit a crime described in this subsection.

(3) Pursuant to ORS 475.930(2) and as outlined in OAR 291-097-0235, for eligible crimes committed on or after January 1, 2009, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence imposed under ORS 164.061, 475.907, 475.924 or 475.925.

(4) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0225

### Earned Time Credits for Crimes Committed on or after February 17, 2010 through June 30, 2011

(1) Pursuant to ORS 421.121, inmates with eligible crimes committed on or after February 17, 2010 through June 30, 2011, may earn sentence reduction credits up to 20 percent of the total sentencing guidelines prison

term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;
- (e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;
- (f) Serving time as a sanction for violation of conditions of post-prison supervision;
- (g) Serving a mandatory minimum incarceration term of 90 days under ORS 813.011(3) for Felony Driving under the Influence of Intoxicants under ORS 813.010(5)(a) and ORS 813.011 committed on or after December 2, 2010; or
- (h) Subject to any other Oregon statutes restricting earned time credits.

(2) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0230

### Earned Time Credits for Crimes Committed on or after July 1, 2011 and through June 30, 2013

(1) Pursuant to ORS 421.121, inmates with eligible crimes committed on or after July 1, 2011 and through June 30, 2013, may earn sentence reduction credits up to 30 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except for inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;
- (e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;
- (f) Serving time as a sanction for violation of conditions of post prison supervision;
- (g) Serving a mandatory minimum incarceration term of 90 days under ORS 813.011(3) for Felony Driving under the Influence of Intoxicants under ORS 813.010(5)(a) and ORS 813.011 committed on or after December 2, 2010; or
- (h) Subject to any other Oregon statutes restricting earned time credits.

(2) If otherwise eligible for earned time, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration for crimes in which:

- (a) The judgment states earned time may not exceed 20 percent;
- (b) The inmate is convicted of an offense that was committed less than five years after the inmate completed serving a sentence for:
  - (A) A person felony; or
  - (B) A crime described in paragraph (e) of this subsection;
- (c) The inmate is convicted of a person felony;
- (d) The inmate is convicted of an offense involving the use or threatened use of a firearm; or
- (e) The inmate is convicted of any of the following crimes:
  - (A) Subjecting another person to involuntary servitude in the second degree under ORS 163.263;
  - (B) Subjecting another person to involuntary servitude in the first degree under ORS 163.264;
  - (C) Trafficking in persons under ORS 163.266;
  - (D) Coercion under ORS 163.275;
  - (E) Online sexual corruption of a child in the second degree under ORS 163.432;
  - (F) Online sexual corruption of a child in the first degree under ORS 163.433;
  - (G) Aggravated theft in the first degree under ORS 164.057, if:



# ADMINISTRATIVE RULES

(i) The victim of the theft was 65 years of age or older at the time of the commission of the offense; and

(ii) The value of the property stolen from the victim described in sub-paragraph (i) of this subparagraph, in a single or aggregate transaction, is \$10,000 or more;

- (H) Treason under ORS 166.005;
- (I) Abuse of a corpse in the second degree under ORS 166.085;
- (J) Racketeering activities under ORS 166.720;
- (K) Luring a minor under ORS 167.057;
- (L) Assaulting a law enforcement animal under ORS 167.339;
- (M) A sex crime as defined in ORS 163A.005(5) (former 181.594 and 181.805);

(N) Causing another person to ingest a controlled substance under ORS 475.908;

(O) Applying a controlled substance to the body of another person under ORS 475.910;

(P) Driving while under the influence of intoxicants under ORS 813.010 (5); or

(Q) An attempt, conspiracy or solicitation to commit an offense described in this paragraph or in paragraph (c) or (d) of this subsection.

(3) As used in this section:

(a) "Completed serving a sentence" includes the completion of any term of probation, parole or post-prison supervision.

(b) "Person felony" has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

(4) Pursuant to ORS 475.930(2) and as outlined in OAR 291-097-0235, for eligible crimes committed on or after January 1, 2009, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence imposed under ORS 164.061, 475.907, 475.924 or 475.925.

(5) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0231

### Earned Time Credits for Crimes Committed on or after July 1, 2013

(1) Pursuant to ORS 421.121, inmates with crimes committed on or after July 1, 2013, may earn sentence reduction credits up to 20 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;
- (e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;
- (f) Serving time as a sanction for violation of conditions of post-prison supervision;
- (g) Serving a mandatory minimum incarceration term of 90 days under ORS 813.011(3) for Felony Driving under the Influence of Intoxicants under ORS 813.010(5)(a) and ORS 813.011 committed on or after December 2, 2010; or
- (h) Subject to any other Oregon statutes restricting earned time credits.

(2) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075  
Stats. Impl: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075  
Hist.: DOC 17-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 4-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14; DOC 12-2014, f. & cert. ef. 5-5-14; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0236

### Earned Time Credits for Life Sentences for Murder and Aggravated Murder (ORS 163.105 and 163.115)

(1) Earned Time Credits for Life Sentences for Murder and Aggravated Murder committed on or after November 1, 1989 and prior to July 1, 2015:

(a) Life sentences for Murder and Aggravated Murder are not eligible for earned time unless otherwise eligible as outlined in 291-097-0215 through 291-097-0231.

(b) Life sentences for Murder and Aggravated Murder otherwise eligible for earned time are limited to 20% earned time pursuant to ORS 421.121.

(c) Life sentences for Murder and Aggravated Murder are not eligible for earned time until and unless the Board of Parole and Post-Prison Supervision sets the initial prison term.

(d) For Life Sentences for Murder and Aggravated Murder otherwise eligible for Earned Time Credits:

(A) OISC will provide the calculated earned date to the Board of Parole and Post-Prison Supervision only after the initial prison term has been established;

(B) OISC's calculation of earned time on the initial prison term will not generate either a "parole release date" or a "projected earned time release date" on the life sentence as the parole release date is still determined by the Board of Parole and Post-Prison Supervision;

(C) OISC will not calculate earned time on any deferral periods after the initial prison term has been established;

(D) OISC will not calculate earned time on any post-prison supervision revocation sanctions;

(E) OISC will not capture or record earned time on the inmate's electronic facesheet; and

(F) Earned time calculated on the initial prison term may be retracted pursuant to OAR 291-105.

(2) Life Sentences for Murder and Aggravated Murder committed on or after July 1, 2015 are not eligible for earned time pursuant to ORS 421.121.

Stat Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075  
Stats Impl: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075  
Hist.: DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0240

### Calculation and Application of Earned Time Credits

(1) Case plan compliance is defined as acceptable participation in work and self-improvement programs required within the case plan. The required activities within the case plan are determined by ongoing assessment and evaluation, which begins at the inception of the inmate prison term.

(a) An inmate will be considered to be compliant if he/she was not failed from the required program activity during the review period under consideration, nor did the inmate refuse to participate in required programming during the review period under consideration.

(b) As needed, the counselor or multi-disciplinary team will evaluate an inmate's compliance with the required program activity.

(c) If the inmate's counselor or multi-disciplinary team determines the inmate is non-compliant with the case plan, he/she will approve a program failure for documentation in the inmate's computer record.

(2) Institution conduct compliance is defined as maintaining Level I or Level II major misconduct-free behavior during the review period. Major misconduct is documented in accordance with the department's rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). Any finding of a Level I or Level II major misconduct violation during the review period will be considered as noncompliance. The date of the adjudication, not of the incident, will be used for the date of the violation.

(3) At the end of each review period, the OISC staff will review the inmate's computer records for information reflecting the inmate's compliance with the current case plan and institution conduct. Based on the information contained in the inmate's computer records, the OISC staff will apply either:

(a) An effective 0, 10, or 20 percent reduction to the sentencing guidelines sentence proportional for the review period under consideration for sentences eligible for a maximum of 20% earned time, or

(b) An effective 0, 15, or 30 percent reduction to the sentencing guidelines sentence proportional for the review period under consideration for sentences eligible for a maximum of 30% earned time.

## ADMINISTRATIVE RULES

(4) For inmates housed in non-Oregon Department of Corrections facilities, the staff, as designated by the Offender Management and Rehabilitation Division will review the inmate's institution file including any reports received from the housing facility to determine compliance with the current case plan and institution conduct.

(a) Case plan compliance will be determined by the inmate's reported compliance with requirements as determined by Department staff or the housing facility staff.

(b) Due process comparable to the department's rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) shall be applied. Institution conduct non-compliance will be determined by substituting the rule of prohibited conduct, for the rule violated at the housing facility, with the most equivalent charges as defined in the department's rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). The functional unit manager or designee may impose sanctions, in addition to that imposed by the housing facility, related to sentence reductions.

(5) For each review period under consideration for inmates housed in Department of Corrections facilities, the OISC staff will list the reasons for applying or not applying earned time credits and record the corresponding percentage of earned time applied to the inmate's sentence on the Earned Time Computation Form (CD 1154D).

(6) For inmates housed in non-Oregon Department of Corrections facilities, the staff, as designated by the Offender Management and Rehabilitation Division, will list the reasons for applying or not applying earned time credits and record the corresponding percentage of earned time applied on the Earned Time Computation Form (CD 1154D).

(7) Upon the application of earned time credits toward an inmate's sentence for the review period under consideration, the OISC Unit will recompute the inmate's new earned time release date, file the Earned Time Computation Form (CD 1154D) in the institution file, and provide a copy of the determination to the inmate.

(8) Determination of Earned Time Credits During Presentence Incarceration: For crimes committed on or after November 1, 1989, earned time credits will be computed for the period in which an inmate is in custody in a non-Department of Corrections facility prior to sentencing and admission to the Department of Corrections, based solely on the inmate's conduct in the facility.

(a) Conduct compliance will be assumed, unless the Department receives documentation of adjudicated misconduct from the facility.

(A) For sentences eligible for a maximum of 20% earned time credits, the inmate will be granted an effective 0 or 20 percent reduction toward the sentencing guidelines sentence proportional for the length of presentence incarceration.

(B) For sentences eligible for a maximum of 30% earned time credits, the inmate will be granted an effective 0 or 30 percent reduction toward the sentencing guidelines sentence proportional for the length of presentence incarceration.

(b) Any verified major misconduct equivalent to a Level I or Level II major misconduct violation as defined in the department's rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) during any of the presentence incarceration credits applied to the sentence will result in an effective 0 percent reduction toward the sentencing guidelines sentence proportional for the total length of presentence incarceration. The date of the adjudication, not of the incident, will be used for the date of the violation.

(9) If the inmate escapes, the OISC staff will close out the current earned time review period, changing the current review period to end the day after escape. An inmate that is returned from an escape to a Department of Corrections facility will have the starting date of the new earned time credit cycle begin with the date of return. The escape will constitute a program failure for the period up to the escape.

(10) Alternative Incarceration Program:

(a) If, during any review period, the inmate is assigned to an Alternative Incarceration Program, the inmate will be considered as participating in the case plan. If the inmate, for sufficient justification as determined by the functional unit manager's committee, is unsuccessful and fails to complete any portion of the program or requests to be voluntarily removed, the inmate will be considered noncompliant with the case plan and receive a program failure during that review period.

(b) If the inmate fails to successfully complete the non-prison leave granted through the Alternative Incarceration Program, the inmate will be considered a program failure and non-compliant with institution conduct for the length of the inmate's non-prison leave. The failure to successfully complete the non-prison leave will not result in a retraction of the portion

of earned time credits for program compliance advanced at the beginning of the final review period as outlined in OAR 291-097-0250(2).

(11) Determination of earned time credits for inmates on short-term transitional leave:

(a) Earned time credits will be computed for the period in which an inmate is serving the remainder of his/her sentencing guidelines term of incarceration on short-term transitional leave (OAR 291-063).

(A) Institution conduct and case plan compliance will be assumed while an inmate is released on short-term transitional leave.

(B) Earned time credits for the period on transitional leave will be applied at a rate of 20 percent or 30 percent, in accordance with the applicable rate for the sentence at the time of release onto short-term transitional leave.

(b) A revocation of an inmate's short-term transitional leave is deemed non-compliance with the inmate's case plan and non-compliance with institution conduct. Upon revocation of short-term transitional leave, an inmate will receive an effective 0 percent reduction for case plan compliance and 0 percent reduction toward the sentencing guidelines sentence for institutional conduct proportional for the length of the inmate's short-term transitional leave.

(c) The failure to successfully complete the short-term transitional leave will not result in a retraction of the portion of earned time credits for program compliance advanced at the beginning of the final review period as outlined in OAR 291-097-0250(2).

(12) If all of an inmate's sentence(s) is vacated, reversed and remanded for new trial, or conviction affirmed and remanded for resentencing, the OISC staff will close out the current earned time review period to end the day after release to the sentencing court. An inmate that is returned on a resentencing will start a new review period, effective the date of return to a Department of Corrections facility. The new earned time credit cycle date will be reflected on the inmate's facesheet.

(13) Determination of earned time credits for inmates serving the remainder of a sentencing guidelines sentence on conditional release (Second Look):

(a) Earned time credits will be computed for the period in which an inmate is serving the remainder of his/her sentencing guidelines term of incarceration in the community on conditional release, based solely on the inmate's compliance with his/her conditional release plan.

(b) Earned time credits for the period on conditional release (Second Look) will be applied at a rate of 20 percent or 30 percent, in accordance with the applicable rate for the sentence at the time of release onto conditional release (Second Look).

(c) Conduct compliance will be assumed unless the inmate's conditional release is revoked by the sentencing court.

(d) Any suspension or revocation of an inmate's conditional release prior to the inmate reaching his/her projected earned time date will result in an effective 0 percent reduction in the sentencing guidelines prison term for the length of the inmate's sentence being served in the community on conditional release.

(14) If an inmate is incarcerated in an Oregon county jail prior to the inmate's return to a Department of Corrections facility following an escape, suspension or revocation of second look conditional release, or violation of short-term transitional leave or non-prison leave, earned time credits will be computed for the period in which the inmate is in custody based solely on the inmate's conduct in the county jail.

(a) Conduct compliance will be assumed, unless the Department receives documentation of adjudicated misconduct from the facility.

(A) For sentences eligible for a maximum of 20% earned time credits, the inmate will be granted an effective 0 or 20 percent reduction toward the sentencing guidelines sentence proportional for the length of incarceration.

(B) For sentences eligible for a maximum of 30% earned time credits, the inmate will be granted an effective 0 or 30 percent reduction toward the sentencing guidelines sentence proportional for the length of incarceration.

(b) Any verified major misconduct equivalent to a Level I or Level II major misconduct violation as defined in the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) during the incarceration will result in an effective 0 percent reduction toward the sentencing guidelines sentence proportional for the length of incarceration. The date of the adjudication, not of the incident, will be used for the date of the violation.

(15) Work Release: A revocation of an inmate's work release is deemed noncompliant with the inmate's case plan.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075  
Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2000, f. & cert. ef. 6-26-00; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; DOC 14-2010(Temp), f. & cert. ef. 10-19-10 thru 4-15-11; DOC 7-2011, f. & cert. ef. 4-8-11; Renumbered from 291-097-0020 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0020 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0245

### Earned Time Credit for Education or Apprenticeship Certifications

(1) Pursuant to ORS 421.121 and this rule, consideration for earned time credit may also be given for crimes committed prior to July 1, 2015 for an inmate who obtains a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010, on or after January 1, 2010.

(2) Determination of Earned Time Credits for Education or Apprenticeship Certifications:

(a) Inmates who obtain a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010 prior to January 1, 2010 or whose crime was committed on or after July 1, 2015 are not eligible to be considered for earned time credits for education or apprenticeship certifications.

(b) Subject to OAR 291-097-0250 (Retraction of Earned Time Credits), 291-097-0255 (Restoration of Earned Time Credits), and 291-097-0260 (Determination of Earned Time Credits During Final Review Period for Sentencing Guidelines Sentences), at the time an inmate obtains a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010 on or after January 1, 2010 and whose crime was committed prior to July 1, 2015, the OISC staff will apply the amount of earned time credits, not to exceed 60 days, to the amount of earned time credits actually received by the inmate for either maintaining appropriate institution conduct or compliance with his/her case plan, in order to bring the inmate's total earned time credits up to the amount of earned time credits the inmate would have received if the inmate maintained appropriate institution conduct and was in full compliance with his/her case plan as of the date the inmate obtained the education or apprenticeship certification.

(A) The department may apply up to 60 days earned time credits for education or apprenticeship certifications toward prior earned time not credited to the sentence due to adjudicated misconduct during the presentence incarceration or while an inmate is incarcerated in an Oregon county jail prior to the inmate's return to a Department of Corrections facility following an escape, revocation of second look conditional release, or violation of short-term transitional leave or non-prison leave, or toward non-compliance with institutional conduct or the case plan, and toward earned time previously retracted during the service of the sentence.

(B) In no event will an inmate be credited with more earned time credits than the amount of earned time credits the inmate would have received toward the sentence if the inmate maintained appropriate institutional behavior and was in full compliance with his/her case plan as of the date the inmate obtained a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in 660.010.

(C) The earned time credits for education or apprenticeship certifications may not be applied to a sentence whose prison term reached its earned time release date prior to the date the inmate obtained a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in 660.010.

(D) An inmate may be credited with multiple education or apprenticeship certifications as long as no individual sentence receives more than 60 days total earned time credit for obtaining a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in 660.010.

(E) The date the inmate successfully meets the total score requirements for the GED certificate is the date the inmate is deemed to have obtained his/her GED certificate.

(F) For inmates housed at OYA, the date the inmate receives the high school diploma or GED certificate is the date the inmate is deemed to have obtained his/her diploma unless DOC receives documentation that the inmate completed the requirements for the diploma or GED at an earlier date.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

## 291-097-0260

### Determination of Earned Time Credits During Final Review Period for Sentencing Guideline Sentences

(1) Four months prior to an inmate's projected release date, OISC staff (or the ODOC staff, as designated by the Offender Management and Rehabilitation Division, for inmates housed in non-Oregon Department of Corrections facilities) will conduct a final review of inmates' earned time compliance.

(a) Final reviews will be conducted only for inmates serving a sentencing guidelines sentence. OISC staff will advance and apply earned time credits for the final review period.

(b) An inmate's full compliance with the case plan and institutional behavior will be assumed during the final review period.

(A) For inmates sentenced on or after November 1, 1989, with sentences eligible for a maximum of 20 percent earned time credits, the OISC staff will apply an effective 20 percent reduction in sentence for the final review period and the OISC Unit will re-compute the inmate's new earned time release date.

(B) For inmates sentenced on or after November 1, 1989 with sentences eligible for a maximum of 30 percent earned time credits, the OISC staff will apply an effective 30 percent reduction in sentence for the final review period and the OISC Unit will re-compute the inmate's new earned time release date.

(2) If, after the completion of a final review and advancement of earned time credits for the final review period, the inmate's prison term is extended as a result of a new sentence or an adjustment in presentence time, the OISC staff will delete the final review and any earned time credits advanced for the final review period. The OISC staff will complete a new Earned Time Computation form (CD 1154D) to assure that the extended prison term is reviewed in accordance with these rules.

(3) If, after the completion of a final review and advancement of earned time credits for the final review period, the inmate's prison term is reduced, the OISC Unit will adjust the final review period and any earned time credits advanced for the final review period provided the inmate was in full compliance with his/her case plan and institutional behavior at the time of the final review.

(a) If the inmate was in partial compliance with his/her case plan or institutional behavior at the time of the final review, the OISC staff will delete the final review and any earned time credits advanced for the final review period.

(b) The OISC staff will complete a new Earned Time Computation form (CD 1154D) to assure that the reduced prison term is reviewed in accordance with these rules.

(4) If, after the completion of a final review and advancement of earned time credits for the final review period, the inmate obtains a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010 on or after January 1, 2010 and whose crime was committed prior to July 1, 2015, the OISC Unit will adjust the final review period and any earned time credits advanced for the final review period in accordance with OAR 291-097.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; DOC 14-2010(Temp), f. & cert. ef. 10-19-10 thru 4-15-11; DOC 7-2011, f. & cert. ef. 4-8-11; Renumbered from 291-097-0040 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0040 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

# ADMINISTRATIVE RULES

## Department of Environmental Quality Chapter 340

**Rule Caption:** Clean Fuels Program Corrections

**Adm. Order No.:** DEQ 8-2016

**Filed with Sec. of State:** 8-18-2016

**Certified to be Effective:** 8-18-16

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 340-253-8010, 340-253-8020, 340-253-8030, 340-253-8040

**Rules Repealed:** 340-253-8010(T), 340-253-8020(T), 340-253-8030(T), 340-253-8040(T)

**Subject:** The adopted rule amendments correct a miscalculation of how the clean fuel standards and the carbon intensity values of two fuel pathways were calculated in the rules EQC adopted on Dec. 9, 2015.

The adopted rule amendments also correct spelling mistakes in the names of some pathway identifiers located in the look-up tables.

**Rules Coordinator:** Meyer Goldstein—(503) 229-6478

### 340-253-8010

#### Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 468.020 & 2009 OL Ch. 754 Sec. 6 (2011 Edition)  
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition)  
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16;  
DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16; DEQ 8-2016, f. & cert. ef. 8-18-16

### 340-253-8020

#### Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3  
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition)  
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16;  
DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16; DEQ 8-2016, f. & cert. ef. 8-18-16

### 340-253-8030

#### Table 3 — Oregon Carbon Intensity Lookup Table for Gasoline and Gasoline Substitutes

**NOTE:** DEQ recognizes that indirect effects, including indirect land use change, are real. However the methodologies to quantify these effects are still in development. DEQ intends to monitor the science of indirect effect and will adjust carbon intensity values through future rulemaking as methodologies improve.  
[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3  
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3  
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14; DEQ 8-2014, f. & cert. ef. 6-26-14; Renumbered from 340-253-3010 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16; DEQ 8-2016, f. & cert. ef. 8-18-16

### 340-253-8040

#### Table 4 — Oregon Carbon Intensity Lookup Table for Diesel and Diesel Substitutes

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3  
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3  
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14; DEQ 8-2014, f. & cert. ef. 6-26-14; Renumbered from 340-253-3020 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16; DEQ 8-2016, f. & cert. ef. 8-18-16

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**Rule Caption:** Water Quality Standards for Bacteria

**Adm. Order No.:** DEQ 9-2016

**Filed with Sec. of State:** 8-18-2016

**Certified to be Effective:** 8-18-16

**Notice Publication Date:** 4-1-2016

**Rules Amended:** 340-041-0009, 340-041-0101, 340-041-0220, 340-041-0230, 340-041-0300, 340-041-0320

**Subject:** The proposed rule amendments will:

Revise Oregon's water quality standards for bacteria in order to protect people who consume shellfish and recreate in coastal waters from illness due to fecal contamination of the water;

Adopt the United States Environmental Protection Agency's 2012 Recommended Water Quality Criteria for coastal waters for enterococcus bacteria including:

- A 90-day geometric mean of 35 enterococcus organisms per 100 mL; and

- A limit of 130 enterococcus organisms per 100 mL that cannot be exceeded more than ten percent of the time in any 90-day period.

Clearly identify that E. coli criteria protect contact recreation in freshwaters, enterococcus criteria protect contact recreation in coastal waters and fecal coliform criteria protect shellfish harvesting;

Establish water quality standards designated use maps and modify designated use tables for coastal basins to show where shellfish harvesting is a designated use and the boundary between coastal contact recreation use and freshwater contact recreation use for purposes of applying the correct water quality criteria to protect those uses;

Change the averaging period for the E. coli standard for freshwaters from 30 days to 90 days and change the averaging methodology from "log mean" to "geometric mean;"

Require that wastewater effluent from fecal sources discharged to waters designated for coastal water contact recreation meet the applicable criteria on a monthly basis;

Include an implementation provision that would require a minimum of five samples to calculate the geometric mean criteria for E. coli and enterococcus, as well as the 90th percentile value for enterococcus.; and

Incorporate plain language into the amended rules consistent with the Oregon Administrative Procedures Act.

**Rules Coordinator:** Meyer Goldstein—(503) 229-6478

### 340-041-0009

#### Bacteria

(1) Numeric Criteria: Organisms commonly associated with fecal sources may not exceed the criteria in subsections (a)-(c) of this section:

(a) Freshwater contact recreation:

(A) A 90-day geometric mean of 126 E. coli organisms per 100 mL;

(B) No single sample may exceed 406 E. coli organisms per 100 mL.

(b) Coastal water contact recreation, as designated in OAR 340-041-0101, 340-041-220, 340-041-230, 340-041-300 and 340-041-0320:

(A) A 90-day geometric mean of 35 enterococcus organisms per 100 mL;

(B) Not more than ten percent of the samples may exceed 130 organisms per 100 mL.

(c) Shellfish harvesting, as designated in 340-041-0101, 340-041-220, 340-041-230, 340-041-300 and 340-041-0320:

(A) A fecal coliform median concentration of 14 organisms per 100 mL;

(B) Not more than ten percent of the samples may exceed 43 organisms per 100 mL.

(2) A minimum of five samples in a 90-day period is required for calculating the criteria in sections (1)(a)(A) and (1)(b)(A) and (B) of this rule.

(3) Raw Sewage Prohibition: No sewage may be discharged into or in any other manner be allowed to enter the waters of the State, unless such sewage has been treated in a manner the Department approved or otherwise allowed by these rules.

(4) Animal Waste: Runoff contaminated with domesticated animal wastes must be minimized and treated to the maximum extent practicable before it is allowed to enter waters of the State.

(5) Bacterial pollution or other conditions deleterious to waters used for domestic purposes, livestock watering, irrigation, bathing, or shellfish propagation, or otherwise injurious to public health may not be allowed.

(6) Implementation in NDPES Permits: Upon NPDES permit renewal or issuance, or upon request for a permit modification by the permittee at an earlier date, bacteria in effluent discharges associated with fecal sources may not exceed the following amounts:

(a) In waters designated for coastal water contact recreation:

(A) A monthly geometric mean of 35 enterococcus organisms per 100 mL, and

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(B) Not more than ten percent of samples in a month may exceed 130 enterococcus organisms per 100 mL.

(b) In waters designated for freshwater contact recreation:

(A) A monthly geometric mean of 126 *E. coli* organisms per 100 mL; and

(B) No single sample may exceed 406 *E. coli* organisms per 100 mL. However,

(C) No violation will be found for an exceedance if the permittee takes at least five consecutive re-samples at four-hour intervals beginning as soon as practicable (preferably within 28 hours) after the original sample was taken and the geometric mean of the five re-samples is less than or equal to 126 organisms per 100 mL of *E. coli*. However, if the Department finds that re-sampling within the timeframe outlined in this section would pose an undue hardship on a treatment facility, a more convenient schedule may be negotiated in the permit, provided that the permittee demonstrates that the sampling delay will result in no increase in the risk to water contact recreation in waters affected by the discharge;

(c) For sewage treatment plants that are authorized to use recycled water under OAR 340, division 55, and that also use a storage pond as a means to dechlorinate their effluent prior to discharge to public waters, effluent limitations for bacteria may, upon a permittee's request, be based upon appropriate total coliform limits as OAR 340-055-0012 requires:

(A) Class C limitations: No two consecutive samples may exceed 240 total coliform per 100 mL.

(B) Class A and Class B limitations: No single sample may exceed 23 total coliform per 100 mL.

(C) No violation will be found for an exceedance under this paragraph if the permittee takes at least five consecutive re-samples at four hour intervals beginning as soon as practicable (preferably within 28 hours) after the original sample(s) were taken; and in the case of Class C recycled water, the log mean of the five re-samples is less than or equal to 23 total coliform per 100 mL, or, in the case of Class A and Class B recycled water, if the log mean of the five re-samples is less than or equal to 2.2 total coliform per 100 mL.

(7) Sewer Overflows in winter: Domestic waste collection and treatment facilities are prohibited from discharging raw sewage to waters of the State during the period of November 1 through May 21, except during a storm event greater than the one-in-five-year, 24-hour duration storm. However, the following exceptions apply:

(a) The Commission may on a case-by-case basis approve a bacteria control management plan to be prepared by the permittee, for a basin or specified geographic area which describes hydrologic conditions under which the numeric bacteria criteria would be waived. These plans will identify the specific hydrologic conditions and the public notification and education processes that will be followed to inform the public about an event and the plan, describe the water quality assessment conducted to determine bacteria sources and loads associated with the specified hydrologic conditions, and describe the bacteria control program that is being implemented in the basin or specified geographic area for the identified sources.

(b) Facilities with separate sanitary and storm sewers existing on January 10, 1996, and that currently experience sanitary sewer overflows due to inflow and infiltration problems, must submit an acceptable plan to the Department at the first permit renewal, which describes actions the facility will take to assure compliance with the discharge prohibition by January 1, 2010. Where discharges occur to a receiving stream with sensitive beneficial uses, the Department may negotiate a more aggressive schedule for discharge elimination.

(c) On a case-by-case basis, the Department may define the beginning of winter as October 15, if the permittee so requests and demonstrates to the Department's satisfaction that the risk to beneficial uses, including water contact recreation, will not be increased due to the date change.

(8) Sewer Overflows in summer: Domestic waste collection and treatment facilities are prohibited from discharging raw sewage to waters of the State during the period of May 22 through October 31, except during a storm event greater than the one-in-ten-year, 24-hour duration storm. The following exceptions apply:

(a) For facilities with combined sanitary and storm sewers, the Commission may on a case-by-case basis approve a bacteria control management plan such as that described in subsection (6)(a) of this rule.

(b) On a case-by-case basis, the Department may define the beginning of summer as June 1 if the permittee so requests and demonstrates to the Department's satisfaction that the risk to beneficial uses, including water contact recreation, will not be increased due to the date change.

(c) For discharge sources whose permit identifies the beginning of summer as any date from May 22 through May 31: If the permittee demon-

strates to the Department's satisfaction that an exceedance occurred between May 21 and June 1 because of a sewer overflow, and that no increase in risk to beneficial uses, including water contact recreation, occurred because of the exceedance, no violation may be triggered, if the storm associated with the overflow was greater than the one-in-five-year, 24-hour duration storm.

(9) Storm Sewers Systems Subject to Municipal NPDES Stormwater Permits: Best management practices must be implemented for permitted storm sewers to control bacteria to the maximum extent practicable. In addition, a collection-system evaluation must be performed prior to permit issuance or renewal so that illicit and cross connections are identified. Such connections must be removed upon identification. A collection system evaluation is not required where the Department determines that illicit and cross connections are unlikely to exist.

(10) Storm Sewers Systems Not Subject to Municipal NPDES Stormwater Permits: A collection system evaluation must be performed of non-permitted storm sewers by January 1, 2005, unless the Department determines that an evaluation is not necessary because illicit and cross connections are unlikely to exist. Illicit and cross-connections must be removed upon identification.

(11) In water bodies the Department identifies as water-quality limited for bacteria, and in accordance with priorities the Department establishes, the Department may require those sources that the Department determines to be contributing to the problem to develop and implement a bacteria management plan. The Department may determine that a plan is not necessary for a particular stream segment or segments within a water-quality limited basin based on the contribution of the segment(s) to the problem. The bacteria management plans will identify the technologies, best management practices and measures and approaches to be implemented by point and nonpoint sources to limit bacterial contamination. For point sources, their National Pollutant Discharge Elimination System permit is their bacteria management plan. For nonpoint sources, designated management agencies will develop the bacteria management plan that will identify the appropriate best management practices or measures and approaches.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 6-2008, f. & cert. ef. 5-5-08; DEQ 10-2011, f. & cert. ef. 7-13-11; DEQ 16-2013, f. & cert. ef. 12-23-13; DEQ 9-2016, f. & cert. ef. 8-18-16

## 340-041-0101

### Beneficial Uses to Be Protected in the Main Stem Columbia River

(1) Water quality in the main stem Columbia River (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 101A (November 2003).

(2) Designated fish uses to be protected in the main stem Columbia River are shown in Table 101B (November 2003).

(3) Coastal water contact recreation and shellfish harvesting use is to be protected in the portion of the main stem Columbia River designated for these uses in Figure 101A (August 2016).

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 9-2016, f. & cert. ef. 8-18-16

## 340-041-0220

### Beneficial Uses to Be Protected in the Mid Coast Basin

(1) Water quality in the Mid Coast Basin (see Figure 1) may be managed to protect the designated beneficial uses shown in Table 220A (November 2003).

(2) Designated fish uses to be protected in the Mid Coast Basin are shown in Figures 220A and 220B (November 2003).

(3) Coastal water contact recreation use is to be protected in all Mid Coast Basin marine waters and in coastal waters designated in Figures 220C through 220H (August 2016).

(4) Shellfish harvesting use is to be protected in all Mid Coast Basin marine waters and in coastal waters designated in Figures 220C through 220H (August 2016).

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 9-2016, f. & cert. ef. 8-18-16

## 340-041-0230

### Beneficial Uses to Be Protected in the North Coast Basin

(1) Water quality in the North Coast Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 230A (November 2003).

(2) Designated fish uses to be protected in the North Coast Basin are shown in Figures 230A and 230B (November 2003).

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(3) Coastal water contact recreation use is to be protected in all North Coast Basin marine waters and in coastal waters designated in Figures 230C through 230H (August 2016).

(4) Shellfish harvesting use is to be protected in all North Coast Basin marine waters and in coastal waters as designated in Figures 230C through 230H (August 2016).

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048  
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048  
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 9-2016, f. & cert. ef. 8-18-16

## 340-041-0300

### Beneficial Uses to Be Protected in the South Coast Basin

(1) Water quality in the South Coast Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 300A (November 2003).

(2) Designated fish uses to be protected in the South Coast Basin are shown in Figures 300A (August 2005) and 300B (November 2003).

(3) Coastal water contact recreation use is to be protected in all South Coast Basin marine waters and in coastal waters designated in Figures 300C and 300D (August 2016).

(4) Shellfish harvesting use is to be protected in all South Coast Basin marine waters and in coastal waters as designated in Figures 300C and 300D (August 2016)

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048  
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048  
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07; DEQ 9-2016, f. & cert. ef. 8-18-16

## 340-041-0320

### Beneficial Uses to Be Protected in the Umpqua Basin

(1) Water quality in the Umpqua Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 320A (November 2003).

(2) Designated fish uses to be protected in the Umpqua Basin are shown in Figures 320A (November 2003) and 320B (August 2005).

(3) Coastal water contact recreation use is to be protected in all marine waters adjacent to the Umpqua River and in coastal waters designated in Figure 320C (August 2016).

(4) Shellfish harvesting use is to be protected in all marine waters adjacent to the Umpqua River and in coastal waters as designated in Figure 320C (August 2016).

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048  
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048  
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07; DEQ 9-2016, f. & cert. ef. 8-18-16

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## Department of Fish and Wildlife Chapter 635

**Rule Caption:** Commercial Seine Fall Salmon Seasons Set for the Mainstem Columbia River.

**Adm. Order No.:** DFW 108-2016(Temp)

**Filed with Sec. of State:** 8-17-2016

**Certified to be Effective:** 8-22-16 thru 9-30-16

**Notice Publication Date:**

**Rules Amended:** 635-042-0010, 635-042-0031

**Rules Suspended:** 635-042-0031(T)

**Subject:** These amended rules allow the use of seine gear for commercial purposes and set season dates and regulations for the 2016 non-Indian commercial fall seine salmon fishery. The first of seventeen authorized seine fishing periods begins at 6:00 a.m. Monday, August 22 with further fishing periods scheduled through 5:00 p.m. Wednesday, September 28, 2016. Allowed sales include: Adipose or left ventral fin-clipped Chinook; adipose-clipped coho, pink and sockeye salmon; and shad. Subject to Individual Fishing Quotas (as defined in the 2016 seine permits) and fishing regulations, all legal salmon caught must be landed.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-042-0010

### Fishing Gear

(1) As used in these Columbia River fishing rules, gill net includes drift gill net, floater gill net, diver gill net, and is a monofilament or multifilament mesh net with a cork and lead line which is in a position to drift with the tide or current at all times while it is being fished. There must be

sufficient buoyancy in the corks and/or floats on the cork line so the net is free to drift with the current. The lead or weight on the lead line of a gill net shall not exceed two pounds in total weight on any one fathom, measurement to be taken along the cork line of the net. However, should extra or added weights appear necessary to operate a net, permission to use in excess of two pounds weight per fathom of net may be granted by the Director upon written application which includes adequate justification for the additional leads or weights.

(2) It is unlawful:

(a) For a gill net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished;

(b) To take any species of salmon from the Columbia River for commercial purposes by any means other than by gill net, beach seine, or purse seine;

(c) To fish more than one gill net from a licensed commercial fishing boat at any one time;

(d) To fish with or have on the boat while fishing a gill net which exceeds 1,500 feet in length;

(e) To fish with or have on the boat while fishing any gill net of a mesh size not authorized for use at that time, except:

(A) During December 1-March 31 when the following applies:

(i) While fishing during open salmon and/or sturgeon seasons, smelt gill nets with a mesh size not more than two inches may be onboard the boat;

(ii) While fishing during open smelt seasons, gill nets with a mesh size greater than two inches may be onboard the boat.

(B) Nets with a minimum mesh size of 9.0 inches may be onboard the boat.

(C) When specifically authorized, nets not lawful for use at that time and area may be onboard the boat 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.

(f) Fish with or have on the boat while fishing any gill net of a mesh size greater than 9-3/4 inches, except that snagging nets as described in ORS 509.240 are permitted;

(g) Fish with or have on the boat while fishing a gill net which does not meet the construction requirements for a gill net as set forth in section (1) of this rule, except while fishing during the Tongue Point Select Area Salmon Season (OAR 635-042-0170) gill nets with leadline in excess of two pounds per fathom may be stored on the boat.

(3) The mesh size of any gill net is determined only after the meshes are wet from soaking in water not less than one hour. Three consecutive meshes are then placed under ten pounds of vertical tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh.

(4) As used in these rules, "slackers" means a single piece of material or cord, not webbing or mesh, connected vertically or woven in the mesh of the net between the cork and lead lines. It is used to tie netting in a shortened state to give the net surface flexibility.

(5) Nets fished any time between official sunset and sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(6) The use of a "chafing strip panel" attached to the bottom of the net is allowed. A "chafing strip panel" consists of no more than 60 inches of non-mono-filament webbing (such as nylon seine web or polyethylene trawl web) with a maximum mesh size of 3.5 inches. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

Stat. Auth.: ORS 183.325, 506.109 & 506.119  
Stats. Implemented: ORS 506.129 & 507.030  
Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 23-1978, f. & ef. 5-4-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0110; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 13-1981, f. & ef. 4-3-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 11-1993, f. & ef. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. & ef. 2-14-94, cert. ef. 2-15-94; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; Administrative correction 9-16-07; DFW 10-2008, f. & cert. ef. 2-11-08; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; Administrative correction, 10-24-14; DFW 107-2015(Temp), f. & cert. ef. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 108-2016(Temp), f. & cert. ef. 8-22-16 thru 9-30-16

# ADMINISTRATIVE RULES

## 635-042-0031

### Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4 5, as identified in OAR 635-042-0001. The deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(a) Authorized fishing periods are as follows:

9:00 p.m. Thursday, August 18 to 6:00 a.m. Friday, August 19 (9 hours);  
9:00 p.m. Sunday, August 21 to 6:00 a.m. Monday, August 22 (9 hours);  
9:00 p.m. Tuesday, August 23 to 6:00 a.m. Wednesday, August 24 (9 hours); and  
9:00 p.m. Thursday, August 25 to 6:00 a.m. Friday, August 26 (9 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(2) Gear is restricted to drift gill nets only with 9 inch minimum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(3) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(4) Non-Indian mainstem commercial seine fishery:

(a) Adipose or ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad may be taken with seine gear by those individuals possessing a 2016 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstem Columbia River in Zones 1-3. Beach seining is restricted to Zones 2 and 3. Purse seining is restricted to Zones 1 and 3. The deadline at the upper end of Zone 3 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(b) Season: Area:

6:00 a.m. to 4:00 p.m. Monday, August 22 (10 hours) Zones 1-3;  
6:00 a.m. to 4:00 p.m. Wednesday, August 24 (10 hours) Zones 1-3;  
6:00 a.m. to 4:00 p.m. Monday, August 29 (10 hours) Zones 1-3;  
6:00 a.m. to 4:00 p.m. Wednesday, August 31 (10 hours) Zones 1-3;  
6:00 a.m. to 4:00 p.m. Tuesday, September 6 (10 hours) Zones 1-3;  
6:00 a.m. to 4:00 p.m. Wednesday, September 7 (10 hours) Zones 1-3;  
6:00 a.m. to 4:00 p.m. Thursday, September 8 (10 hours) Zones 1-3;  
6:00 a.m. to 4:00 p.m. Friday, September 9 (10 hours) Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 12 (10 hours) Zones 1-3;  
7:00 a.m. to 5:00 p.m. Tuesday, September 13 (10 hours) Zones 1-3;  
7:00 a.m. to 5:00 p.m. Wednesday, September 14 (10 hours) Zones 1-3;  
7:00 a.m. to 5:00 p.m. Thursday, September 15 (10 hours) Zones 1-3;  
7:00 a.m. to 5:00 p.m. Friday, September 16 (10 hours) Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 19 (10 hours) Zones 1-3;  
7:00 a.m. to 5:00 p.m. Wednesday, September 21 (10 hours) Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 26 (10 hours) Zones 1-3; and  
7:00 a.m. to 5:00 p.m. Wednesday, September 28 (10 hours) Zones 1-3.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B and Select Area commercial fishing sites.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes (approximately 50 feet).

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2016 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-24-97; FWC 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 82-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. ef. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-06; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. ef. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. ef. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. ef. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. ef. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. ef. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. & cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. & cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. & cert. ef. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. & cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. & cert. ef. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. & cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. & cert. ef. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. & cert. ef. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. & cert. ef. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. & cert. ef. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. & cert. ef. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. & cert. ef. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. & cert. ef. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. & cert. ef. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. & cert. ef. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. & cert. ef. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. & cert. ef. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. & cert. ef. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. & cert. ef. 8-23-13, cert. ef. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. & cert. ef. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. & cert. ef. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. & cert. ef. 9-25-13, cert. ef. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. & cert. ef. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. & cert. ef. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. & cert. ef. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. & cert. ef. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. & cert. ef. 8-5-15, cert. ef. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. & cert. ef. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. & cert. ef. 8-28-15, cert. ef. 8-30-15 thru 9-30-15; DFW 119-2015(Temp), f. & cert. ef. 8-28-15, cert. ef. 8-31-15 thru 9-30-15; DFW 124-2015(Temp), f. & cert. ef. 9-4-15 thru 9-30-15; DFW 126-2015(Temp), f. & cert. ef. 9-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 100-2016(Temp), f. & cert. ef. 8-2-16, cert. ef. 8-7-16 thru 8-31-16; DFW 108-2016(Temp), f. & cert. ef. 8-17-16, cert. ef. 8-22-16 thru 9-30-16

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**Rule Caption:** Two Additional Fishing Periods Authorized for the Columbia River Commercial Fall Salmon Season.

# ADMINISTRATIVE RULES

**Adm. Order No.:** DFW 109-2016(Temp)  
**Filed with Sec. of State:** 8-25-2016  
**Certified to be Effective:** 8-28-16 thru 9-30-16  
**Notice Publication Date:**  
**Rules Amended:** 635-042-0031  
**Rules Suspended:** 635-042-0031(T)

**Subject:** This amended rule authorizes two additional 9-hour fishing periods for the ongoing commercial fall salmon fishery in zones 4 and 5 of the Columbia River. The first new period is set to begin at 9:00 p.m. Sunday, August 28, 2016. Allowed sales include: Chinook, Coho, Pink and Sockeye salmon, and shad. Rule modifications are consistent with action taken August 25, 2016 by the Departments of Fish & Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-042-0031

### Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4 5, as identified in OAR 635-042-0001. The deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(a) Authorized fishing periods are as follows:

9:00 p.m. Thursday, August 18 to 6:00 a.m. Friday, August 19 (9 hours);  
9:00 p.m. Sunday, August 21 to 6:00 a.m. Monday, August 22 (9 hours);  
9:00 p.m. Tuesday, August 23 to 6:00 a.m. Wednesday, August 24 (9 hours);  
9:00 p.m. Thursday, August 25 to 6:00 a.m. Friday, August 26 (9 hours);  
9:00 p.m. Sunday, August 28 to 6:00 a.m. Monday, August 29 (9 hours); and  
9:00 p.m. Tuesday, August 30 to 6:00 a.m. Wednesday, August 31 (9 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(2) Gear is restricted to drift gill nets only with 9 inch minimum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(3) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(4) Non-Indian mainstem commercial seine fishery:

(a) Adipose or ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad may be taken with seine gear by those individuals possessing a 2016 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstem Columbia River in Zones 1-3. Beach seining is restricted to Zones 2 and 3. Purse seining is restricted to Zones 1 and 3. The deadline at the upper end of Zone 3 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(b) Season: — Area:

6:00 a.m. to 4:00 p.m. Monday, August 22 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Wednesday, August 24 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Monday, August 29 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Wednesday, August 31 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Tuesday, September 6 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Wednesday, September 7 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Thursday, September 8 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Friday, September 9 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 12 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Tuesday, September 13 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Wednesday, September 14 (10 hours) — Zones 1-3;  
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7:00 a.m. to 5:00 p.m. Friday, September 16 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 19 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Wednesday, September 21 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 26 (10 hours) — Zones 1-3; and  
7:00 a.m. to 5:00 p.m. Wednesday, September 28 (10 hours) — Zones 1-3.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B and Select Area commercial fishing sites.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes (approximately 50 feet).

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2016 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

Stat. Auth.: ORS 496.118, 506.109 & 506.129  
Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. 8-7-87; FWC 67-1988, f. & cert. 8-15-88; FWC 68-1988(Temp), f. & cert. 8-15-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 56-1989(Temp), f. & cert. 8-11-89; FWC 58-1989(Temp), f. & cert. 8-14-89; FWC 80-1989(Temp), f. & cert. 8-28-89, cert. 8-29-89; FWC 80-1990(Temp), f. & cert. 8-8-90; FWC 85-1991, f. & cert. 8-7-91, cert. 8-12-91; FWC 91-1991(Temp), f. & cert. 8-29-91; FWC 73-1992(Temp), f. & cert. 8-10-92; FWC 46-1996, f. & cert. 8-23-96; FWC 53-1996(Temp), f. & cert. 8-16-96; FWC 49-1997, f. & cert. 8-20-97, cert. 8-24-97; DFW 74-1998(Temp), f. & cert. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. 8-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. 8-23-00, cert. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. 8-16-02, cert. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. 8-1-05, cert. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. 8-11-05, cert. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. 8-24-05, cert. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. 8-1-06, cert. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. 10-11-11, cert. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. 10-17-11, cert. 10-18-11 thru 10-31-11; Administrative correction 11-18-11; DFW 98-2012(Temp), f. 7-31-12, cert. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. 8-24-12,



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cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. 8-23-13, cert. ef. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. 8-5-15, cert. ef. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. 8-28-15, cert. ef. 8-30-15 thru 9-30-15; DFW 119-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 9-30-15; DFW 124-2015(Temp), f. 9-2-15, cert. ef. 9-4-15 thru 9-30-15; DFW 126-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 100-2016(Temp), f. 8-2-16, cert. ef. 8-7-16 thru 8-31-16; DFW 108-2016(Temp), f. 8-17-16, cert. ef. 8-22-16 thru 9-30-16; DFW 109-2016(Temp), f. 8-25-16, cert. ef. 8-28-16 thru 9-30-16

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**Rule Caption:** Ongoing Columbia River Fall Recreational Salmon Season at Buoy 10 Modified.

**Adm. Order No.:** DFW 110-2016(Temp)

**Filed with Sec. of State:** 8-29-2016

**Certified to be Effective:** 9-1-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-023-0130

**Rules Suspended:** 635-023-0130(T)

**Subject:** This amended rule removes a requirement that only fin-clipped Chinook may be retained in the ongoing Buoy 10 recreational fishery on Sunday, September 4 and on Monday, September 5, 2016. With this harvest modification, the fishery continues to meet species and stock-specific allocations while remaining within ESA guidelines. And, this modification is consistent with action taken August 25, 2016 by the Departments of Fish & Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-023-0130

### Fall 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.

(a) Buoy 10. In the area described as: From the Buoy 10 line upstream to a line projected from Rocky Point on the Washington shore through red buoy #44 to red marker #2 at Tongue Point on the Oregon shore:

(A) From August 1 through December 31: Retention of adipose fin-clipped coho salmon (16-inches or longer) and adipose fin-clipped steelhead is allowed. Effective August 1 through December 31, the daily bag limit for steelhead is one fish.

(B) From August 1 through September 5: Retention of adult Chinook salmon (24-inches or longer, fin-clipped or not) is allowed. The daily bag limit is two salmonids, but may not include more than one Chinook or one steelhead.

(C) From September 6 through 30: Retention of all Chinook is prohibited. The daily bag limit is two salmonids (adipose fin-clipped coho/steelhead only) but may not include more than one steelhead.

(D) From October 1 through December 31: Retention of adult Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids but may not include more than one steelhead. Chinook jacks (12-24 inches, fin-clipped or not) and adipose fin-clipped coho jacks may be retained. The daily bag limit for jack salmon in Oregon is five fish.

(b) Lower Columbia River from Tongue Point/Rocky Point upstream to Warrior Rock/Bachelor Island. In the area described as: From Rocky Point on the Washington shore through red buoy #44 to the red marker #2 at Tongue Point on the Oregon shore upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island:

(A) From August 1 through December 31: Retention of adipose fin-clipped adult coho and adipose fin-clipped steelhead is allowed. Effective August 1 through December 31, only one steelhead may be retained in the daily bag limit.

(B) From August 1 through September 9: Retention of any Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult

salmonids, but may not include more than one Chinook or one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(C) From September 10 through September 14: Retention of Chinook is allowed but retained Chinook must have a clipped adipose fin or a clipped left ventral fin. Either clip must have a healed scar at the location of the missing fin. The daily adult bag limit is two salmonids, but may not include more than one Chinook or one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(D) From September 15 through September 30: Retention of all Chinook is prohibited. The daily bag limit is two adult salmonids (adipose fin-clipped coho/steelhead only) but may not include more than one steelhead.

(E) From October 1 through December 31: Retention of any Chinook (fin-clipped or not) is allowed. The daily bag limit is two adult salmonids but may not include more than one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(F) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(c) Lower Columbia River from Warrior Rock/Bachelor Island upstream to Bonneville Dam. In the area described as: From a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island upstream to Bonneville Dam:

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during August 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(d) Bonneville Dam upstream to McNary Dam:

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during September 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish. All coho (adults and jacks) retained downstream of the Hood River Bridge must be adipose fin-clipped.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(e) McNary Dam upstream to the Oregon/Washington border (upstream of McNary Dam):

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during November 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(2) All other permanent rules, as provided in the 2016 Oregon Sport Fishing Regulations for the areas described above, remain in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10; DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp), f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru

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12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013(Temp), f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 96-2014(Temp), f. 7-18-14, cert. ef. 8-1-14 thru 12-31-14; DFW 100-2014(Temp), f. 7-22-14, cert. ef. 8-1-14 thru 12-31-14; DFW 128-2014(Temp), f. 9-3-14, cert. ef. 9-6-14 thru 9-30-14; DFW 143-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 95-2015(Temp), f. 7-29-15, cert. ef. 8-1-15 thru 12-31-15; DFW 113-2015(Temp), f. 8-21-15, cert. ef. 8-23-15 thru 12-31-15; DFW 115-2015(Temp), f. 8-28-15, cert. ef. 8-29-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 95-2016(Temp), f. 7-27-16, cert. ef. 8-1-16 thru 12-31-16; DFW 110-2016(Temp), f. 8-29-16, cert. ef. 9-1-16 thru 12-31-16

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**Rule Caption:** Warm Springs Tribe Hunting for 2016

**Adm. Order No.:** DFW 111-2016(Temp)

**Filed with Sec. of State:** 8-31-2016

**Certified to be Effective:** 9-1-16 thru 2-27-17

**Notice Publication Date:**

**Rules Adopted:** 635-043-0155

**Subject:** Rule regarding legal authority for Confederated Tribes of the Warm Springs to take big game and game bird species for the 2016 hunting season.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-043-0155

### Warm Springs Hunting Agreement for 2016

(1) Hunting of big game species and upland game bird species by members of the Confederated Tribes of the Warm Springs (CTWS) in the Hunt Areas described below shall be consistent with CTWS regulation and with this rule. Taking, use, and disposal of wildlife will not be done for commercial purposes. CTWS tribal members shall carry tribal identification and tribal license while hunting in the Hunt Areas and shall present the same for inspection to law enforcement personnel or uniformed Oregon Department of Fish and Wildlife (ODFW) employees upon request. All other CTWS hunting shall be consistent with Oregon law.

(a) For purposes of this rule, “big game species” means antelope, cougar, bear, mountain goat, bighorn sheep, deer, and elk.

(b) For purposes of this rule, “upland game bird species” means chukar, grouse, Hungarian partridge, quail, mourning dove, band-tailed pigeon, and turkey.

(2) The Hunt Areas covered by this rule are as follows:

(a) The following public lands within the boundary described on Exhibit 1 to OAR 635-045-0155 and on the map dated August 29, 2016 that is Exhibit 2 to OAR 635-043-0155.

(A) Federal lands that are managed consistently with hunting activities;

(B) State lands, except wildlife areas, that are managed consistently with hunting; and

(C) State wildlife areas, during times and for the species that those areas are open for hunting under ODFW regulation.

(i) Except that in the White River Wildlife Area, tribal hunting may also occur during the break between early archery season and the normal start of the annual rifle deer season (September 26– September 30 for the 2016 season).

(ii) The Philip W Schneider Wildlife Area (PWSWA) is comprised of both state and federal lands. The federal lands of PWSWA are open for CTWS hunting consistent with CTWS regulation. The state lands of PWSWA are only open for CTWS hunting when there is a state season authorizing hunting of the same species in the PWSWA.

(b) Pine Creek Conservation Area.

(3) Metolius Wildlife Management Unit. In the Metolius Wildlife Management Unit, upon the start and for the duration of the State primitive weapon (muzzleloader and bow hunting) seasons (October 22 to November 30 for the 2016 season), tribal hunting of deer shall be restricted to primitive weapons.

(4) The CTWS shall provide notice of and deliver to ODFW and the Oregon State Police (OSP) all CTWS hunting regulations upon adoption and before the start of the tribal hunting season.

(5) The CTWS shall provide notice to ODFW and OSP of any special occasion hunts for ceremonial, hardship or other similar purposes that occur outside of adopted hunting regulations.

Stat. Auth.: ORS 183 & 496

Stats Implemented: ORS 183 & 496

Hist.: DFW 111-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

**Rule Caption:** Ongoing Columbia River Fall Recreational Salmon Season at Buoy 10 Modified.

**Adm. Order No.:** DFW 112-2016(Temp)

**Filed with Sec. of State:** 8-31-2016

**Certified to be Effective:** 9-6-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-023-0130

**Rules Suspended:** 635-023-0130(T)

**Subject:** This amended rule extends, by nine days, the period in the ongoing Buoy-10 fishery in which Chinook salmon retention is allowed. The closure originally set for September 6 has been rescheduled for September 15, 2016. With this harvest modification, the fishery continues to meet species and stock-specific allocations while remaining within ESA guidelines. This modification is consistent with action taken August 31, 2016 by the Departments of Fish and Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-023-0130

### Fall 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.

(a) Buoy 10. In the area described as: From the Buoy 10 line upstream to a line projected from Rocky Point on the Washington shore through red buoy #44 to red marker #2 at Tongue Point on the Oregon shore:

(A) From August 1 through December 31: Retention of adipose fin-clipped coho salmon (16-inches or longer) and adipose fin-clipped steelhead is allowed. Effective August 1 through December 31, the daily bag limit for steelhead is one fish.

(B) From August 1 through September 14: Retention of adult Chinook salmon (24-inches or longer, fin-clipped or not) is allowed. The daily bag limit is two salmonids, but may not include more than one Chinook or one steelhead.

(C) From September 15 through 30: Retention of all Chinook is prohibited. The daily bag limit is two salmonids (adipose fin-clipped coho/steelhead only) but may not include more than one steelhead.

(D) From October 1 through December 31: Retention of adult Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids but may not include more than one steelhead. Chinook jacks (12-24 inches, fin-clipped or not) and adipose fin-clipped coho jacks may be retained. The daily bag limit for jack salmon in Oregon is five fish.

(b) Lower Columbia River from Tongue Point/Rocky Point upstream to Warrior Rock/Bachelor Island. In the area described as: From Rocky Point on the Washington shore through red buoy #44 to the red marker #2 at Tongue Point on the Oregon shore upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island:

(A) From August 1 through December 31: Retention of adipose fin-clipped adult coho and adipose fin-clipped steelhead is allowed. Effective August 1 through December 31, only one steelhead may be retained in the daily bag limit.

(B) From August 1 through September 9: Retention of any Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids, but may not include more than one Chinook or one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(C) From September 10 through September 14: Retention of Chinook is allowed but retained Chinook must have a clipped adipose fin or a clipped left ventral fin. Either clip must have a healed scar at the location of the missing fin. The daily adult bag limit is two salmonids, but may not include more than one Chinook or one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(D) From September 15 through September 30: Retention of all Chinook is prohibited. The daily bag limit is two adult salmonids (adipose fin-clipped coho/steelhead only) but may not include more than one steelhead.

(E) From October 1 through December 31: Retention of any Chinook (fin-clipped or not) is allowed. The daily bag limit is two adult salmonids but may not include more than one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

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(F) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(c) Lower Columbia River from Warrior Rock/Bachelor Island upstream to Bonneville Dam. In the area described as: From a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island upstream to Bonneville Dam:

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during August 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(d) Bonneville Dam upstream to McNary Dam:

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during September 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish. All coho (adults and jacks) retained downstream of the Hood River Bridge must be adipose fin-clipped.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(e) McNary Dam upstream to the Oregon/Washington border (upstream of McNary Dam):

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during November 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(2) All other permanent rules, as provided in the 2016 Oregon Sport Fishing Regulations for the areas described above, remain in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10, DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp), f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013(Temp), f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 96-2014(Temp), f. 7-18-14, cert. ef. 8-1-14 thru 12-31-14; DFW 100-2014(Temp), f. 7-22-14, cert. ef. 8-1-14 thru 12-31-14; DFW 128-2014(Temp), f. 9-3-14, cert. ef. 9-6-14 thru 9-30-14; DFW 143-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 95-2015(Temp), f. 7-29-15, cert. ef. 8-1-15 thru 12-31-15; DFW 113-2015(Temp), f. 8-21-15, cert. ef. 8-23-15 thru 12-31-15; DFW 115-2015(Temp), f. 8-28-15, cert. ef. 8-29-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 95-2016(Temp), f. 7-27-16, cert. ef. 8-1-16 thru 12-31-16; DFW 110-2016(Temp), f. 8-29-16, cert. ef. 9-1-16 thru 12-31-16; DFW 112-2016(Temp), f. 8-31-16, cert. ef. 9-6-16 thru 12-31-16

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**Rule Caption:** Allowable Sales for Two Fishing Periods of the Ongoing Commercial Seine Fishery Modified.

**Adm. Order No.:** DFW 113-2016(Temp)

**Filed with Sec. of State:** 9-6-2016

**Certified to be Effective:** 9-7-16 thru 9-30-16

**Notice Publication Date:**

**Rules Amended:** 635-042-0031

**Rules Suspended:** 635-042-0031(T)

**Subject:** This amended rule modifies the allowable sales of fish caught in two 10-hour fishing periods of the ongoing non-Indian commercial fall salmon seine fishery in zones 1 through 3 of the Columbia River. The first modified period is set to begin at 6:00 a.m. Wednesday, September 7, 2016. Allowed sales include: Chinook, adipose fin-clipped Coho, Pink and Sockeye salmon, and shad. Modifications are consistent with action taken August 25, 2016 by the Departments of Fish and Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-042-0031

### Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4 5, as identified in OAR 635-042-0001. The deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(a) Authorized fishing periods are as follows:

9:00 p.m. Thursday, August 25 — to — 6:00 a.m. Friday, August 26(9 hours);  
9:00 p.m. Sunday, August 28 — to — 6:00 a.m. Monday, August 29 (9 hours); and  
9:00 p.m. Tuesday, August 30 — to — 6:00 a.m. Wednesday, August 31 (9 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(c) Gear is restricted to drift gill nets only with 9 inch minimum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(d) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(2) Non-Indian mainstem commercial seine fishery:

(a) Adipose or ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad may be taken with seine gear by those individuals possessing a 2016 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstem Columbia River in Zones 1-3 during the fishing periods listed in section (4)(b) below. During the fishing period described below for September 7, retention and sales of non-finclipped Chinook caught with purse seine gear is allowed. During the fishing period described below for September 14, retention and sales of non-finclipped Chinook caught with beach seine gear is allowed. Also, on those days when non-finclipped Chinook retention is allowed, all fin-clipped Chinook caught must be retained and sold. Beach seining is restricted to Zones 2 and 3. Purse seining is restricted to Zones 1 and 3. The deadline at the upper end of Zone 3 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(b) Season: — Area:

6:00 a.m. to 4:00 p.m. Tuesday, September 6 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Wednesday, September 7 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Thursday, September 8 (10 hours) — Zones 1-3;  
6:00 a.m. to 4:00 p.m. Friday, September 9 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 12 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Tuesday, September 13 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Wednesday, September 14 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Thursday, September 15 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Friday, September 16 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 19 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Wednesday, September 21 (10 hours) — Zones 1-3;  
7:00 a.m. to 5:00 p.m. Monday, September 26 (10 hours) — Zones 1-3; and  
7:00 a.m. to 5:00 p.m. Wednesday, September 28 (10 hours) — Zones 1-3.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B and Select Area commercial fishing sites.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

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(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes (approximately 50 feet).

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2016 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. 8-7-87; FWC 67-1988, f. & cert. 8-15-88; FWC 68-1988(Temp), f. & cert. 8-15-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 56-1989(Temp), f. & cert. 8-11-89; FWC 58-1989(Temp), f. & cert. 8-14-89; FWC 80-1989(Temp), f. & cert. 8-28-89, cert. 8-29-89; FWC 80-1990(Temp), f. & cert. 8-8-90; FWC 85-1991, f. & cert. 8-12-91; FWC 91-1991(Temp), f. & cert. 8-29-91; FWC 73-1992(Temp), f. & cert. 8-10-92; FWC 46-1996, f. & cert. 8-23-96; FWC 53-1996(Temp), f. & cert. 9-16-96; FWC 49-1997, f. & cert. 8-24-97; FWC 74-1998(Temp), f. & cert. 8-25-98 thru 8-26-98; FWC 59-1999(Temp), f. & cert. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. 9-29-99, cert. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. 8-18-00, cert. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. 8-23-00, cert. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. 8-7-01, cert. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. 8-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. 8-16-02, cert. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. 8-1-05, cert. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. 8-24-05, cert. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. 8-1-06, cert. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. 8-11-06, cert. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. 8-18-06, cert. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. 8-24-06, cert. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. 7-30-07, cert. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. & cert. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. & cert. 7-24-08, cert. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. & cert. 8-22-08, cert. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. & cert. 8-3-09, cert. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. & cert. 8-7-09, cert. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. & cert. 7-30-10, cert. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. & cert. 8-18-10, cert. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. & cert. 9-21-10, cert. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. & cert. 8-2-11, cert. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. & cert. 8-26-11, cert. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. & cert. 9-14-11, cert. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. & cert. 9-21-11, cert. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. & cert. 10-4-11, cert. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. & cert. 10-11-11, cert. 10-13-11 thru 10-31-11; DFW 147-2011(Temp),

f. 10-17-11, cert. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. & cert. 7-31-12, cert. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. & cert. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. & cert. 7-29-13, cert. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. & cert. 8-23-13, cert. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. & cert. 8-27-13, cert. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. & cert. 9-13-13, cert. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. & cert. 9-25-13, cert. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. & cert. 9-27-13, cert. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. & cert. 7-30-14, cert. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. & cert. 9-11-14, cert. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. & cert. 9-24-14, cert. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. & cert. 8-5-15, cert. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. & cert. 8-13-15, cert. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. & cert. 8-28-15, cert. 8-30-15 thru 9-30-15; DFW 119-2015(Temp), f. & cert. 8-31-15 thru 9-30-15; DFW 124-2015(Temp), f. & cert. 9-2-15, cert. 9-4-15 thru 9-30-15; DFW 126-2015(Temp), f. & cert. 9-10-15, cert. 9-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 100-2016(Temp), f. & cert. 8-2-16, cert. 8-7-16 thru 8-31-16; DFW 108-2016(Temp), f. & cert. 8-17-16, cert. 8-22-16 thru 9-30-16; DFW 109-2016(Temp), f. & cert. 8-25-16, cert. 8-28-16 thru 9-30-16; DFW 113-2016(Temp), f. & cert. 9-7-16 thru 9-30-16

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**Rule Caption:** In-season Adjustments to Commercial Nearshore and Commercial Sablefish Fishery Trip Limits

**Adm. Order No.:** DFW 114-2016(Temp)

**Filed with Sec. of State:** 9-12-2016

**Certified to be Effective:** 9-15-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-004-0275, 635-004-0355

**Rules Suspended:** 635-004-0275(T), 635-004-0355(T)

**Subject:** Both these amended rules implement changes to in-season trip limits for the Oregon commercial nearshore fishery and adopt federal in-season decreases to sablefish trip limits. Federal in-season decreases are adopted through reference in Oregon Administrative Rules. For periods 5 and 6 in 2016, trip limits for blue and deacon rockfish combined increased from 50 to 150 pounds, other nearshore rockfish increased from 350 to 450 pounds, and greenling increased from 600 to 800 pounds.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-004-0275

### Scope, Inclusion, and Modification of Rules

(1) The commercial groundfish fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The **Code of Federal Regulations** provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking groundfish. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) Code of Federal Regulations, Part 660, Subparts C, D, E and F (October 1, 2015 ed.) as amended;

(b) Federal Register Vol. 80, No. 46, dated March 10, 2015 (80 FR 12567);

(c) Federal Register Vol. 80, No. 222, dated November 18, 2015 (80 FR 71975);

(d) Federal Register Vol. 80, No. 239, dated December 14, 2015 (80 FR 77267).

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable groundfish fishing requirements. Where federal regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0280 through 635-004-0365 for additions or modifications to federal groundfish regulations.

(4) Notwithstanding the regulations defined in section (1) of this rule, the National Marine Fisheries Service, by means of Federal Register Vol. 81, No. 124, dated Tuesday, June 28, 2016 (81 FR 41868), announced inseason actions and management measures effective June 28, 2016, including but not limited to decreases to sablefish trip limits in the Limited Entry Fixed Gear and Open Access Sablefish Daily Trip Limit Fisheries.

(5) Notwithstanding the regulations defined in section (1) and (4) of this rule, the National Marine Fisheries Service, by means of Federal

# ADMINISTRATIVE RULES

Register Vol. 81, No. 170, dated Thursday, September 1, 2016 (81 FR 60288), announced inseason actions and management measures effective September 1, 2016, including but not limited to decreases to sablefish trip limits in the Open Access Sablefish fishery.

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

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162, 506.109 & 506.129

Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 78-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 10-27-12; DFW 106-2012(Temp), f. 8-15-12, cert. ef. 9-1-12 thru 12-31-12; DFW 1-2013, f. & cert. ef. 1-3-13; DFW 96-2013(Temp), f. 8-27-13, cert. ef. 9-1-13 thru 12-31-13; DFW 132-2013(Temp), f. & cert. ef. 12-9-13 thru 6-7-14; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 34-2014(Temp), f. & cert. ef. 4-23-14 thru 9-30-14; DFW 109-2014(Temp), f. & cert. ef. 8-4-14 thru 12-31-14; DFW 163-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 6-29-15; DFW 18-2015, f. & cert. ef. 3-10-15; DFW 68-2015(Temp), f. 6-11-15, cert. ef. 6-12-15 thru 12-8-15; DFW 111-2015(Temp), f. & cert. ef. 8-19-15 thru 2-14-16; DFW 151-2015(Temp), f. & cert. ef. 11-2-15 thru 4-29-16; DFW 159-2015(Temp), f. & cert. ef. 11-25-15 thru 5-22-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 83-2016(Temp), f. 6-29-16, cert. ef. 7-5-16 thru 12-31-16; DFW 114-2016(Temp), f. 9-12-16, cert. ef. 9-15-16 thru 12-31-16

## 635-004-0355

### Trip Limits

(1) The trip limits outlined in this rule are set at the beginning of each calendar year based on commercial harvest caps and projected fishing effort, and are subject to in-season adjustments and closures. Fishers should refer to Nearshore Commercial Fishery Industry Notices on the Marine Resources Program Commercial Fishing Rules and Regulations webpage for the most up-to-date information regarding trip limits and other regulations affecting the Nearshore Commercial Fishery.

(2) Vessels with a Black Rockfish/Blue Rockfish/Nearshore Fishery Permit, with or without a Nearshore Endorsement, may land no more than the following cumulative trip limits:

(a) Black rockfish:

(A) 1200 pounds in period 1;

(B) 1400 pounds in period 2;

(C) 1700 pounds in period 3;

(D) 1600 pounds in period 4;

(E) 1400 pounds in period 5;

(F) 1000 pounds in period 6; and

(b) 150 pounds of blue rockfish and deacon rockfish combined in each period.

(3) For all other nearshore species, vessels with a Black Rockfish/Blue Rockfish/Nearshore Fishery Permit with Nearshore Endorsement may land no more than the following cumulative trip limits in each period:

(a) 450 pounds of other nearshore rockfish combined;

(b) 2,000 pounds of cabezon; and

(c) 800 pounds of greenling species.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 79-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 12-27-12; DFW 118-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 12-31-12; DFW 141-2012(Temp), f. 10-31-12, cert. ef. 11-1-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 99-2013(Temp), f. & cert. ef. 9-9-13 thru 12-31-13; Administrative correction, 2-5-14; DFW 101-2014(Temp), f. 7-23-14, cert. ef. 8-1-14 thru 12-31-14; DFW 147-2014(Temp), f. & cert. ef. 10-13-14 thru 12-31-14; DFW 164-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 1-16-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 82-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 12-31-15; DFW 114-2015(Temp), f. 8-27-15, cert. ef. 9-1-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 83-2016(Temp), f. 6-29-16, cert. ef. 7-5-16 thru 12-31-16; DFW 114-2016(Temp), f. 9-12-16, cert. ef. 9-15-16 thru 12-31-16

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**Rule Caption:** Columbia River Mainstem Recreational Steelhead Fishery Bag Limit Modified.

**Adm. Order No.:** DFW 115-2016(Temp)

**Filed with Sec. of State:** 9-13-2016

**Certified to be Effective:** 9-15-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-023-0130

**Rules Suspended:** 635-023-0130(T)

**Subject:** This amended rule reduces the daily bag limit for steelhead from two to one fish in the fall recreational fishery on the Columbia River in the area from McNary Dam upstream to the Oregon/Washington border (upstream of McNary Dam). The reduction, originally set for November 1, has been rescheduled for September 15, 2016. With this harvest modification, the fishery continues to meet species and stock-specific allocations while remaining within ESA guidelines. This modification is consistent with action taken

September 13, 2016 by the Departments of Fish and Wildlife for the States of Oregon and Washington.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-023-0130

### Fall 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**.

(a) Buoy 10. In the area described as: From the Buoy 10 line upstream to a line projected from Rocky Point on the Washington shore through red buoy #44 to red marker #2 at Tongue Point on the Oregon shore:

(A) From August 1 through December 31: Retention of adipose fin-clipped coho salmon (16-inches or longer) and adipose fin-clipped steelhead is allowed. Effective August 1 through December 31, the daily bag limit for steelhead is one fish.

(B) From August 1 through September 14: Retention of adult Chinook salmon (24-inches or longer, fin-clipped or not) is allowed. The daily bag limit is two salmonids, but may not include more than one Chinook or one steelhead.

(C) From September 15 through 30: Retention of all Chinook is prohibited. The daily bag limit is two salmonids (adipose fin-clipped coho/steelhead only) but may not include more than one steelhead.

(D) From October 1 through December 31: Retention of adult Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids but may not include more than one steelhead. Chinook jacks (12-24 inches, fin-clipped or not) and adipose fin-clipped coho jacks may be retained. The daily bag limit for jack salmon in Oregon is five fish.

(b) Lower Columbia River from Tongue Point/Rocky Point upstream to Warrior Rock/Bachelor Island. In the area described as: From Rocky Point on the Washington shore through red buoy #44 to the red marker #2 at Tongue Point on the Oregon shore upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island:

(A) From August 1 through December 31: Retention of adipose fin-clipped adult coho and adipose fin-clipped steelhead is allowed. Effective August 1 through December 31, only one steelhead may be retained in the daily bag limit.

(B) From August 1 through September 9: Retention of any Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids, but may not include more than one Chinook or one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(C) From September 10 through September 14: Retention of Chinook is allowed but retained Chinook must have a clipped adipose fin or a clipped left ventral fin. Either clip must have a healed scar at the location of the missing fin. The daily adult bag limit is two salmonids, but may not include more than one Chinook or one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(D) From September 15 through September 30: Retention of all Chinook is prohibited. The daily bag limit is two adult salmonids (adipose fin-clipped coho/steelhead only) but may not include more than one steelhead.

(E) From October 1 through December 31: Retention of any Chinook (fin-clipped or not) is allowed. The daily bag limit is two adult salmonids but may not include more than one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(F) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(c) Lower Columbia River from Warrior Rock/Bachelor Island upstream to Bonneville Dam. In the area described as: From a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island upstream to Bonneville Dam:

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during August 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

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(d) Bonneville Dam upstream to McNary Dam:

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during September 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish. All coho (adults and jacks) retained downstream of the Hood River Bridge must be adipose fin-clipped.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(e) McNary Dam upstream to the Oregon/Washington border (upstream of McNary Dam):

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids, except during September 15 through December 31 only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(2) All other permanent rules, as provided in the **2016 Oregon Sport Fishing Regulations** for the areas described above, remain in effect.

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 496.162

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10; DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp), f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013(Temp), f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 96-2014(Temp), f. 7-18-14, cert. ef. 8-1-14 thru 12-31-14; DFW 100-2014(Temp), f. 7-22-14, cert. ef. 8-1-14 thru 12-31-14; DFW 128-2014(Temp), f. 9-3-14, cert. ef. 9-6-14 thru 9-30-14; DFW 143-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 95-2015(Temp), f. 7-29-15, cert. ef. 8-1-15 thru 12-31-15; DFW 113-2015(Temp), f. 8-21-15, cert. ef. 8-23-15 thru 12-31-15; DFW 115-2015(Temp), f. 8-28-15, cert. ef. 8-29-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 95-2016(Temp), f. 7-27-16, cert. ef. 8-1-16 thru 12-31-16; DFW 110-2016(Temp), f. 8-29-16, cert. ef. 9-1-16 thru 12-31-16; DFW 112-2016(Temp), f. 8-31-16, cert. ef. 9-6-16 thru 12-31-16; DFW 115-2016(Temp), f. 9-13-16, cert. ef. 9-15-16 thru 12-31-16

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**Rule Caption:** Columbia River Treaty Indian Sturgeon Fisheries Regulations Modified.

**Adm. Order No.:** DFW 116-2016(Temp)

**Filed with Sec. of State:** 9-14-2016

**Certified to be Effective:** 9-15-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-041-0030, 635-041-0061

**Subject:** These amended rules modify regulations for Treaty Indian sturgeon fisheries in the Columbia River and its tributaries. Modifications are consistent with action taken by the parties of US v. Oregon at a recent meeting.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-041-0030**

**Subsistence Fishing Activities**

(1) It is unlawful to utilize any fish taken by subsistence fishing for other than subsistence purposes as defined in OAR 635-041-0010 with the exception of shad which may be sold commercially, and with the exception

of dipnet caught fish from main stem Columbia and Klickitat River subsistence areas taken during open commercial fishing seasons.

(2) Only white sturgeon with a fork length of 43-54 inches taken from between The Dalles and McNary dams and white sturgeon with a fork length of 38-54 inches taken from between the Bonneville Dam and The Dalles Dam may be retained for subsistence purposes.

(3) Sturgeon that do not meet the legal size requirements as defined in 635-041-0030(2) above cannot be possessed on land and must be released to the water unharmed. For purposes of this regulation, docks and boat ramps are not considered land.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0030; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 12-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; DFW(Temp), 37-2000, f. 6-30-00, cert. ef. 7-1-00 thru 7-10-00; DFW 22-2003(Temp), f. & cert. ef. 3-25-03 thru 9-20-03; DFW 3-2005(Temp), f. & cert. ef. 1-20-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 19-2009, f. & cert. ef. 2-26-09; DFW 116-2016(Temp), f. 9-14-16, cert. ef. 9-15-16 thru 12-31-16

**635-041-0061**

**Sturgeon Size**

(1) White sturgeon may be taken for commercial purposes by treaty Indian fishers during commercial fishing seasons in which sales of sturgeon are authorized.

(2) Sales are limited to white sturgeon with a fork length of 43–54 inches taken from between The Dalles and McNary dams and white sturgeon with a fork length of 38–54 inches taken from between the Bonneville Dam and The Dalles Dam.

(3) Sturgeon that do not meet the legal size requirements as defined in 635-041-0030(2) above cannot be possessed on land and must be released to the water unharmed. For purposes of this regulation, docks and boat ramps are not considered land.

(4) It is *unlawful* to mutilate or disfigure a sturgeon in any manner which extends or shortens its length to the legal limit, or to possess such sturgeon.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 15-1995, f. & cert. ef. 2-15-95; FWC 12-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 19-2009, f. & cert. ef. 2-26-09; DFW 6-2014(Temp), f. 1-30-14, cert. ef. 2-1-14 thru 7-30-14; DFW 17-2014(Temp), f. 2-28-14, cert. ef. 3-1-14 thru 7-30-14; DFW 23-2014(Temp), f. 3-11-14, cert. ef. 3-12-14 thru 7-31-14; Temporary suspended by DFW 94-2014(Temp), f. & cert. ef. 7-14-14 thru 12-31-14; DFW 116-2016(Temp), f. 9-14-16, cert. ef. 9-15-16 thru 12-31-16

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**Rule Caption:** In-season Modifications to Pacific Ocean Recreational Groundfish Depth Restrictions.

**Adm. Order No.:** DFW 117-2016(Temp)

**Filed with Sec. of State:** 9-14-2016

**Certified to be Effective:** 10-1-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-039-0090

**Subject:** This amended rule re-opens the Pacific ocean to retention of groundfish at all depths from 12:01 a.m. October 1 through December 31, 2016. This action is intended to allow opportunity at all depths while not exceeding the allocation for yelloweye rockfish.

These modifications replace current depth restrictions adopted previously by temporary rule effective on July 14, 2016 and returns regulations to those listed under the “season” column on page 77 of the 2016 Oregon Sport Fishing Regulations for: “Rockfish, Greenling, Pacific Cod, Cabezon, Skates, Spiny Dogfish, Leopard Shark, Soupin Shark, Topsmelt, Jacksmelt other marine species not listed here on page 77” beginning October 1, 2016.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-039-0090**

**Inclusions and Modifications**

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this

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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. serripes*).

(4) In addition to the regulations for Marine Fish in the 2016 Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.

(b) All rockfish ("sea bass" "snapper"), greenling ("sea trout"), cabezon, skates, and other marine fish species not listed in the 2016 Oregon Sport Fishing Regulations in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number), of which no more than three may be blue rockfish or deacon rockfish in aggregate, no more than one may be a canary rockfish, and no more than one may be a cabezon. Retention of the following species is prohibited:

(A) Yelloweye rockfish;

(B) China rockfish;

(C) Copper rockfish;

(D) Quillback rockfish; and

(E) Cabezon from January 1 through June 30.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut. Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.

(e) Harvest methods and other specifications for marine fish in subsections (4)(a), (4)(b) and (4)(c) including the following:

(A) Minimum length for lingcod, 22 inches.

(B) Minimum length for cabezon, 16 inches.

(C) Minimum length for greenling, 10 inches.

(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(f) Sport fisheries for species in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections 4(b) and 4(d). Ocean waters are closed for these species during April 1 through September 30, outside of the 30-fathom curve (defined by latitude and longitude) as shown on Title 50 Code of Federal Regulations Part 660 Section 71, except as provided in subsection 4(d). Ocean waters are closed for these species from 11:59 p.m. July 14 through 11:59 p.m. September 30, 2016, outside of the 20-fathom curve (defined by latitude and longitude) as shown on Title 50 Code of Federal Regulations Part 660 Section 71, except as provided above in subsection 4(d). A 20-fathom, 25-fathom, or 30-fathom curve, as shown on Title 50 Code of Federal Regulations Part 660 Section 71 may be implemented as the management line as in-season mod-

ifications necessitate. In addition, the following management lines may be used to set area specific regulations for inseason action only:

(A) Cape Lookout (45°20'30" N latitude); and

(B) Cape Blanco (42°50'20" N latitude).

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in Title 50 Code of Federal Regulations Part 660 Section 70 (October 1, 2015 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

(5) Edible Shrimp:

(a) Daily limit is 20 lbs in the shell;

(b) May be taken by traps, pots, or rings.

(6) Razor Clams:

(a) May be taken by hand, shovel, clam gun, or tube with an opening no less than 4 inches in diameter (cylindrical) or 4 inches by 3 inches (elliptical);

(b) All razor clams must be retained regardless of size or condition;

(c) Each digger must have their own container, dig their own clams, and may not possess more than one limit of clams while in the clam digging area except under the allowances of an Oregon Disabilities Hunting and Fishing Permit.

(7) Whale Cove Habitat Refuge: No take of fish, shellfish and marine invertebrates in all areas in Whale Cove below the extreme high tide east of a line drawn across the mouth of the cove, as defined by points at:

(a) 44°47.237'N., 124°04.298'W; and

(b) 44°47.367'N., 124°04.320'W.

NOTE: Table 1, as referenced, is available from the Department.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 110-2009(Temp), f. 9-10-09, cert. ef. 9-13-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 103-2010(Temp), f. 7-21-10, cert. ef. 7-23-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 97-2011(Temp), f. & cert. ef. 7-20-11 thru 12-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 90-2012(Temp), f. 7-17-12, cert. ef. 9-20-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-29-13, cert. ef. 4-1-13 thru 9-27-13; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 112-2013(Temp), f. & cert. ef. 9-27-13 thru 12-31-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 5-2015(Temp), f. 1-13-15, cert. ef. 1-15-15 thru 7-13-15; Temporary suspended by DFW 18-2015, f. & cert. ef. 3-10-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 35-2016, f. & cert. ef. 4-26-16; DFW 38-2016(Temp), f. & cert. ef. 4-26-16 thru 10-22-16; DFW 91-2016(Temp), f. 7-12-16, cert. ef. 7-14-16 thru 12-31-16; DFW 105-2016, f. & cert. ef. 8-10-16; DFW 117-2016(Temp), f. 9-14-16, cert. ef. 10-1-16 thru 12-31-16

# ADMINISTRATIVE RULES

**Rule Caption:** Netarts Bay Commercial Cockle Clam Fishery Closes.

**Adm. Order No.:** DFW 118-2016(Temp)

**Filed with Sec. of State:** 9-14-2016

**Certified to be Effective:** 9-16-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-005-0387

**Subject:** This amended rule closes the Netarts Bay commercial cockle fishery at 12:01 a.m. September 16, 2016 due to the projected attainment of the 22,000 pound annual harvest quota allowed under bay clam catch limits. Modifications are consistent with requirements described in section (1) of OAR 635-005-0387.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-005-0387

### Catch Limits

(1) In Netarts Bay, the commercial landing cap for cockle clams harvested by the bay clam fishery is 22,000 pounds.

(2) When the commercial cockle clam landing caps specified in section (1) of this rule is reached, the intertidal cockle fishery in Netarts Bay will close for the remainder of the calendar year.

(3) The Netarts Bay clam fishery is closed effective 12:01 a.m. Friday, September 16, 2016 due to the anticipated attainment of the 22,000 pound landing cap.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129

Stats. Implemented: ORS 506.109, 506.129

Hist.: DFW 164-2015, f. 12-9-15, cert. ef. 1-1-16; DFW 118-2016(Temp), f. 9-14-16, cert. ef. 9-16-15 thru 12-31-16

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**Rule Caption:** Ongoing Columbia River Fall Recreational Salmon Seasons Modified.

**Adm. Order No.:** DFW 119-2016(Temp)

**Filed with Sec. of State:** 9-14-2016

**Certified to be Effective:** 9-15-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-023-0130

**Rules Suspended:** 635-023-0130(T)

**Subject:** This amended rule extends, by eight days, the ongoing Buoy-10 and lower Columbia River recreational salmon fisheries. The closures originally set for September 15 have been rescheduled for September 23, 2016. With these harvest modifications, the fishery continues to meet species and stock-specific allocations while remaining within ESA guidelines. Modifications are consistent with action taken September 14, 2016 by the Departments of Fish and Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-023-0130

### Fall 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.

(a) Buoy 10. In the area described as: From the Buoy 10 line upstream to a line projected from Rocky Point on the Washington shore through red buoy #44 to red marker #2 at Tongue Point on the Oregon shore:

(A) From August 1 through December 31: Retention of adipose fin-clipped coho salmon (16-inches or longer) and adipose fin-clipped steelhead is allowed. Effective August 1 through December 31, the daily bag limit for steelhead is one fish.

(B) From August 1 through September 14: Retention of adult Chinook salmon (24-inches or longer, fin-clipped or not) is allowed. The daily bag limit is two salmonids, but may not include more than one Chinook or one steelhead.

(C) From September 15 through September 22: Only hatchery Chinook (adipose or left-ventral fin-clipped) may be retained. The daily bag limit is two salmonids, but may not include more than one Chinook or one hatchery steelhead.

(D) From September 23 through September 30: Retention of all Chinook is prohibited. The daily bag limit is two salmonids (adipose fin-clipped coho/steelhead only) but may not include more than one steelhead.

(E) From October 1 through December 31: Retention of adult Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids but may not include more than one steelhead. Chinook jacks (12-24 inches, fin-clipped or not) and adipose fin-clipped coho jacks may be retained. The daily bag limit for jack salmon in Oregon is five fish.

(b) Lower Columbia River from Tongue Point/Rocky Point upstream to Warrior Rock/Bachelor Island. In the area described as: From Rocky Point on the Washington shore through red buoy #44 to the red marker #2 at Tongue Point on the Oregon shore upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island:

(A) From August 1 through December 31: Retention of adipose fin-clipped adult coho and adipose fin-clipped steelhead is allowed. Effective August 1 through December 31, only one steelhead may be retained in the daily bag limit.

(B) From August 1 through September 9: Retention of any Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids, but may not include more than one Chinook or one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(C) From September 10 through September 22: Retention of Chinook is allowed but retained Chinook must have a clipped adipose fin or a clipped left ventral fin. Either clip must have a healed scar at the location of the missing fin. The daily adult bag limit is two salmonids, but may not include more than one Chinook or one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(D) From September 23 through September 30: Retention of all Chinook is prohibited. The daily bag limit is two adult salmonids (adipose fin-clipped coho/steelhead only) but may not include more than one steelhead.

(E) From October 1 through December 31: Retention of any Chinook (fin-clipped or not) is allowed. The daily bag limit is two adult salmonids but may not include more than one steelhead. The daily bag limit for jack salmon in Oregon is five fish.

(F) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(c) Lower Columbia River from Warrior Rock/Bachelor Island upstream to Bonneville Dam. In the area described as: From a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island upstream to Bonneville Dam:

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during August 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(d) Bonneville Dam upstream to McNary Dam:

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during September 1 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish. All coho (adults and jacks) retained downstream of the Hood River Bridge must be adipose fin-clipped.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(e) McNary Dam upstream to the Oregon/Washington border (upstream of McNary Dam):

(A) From August 1 through December 31: Retention of any Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids except during September 15 through December 31, only one steelhead may be retained in the daily bag limit. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(2) All other permanent rules, as provided in the 2016 Oregon Sport Fishing Regulations for the areas described above, remain in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162



# ADMINISTRATIVE RULES

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10; DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp), f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 9-21-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013(Temp), f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 96-2014(Temp), f. 7-18-14, cert. ef. 8-1-14 thru 12-31-14; DFW 100-2014(Temp), f. 7-22-14, cert. ef. 8-1-14 thru 12-31-14; DFW 128-2014(Temp), f. 9-3-14, cert. ef. 9-6-14 thru 9-30-14; DFW 143-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 95-2015(Temp), f. 7-29-15, cert. ef. 8-1-15 thru 12-31-15; DFW 113-2015(Temp), f. 8-21-15, cert. ef. 8-23-15 thru 12-31-15; DFW 115-2015(Temp), f. 8-28-15, cert. ef. 8-29-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 95-2016(Temp), f. 7-27-16, cert. ef. 8-1-16 thru 12-31-16; DFW 110-2016(Temp), f. 8-29-16, cert. ef. 9-1-16 thru 12-31-16; DFW 112-2016(Temp), f. 8-31-16, cert. ef. 9-6-16 thru 12-31-16; DFW 115-2016(Temp), f. 9-13-16, cert. ef. 9-15-16 thru 12-31-16; DFW 119-2016(Temp), f. 9-14-16, cert. ef. 9-15-16 thru 12-31-16

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**Rule Caption:** Sales from Columbia River Treaty Indian Fall Commercial Gill Net Fishery Authorized.

**Adm. Order No.:** DFW 120-2016(Temp)

**Filed with Sec. of State:** 9-15-2016

**Certified to be Effective:** 9-16-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 635-041-0045, 635-041-0075

**Rules Suspended:** 635-041-0045(T), 635-041-0075(T)

**Subject:** This amended rule authorizes the sales of fish caught in a four-and-a-half day Treaty Indian fall commercial gill net fishery set for the Columbia River. The fishery begins at 6:00 a.m. Monday, September 19 and runs through 6:00 p.m. Friday, September 23, 2016. Modifications are consistent with action taken September 14, 2016 by the Departments of Fish and Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-041-0045

### Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

(1) All Oregon tributaries of the Columbia River.

(2) The Columbia River westerly and downstream of the Bridge of the Gods except:

(a) From 12:01 a.m. Monday, August 1 through 11:59 p.m. Monday, October 31, 2016 sales are allowed by enrolled members of the Yakima, Warm Springs, Nez Perce, and Umatilla tribes downstream of Bonneville Dam when lawfully permitted by Treaty regulations under provisions of the agreements with the states of Oregon and Washington. Tribal members fishing below Bonneville Dam must carry an official Tribal enrollment card. Allowable sales include salmon, steelhead, walleye, shad, yellow perch, bass and carp. Fish landed during lawfully permitted seasons may be sold at any time. Sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold. Fish may not be sold on USACE property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(b) Gear is restricted to subsistence fishing gear allowed under Treaty regulations which includes hoopnets, dipnets, and rod and reel with hook-and-line.

(c) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized

for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25-September 18 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1 1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 149(Temp), f. & ef. 9-21-77 thru 1-18-78; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & ef. 1-28-80; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 4-1984, f. & ef. 1-31-84; FWC 55-1985(Temp), f. & ef. 9-6-85; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 25-1986(Temp), f. & ef. 6-25-86; FWC 42-1986, f. & ef. 8-15-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert.



# ADMINISTRATIVE RULES

2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. 8-7-14, cert. ef. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. 9-19-14, cert. ef. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; DFW 108-2015(Temp), f. 8-13-15, cert. ef. 8-17-15 thru 10-31-15; DFW 127-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 10-31-15; DFW 130-2015(Temp), f. 9-17-15, cert. ef. 9-18-15 thru 10-31-15; DFW 133-2015(Temp), f. 9-23-15, cert. ef. 9-28-15 thru 10-31-15; DFW 137-2015(Temp), f. & cert. ef. 10-1-15 thru 10-31-15; DFW 155-2015(Temp), f. 11-12-15, cert. ef. 11-13-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 98-2016(Temp), f. 7-28-16, cert. ef. 8-1-16 thru 12-31-16; DFW 106-2016(Temp), f. 8-10-16, cert. ef. 8-22-16 thru 12-31-16; DFW 120-2016(Temp), f. 9-15-16, cert. ef. 9-16-16 thru 12-31-16

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**Rule Caption:** Fishing Periods Authorized for the Columbia River Late Fall Chinook Commercial Salmon Fishery.

**Adm. Order No.:** DFW 121-2016(Temp)

**Filed with Sec. of State:** 9-15-2016

**Certified to be Effective:** 9-16-16 thru 9-30-16

**Notice Publication Date:**

**Rules Amended:** 635-042-0031

**Rules Suspended:** 635-042-0031(T)

**Subject:** This amended rule authorizes two fishing periods for the late fall Chinook commercial drift gillnet fishery on the Columbia River in Zones 4-5 and one in Zones 1-5. The first period is set to begin at 8:00 p.m. Sunday, September 18 and run through 5:00 a.m. Monday, September 19, 2016 (9 hours). Allowed sales include: Chinook, Coho, Pink and Sockeye salmon, and shad. Modifications are consistent with action taken September 14, 2016 by the Departments of Fish and Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-042-0031

### Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4 5, as identified in OAR 635-042-0001. The deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(a) Authorized fishing periods are as follows:

8:00 p.m. Sunday, September 18 to 5:00 a.m. Monday, September 19, 2016 (9 hours);

and

8:00 p.m. Thursday, September 22 to 6:00 a.m. Friday, September 23 (10 hours).

(b) Sanctuaries include: Washougal and Sandy rivers as identified in OAR 635-042-0001.

(c) Gear is restricted to drift gill nets only with 8 inch minimum and 9.75-inch maximum mesh sizes. The multiple net rule is in effect.

(d) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(2) Salmon may be taken for commercial purposes in the waters of the Columbia River: Zones 1 5, as identified in OAR 635-042-0001.

(a) Authorized fishing periods are as follows:

8:00 p.m. Wednesday, September 28 to 6:00 a.m. Thursday, September 29 (10 hours).

(b) Sanctuaries include: Elokomin-A, Cowlitz River, Kalama-A, Lewis-A, and Washougal and Sandy rivers as identified in OAR 635-042-0001.

(c) Gear is restricted to drift gill nets only with 8 inch minimum and 9.75-inch maximum mesh sizes. The multiple net rule is in effect.

(d) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(3) Non-Indian mainstream commercial seine fishery:

(a) Adipose or ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad may be taken with seine gear by those individuals possessing a 2016 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstream Columbia River in Zones 1-3 during the fishing periods listed in section (4)(b) below. During the fishing period described below for September 7, retention and sales of non-finclipped Chinook caught with purse seine gear is allowed. During the fishing period described below for September 14, retention and sales of non-finclipped Chinook caught with beach seine gear is allowed. Also, on those days when non-finclipped Chinook retention is allowed, all fin-clipped Chinook caught must be retained and sold. Beach seining is restrict-

ed to Zones 2 and 3. Purse seining is restricted to Zones 1 and 3. The deadline at the upper end of Zone 3 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(b) Season: Area:

7:00 a.m. to 5:00 p.m. Thursday, September 15 (10 hours) Zones 1-3;

7:00 a.m. to 5:00 p.m. Friday, September 16 (10 hours) Zones 1-3;

7:00 a.m. to 5:00 p.m. Monday, September 19 (10 hours) Zones 1-3;

7:00 a.m. to 5:00 p.m. Wednesday, September 21 (10 hours) Zones 1-3;

7:00 a.m. to 5:00 p.m. Monday, September 26 (10 hours) Zones 1-3; and

7:00 a.m. to 5:00 p.m. Wednesday, September 28 (10 hours) Zones 1-3.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B and Select Area commercial fishing sites.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes (approximately 50 feet).

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2016 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction,

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2-18-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. 8-23-13, cert. ef. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. 8-5-15, cert. ef. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. 8-28-15, cert. ef. 8-30-15 thru 9-30-15; DFW 119-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 9-30-15; DFW 124-2015(Temp), f. 9-2-15, cert. ef. 9-4-15 thru 9-30-15; DFW 126-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 100-2016(Temp), f. 8-2-16, cert. ef. 8-7-16 thru 8-31-16; DFW 108-2016(Temp), f. 8-17-16, cert. ef. 8-22-16 thru 9-30-16; DFW 109-2016(Temp), f. 8-25-16, cert. ef. 8-28-16 thru 9-30-16; DFW 113-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 9-30-16; DFW 121-2016(Temp), f. 9-15-16, cert. ef. 9-16-16 thru 9-30-16

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

**Rule Caption:** ODDS: Foster Homes for Children with Intellectual or Developmental Disabilities

**Adm. Order No.:** APD 30-2016

**Filed with Sec. of State:** 8-18-2016

**Certified to be Effective:** 8-20-16

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 411-346-0100, 411-346-0110, 411-346-0170, 411-346-0190, 411-346-0200

**Rules Repealed:** 411-346-0100(T), 411-346-0110(T), 411-346-0170(T), 411-346-0190(T), 411-346-0200(T)

**Subject:** The Department of Human Services, Office of Developmental Disabilities Services (Department) is permanently updating the rules in OAR chapter 411, division 346 for foster homes for children with intellectual or developmental disabilities.

These rule are being updated to:

- Make permanent the temporary rule changes that became effective on February 23, 2016;
- Provide consistency across services by removing terms included in the general definitions rule, OAR 411-317-0000;
- Clarify the requirements for private duty nursing;
- 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; and
- Incorporate the individual rights in OAR 411-318-0010 for individuals receiving HCB services.

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

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

Under the HCB setting standards, child 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.

**Rules Coordinator:** Kimberly Colkitt-Hallman — (503) 945-6398

## 411-346-0100

### Statement of Purpose

(1) The rules in OAR chapter 411, division 346, prescribe the standards and procedures for the provision of Developmental Disabilities-funded foster care services for children with intellectual or developmental disabilities in child foster homes certified by the Department of Human Services as a condition for certification and payment.

(2) These rules incorporate the provisions for home and community-based services and settings and person-centered service planning set forth in OAR chapter 411, division 004. These rules and the rules in OAR chapter 411, division 004, ensure children with intellectual or developmental disabilities receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(a) A foster provider initially certified on or after January 1, 2016, must meet the requirements in OAR chapter 411, division 004, prior to being certified.

(b) A foster provider certified 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.

Stat. Auth.: ORS 409.050 & 443.835

Stats. Implemented: ORS 430.215, 443.830, and 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0100, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 62-2013, f. 12-27-13, cert. ef. 12-28-13; APD 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-20-16; APD 30-2016, f. 8-18-16, cert. ef. 8-20-16

## 411-346-0110

### Definitions

Unless the context indicates otherwise, the following definitions and the definitions in OAR chapter 411, division 317, apply to the rules in OAR chapter 411, division 346:

(1) "Abuse" means:

(a) "Abuse" as defined in ORS 419B.005 for a child less than 18 years of age; and

(b) "Abuse" as defined in OAR 407-045-0260 when an individual age 18 to 21 resides in a certified child foster home.

(2) "Alternate Caregiver" means any person 18 years of age and older responsible for the care or supervision of a child in foster care.

(3) "Alternative Educational Plan" means any school plan that does not occur within the physical school setting.

(4) "Appeal" means the process for a contested hearing under ORS chapter 183 that a foster provider may use to petition the suspension, denial, non-renewal, or revocation of their certificate or application.

(5) "Applicant" means a person who wants to become a child foster provider, lives at the residence where a child in foster care is to live, and is applying for a child foster home certificate or is renewing a child foster home certificate.

(6) "Aversive Stimuli" means the use of any natural or chemical product to alter the behavior of a child, such as the use of hot sauce or soap in the mouth and spraying ammonia or lemon water in the face of a child. Psychotropic medications are not considered aversive stimuli.

(7) "Behavior Support" means the services consistent with positive behavioral theory and practice that are delivered in accordance with a Behavior Support Plan to assist with behavioral challenges due to the intellectual or developmental disability of a child that prevents the child from accomplishing activities of daily living, instrumental activities of daily living, health-related tasks, and provides cognitive supports to mitigate behavior. Behavior supports are provided in the home or community.

(8) "Case Plan" means the goal-oriented, time-limited, individualized plan of action for a child and the family of the child developed by the family and the Children, Adults, and Families Division of the Department for promotion of the safety, permanency, and well-being of the child.

## ADMINISTRATIVE RULES

(9) "Case Worker" means an employee of the Children, Adults, and Families Division of the Department.

(10) "CDDP" means "Community Developmental Disabilities Program".

(11) "Certificate" means a document issued by the Department that notes approval to operate a child foster home for a period not to exceed two years.

(12) "Certifying Agency" means the Department, CDDP, or an agency approved by the Department who is authorized to gather required documentation to issue or maintain a child foster home certificate.

(13) "Child" means:

(a) An individual who is less than 18 years of age who has a provisional determination of an intellectual or developmental disability by the CDDP; or

(b) An individual age 18 to 21 with an intellectual or developmental disability who is remaining in the same foster home for the purpose of completing their IEP based on the recommendation of the ISP team and an approved certification variance.

(14) "Child Foster Home" means a home certified by the Department that is maintained and lived in by the person named on the foster home certificate. A child foster home is considered a provider owned, controlled, or operated residential setting.

(15) "Child Foster Home Contract" means an agreement between a foster provider and the Department that describes the responsibility of the foster provider and the Department.

(16) "Child Placing Agency" means the Department, CDDP, or the OYA.

(17) "Clinical Criteria" means the criteria used by the Department or the Medically Fragile Children's Unit as described in OAR 411-300-0150 to assess the private duty nursing support needs of a child.

(18) "Commercial Basis" means providing and receiving compensation for the temporary care of individuals not identified as members of the household.

(19) "Community Nursing Services" mean the nursing services that focus on the chronic and ongoing health and safety needs of a child. Community nursing services include an assessment, monitoring, delegation, training, and coordination of services. Community nursing services are provided according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851.

(20) "Denial" means the refusal of the certifying agency to issue a certificate of approval to operate a child foster home because the certifying agency has determined that the home or the applicant is not in compliance with one or more of these rules.

(21) "Department" means the Department of Human Services.

(22) "DHS-CW" means the child welfare program area within the Children, Adults, and Families Division of the Department.

(23) "Domestic Animals" mean the animals domesticated so as to live and breed in a tame condition, such as dogs, cats, and domesticated farm stock.

(24) "Educational Surrogate" means the person who acts in place of a parent in safeguarding the rights of a child in the public education decision-making process:

(a) When the parent of the child cannot be identified or located after reasonable efforts;

(b) When there is reasonable cause to believe that the child has a disability and is a ward of the state; or

(c) At the request of the parent of the child or young adult student.

(25) "Emergency Certificate" means a foster home certificate issued for 30 days.

(26) "Foster Care" means a child is placed away from their parent or guardian in a certified child foster home.

(27) "Foster Provider" means the certified care provider who resides at the address listed on the foster home certificate. A foster provider is considered a private agency for purposes of mandatory reporting of abuse.

(28) "Functional Needs Assessment":

(A) Means the comprehensive assessment or re-assessment that:

(A) Documents physical, mental, and social functioning;

(B) Identifies risk factors, choices and preferences, service and support needs, strengths, and goals; and

(C) Determines the service level.

(b) The functional needs assessment for a child residing in a foster home is known as the Support Needs Assessment Profile (SNAP).

(29) "Home Inspection" means the on-site, physical review of the home of an applicant to assure the applicant meets all health and safety requirements within these rules.

(30) "Home Study" means the assessment process used for the purpose of determining the ability of an applicant to care for a child in need of foster care placement.

(31) "ICWA" means the Indian Child Welfare Act.

(32) "IEP" means "Individualized Education Program".

(33) "ISP" means "Individual Support Plan".

(34) "Licensed Medical Professional" means a person who meets the following:

(a) Holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or

(C) Physician's assistant licensed to practice in Oregon; and

(b) Whose training, experience, and competence demonstrate expertise in children's mental health and the ability to conduct a mental health assessment and provide psychotropic medication management for a child in foster care.

(35) "MAR" means medication administration record.

(36) "Member of the Household" means any adult or child living in the home, including an employee or volunteer assisting in the care provided to a child placed in the home. A child in foster care is not considered a member of the household.

(37) "Mental Health Assessment" means the assessment used to determine the need for mental health services by interviewing a child and obtaining all pertinent biopsychosocial information as identified by the child, the family of the child, and collateral sources. A mental health assessment:

(a) Addresses the condition presented by the child;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(38) "Misuse of Funds" includes, but is not limited to, a foster provider or staff person:

(a) Borrowing from, or loaning money to, a child in foster care;

(b) Witnessing a will in which the foster provider or a staff person is a beneficiary;

(c) Adding the name of the foster provider or staff person to the bank account of a child or other titles for personal property without approval of the child when of age to give legal consent, or the guardian of the child and authorization of the ISP team;

(d) Inappropriately expending or theft of the personal funds of a child;

(e) Using the personal funds of a child for the benefit of the foster provider or staff person; or

(f) Commingling the funds of a child with the funds of the foster provider or the funds of another child.

(39) "Monitoring" means:

(a) The observation of a certified child foster home by the Department or the designee of the Department to determine continuing compliance with these rules; and

(b) The periodic review of the implementation of services and supports identified in an ISP and the quality of services delivered.

(40) "Nursing Services" means the provision of individual-specific advice, plans, or interventions by a nurse at a home based on the nursing process as outlined by the Oregon State Board of Nursing.

(41) "Occupant" means any person having official residence in a certified child foster home.

(42) "OHA" means "Oregon Health Authority".

(43) "OIS" means "Oregon Intervention System".

(44) "OYA" means "Oregon Youth Authority". OYA is the agency that has been given commitment and supervision responsibilities over a youth offender by order of the juvenile court under ORS 137.124 or other statute, until the time that a lawful release authority authorizes release or terminates the commitment or placement.

(45) "Permanent Foster Care" means the long term contractual agreement between a foster provider and the Children, Adults, and Families Division of the Department, approved by the juvenile court that specifies the responsibilities and authority of the foster provider and the commitment by the permanent foster provider to raise a child until the age of majority or until the court determines that permanent foster care is no longer the appropriate plan for the child.

(46) "Positive Behavioral Theory and Practice" means a proactive approach to behavior and behavior interventions that:

(a) Emphasizes the development of functional alternative behavior and positive behavior intervention;

# ADMINISTRATIVE RULES

- (b) Uses the least intrusive intervention possible;
  - (c) Ensures that abusive or demeaning interventions are never used;
- and
- (d) Evaluates the effectiveness of behavior interventions based on objective data.

(47) "Private Duty Nursing" means the state plan nursing services described in OAR chapter 410, division 132 (OHA, Private Duty Nursing Services) and OAR 411-300-0150, that are determined medically necessary to support a child or young adult in a foster home.

(48) "Protected Health Information" means any oral or written health information that identifies a child and relates to the past, present, or future physical or mental health condition, health care treatment, or payment for health care treatment.

(49) "Punishment" means the imposition of a penalty as retribution for an offense or unwanted behavior.

(50) "Qualified Mental Health Professional" means a licensed medical practitioner or any other meeting the minimum qualifications specified in OAR 309-019-0125.

(51) "Revocation" means the action taken by the certifying agency to rescind a child foster home certificate of approval after the certifying agency has determined that the foster provider or the child foster home is not in compliance with one or more of these rules.

(52) "Safeguarding Equipment" means a device used to provide support to a child for the purpose of achieving and maintaining functional body position, proper balance, and protecting the child from injury or symptoms of existing medical conditions.

(53) "Significant Medical Needs" includes, but is not limited to, total assistance required for all activities of daily living, such as access to food or fluids, daily hygiene that is not attributable to the chronological age of a child, and frequent medical interventions required by a Nursing Service Plan or ISP for health and safety of the child.

(54) "Suspension" means an immediate, temporary withdrawal of the approval to operate a child foster home after the certifying agency determines a foster provider or the child foster home is not in compliance with one or more of these rules or there is a threat to the health, safety, or welfare of a child.

(55) "These Rules" mean the rules in OAR chapter 411, division 346.

(56) "Unauthorized Absence" means any length of time when a child is absent from a foster home without prior approval as specified in the ISP for the child.

(57) "Urgent Medical Need" means the onset of psychiatric or medical symptoms requiring attention within 48 hours to prevent a serious deterioration in the mental or physical condition of a child.

(58) "Variance" means the temporary exemption from a regulation or provision of these rules that may be granted by the Department upon written application by the certifying agency.

Stat. Auth.: ORS 409.050 & 443.835

Stats. Implemented: ORS 430.215, 443.830, 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0110, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11; SPD 15-2011, f. & cert. ef. 7-1-11; SPD 27-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 62-2013, f. 12-27-13, cert. ef. 12-28-13; APD 28-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 46-2014, f. 12-26-14, cert. ef. 12-28-14; APD 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-20-16; APD 30-2016, f. 8-18-16, cert. ef. 8-20-16

## 411-346-0170

### Personal Qualifications of the Applicant and Foster Provider

(1) The applicant and foster provider must:

(a) Be responsible, stable, emotionally mature adults who exercise sound judgment;

(b) Have the interest, motivation, and ability to nurture, support, and meet the mental, physical, developmental, and emotional needs of a child placed in the foster home;

(c) Be willing to receive training and have the ability to learn and use effective child-rearing practices to enable a child placed in the foster home to grow, develop, and build positive personal relationships and self-esteem;

(d) Demonstrate the knowledge and understanding of positive supports and ways of helping a child in foster care build positive personal relationships, self-control, and self-esteem;

(e) Respect the child's relationship with his or her parents and siblings and be willing to work in partnership with family members, agencies, and schools involved with the child to attain the goals as listed in the IEP, ISP, and Case Plan;

(f) Respect the child's privacy in accordance with the child's age;

(g) Have supportive ties with others who might support, comfort, and advise them, such as family, friends, neighborhood contacts, churches, or community groups;

(h) Demonstrate a lifestyle and personal habits free from abuse or misuse of alcohol or drugs;

(i) Be at least 21 years of age, unless otherwise specified through ICWA and requirements for placement of Native American children; and

(j) Be able to realistically evaluate which children they may accept, work with, and integrate into their family.

(2) HEALTH QUALIFICATIONS.

(a) The applicant and foster provider must provide the Department with the health history of each member of the household, including physical and mental health services and treatment received. Within one working day, the foster provider must inform the Department if any member of the household has or develops a serious communicable disease or other serious health condition that may affect the provider's ability to care for the child, or may affect the health and safety of the child.

(b) The applicant, foster provider, and other adults in the household caring for a child in foster care must be physically and mentally able to perform the duties of a foster provider as described in these rules.

(c) The applicant, foster provider, and others in the household must be free from abuse or misuse of alcohol or drugs. In the case of alcoholism or substance abuse, the applicant, foster provider, or others in the household must demonstrate that they have been substance-free and sober for at least two years prior to making application for certification.

(d) When requested by the Department either during the application process or while certified, the applicant or foster provider must, at their expense and from a source acceptable to the Department, supply psychological, medical or physical, sex-offender, drug and alcohol, and psychiatric reports and evaluations to the Department.

Stat. Auth.: ORS 409.050 & 443.835

Stats. Implemented: ORS 430.215, 443.830, 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0170, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 62-2013, f. 12-27-13, cert. ef. 12-28-13; APD 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-20-16; APD 30-2016, f. 8-18-16, cert. ef. 8-20-16

## 411-346-0190

### Standards and Practices for Care and Services

(1) The foster provider must:

(a) Provide structure and daily activities designed to promote the physical, social, intellectual, cultural, spiritual, and emotional development of the child in the child foster home;

(b) Provide playthings and activities in the foster home, including games, recreational and educational materials, and books, appropriate to the chronological age, culture, and developmental level of the child;

(c) In accordance with the ISP and as defined in the DHS-CW case plan (if applicable), encourage the child to participate in age-appropriate and developmentally-appropriate activities including, but not limited to, extracurricular, enrichment, cultural, and social activities, and support the participation of the child in such activities with family, friends, and on his or her own when appropriate;

(d) Promote the independence and self-sufficiency of the child by encouraging and assisting the child to develop new skills and perform age-appropriate tasks;

(e) In accordance with the ISP and as defined in the DHS-CW case plan (if applicable), ask the child in foster care to participate in household chores appropriate to the age and ability of the child that are commensurate with household chores expected of the children of the foster provider;

(f) Provide the child with reasonable access to a telephone and to writing materials;

(g) In accordance with the ISP and as defined in the DHS-CW Case Plan (if applicable), permit and encourage the child to have visits with family and friends;

(h) Allow regular contacts and private visits or phone calls with the CDDP services coordinator and the DHS-CW case worker (if applicable); and

(i) Not allow a child in foster care to baby-sit in the child foster home or elsewhere without permission of the CDDP services coordinator and the guardian.

(2) RIGHTS OF A CHILD.

(a) The rights of a child are described in OAR 411-318-0010 (Individual Rights).

(b) The individual rights are provided as described in OAR 411-318-0010 (Individual Rights).

(3) RELIGIOUS, ETHNIC, AND CULTURAL HERITAGE.

## ADMINISTRATIVE RULES

(a) The foster provider must recognize, encourage, and support the religious beliefs, ethnic heritage, cultural identity, and language of a child and the family of a child.

(b) In accordance with the ISP and the preferences of the guardian of the child, the foster provider must participate with the ISP team to arrange transportation and appropriate supervision during religious services or ethnic events for a child whose beliefs and practices are different from those of the foster provider.

(c) The foster provider may not require a child to participate in religious activities or ethnic events contrary to the beliefs of the child.

(4) PUBLIC EDUCATION. The foster provider:

(a) Must enroll each child of school age in public school within five school days of the placement and arrange for transportation;

(b) Must comply with any Alternative Educational Plan described in the IEP for the child;

(c) Must be actively involved in the school program for the child and must participate in the development of the IEP. The foster provider may apply to be the educational surrogate of the child if requested by the parent or guardian of the child;

(d) Must consult with school personnel when there are issues with the child in school and report to the guardian and CDDP services coordinator any serious situations that may require Department involvement;

(e) Must support the child in his or her school or educational placement;

(f) Must assure the child regularly attends school or educational placement and monitor the educational progress of the child; and

(g) May sign consent to the following school related activities:

(A) School field trips within the state of Oregon;

(B) Routine social events;

(C) Sporting events;

(D) Cultural events; and

(E) School pictures for personal use only unless prohibited by the court or legal guardian.

(h) Must support the involvement of the child's parent (unless limited by court order) and CDDP services coordinator in the child's public education decision-making process.

(5) ALTERNATE CAREGIVERS.

(a) The foster provider must arrange for safe and responsible alternate care.

(b) A child care plan for a child in foster care must be approved by the Department, the CDDP, or DHS-CW before it is implemented. When a child is cared for by a child care provider or child care center, the provider or center must be certified as required by the State Child Care Division (ORS 329A.280) or be a certified foster provider.

(c) The foster provider must have a Relief Care Plan approved by the certifying agency or the Department when using alternate caregivers.

(d) The foster provider must assure the alternate caregivers, consultants, and volunteers are:

(A) 18 years of age or older;

(B) Capable of assuming foster care responsibilities;

(C) Present in the home;

(D) Physically and mentally capable to perform the duties of the foster provider as described in these rules;

(E) Cleared by a background check as described in OAR 411-346-0150, including a DHS-CW background check;

(F) Able to communicate with the child, individuals, agencies providing care to the child, the CDDP services coordinator, and appropriate others;

(G) Trained on fire safety and emergency procedures;

(H) Trained on the ISP, Behavior Support Plan, and any related protocols for the child;

(I) Able to provide the care needed for the child;

(J) Trained on the required documentation for health, safety, and behavioral needs of the child;

(K) A licensed driver and vehicle insurance in compliance with the laws of the Driver and Motor Vehicle Services Division when transporting children by motorized vehicle;

(L) Not be a person who requires care in a foster care or group home; and

(M) Not be the parent or guardian of the child.

(e) When the foster provider uses an alternate caregiver and the child is staying at the home of the alternate caregiver, the foster provider must assure the home of the alternate caregiver meets the necessary health, safety, and environmental needs of the child.

(f) When the foster provider arranges for social activities of the child for less than 24 hours, including an overnight arrangement, the foster provider must assure that the person is responsible and capable of assuming child care responsibilities and is present at all times. The foster provider still maintains primary responsibility for the child.

(6) FOOD AND NUTRITION.

(a) The foster provider must offer three nutritious meals daily at times consistent with those in the community.

(A) Daily meals must include food from the four basic food groups, including fresh fruits and vegetables in season, unless otherwise specified in writing by a licensed medical professional or qualified health care provider.

(B) There must be no more than a 14-hour span between the evening meal and breakfast unless snacks and liquids are served as supplements.

(C) Consideration must be given to cultural and ethnic background in food preparation.

(b) Children must be permitted to acquire, store, and access personal foods in the home in a manner consistent with age-typical practices for children living in the community and in accordance with the child's person-centered service plan.

(c) Any home canned food used must be processed according to the guidelines of Oregon State University extension services (<http://extension.oregonstate.edu/fch/food-preservation>).

(d) All food items must be used prior to the expiration date.

(e) The foster provider must implement special diets only as prescribed in writing by a licensed medical professional or qualified health care provider.

(f) The foster provider must prepare and serve meals in the foster home where the child lives. Payment for meals eaten away from the foster home (e.g. restaurants) for the convenience of the foster provider is the responsibility of the foster provider.

(g) When serving milk, the foster provider must only use pasteurized liquid or powdered milk for consumption by a child in foster care.

(h) A child who must be bottle-fed and cannot hold the bottle, or is 11 months or younger, must be held during bottle-feeding.

(7) CLOTHING AND PERSONAL BELONGINGS.

(a) The foster provider must assure that each child has his or her own clean, well-fitting, seasonal clothing appropriate to age, gender, culture, individual needs, and comparable to the community standards.

(b) A school-age child must participate in choosing his or her own clothing whenever possible.

(c) The foster provider must allow a child to bring and acquire appropriate personal belongings.

(d) The foster provider must assure that when a child leaves the child foster home the belongings of the child, including all personal funds, medications, and personal items, remain with the child. This includes all items brought with the child and obtained while living in the child foster home.

(8) BEHAVIOR SUPPORT PRACTICES.

(a) The foster provider must teach and support a child with respect, kindness, and understanding, using positive behavioral theory and practice. Unacceptable practices include, but are not limited to, the following:

(A) Physical force, spanking, or threat of physical force inflicted in any manner upon the child;

(B) Verbal abuse, including derogatory remarks about the child or the family of the child that undermine the self-respect of the child;

(C) Denial of food, clothing, or shelter;

(D) Denial of visits or contacts with family members, except when otherwise indicated in the ISP or the DHS-CW case plan (if applicable);

(E) Assignment of extremely strenuous exercise or work;

(F) Threatened or unauthorized use of protective physical intervention;

(G) Use or threatened use of mechanical restraints;

(H) Punishment for bed-wetting or punishment related to toilet training;

(I) Delegating or permitting punishment of a child by another child;

(J) Threat of removal from the child foster home as a punishment;

(K) Use of shower or aversive stimuli as punishment;

(L) Group punishment for misbehavior of one child;

(M) Locking a child in a room or area inside or outside of the home;

(N) Isolating or secluding the child from others; and

(O) Punishing a child by intentionally inflicting emotional or physical pain or suffering.

(b) The foster provider must set clear expectations, limits, and consequences of behavior in a non-punitive manner.

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(c) The foster provider may use a time-out only for the purpose of giving the child a short break for the child to regain control. If the foster provider uses time-out, the following conditions apply:

(A) Use of time-out must be approved by the ISP team and documented in the ISP.

(B) Only common-use living areas of the home are to be used for time-out.

(C) Time-out is to be used for short duration and frequency as approved by the ISP team. The duration must be appropriate to the chronological age, emotional condition, and developmental level of the child.

(d) No child in foster care or other child in a child foster home is to be subjected to physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury, or threats of harm as defined in ORS 419B.005 and OAR 407-045-0260.

(e) **BEHAVIOR SUPPORT PLAN.** For a child who has demonstrated a serious threat to self, others, or property and for whom it has been decided a Behavior Support Plan is needed, the Behavior Support Plan must be developed by a Behavior Consultant with the approval of the ISP team.

(f) **PROTECTIVE PHYSICAL INTERVENTION.** A protective physical intervention must be used only for health and safety reasons and under the following conditions:

(A) As part of the ISP team approved Behavior Support Plan.

(i) When protective physical intervention is employed as part of the Behavior Support Plan, the foster provider and alternate caregivers must complete OIS training prior to the implementation of the Behavior Support Plan.

(ii) The use of any modified OIS protective physical intervention must have written approval from the OIS Steering Committee prior to implementation. Documentation of the approval of the OIS Steering Committee must be maintained in the records for the child.

(B) As in a health-related protection prescribed by a physician or qualified health care provider, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for protection during the time that a medical condition exists.

(C) As an emergency measure if absolutely necessary to protect the child or others from immediate injury and only until the child is no longer an immediate threat to self or others.

(g) **MECHANICAL RESTRAINT.** The use of mechanical restraints is prohibited. Mechanical restraint is not:

(A) The use of acceptable infant safety products;

(B) The use of car safety systems, consistent with applicable (Oregon) state law for children without disabilities; or

(C) The use of safeguarding equipment when ordered by a physician or health care provider and approved by the ISP team.

(h) **DOCUMENTATION AND NOTIFICATION OF USE OF PROTECTIVE PHYSICAL INTERVENTION.**

(A) The foster provider must document the use of all protective physical interventions in an incident report. A copy of the incident report must be provided to the CDDP services coordinator and guardian.

(B) If an approved protective physical intervention is used, the foster provider must send a copy of the incident report within five business days to the CDDP services coordinator and guardian.

(C) If an emergency or non ISP team approved protective physical intervention is used, the foster provider must send a copy of the incident report within 24 hours to the CDDP services coordinator and guardian. The foster provider must make oral notification to the CDDP services coordinator and guardian no later than the next business day.

(D) The original incident report must be on file with the foster provider in the records for the child.

(E) The incident report must include:

(i) The name of the child to whom the protective physical intervention was applied;

(ii) The date, location, type, and duration of entire incident and protective physical intervention;

(iii) The name of the provider and witnesses or people involved in applying the protective physical intervention;

(iv) The name and position of the person notified regarding the use of the protective physical intervention; and

(v) A description of the incident, including precipitating factors, preventive techniques applied, description of the environment, description of any physical injury resulting from the incident, and follow-up recommendations.

(9) **MEDICAL AND DENTAL CARE.** The foster provider must:

(a) Provide care and services as appropriate to the chronological age, developmental level, and condition of the child, and as identified in the ISP;

(b) Assure that the orders of a physician, qualified health care provider, or other licensed medical professional are implemented as written;

(c) Inform the physicians or qualified health care providers of current medications and changes in health status and if the child refuses care, treatments, or medications;

(d) Inform the guardian and CDDP services coordinator of any changes in the health status of the child except as otherwise indicated in the DHS-CW Permanent Foster Care contract agreement and as agreed upon in the ISP;

(e) Obtain the necessary medical, dental, therapies, and other treatments of care including, but not limited to:

(A) Making appointments;

(B) Arranging for or providing transportation to appointments; and

(C) Obtaining emergency medical care.

(f) Have prior consent from the guardian of the child for medical treatment that is not routine, including surgery and anesthesia, except in cases where a DHS-CW Permanent Foster Care contract agreement exists;

(g) Keep current medical records. The records must include when applicable:

(A) Any history of physical, emotional, and medical problems, illnesses, and mental health status;

(B) Current orders for all medications, treatments, therapies, use of protective physical intervention, special diets, adaptive equipment, and any known food or medication allergies;

(C) Completed medication administration record (MAR) from previous months;

(D) Pertinent medical and behavioral information, such as hospitalizations, accidents, immunization records, including Hepatitis B status and previous TB tests, and incidents or injuries affecting the health, safety, or emotional well-being of the child;

(E) Documentation or other notations of guardian consent for medical treatment that is not routine including surgery and anesthesia;

(F) Record of medical appointments;

(G) Medical appointment follow-up reports provided to the foster provider; and

(H) Copies of previous mental health assessments, assessment updates including multi-axial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services.

(h) Provide, when requested, copies of medical records and medication administration records to the legal guardian of the child, CDDP services coordinator, and DHS-CW caseworker; and

(i) Provide copies, as applicable, of the medical records described in subsection (9)(g)(H) of this section to a licensed medical professional prior to a medical appointment or no later than the time of the appointment with the licensed medical professional.

(j) Support the involvement of the child's parent (unless limited by court order) and CDDP services coordinator in the child's medical and dental care coordination.

(10) **MEDICATIONS AND PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER ORDERS.**

(a) There must be authorization by a physician or qualified health care provider in the file for the child prior to the usage of, or implementation of, any of the following:

(A) All prescription medications;

(B) Nonprescription medications except over the counter topicals;

(C) Treatments other than basic first aid;

(D) Therapies and use of mechanical restraint as a health and safety related protection;

(E) Modified or special diets;

(F) Prescribed adaptive equipment; and

(G) Aids to physical functioning.

(b) The foster provider must have:

(A) A copy of the authorization in the format of a written order signed by a physician or a qualified health care provider;

(B) Documentation of a telephone order by a physician or qualified health care provider with changes clearly documented on the MAR, including the name of the person giving the order, the date and time, and the name of the person receiving the telephone order; or

(C) A current prescription or label from the manufacturer as specified by the order of a physician on file with the pharmacy.

(c) A provider or alternate caregiver must carry out orders as prescribed by a physician or a qualified health care provider. Changes may not be made without the authorization of a physician or a qualified health care provider.



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(d) Each medication for a child, including refrigerated medication, must be clearly labeled with the label of the pharmacist or in the originally labeled container from the manufacturer and kept in a locked location or stored in a manner that prevents access by children.

(e) Unused, outdated, or recalled medications may not be kept in the child foster home and must be disposed of in a manner that prevents illegal diversion into the possession of people other than for which the medication was prescribed.

(f) The foster provider must keep a MAR for each child. The MAR must be kept for all medications administered by the foster provider or alternate caregiver to that child, including over the counter medications and medications ordered by physicians or qualified health care providers and administered as needed (PRN) for the child.

(g) The MAR must include:

(A) The name of the child in foster care;

(B) A transcription of the written order of the physician or licensed health care provider, including the brand or generic name of the medication, prescribed dosage, frequency, and method of administration;

(C) A transcription of the printed instructions from the package for topical medications and treatments without an order from a physician or licensed health care provider;

(D) Times and dates of administration or self-administration of the medication;

(E) Signature of the person administering the medication or the person monitoring the self-administration of the medication;

(F) Method of administration;

(G) An explanation of why a PRN medication was administered;

(H) Documented effectiveness of any PRN medication administration;

(I) An explanation of all medication administration or documentation irregularities; and

(J) Any known allergy or adverse drug reactions and procedures that maintain and protect the physical health of the child placed in the foster home.

(h) Any errors in the MAR must be corrected by circling the error and then writing on the back of the MAR what the error was and why.

(i) Treatments, medication, therapies, and special diets must be documented on the MAR when not used or applied according to the order of a physician or licensed health care provider.

(j) SELF-ADMINISTRATION OF MEDICATION. For any child who is self-administering medication, the foster provider must:

(A) Have documentation that a training program was initiated with approval of the ISP team or that training for the child was unnecessary;

(B) Have a training program that provides for retraining when there is a change in dosage, medication, and time of delivery;

(C) Provide for an annual review, at a minimum as part of the ISP process, upon completion of the training program;

(D) Assure that the child is able to handle his or her own medication regime;

(E) Keep medications stored in a locked area inaccessible to others; and

(F) Maintain written documentation of all training in the medical record for the child.

(k) The foster provider may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic remedies, without direction and supervision of a licensed health care provider.

(l) Any medication that is used with the intent to alter the behavior of a child must be documented in the ISP for the child.

(m) BALANCING TEST. When a psychotropic medication is first prescribed and annually thereafter, the foster provider must obtain a signed balancing test from the prescribing health care provider using the Balancing Test Form (form SDS 4110). Foster providers must present the physician or health care provider with a full and clear description of the behavior and symptoms to be addressed as well as any side effects observed.

(n) PRN prescribed psychotropic medication is prohibited.

(o) A mental health assessment by a qualified mental health professional or licensed medical professional must be completed, except as noted in subparagraph (A) of this subsection, prior to the administration of a new medication for more than one psychotropic or any antipsychotic medication to a child in foster care.

(A) A mental health assessment is not required in the following situations:

(i) In a case of urgent medical need;

(ii) For a substitution of a current medication within the same class;

or

(iii) A medication order given prior to a medical procedure.

(B) When a mental health assessment is required, the foster provider:

(i) Must notify the DHS-CW caseworker when the child is in legal custody of DHS-CW; or

(ii) Must arrange for a mental health assessment when the child is a voluntary care placement.

(C) The mental health assessment:

(i) Must have been completed within three months prior to the prescription; or

(ii) May be an update of a prior mental health assessment that focuses on a new or acute problem.

(D) Whenever possible, information from the mental health assessment must be communicated to the licensed medical professional prior to the issuance of a prescription for psychotropic medication.

(p) Within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for the child in foster care, the foster provider must notify:

(A) The CDDP services coordinator; and

(B) The parent of the child when the parent retains legal guardianship or the person who has legal guardianship; or

(C) DHS-CW when DHS-CW is the legal guardian of the child.

(q) The notification from the foster provider to the parent or guardian and the CDDP services coordinator must contain:

(A) The name of the prescribing physician or qualified health care provider;

(B) The name of the medication;

(C) The dosage, any change of dosage, suspension, or discontinuation of the current psychotropic medication;

(D) The dosage administration schedule prescribed; and

(E) The reason the medication was prescribed.

(r) The foster provider must get a written informed consent prior to filling a prescription for any new psychotropic medication except in a case of urgent medical need from DHS-CW when DHS-CW is the legal guardian.

(s) The foster provider must cooperate as requested, when a review of psychotropic medications is indicated.

(11) NURSING SERVICES. When nursing services are provided to a child, the foster provider must:

(a) Coordinate with the registered nurse and the ISP team to ensure that the nursing services being provided are sufficient to meet the health needs of the child; and

(b) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.

(12) COMMUNITY NURSING SERVICES.

(a) Community nursing services include:

(A) Nursing assessments, including medication reviews;

(B) Care coordination;

(C) Monitoring;

(D) Development of a Nursing Service Plan;

(E) Delegation and training of nursing tasks to a foster provider or alternate caregiver;

(F) Teaching and education of the foster provider and identifying supports that minimize health risks while promoting the autonomy of a child and self-management of healthcare; and

(G) Collateral contact with a services coordinator regarding the community health status of a child to assist in monitoring safety and well-being and to address needed changes to the ISP for the child.

(b) Community nursing services exclude direct nursing services.

(c) When Department funds are used for community nursing services, prior authorization of such services must be in accordance with OAR 411-048-0180.

(d) After an initial nursing assessment, a nursing reassessment must be completed every six months or sooner if a change in medical condition requires an update to the Nursing Service Plan.

(e) When community nursing services are provided to a child, the foster provider must:

(A) Coordinate with the registered nurse and the ISP team to ensure that the nursing services being provided are sufficient to meet the health needs of the child; and

(B) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and registered nurse.

(f) A registered nurse providing community nursing services must:

(A) Be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048;

(B) Meet the qualifications described in OAR 411-048-0210; and

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(C) Submit a resume to the CDDP indicating the education, skills, and abilities necessary to provide nursing services in accordance with Oregon law, including at least one year of experience with individuals with intellectual or developmental disabilities.

(g) A registered nurse providing community nursing services must comply with:

(A) Provider record and documentation requirements referenced in OAR 407-120-0100 to 407-120-1505 for financial, clinical, and other records including the Provider Enrollment Agreement and electronic billing procedures;

(B) Department direct contracts (if applicable); and

(C) Service record requirements outlined in this rule.

(13) PRIVATE DUTY NURSING. As defined in OAR chapter 410, division 132 (OHA, Private Duty Nursing Services) and the Medicaid State Plan, a child or young adult aged 0 through 20 that resides in a foster home may receive private duty nursing services in accordance with OAR 411-300-0150 (Private Duty Nursing).

(a) When private duty nursing services are provided, the provider must:

(A) Coordinate with the registered nurse and the ISP team to ensure that the nursing services being provided are sufficient to meet the health needs of the child; and

(B) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and registered nurse.

(b) A nurse providing private duty nursing services must be an enrolled Medicaid Provider as described in OAR 410-132-0200 (OHA, Provider Enrollment).

(14) DELEGATION AND SUPERVISION OF NURSING TASKS. Nursing tasks must be delegated by a registered nurse to a foster provider or alternate caregiver in accordance with the rules of the Oregon State Board of Nursing in OAR chapter 851, division 047.

(15) CHILD RECORDS.

(a) GENERAL INFORMATION OR SUMMARY RECORD. The provider must maintain a record for each child in the home. The record must include:

(A) The name, date of entry into the foster home, date of birth, gender, religious preference, and guardianship status of the child;

(B) The names, addresses, and telephone numbers of the guardian, family, or other significant person of the child;

(C) The name, address, and telephone number of the preferred primary health care provider, designated back up health care provider and clinic, dentist, preferred hospital, medical card number and any private insurance information, and Oregon Health Plan choice of the child;

(D) The name, address, and telephone number of the school program for the child; and

(E) The name, address, and telephone number of the CDDP services coordinator and representatives of other agencies providing services to the child.

(b) EMERGENCY INFORMATION. The foster provider must maintain emergency information for each child receiving foster care services in the child foster home. The emergency information must be kept current and must include:

(A) The name of the child;

(B) The address and telephone number of the child;

(C) The physical description of the child, which may include a picture and the date it was taken, and identification of:

(i) The race, gender, height, weight range, hair, and eye color of the child; and

(ii) Any other identifying characteristics that may assist in identifying the child if the need arises, such as marks or scars, tattoos, or body piercing.

(D) Information on the abilities and characteristics of the child including:

(i) How the child communicates;

(ii) The language the child uses or understands;

(iii) The ability of the child to know how to take care of bodily functions; and

(iv) Any additional information that may assist a person not familiar with the child to understand what the child may do for him or herself.

(E) The health support needs of the child including:

(i) Diagnosis;

(ii) Allergies or adverse drug reactions;

(iii) Health issues that a person needs to know when taking care of the child;

(iv) Special dietary or nutritional needs such as requirements around textures or consistency of foods and fluids;

(v) Food or fluid limitations due to allergies, diagnosis, or medications the child is taking that may be an aspiration risk or other risk for the child;

(vi) Additional special requirements the child has related to eating or drinking such as special positional needs or a specific way foods or fluids are given to the child;

(vii) Physical limitations that may affect the ability of the child to communicate, respond to instructions, or follow directions;

(viii) Specialized equipment needed for mobility, positioning, or other health related needs;

(ix) The emotional and behavioral support needs of the child including:

(I) Mental health or behavioral diagnosis and the behaviors displayed by the child; and

(II) Approaches to use when supporting the child to minimize emotional and physical outbursts.

(x) Any court ordered or guardian authorized contacts or limitations;

(xi) The supervision requirements of the child and why; and

(xii) Any additional pertinent information the provider has that may assist in the care and support of the child if a natural or man-made disaster occurs.

(c) EMERGENCY PLANNING. The foster provider must post emergency telephone numbers in close proximity to all phones utilized by the foster provider or alternate caregivers. The posted emergency telephone numbers must include:

(A) Telephone numbers of the local fire, police department, and ambulance service if not served by a 911 emergency services; and

(B) The telephone number of any emergency physician and additional people to be contacted in the case of an emergency.

(d) WRITTEN EMERGENCY PLAN.

(A) Foster providers must develop, maintain, update, and implement a written Emergency Plan for the protection of all children in foster care in the event of an emergency or disaster. The Emergency Plan must:

(i) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the responsibilities of the foster provider and alternate caregiver.

(ii) Consider the needs of the child and address all natural and human-caused events identified as a significant risk for the child foster home such as a pandemic or an earthquake.

(iii) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place when unable to relocate for a minimum of three days under the following conditions:

(I) Extended utility outage;

(II) No running water;

(III) Inability to replace food supplies; and

(IV) An alternate caregiver is unable to provide relief care or additional support and care.

(iv) Include provisions for evacuation and relocation that identifies:

(I) The duties of the alternate caregivers during evacuation, transporting, and housing of the child, including instructions to notify the parent or legal guardian of the child, the Department or the designee of the Department, the CDDP services coordinator, and DHS-CW as applicable, of the plan to evacuate or the evacuation of the child foster home as soon as the emergency or disaster reasonably allows;

(II) The method and source of transportation;

(III) Planned relocation sites that are reasonably anticipated to meet the needs of the child;

(IV) A method that provides people unknown to the child the ability to identify each child by the name of the child and to identify the name of the supporting provider for the child; and

(V) A method for tracking and reporting to the Department or the designee of the Department and the local CDDP, the physical location of each child in foster care until a different entity resumes responsibility for the child.

(v) Address the needs of the child including provisions to provide:

(I) Immediate and continued access to medical treatment, information necessary to obtain care, treatment, food, and fluids for the child during and after an evacuation and relocation;

(II) Continued access to life-sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation;

(III) Behavior support needs anticipated during an emergency; and

(IV) The supports needed to meet the life-sustaining and safety needs of the child.

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(B) The foster provider must provide and document all training to alternate caregivers regarding the responsibilities of the alternate caregiver for implementing the Emergency Plan.

(C) The foster provider must re-evaluate and revise the Emergency Plan at least annually or when there is a significant change in the child foster home.

(D) The foster provider must complete the Emergency Plan Summary, on the form supplied by the Department, and must send the Emergency Plan Summary to the Department annually and upon change of foster provider or location of the child foster home.

(e) INDIVIDUAL SUPPORT PLAN (ISP). Within 60 days of placement, the ISP for a child must be prepared and updated at least annually.

(A) If requested by the child or guardian, the foster provider must participate with the ISP team in the development and implementation of the ISP to address the behavior, medical, social, financial, safety, and other support needs of the child.

(B) Prior to, or upon entry to, or exit from the child foster home, the foster provider must participate in the development and implementation of a Transition Plan for the child.

(i) The Transition Plan must include a summary of the services necessary to facilitate the adjustment of the child to the child foster home or after care plan; and

(ii) Identify the supports necessary to ensure the health, safety, and any assessments and consultations needed for ISP development.

(f) FINANCIAL RECORDS.

(A) The foster provider must maintain a separate financial record for each child. Errors must be corrected with a single strike through and initialed by the person making the correction. The financial record must include:

(i) The date, amount, and source of all income received on behalf of the child;

(ii) The room and board fee that is paid to the foster provider at the beginning of each month;

(iii) The date, amount, and purpose of funds disbursed on behalf of the child; and

(iv) The signature of the person making the entry.

(B) Any single transaction over \$25 purchased with the personal funds of the child, unless otherwise indicated in the ISP for the child, must be documented in the financial record for the child and include the receipt.

(C) The ISP team may address how the personal spending money of a child is managed.

(D) If the child has a separate commercial bank account, records from the account must be maintained with the financial record for the child.

(E) The personal funds of a child must be maintained in a safe manner and separate from the funds of other members of the household.

(F) Misuse of funds may be cause for suspension, revocation, or denial of renewal of the child foster home certificate.

(g) PERSONAL PROPERTY RECORD.

(A) The foster provider must maintain a written record of the property of a child of monetary value of more than \$25 or that has significant personal value to the child, parent, or guardian, or as determined by the ISP team. Errors must be corrected with a single strike through and initialed by the person making the correction.

(B) Personal property records are not required for children who have a court approved Permanent Foster Care contract agreement unless requested by the guardian of the child.

(C) The personal property record must include:

(i) The description and identifying number, if any;

(ii) The date when the child brought in the personal property or made a new purchase;

(iii) The date and reason for the removal from the record; and

(iv) The signature of the person making the entry.

(h) EDUCATIONAL RECORDS. The foster provider must maintain the following educational records when available:

(A) The report cards for the child;

(B) Any reports received from the teacher or the school;

(C) Any evaluations received as a result of educational testing or assessment; and

(D) Disciplinary reports regarding the child.

(i) Child records must be available to representatives of the Department, the certifying agency, and DHS-CW conducting inspections or investigations, as well as to the child, if appropriate, and the guardian or other legally authorized people.

(j) Child records must be kept for a period of three years. If a child moves or the foster home closes, copies of pertinent information must be transferred to the new home of the child.

Stat. Auth.: ORS 409.050 & 443.835

Stats. Implemented: ORS 430.215, 443.830, 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0190, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11; SPD 15-2011, f. & cert. ef. 7-1-11; SPD 62-2013, f. 12-27-13, cert. ef. 12-28-13; APD 28-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 46-2014, f. 12-26-14, cert. ef. 12-28-14; APD 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-20-16; APD 30-2016, f. 8-18-16, cert. ef. 8-20-16

## 411-346-0200

### Environmental Standards

(1) GENERAL CONDITIONS.

(a) The buildings and furnishings must be clean and in good repair and grounds must be maintained and accessible according to the needs of the children residing in the home.

(b) Walls, ceilings, windows, and floors must be of such character to permit frequent washing, cleaning, or painting.

(c) There must be no accumulation of garbage, debris, or rubbish.

(d) The home must have a safe, properly installed, maintained, and operational heating system. Areas of the home used by the child in foster care must be maintained at normal comfort range during the day and during sleeping hours. During times of extreme summer heat, the provider must make reasonable effort to make the child comfortable using available ventilation, fans, or air-conditioning.

(2) EXTERIOR ENVIRONMENT.

(a) The premises must be free from objects, materials, and conditions that constitute a danger to the occupants.

(b) Swimming pools, wading pools, ponds, hot tubs, and trampolines must be maintained to assure safety, kept in clean condition, equipped with sufficient safety barriers or devices to prevent injury, and used by a child in foster care only under direct supervision by the provider or approved alternate caregiver.

(c) The home must have a safe outdoor play area on the property or within reasonable walking distance.

(3) INTERIOR ENVIRONMENT.

(a) KITCHEN.

(A) Equipment necessary for the safe preparation, storage, serving, and cleanup of meals must be available and kept in working and sanitary condition.

(B) Meals must be prepared in a safe and sanitary manner that minimizes the possibility of food poisoning or food-borne illness.

(C) If the washer and dryer are located in the kitchen or dining room area, soiled linens and clothing must be stored in containers in an area separate from food and food storage prior to laundering.

(b) DINING AREA. The home must have a dining area so the child in foster care may eat together with the foster family.

(c) LIVING OR FAMILY ROOM. The home must have sufficient living or family room space that is furnished and accessible to all members of the family, including the child in foster care.

(d) BEDROOMS. Bedrooms used by the child in foster care must:

(A) Have adequate space for the age, size, and specific needs of each child;

(B) Be finished and attached to the house, have walls or partitions of standard construction that go from floor to ceiling;

(C) Have an entrance door that:

(i) Opens directly to a hallway or common use room without passage through another bedroom or common bathroom; and

(ii) Meets the following requirements for the use of locks:

(I) Locks must be single action release; and

(II) For a child under the age of 18, a lock is only permitted when the ISP team has determined that a lock is a safe and appropriate means to support the privacy and independence of the child; or

(III) For a child age 18 or older, a lock is required unless there is a health or safety risk and an individually-based limitation has been implemented in accordance with OAR 411-004-0040.

(D) Have windows that open, provide sufficient natural light, and ventilation with window coverings that take into consideration the safety, care needs, and privacy of the child;

(E) Have no more than four children to a bedroom;

(F) Have safe, age appropriate furnishings that are in good repair provided for each child, including:

(i) A bed or crib with a frame unless otherwise documented by an ISP team decision, a clean comfortable mattress, and a water proof mattress cover if the child is incontinent;

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(ii) A private dresser or similar storage area for personal belongings that is readily accessible to the child;

(iii) A closet or similar storage area for clothing that is readily accessible to the child; and

(iv) An adequate supply of clean bed linens, blankets, and pillows. Bed linens are to be properly fitting and provided for each child's bed.

(G) Be on the ground level for a child who is non-ambulatory or has impaired mobility;

(H) Provide flexibility in the decoration for the personal tastes and expressions of the child placed in the provider's home;

(I) Be in close enough proximity to the provider to alert the provider to nighttime needs or emergencies or be equipped with a working monitor;

(J) Have no three-tier bunk beds in bedrooms occupied by a child in foster care; and

(K) Not be located on the third floor or higher from the ground level.

(e) A child of the foster provider may not be required to sleep in a room also used for another purpose in order to accommodate a child in foster care.

(f) The foster provider may not permit the following sleeping arrangements for a child placed in their home:

(A) Children of different sexes in the same room when either child is over the age of five years of age; and

(B) Children over the age of 12 months sharing a room with an adult.

(g) BATHROOMS.

(A) Bathrooms must have:

(i) Tubs or showers, toilets, and sinks operable and in good repair with hot and cold water;

(ii) A sink located near each toilet;

(iii) At least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and family;

(iv) Hot and cold water in sufficient supply to meet the needs of the child for personal hygiene. Hot water temperature sources for bathing and cleaning areas that are accessible by the child in foster care may not exceed 120 degrees F;

(v) Grab bars and non-slip floor surfaces for toilets, tubs, or showers for the child's safety as necessary for the child's care needs; and

(vi) Barrier-free access to toilet and bathing facilities with appropriate fixtures for a child who utilizes a wheel chair or other mechanical equipment for ambulation. Barrier free must be appropriate for the non-ambulatory child's needs for maintaining good personal hygiene.

(B) The foster provider must provide each child with the appropriate personal hygiene and grooming items that meet each child's specific needs and minimize the spread of communicable disease.

(C) Window coverings in bathrooms must take into consideration the safety, care needs, and privacy of the child.

(4) GENERAL SAFETY.

(a) The foster provider must protect the child from safety hazards.

(b) Stairways must be equipped with handrails.

(c) A functioning light must be provided in each room and stairway.

(d) In homes with a child in foster care three years of age or less, or a child with impaired mobility, the stairways must be protected with a gate or door.

(e) Hot water heaters must be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location.

(f) Adequate safeguards must be taken to protect a child who may be at risk for injury from electrical outlets, extension cords, and heat-producing devices.

(g) The foster home must have operable phone service at all times that is available to all persons in the foster home, including when there are power outages. The home must have emergency phone numbers readily accessible and in close proximity to the phone.

(h) The foster provider must store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by a child.

(i) The foster provider must restrict a child's access to potentially dangerous animals. Only domestic animals may be kept as pets. Pets must be properly cared for and supervised.

(j) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by local ordinances must be made available to the Department upon request.

(k) The foster provider must take appropriate measures to keep the house and premises free of rodents and insects.

(l) To protect the safety of a child in foster care, the provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the child.

(m) The foster provider must have first aid supplies in the home in a designated place easily accessible to adults.

(n) There must be emergency access to any room that has a lock.

(o) An operable flashlight, at least one per floor, must be readily available in case of emergency.

(p) House or mailbox numbers must be clearly visible and easy to read for easy identification by emergency vehicles.

(q) Use of video monitors must only be used as indicated in the ISP or BSP.

(5) FIRE SAFETY.

(a) Smoke alarms must be installed in accordance with manufacturer's instructions, equipped with a device that warns of low battery, and maintained to function properly.

(A) A smoke alarm must be installed in each bedroom, adjacent hallways leading to the bedrooms, common living areas, basements, and at the top of every stairway in multi-story homes.

(B) Ceiling placement of smoke alarms is recommended. If wall-mounted, smoke alarms must be mounted as per the manufacturer's instructions.

(b) At least one fire extinguisher, minimally rated 2:A:10:B:C, must be visible and readily accessible on each floor, including basements. A qualified professional who is well versed in fire extinguisher maintenance must inspect every fire extinguisher at least once per year. All recharging and hydrostatic testing must be completed by a qualified entity properly trained and equipped for this purpose.

(c) Use of space heaters must be limited to only electric space heaters equipped with tip-over protection. Space heaters must be plugged directly into the wall. Extension cords may not be used with space heaters. Freestanding kerosene, propane, or liquid fuel space heaters may not be used in the foster home.

(d) An Emergency Evacuation Plan must be developed, posted, and rehearsed at least once every 90 days with at least one drill practice per year occurring during sleeping hours. Alternate caregivers and other staff must be familiar with the Emergency Evacuation Plan and a new child placed in foster care must be familiar with the Emergency Evacuation Plan within 24 hours. Fire drill records must be retained for one year.

(A) Fire drill evacuation rehearsal must document the date, time for full evacuation, location of proposed fire, and names of all persons participating in the evacuation rehearsal.

(B) The foster provider must be able to demonstrate the ability to evacuate all children in foster care from the home within three minutes.

(e) Foster homes must have two unrestricted exits in case of fire. A sliding door or window that may be used to evacuate a child may be considered a usable exit.

(f) Barred windows or doors used for possible exit in case of fire must be fitted with operable quick release mechanisms.

(g) Every bedroom used by a child in foster care must have at least one operable window, of a size that allows safe rescue, with safe and direct exit to the ground, or a door for secondary means of escape or rescue.

(h) All external and inside doors must have simple hardware with an obvious method of operation that allows for safe evacuation from the home. A home with a child that is known to leave their place of residence without permission must have a functional and activated alarm system to alert the foster provider.

(i) Fireplaces and wood stoves must include secure barriers to keep a child safe from potential injury and away from exposed heat sources.

(j) Solid or other fuel-burning appliances, stoves, or fireplaces must be installed according to manufacturer's specifications and under permit, where applicable. All applicants applying for a new child foster home certificate after July 1, 2007 must have at least one carbon monoxide sensor installed in the home in accordance with manufacturer's instructions if the home has solid or other fuel-burning appliances, stoves, or fireplaces. All foster providers certified prior to July 1, 2007 and moving to a new location that uses solid or other fuel-burning appliances, stoves, or fireplaces, must install a carbon monoxide sensor in the home in accordance with manufacturer's instructions prior to being certified at the new location.

(k) Chimneys must be inspected at the time of initial certification and if necessary the chimney must be cleaned. Chimneys must be inspected annually unless the fireplace and or solid fuel-burning appliance was not used through the certification period and may not be used in the future. Required annual chimney inspections must be made available to the certifying agency during the certification renewal process.

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(l) A signed statement by the foster provider and certifying agency assuring that the fireplace, or solid fuel-burning appliance, or both may not be in use must be submitted to the Department with the renewal application if a chimney inspection is not completed.

(m) Flammable and combustible materials must be stored away from any heat source.

## (6) SANITATION AND HEALTH.

(a) A public water supply must be utilized if available. If a non-municipal water source is used, the water source must be tested for coliform bacteria by a certified agent yearly and records must be retained for two years. Corrective action must be taken to ensure potability.

(b) All plumbing must be kept in good working order. If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order.

(c) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, and removed weekly.

## (d) SMOKING.

(A) The foster provider may not provide tobacco products in any form to a child under the age of 18 placed in their home.

(B) A child in foster care may not be exposed to second hand smoke in the foster home or when being transported.

## (7) TRANSPORTATION SAFETY.

(a) The foster provider must ensure that safe transportation is available for children to access schools, recreation, churches, scheduled medical care, community facilities, and urgent care.

(b) If there is not a licensed driver and vehicle at all times there must be a plan for urgent and routine transportation.

(c) The foster provider must maintain all vehicles used to transport a child in a safe operating condition and must ensure that a first aid kit is in each vehicle.

(d) All motor vehicles owned by the foster provider and used for transporting a child must be insured to include liability.

(e) Only licensed adult drivers may transport a child in foster care in a motor vehicle. The motor vehicle must be insured to include liability.

(f) When transporting a child in foster care, the driver must ensure that the child uses seat belts or appropriate safety seats. Car seats or seat belts must be used for transporting a child in accordance with the Department of Transportation under ORS 815.055.

Stat. Auth.: ORS 409.050 & 443.835

Stats. Implemented: ORS 430.215, 443.830, 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0200, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11; SPD 15-2011, f. & cert. ef. 7-1-11; SPD 62-2013, f. 12-27-13, cert. ef. 12-28-13; APD 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-20-16; APD 30-2016, f. 8-18-16, cert. ef. 8-20-16

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**Rule Caption:** Homecare Workers Enrolled in the Consumer-Employed Provider Program

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**Rules Repealed:** 411-031-0020(T), 411-031-0040(T), 411-031-0050(T)

**Subject:** The Department of Human Services (Department) is permanently updating OAR 411-031 to make permanent temporary changes that were implemented in March 2016 that bring the rules into compliance with new federal and state law and collective bargaining requirements in regards to homecare workers. The changes:

- Permit the Department to begin calculating, tracking, and paying homecare workers for travel time between consumer-employers. This is a new requirement mandated by the United States Department of Labor (DOL) and the 2015-2019 Collective Bargaining Agreement between the Oregon Home Care Commission and the Service Employees International Union, Local 503, OPEU.

- Enable the Department to comply with Senate Bill 622, which adds homecare workers to the list of "Mandatory Reporters". The rules establish reporting standards and a process for what happens if a homecare worker does not report as they are required to do.

- Permit homecare workers to appeal terminations of their provider enrollment more quickly and to proceed to administrative hearing

more easily than the current process allows. These temporary rules bring the Department into compliance with ORS 183.310.

- Update the language on the trusts process;
- Delete language in regards to benefits; and
- Minor grammar, formatting, and housekeeping changes were done to align the rules with other current program rule and definition changes.

**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 and 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

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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 and supports 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) "Exerts Undue Influence" means a homecare worker assumes or attempts to assume control of a consumer-employer's decision-making, finances, home, property, medication, social interaction or ability to communicate. Exertion of undue influence may exist whether or not a consumer-employer willfully allows the homecare worker to assume such control.

(26) "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, as defined in OAR 411-020-0002(1)(e);

(B) Borrowing money, property, or belongings 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 to deliver services to a consumer during a time also 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;

(K) Requesting or demanding payment for services from either the Department or the consumer in excess of the amount paid following the submission and processing of a properly completed claim; or

(L) 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.

(27) "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 of Medicaid in-home services program described in OAR Chapter 411 Division 030;

(B) A consumer-employed provider in the Spousal Pay and Oregon Project Independence Programs;

(C) A consumer-employed provider that provides state plan personal care services; and

(D) 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.

(28) "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.

(29) "IADL" means "instrumental activities of daily living" as defined in this rule.

(30) "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.

(31) "Inactivated" means the process through which a homecare worker is made temporarily ineligible to work for any consumer-employer. Inactivating a homecare worker's provider enrollment does not terminate the homecare worker's provider enrollment.

(32) "Individual" means an older adult or an adult with a disability applying or eligible for services.

(33) "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.

(34) "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.

(35) "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 and the homecare worker may not leave the individual.

(36) "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.

(37) "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.

(38) "Non-Motorized Transportation" means traveling on foot, riding a bicycle, traveling in a wheelchair or scooter, or other similar means of transportation.

(39) "Office of Administrative Hearings" means the Office described in ORS 183.605-183.690 established within the Employment Department to conduct contested case proceedings, and other such duties, on behalf of designated state agencies.

(40) "Older Adult" means any person at least 65 years of age.

(41) "Oregon Homecare Commission" means the commission established and operated pursuant to Article XV, Section 11, of the Oregon Constitution, and ORS 410.595-625.

(42) "Oregon Project Independence" means the program of in-home services described in OAR chapter 411, division 032.

(43) "Personal Support Worker" has the meaning given in OAR 411-375-0010.

(44) "Preponderance of the Evidence" means that one party's evidence is more convincing than the other party's.

(45) "Provide Services as Required" means a homecare worker provides services to a consumer as described in the consumer's service plan.

(46) "Provider" means the person who renders the services.

(47) "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.

(48) "Provider Number" means an identifying number issued to each homecare worker who is enrolled as a provider through the Department.

(49) "Relative" means a person, excluding an individual's spouse, who is related to the individual by blood, marriage, or adoption.

(50) "Relief Homecare Worker" means a homecare worker who works for a consumer-employer when the consumer-employer's regularly scheduled homecare worker is absent.

(51) "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).

(52) "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.

(53) "Self-Management Tasks" means "Instrumental Activities of Daily Living" as defined in this rule.

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(54) “Skills, Knowledge, and Ability to Adequately or Safely Perform the Required Work” means a homecare worker possesses and demonstrates the physical, mental, organizational, and emotional skills or abilities necessary to perform services which safely and adequately meet the needs of consumers.

(55) “State Minimum Wage” or “Minimum Wage” means the rate of pay set forth in ORS 653.025.

(56) “These Rules” mean the rules in OAR chapter 411, division 031.

(57) “Time Off” means time where a homecare worker is not providing services to a consumer during a normally scheduled work time.

(58) “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.

(59) “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.

(60) “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.

(61) “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.

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; 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; APD 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; APD 31-2016, f. 8-24-16, cert. ef. 8-28-16

## 411-031-0030

### Purpose

The rules in OAR chapter 411, division 031 establish the standards and procedures governing homecare workers and the fiscal services provided on behalf of the Department or AAA consumers to homecare workers enrolled in the Consumer-Employed Provider Program. Homecare workers provide home and community-based waiver, state plan, and Oregon Project Independence in-home services to the Department or AAA consumers. In-home services supplement the ability of the Department or AAA consumers to continue to live in their own homes.

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 3-2010, f. 5-26-10, cert. ef. 5-30-10; SPD 4-2013, f. 3-25-13, cert. ef. 3-26-13; APD 31-2016, f. 8-24-16, cert. ef. 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 to provide the consumer-employer with assistance performing activities of daily living (ADLs) and instrumental activities of daily living (IADLs) throughout the course of a 24-hour period. The hourly structure assumes a provider is required for ADLs and IADLs during specific substantial periods. Except as indicated, all of the criteria in this rule 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 never be a representative. (see OAR 411-031-0020(51)), 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 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 and may not work, or claim payment for service unless they meet the following criteria:

(A) Maintain a drug-free work place.

(B) 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) Demonstrate the skills, knowledge, and ability to perform, or to learn to perform, the required work.

(D) Possess current U.S. employment authorization that has been verified by the Department or AAA.

(E) 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) Complete an orientation as described in section (8)(e) of this rule.

(G) 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;

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(C) Demonstrates a lack of 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;

(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; or

(N) Exerts undue influence over a consumer-employer.

(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.

(E) Homecare workers must inform the Department and their consumer-employer within 14 days of being arrested, cited for, or convicted of any potentially disqualifying crimes under OAR 125-007-0270 and potentially disqualifying conditions under 407-007-0290.

(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) HOMECARE 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 HOMECARE WORKER ENROLLMENT. A homecare worker who is certified by the Oregon Home Care Commission to meet 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:

(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 may receive the enhanced rate effective the first day of the month following the month in which the homecare worker:

(A) Meets the enhanced homecare worker certification criteria identified in section (g)(A) through (C) of this rule, and

(B) Works for a consumer-employer who requires medically-driven services and supports.

(9) TIME OFF.

(a) A homecare worker requesting time off must make a request to the consumer-employer or consumer-employer's representative.

(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) A homecare worker who has been approved to take time off by the consumer-employer or consumer-employer's representative must notify the consumer-employer's APD or AAA case manager before taking time off.

(d) 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.

(e) 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.

(f) 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 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 home and community-based services rendered. A homecare worker must not demand or receive additional payment for 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 the Department is prohibited.

(b) TIMELY SUBMISSION OF CLAIMS. In accordance with the Collective Bargaining Agreement, all claims for services must be submitted within 365 days from the first date of service listed on the claim.

(c) ANCILLARY CONTRIBUTIONS.



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(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 COMMUNITY 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 transportation that is prior-authorized in a consumer-employer's service plan. 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.

(b) Medical transportation through the Oregon Health Authority (OHA), 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 OHA 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) PAYMENT FOR TRAVEL TIME.

(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:

(A) Eat a meal;

(B) Purchase fuel for the vehicle being used for the travel;

(C) Use a restroom; or

(D) 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 before the Department pays 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.

(h) The Department is not responsible for vehicle damage or personal injury sustained when a homecare worker uses his or her own personal motor vehicle to travel between the homes or care settings of consumer-employers, except as may be covered by workers' compensation.

(i) Homecare workers shall not receive any mileage reimbursement for traveling between the homes or care settings of consumer-employers.

(13) 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.

(14) 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-

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13; APD 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; APD 31-2016, f. 8-24-16, cert. ef. 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 reactivate the provider enrollment number, the homecare worker must complete the application and enrollment process set forth in OAR 411-031-0040(8)(a).

(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) Demonstrates a lack of 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) Demonstrates a lack of 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;

(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;

(n) Works for a consumer-employer or claims payment for working while the homecare worker does not have a valid, current, unexpired provider number;

(o) Fails to inform the Department and their consumer-employer within 14 days of being arrested, cited for, or convicted of any potentially disqualifying crime listed in OAR 407-007-0040; or

(p) Exerts undue influence over a consumer-employer.

(4) ADMINISTRATIVE REVIEW. Except in instances where an alleged violation presents imminent danger to present or future consumers, upon receiving an APD or AAA office's referral of an alleged violation listed in section (3)(a) or (3)(c) through (3)(p) 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 prior to the completion of an administrative review. 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;

(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 take part in an administrative review before requesting a contested case hearing.

(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 Termination of Homecare Worker Provider Enrollment or Emergency Termination 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

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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 worker 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; APD 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; APD 31-2016, f. 8-24-16, cert. ef. 8-28-16

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**Rule Caption:** ODDS: Definitions

**Adm. Order No.:** APD 32-2016(Temp)

**Filed with Sec. of State:** 8-30-2016

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**Rules Amended:** 411-317-0000, 411-325-0020, 411-328-0560, 411-345-0020, 411-360-0020

**Subject:** The Department of Human Services, Office of Developmental Disabilities Services (ODDS) is temporarily amending OAR 411-317-0000 (General Definitions), 411-325-0020 (Definitions for 24-Hour Residential Programs and Settings), 411-328-0560 (Definitions for Supported Living Programs), 411-345-0020 (Definitions for Employment Services), and 411-360-0020 (Definitions for ODDS Adult Foster Homes) to align with temporary rule changes for:

- Independent providers in OAR chapter 411, division 375.
- Direct nursing services in OAR chapter 411, division 380.
- Case management services in OAR chapter 411, division 415.
- Ancillary services in OAR chapter 411, division 435.
- Community living supports in OAR chapter 411, division 450. OAR 411-317-0000 is being temporarily amended to:
  - Include definitions to clarify Medicaid eligibility.
  - Clarify the purpose for a functional needs assessment.
  - Specify the functional needs assessments appropriate to the specific program in which an individual is enrolled.
  - Incorporate the definition for the In-Home Expenditure Guidelines to provide consistency.
  - Clarify a Service Agreement is a component of an ISP that describes the authorized services to be delivered by a provider.
  - Remove the definition for service level. Service level is specific to community living supports and is being moved to OAR 411-450-0020.

OAR 411-325-0020, 411-328-0560, 411-345-0020, and 411-360-0020 are being temporarily amended to remove the definition for functional needs assessment. The definition for functional needs assessment in OAR 411-317-0000 now includes the functional needs assessments appropriate to the specific program in which an individual is enrolled.

In addition, edits have been made to ensure consistent terminology, update statutory and rule references, correct formatting and punctuation, and improve ease of reading.

**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

## 411-317-0000

### Definitions for Developmental Disability Services

This rule, OAR 411-317-0000, defines words and terms frequently used in OAR chapter 411, divisions 300 to 450 for developmental disabilities services. OAR chapter 411, divisions 300 to 450 may include definitions specific to the subject matter in that division. If a word or term is defined differently than what is in this rule, the definition in that division applies, when used in that division.

(1) "24-Hour Residential Program" means the distinct method for the delivery of person centered services as described in these rules by a certified and endorsed provider in one or more 24-hour residential settings.

(2) "24-Hour Residential Setting" means a residential home, apartment, or duplex licensed by the Department under ORS 443.410 in which home and community-based services are provided to individuals with intellectual or developmental disabilities. A 24-hour residential setting is considered a provider owned, controlled, or operated residential setting.

(3) "Abuse" means:

(a) For a child:

(A) "Abuse" as defined in ORS 419B.005; and

(B) "Abuse" as defined in OAR 407-045-0260 when a child resides in a 24-hour residential setting licensed by the Department as described in OAR chapter 411, division 325.

(b) For an individual between the ages of 18 and 21 residing in a certified child foster home, "abuse" as defined in OAR 407-045-0260.

(c) For an adult, "abuse" as defined in OAR 407-045-0260.

(4) "Abuse Investigation" means the reporting and investigation activities as required by OAR 407-045-0300 and any subsequent services or supports necessary to prevent further abuse as required by OAR 407-045-0310.

(5) "Accident" means an event that results in injury or has the potential for injury even if the injury does not appear until after the event.

(6) "Activities of Daily Living (ADL)" are the basic personal everyday activities, such as eating, using the restroom, grooming, dressing, bathing, and transferring. ADL services include, but are not limited to:

(a) Basic personal hygiene — providing or assisting with needs, such as bathing (tub, bed, bath, shower), hair care, grooming, shaving, nail care, foot care, dressing, skin care, or oral hygiene;

(b) Toileting, bowel, and bladder care — assisting to and from the bathroom, on and off toilet, commode, bedpan, urinal, or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, managing menses, cleansing an individual or adjusting clothing related to toileting, emptying a catheter, drainage bag, or assistive device, ostomy care, or bowel care;

(c) Mobility, transfers, and repositioning — assisting with ambulation or transfers with or without assistive devices, turning an individual or adjusting padding for physical comfort or pressure relief, or encouraging or assisting with range-of-motion exercises;

(d) Nutrition — assisting with adequate fluid intake or adequate nutrition, assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with adaptive utensils, cutting food, and placing food, dishes, and utensils within reach for eating;

(e) Delegated nursing tasks;

(f) First aid and handling emergencies - addressing medical incidents related to the conditions of an individual, such as seizure, aspiration, constipation, or dehydration, responding to the call of the individual for help during an emergent situation, or for unscheduled needs requiring immediate response;

(g) Assistance with necessary medical appointments - help scheduling appointments, arranging medical transportation services, accompaniment to appointments, follow up from appointments, or assistance with mobility, transfers, or cognition in getting to and from appointments; and

(h) Observation of the status of an individual and reporting of significant changes to a physician, health care provider, or other appropriate person.

(7) "ADL" means "activities of daily living".

(8) "Administration of Medication" means the act of placing a medication in or on the body of an individual by a person responsible for the care of the individual and employed by, or under contract to, the individual or as applicable the legal or designated representative of the individual or provider organization.

(9) "Administrator Review" means the Director of the Department reviews a decision upon request, including the documentation related to the decision, and issues a determination.

(10) "Adult" means an individual who is 18 years of age or older with an intellectual or developmental disability.

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(11) "Advocate" means a person other than paid staff who has been selected by an individual or by the legal representative of an individual to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(12) "Agency" means a public or private community agency or organization that is certified by the Department to deliver developmental disabilities services.

(13) "Aids to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the physical functioning of the individual.

(14) "Alternative Resources" mean possible resources, not including developmental disabilities services, for the provision of supports to meet the needs of an individual. Alternative resources include, but are not limited to, private or public insurance, vocational rehabilitation services, supports available through the Oregon Department of Education, or other community supports.

(15) "Annual Plan" means the written summary a services coordinator or personal agent completes for an individual who is not enrolled in waiver or Community First Choice state plan services. An Annual Plan is not an ISP and is not a plan of care for Medicaid purposes.

(16) "Attendant Care" means an hourly service that provides assistance with ADL, IADL, and health-related tasks through cueing, monitoring, reassurance, redirection, set-up, hands-on, standby assistance, and reminding. Attendant care is available through the Community First Choice State Plan Amendment.

(17) "Authority" means "Oregon Health Authority".

(18) "Background Check" means a criminal records check and abuse check as defined in OAR 407-007-0210.

(19) "Baseline Level of Behavior" means the frequency, duration, or intensity of a behavior, objectively measured, described, and documented prior to the implementation of an initial or revised Behavior Support Plan. The baseline level of behavior serves as the reference point by which the ongoing efficacy of a BSP is to be assessed.

(20) "Bedroom" means the personal space and sleeping area of an individual receiving home and community-based services in a provider owned, controlled, or operated residential setting, as agreed to in the Residency Agreement.

(21) "Behavior Consultant" means a contractor with specialized skills who meets the minimum qualifications defined in the Community First Choice state plan who conducts functional assessments and develops a Behavior Support Plan.

(22) "Behavior Data Collection System" means the methodology specified within a Behavior Support Plan that directs the process for recording observations, interventions, and other support provision information critical to the analysis of the efficacy of the Behavior Support Plan.

(23) "Behavior Data Summary" means the document composed to summarize episodes of protective physical intervention. The behavior data summary serves as a substitution for the requirement of an incident report for each episode of protective physical intervention.

(24) "Behavior Support Plan" means the written strategy, based on person-centered planning and a functional assessment that outlines specific instructions for a primary caregiver or provider to follow in order to reduce the frequency and intensity of the challenging behaviors of an individual and to modify the behavior of the primary caregiver or provider, adjust environment, and teach new skills.

(25) "Behavior Support Services" mean the services consistent with positive behavioral theory and practice that are delivered in accordance with a Behavior Support Plan to assist with behavioral challenges due to the intellectual or developmental disability of an individual that prevents the individual from accomplishing ADL, IADL, health-related tasks, and provides cognitive supports to mitigate behavior.

(26) "Brokerage" means an entity or distinct operating unit within an existing entity that uses the principles of self-determination to perform the functions associated with planning and implementation of services for individuals with intellectual or developmental disabilities.

(27) "BSP" means "Behavior Support Plan".

(28) "Career Development Plan":

(a) Means the part of an ISP that identifies:

(A) The employment goals and objectives for an individual;

(B) The services and supports needed to achieve those goals;

(C) The people, agencies, and providers assigned to assist the individual to attain those goals;

(D) The obstacles to the individual working in an individualized job in a competitive integrated employment setting; and

(E) The services and supports necessary to overcome those obstacles.

(b) A Career Development Plan is based on person-centered planning principles.

(29) "Case Management Contact" means a reciprocal interaction between a case manager and an individual or the legal or designated representative of the individual (as applicable).

(30) "Case Management Entity" means a CDDP, a Brokerage, a CIIS program, or the Children's Residential Program of the Department.

(31) "Case Management Services" means the functions performed by a case manager that are funded by the Department. Case management services include, but are not limited to:

(a) Assessment of support needs;

(b) Developing an ISP or annual plan that may include authorized services;

(c) Information and referral for services; and

(d) Monitoring the effectiveness of services and supports.

(32) "Case Manager" means a person who delivers case management services who meets the qualifications of OAR 411-415-0040 and is employed:

(a) As a personal agent by a Brokerage;

(b) As a services coordinator by a CDDP; or

(c) As a services coordinator by the Department.

(33) "CDDP" means "Community Developmental Disabilities Program".

(34) "Centers for Medicare and Medicaid Services". The Centers for Medicare and Medicaid Services is the federal agency within the United States Department of Health and Human Services responsible for the administration of Medicaid and the Health Insurance Portability and Accountability Act (HIPAA) and overseeing Medicaid programs administered by the states through survey and certification.

(35) "Chemical Restraint" means the use of a psychotropic drug or other drugs for punishment or to modify behavior in place of a meaningful behavior or treatment plan.

(36) "Child" means an individual under the age of 18.

(37) "Children's Intensive In-Home Services" includes case management from a Department employed services coordinator and the services authorized by the Department delivered through:

(a) The ICF/ID Behavioral Program;

(b) The Medically Fragile Children's Program; and

(c) The Medically Involved Children's Waiver.

(38) "Choice" means the expression of preference, opportunity for, and active role of an individual in decision-making related to services received and from whom including, but not limited to, case management, providers, services, and service settings. Individuals are supported in opportunities to make changes when so expressed. Choice may be communicated through a variety of methods, including orally, through sign language, or by other communication methods.

(39) "Choice Advising" means the impartial sharing of information to individuals with intellectual or developmental disabilities about:

(a) Case management options;

(b) Service options;

(c) Service setting options; and

(d) Provider types.

(40) "Children's Health Insurance Program" means Oregon medical coverage under Title XXI of the Social Security Act.

(41) "CHIP" means the "Children's Health Insurance Program".

(42) "CIIS" means "Children's Intensive In-Home Services".

(43) "Claimant" means the person directly impacted by an action that is the subject of a hearing request.

(44) "CME" means "Case Management Entity".

(45) "CMS" means "Centers for Medicare and Medicaid Services".

(46) "Collective Bargaining Agreement" means a contract based on negotiation between organized workers and their designated employer for purposes of collective bargaining to determine wages, hours, rules, and working conditions.

(47) "Community Developmental Disabilities Program" means the entity that is responsible for plan authorization, delivery, and monitoring of services for individuals who are not enrolled in a Brokerage. A Community Developmental Disabilities Program operates in a specific geographic service area of the state under a contract with the Department, local mental health authority, or other entity as contracted by the Department.

(48) "Community First Choice (K Plan)" means the state plan amendment for Oregon authorized under section 1915(k) of the Social Security Act.

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(49) "Community Living Supports" means attendant care, skills training, and relief care, alone or in combination.

(50) "Community Transportation" means the ancillary service described in OAR 411-435-0050 that enables an individual to gain access to community-based state plan and waiver services, activities, and resources, not medical in nature. Community transportation is provided in the area surrounding the home of the individual commonly used by people in the same area to obtain ordinary goods and services. Community transportation is available through the Community First Choice state plan.

(51) "Complaint" means an oral or written expression of dissatisfaction with a developmental disabilities service or provider.

(52) "Complaint Investigation" means the investigation of a complaint that has been made to a proper authority that is not covered by an investigation of abuse.

(53) "Complaint Log" means a list of complaint-related information.

(54) "Completed Application" means an application required by the Department that:

(a) Is filled out completely, signed, and dated. An applicant who is unable to sign may sign with a mark, witnessed by another person; and

(b) Contains documentation required to make an eligibility determination as outlined in OAR 411-320-0080.

(55) "Condition" means a provision attached to a new or existing certificate, endorsement, or license that limits or restricts the scope of the certificate, endorsement, or license or imposes additional requirements on the provider.

(56) "Continuing Services" means the continuation of a developmental disabilities service following the request for a hearing. Services continue until a Final Order is issued.

(57) "Cost Effective" means being responsible and accountable with Department resources by offering less costly alternatives when providing choices that adequately meet the support needs of an individual. Less costly alternatives include other service settings available from the Department and the utilization of assistive devices, natural supports, environmental modifications, and alternative resources. Less costly alternatives may include resources not paid for by the Department.

(58) "County of Origin" means:

(a) For an adult, the county of residence for the adult; and

(b) For a child, the county where the jurisdiction of guardianship exists.

(59) "Day" means a calendar day unless otherwise specified.

(60) "DD Administrative Hearing Request" means form APD 0443DD.

(61) "Denial" means any rejection of a request for a developmental disabilities service or an increase in a developmental disabilities service. A denial of a Medicaid service requires a Notification of Planned Action.

(62) "Delegation" is the process by which a registered nurse authorizes an unlicensed person to perform nursing tasks and confirms that authorization in writing. Delegation may occur only after a registered nurse follows all steps of the delegation process as outlined in OAR chapter 851, division 047.

(63) "Department" means "Department of Human Services".

(64) "Department Hearing Representative" means a person authorized by the Department to represent the Department in a hearing as described in OAR 411-001-0500.

(65) "Department Staff" means a person employed by the Department who is knowledgeable in a particular subject matter.

(66) "Designated Representative" means:

(a) A person who is 18 years of age or older, such as a parent, family member, guardian, or advocate, who is:

(A) Chosen by an individual or the legal representative of the individual;

(B) Not a paid provider for the individual; and

(C) Authorized by the individual or, as applicable, the legal representative of the individual to serve as the representative of the individual or, as applicable, the legal representative in connection with the provision of funded supports.

(b) The power to act as a designated representative is valid until an individual modifies the authorization.

(c) An individual or the legal representative of the individual is not required to appoint a designated representative.

(67) "Developmental Disability" means a neurological condition that:

(a) Originates before an individual is 22 years of age or 18 years of age for an intellectual disability;

(b) Originates in and directly affects the brain and has continued, or is expected to continue, indefinitely;

(c) Constitutes significant impairment in adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080;

(d) Is not primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD); and

(e) Requires training and support similar to an individual with an intellectual disability as described in OAR 411-320-0080.

(68) "Developmental Disabilities Services" mean services provided by or authorized by a CDDP, Brokerage, or the Department that are comprised of:

(a) Case management services described in OAR chapter 411, division 415;

(b) Services available through the Community First Choice 1915(k) state plan amendment; and

(c) Services available through a 1915(c) waiver.

(69) "Director" means the Director of the Department of Human Services, Office of Developmental Disabilities Services, or the designee of the Director, which may include Department Staff.

(70) "Domestic Animals" means the animals domesticated so as to live and breed in a tame condition, such as dogs, cats, and domesticated farm stock.

(71) "Employer" means, for the purposes of obtaining services through a personal support worker, the common law employer. The common law employer is the individual or a person selected by the individual or their legal representative conduct the responsibilities of an employer. An employer may also be a designated representative.

(72) "Employer-Related Supports" mean the activities that assist an individual, and when applicable the legal or designated representative or family members of the individual, with directing and supervising provision of services described in the ISP for an individual. Employer-related supports may include, but are not limited to:

(a) Education about employer responsibilities;

(b) Orientation to basic wage and hour issues;

(c) Use of common employer-related tools such as service agreements; and

(d) Fiscal intermediary services.

(73) "Employment Service" means a home and community-based service that supports the primary objective of exploring, obtaining, maintaining, or advancing in an individual job in a competitive integrated employment setting in the general workforce.

(a) Employment services under the rules in OAR chapter 411, division 345 include:

(A) Supported Employment.

(i) Individual Employment Support.

(I) Job Coaching.

(II) Job Development.

(ii) Small Group Employment Support.

(B) Discovery.

(C) Employment Path Services.

(b) Employment services do not include vocational assessments in sheltered workshop settings or facility-based settings. Employment services do not include new participants in sheltered workshop settings.

(74) "Entity" means a person, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation of a state.

(75) "Entry" means the initial enrollment to a Department-funded developmental disabilities service delivered by a provider agency or case management entity.

(76) "Exit" means termination or discontinuance of a Department-funded developmental disabilities service.

(77) "Family Member" means spouse, domestic partner, natural parent, child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(78) "Founded Report" means the determination by the Department or Law Enforcement Authority (LEA), based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(79) "Functional Needs Assessment" means the comprehensive assessment or reassessment appropriate to the specific program in which an

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individual is enrolled that documents physical, mental, and social functioning.

(a) A functional needs assessment is:

(A) For community living supports as described in OAR chapter 411, division 450, the “functional needs assessment” as defined in OAR 411-450-0020.

(B) For 24-hour residential programs and settings as described in OAR chapter 411, division 325, the Supports Intensity Scale, Adult Needs Assessment, or Children’s Needs Assessment.

(C) For supported living programs as described in OAR chapter 411, division 328, the Adult Needs Assessment.

(D) For adult foster homes as described in OAR chapter 411, division 360, the Support Needs Assessment Profile, Adult Needs Assessment, or Children’s Needs Assessment.

(b) The functional needs assessments are maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/cm/>.

(c) A printed copy of the assessment tools may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(80) “General Business Provider” means an organization or entity selected by an individual or the legal representative of the individual and paid with Department funds that:

(a) Is primarily in business to provide the service chosen by the individual or the legal representative of the individual to the general public;

(b) Provides services for the individual through employees, contractors, or volunteers; and

(c) Receives compensation to recruit, supervise, and pay the person who actually provides support for the individual.

(81) “Good Cause” means an excusable mistake, surprise, excusable neglect (which may include neglect due to a significant cognitive or health issue), circumstances beyond the control of a claimant, reasonable reliance on the statement of Department Staff or an adverse provider relating to procedural requirements, [or due to] fraud, misrepresentation, or other misconduct of the Department or a party adverse to a claimant.

(82) “Guardian” means the parent for an individual under the age of 18 or a person or agency appointed and authorized by a court to make decisions about services for an individual.

(83) “Health Care Provider” means the person or health care facility licensed, certified, or otherwise authorized or permitted by Oregon law to administer health care in the ordinary course of business or practice of a profession. Examples of a health care provider include, but are not limited to, a registered nurse (RN), nurse practitioner (NP), licensed practical nurse (LPN), medical doctor (MD), osteopathic physician (DO), chiropractor, respiratory therapist (RT), physical therapist (PT), physician assistant (PA), dentist, or occupational therapist (OT).

(84) “Health Care Representative” means:

(a) A health care representative as defined in ORS 127.505; or

(b) A person who has authority to make health care decisions for an individual under the provisions of OAR chapter 411, division 365.

(85) “Hearing” means a contested case hearing subject to OAR 137-003-0501 to 137-003-0070, which results in a final order.

(86) “Home” means the primary residence for an individual that is not under contract with the Department to provide services certified as a foster home for children under OAR chapter 411, division 346 or licensed as a foster home for adults under OAR chapter 411, division 360 or a licensed or certified residential care facility, assisted living facility, nursing facility, or other residential setting.

(a) A home for a child may include a foster home funded by Child Welfare.

(b) A foster home funded by Child Welfare is considered a provider owned, controlled, or operated residential setting.

(87) “Home and Community-Based Services” are services provided in the home or community of an individual.

(a) Home and community-based services are authorized under the following Medicaid authorities:

(A) 1915(c) — HCBS Waivers;

(B) 1915(i) — State Plan HCBS; or

(C) 1915(k) — Community First Choice (K State Plan Option).

(b) Home and community-based services are delivered through the following program areas:

(A) Department of Human Services, Aging and People with Disabilities;

(B) Department of Human Services, Office of Developmental Disabilities Services; and

(C) Oregon Health Authority.

(c) Home and community-based services may include alternative resources specifically authorized as home and community-based by the Department or Authority.

(88) “Home and Community-Based Setting” means a physical location meeting the qualities of OAR 411-004-0020 where an individual receives home and community-based services.

(89) “Hospital Level of Care” means a child:

(a) Has a documented medical condition and demonstrates the need for active treatment as assessed by the clinical criteria; and

(b) The medical condition requires the care and treatment of services normally provided in an acute medical hospital.

(90) “IADL” means “Instrumental Activities of Daily Living”.

(91) “ICF/ID” means “Intermediate Care Facility for Individuals with Intellectual or Developmental Disabilities”.

(92) “ICF/IDD Level of Care” means an individual meets the following institutional level of care for an intermediate care facility for individuals with intellectual or developmental disabilities:

(a) The individual has an intellectual disability or a developmental disability as defined in this rule and meets the eligibility criteria in OAR 411-320-0080 for developmental disabilities services; and

(b) The individual has a significant impairment in one or more areas of adaptive behavior as determined in OAR 411-320-0080.

(93) “IEP” means “Individualized Education Program”.

(94) “Incident Report” means the written report of any injury, accident, act of physical aggression, use of protective physical intervention, or unusual incident involving an individual.

(95) “Independence” means the extent to which an individual exerts control and choice over his or her own life.

(96) “Independent Provider” means:

(a) A personal support worker; or

(b) An independent contractor delivering services including nursing services, discovery, job development, or behavior consultation.

(97) “Individual” means a child, young adult, or an adult applying for, or determined eligible for, Department-funded developmental disabilities services.

(98) “Individualized Education Program” is the written plan of instructional goals and objectives developed in conference with an individual, the parent or legal representative of an individual (as applicable), teacher, and a representative of the public school district.

(99) “Individually-Based Limitations” means any limitation to the qualities outlined in OAR 411-004-0020(2)(c) to (2)(j), due to health and safety risks. An individually-based limitation is based on specific assessed need and only implemented with the informed consent of the individual or, as applicable, the legal representative of the individual, as described in OAR 411-004-0040.

(100) “Individual Support Plan” includes the written details of the supports, activities, and resources required for an individual to achieve and maintain personal goals and health and safety. The ISP is developed at least annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The ISP reflects services and supports that are important to meet the needs of the individual identified through a functional needs assessment as well as the preferences for providers, delivery, and frequency of services and supports. The ISP is the plan of care for Medicaid purposes and reflects whether services are provided through a waiver, the Community First Choice state plan, natural supports, or alternative resources.

(101) “In-Home Expenditure Guidelines” mean the guidelines published by the Department that describe allowable uses for Department funds. The Department incorporates the In-home Expenditure Guidelines into these rules by this reference.

(a) The In-home Expenditure Guidelines are maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/cm/>.

(b) A printed copy may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon 97301.

(102) “Instrumental Activities of Daily Living” are the activities other than activities of daily living required to continue independent living as described in the Community First Choice state plan.

(103) “Intake” means the activity of completing the DD Intake Form (APD 0552) and necessary releases of information prior to the submission of a completed application to the CDDP.

(104) “Integrated Employment Setting” means employment at a location where an employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals

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who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and that, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions. Employment in an Integrated Employment Setting cannot be facility-based work in a Sheltered Workshop, and cannot be non-work activities such as day support activities.

(105) "Integration" as defined in ORS 427.005 means:

(a) Use by individuals receiving developmental disabilities services of the same community resources used by and available to other people;

(b) Participation by individuals receiving developmental disabilities services in the same community activities in which people without disabilities participate, together with regular contact with people without disabilities; and

(c) Residence by individuals receiving developmental disabilities services in homes or in home-like settings that are in proximity to community resources, together with regular contact with people without disabilities in their community.

(106) "Intellectual Disability" means significantly sub-average general intellectual functioning defined as full scale intelligence quotients (IQs) 70 and under as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior directly related to an intellectual disability as described in OAR 411-320-0080 that is manifested during the developmental period prior to 18 years of age. Individuals with a valid full scale IQ of 71-75 may be considered to have an intellectual disability if there is also significant impairment in adaptive behavior as diagnosed and measured by a licensed clinical or school psychologist as described in OAR 411-320-0080.

(107) "Involuntary Reduction" means a provider has made the decision to reduce services provided to an individual without prior approval from the individual.

(108) "Involuntary Transfer" means a provider has made the decision to transfer an individual without prior approval from the individual.

(109) "ISP" means "Individual Support Plan".

(110) "ISP Team" means a team composed of an individual receiving services, the legal or designated representative of the individual (as applicable), services coordinator or personal agent, and others chosen by the individual, or as applicable the legal representative of the individual, such as providers and family members.

(111) "Legal Representative" means a person who has the legal authority to act for an individual. The legal representative only has authority to act within the scope and limits of his or her authority as designated by a court or other agreement. A legal representative acting outside of his or her authority or scope must meet the definition of designated representative.

(a) For an individual under the age of 18, the legal representative is the parent, unless a court appoints another person or agency to act as the guardian; and

(b) For an individual 18 years of age or older, the legal representative is the guardian appointed by a court order or an agent legally designated as the health care representative, where the court order or the written designation provides authority for the appointed or designated person to make the decisions indicated where the term "legal representative" is used.

(112) "MAGI" means "Modified Adjusted Gross Income". "MAGI" is further defined in OAR 410-200-0015.

(113) "Mandatory Reporter":

(a) Means:

(A) Any public or private official as defined in ORS 419B.005 who comes in contact with a child with or without an intellectual or developmental disability and has reasonable cause to believe the child has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the child, regardless of whether or not the knowledge of the abuse was gained in the official capacity of the public or private official;

(B) Any public or private official as defined in ORS 430.735 who, while acting in an official capacity, comes in contact with an adult with an intellectual or developmental disability or mental illness and has reasonable cause to believe the adult has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the adult;

(C) Any public or private official as defined in ORS 124.050 who comes in contact with an older adult, age 65 and older, and has reasonable cause to believe the older adult has suffered abuse, or comes in contact with

any person whom the public or private official has reasonable cause to believe abused the older adult; and

(D) Any public or private official as defined in ORS 441.630 who comes in contact with a resident of a long term care facility as defined in ORS 442.015 and has reasonable cause to believe the resident has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the resident.

(b) Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this definition, except that a psychiatrist, psychologist, clergy, attorney, or guardian ad litem appointed under ORS 419B.231 is not required to report if the communication is privileged under ORS 40.225 to 40.295.

(114) "Mechanical Restraint" means any mechanical device, material, object, or equipment attached or adjacent to the body of an individual that the individual cannot easily remove or easily negotiate around that restricts freedom of movement or access to the body of the individual. Mechanical restraint is not:

(a) The use of acceptable infant safety products;

(b) The use of car safety systems, consistent with applicable state law for people without disabilities; or

(c) Safeguarding equipment when ordered by a physician or health care provider and approved by the ISP team.

(115) "Medicaid Agency Identification Number" means the numeric identifier assigned by the Department to a provider following the enrollment of the provider as described in OAR chapter 411, division 370.

(116) "Medicaid Performing Provider Number" means the numeric identifier assigned by the Department to an entity or person following the enrollment of the entity or person to deliver Medicaid funded services as described in OAR chapter 411, division 370. The Medicaid Performing Provider Number is used by the rendering provider for identification and billing purposes associated with service authorizations and payments.

(117) "Medicaid Title XIX Benefit Package" means only the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b). This excludes individuals receiving CHIP Title XXI benefits.

(118) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(119) "Monitoring" means the periodic review of the implementation of services and supports identified in an Individual Support Plan or Annual Plan, and the quality of services delivered by other organizations.

(120) "Natural Support" means:

(a) For a child, the parental responsibilities for the child and the voluntary resources available to the child from the relatives, friends, neighbors, and the community of the child that are not paid for by the Department.

(b) For an adult, the voluntary resources available to an adult from the relatives, friends, significant others, neighbors, roommates, and the community of the adult that are not paid for by the Department.

(121) "Notice of Involuntary Reduction, Transfer, or Exit" means form APD 0719DD. This form is part of the AFH/DD Mandatory Written Notice of Exit or Transfer.

(122) "Notification of Planned Action" means form APD 0947. The Notification of Planned Action is the written decision notice issued to an individual in the event that a developmental disabilities service is denied, reduced, suspended, or terminated.

(123) "Nurse" means a person who holds a current license from the Oregon Board of Nursing as a registered nurse or licensed practical nurse pursuant to ORS chapter 678.

(124) "Nursing Facility Level of Care" means a child:

(a) Has a documented medical condition that demonstrates the need for active treatment as assessed by the Clinical Criteria as defined in OAR chapter 411, division 300; and

(b) The medical condition requires the care and treatment of services normally provided in a nursing facility.

(125) "Nursing Service Plan" means the plan that is developed by a registered nurse based on an initial nursing assessment, reassessment, or an update made to a nursing assessment as the result of a monitoring visit.

(a) The Nursing Service Plan is specific to a child and identifies the diagnoses and health needs of the child and any service coordination, teaching, or delegation activities.

(b) The Nursing Service Plan is separate from the ISP as well as any service plans developed by other health professionals.

(126) "Nursing Tasks" mean the care or services that require the education and training of a licensed professional nurse to perform. Nursing tasks may be delegated.

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(127) "OAAPI" means the Department of Human Services, Office of Adult Abuse Prevention and Investigation.

(128) "OAH" means "Office of Administrative Hearings".

(129) "OCCS" means "Office of Client and Community Services".

(130) "OCCS Medical Programs" means the medical programs under OCCS including, but not limited to, the MAGI Medicaid and CHIP programs described in OAR 410-200-0305 to 410-200-0510. "OCCS Medical Programs" is further defined in OAR 410-200-0015.

(131) "ODDS" means the Department of Human Services, Office of Developmental Disabilities Services.

(132) "Office of Client and Community Services" means the part of the Health Systems Division under the Oregon Health Authority.

(133) "OIS" means "Oregon Intervention System".

(134) "OHA" means "Oregon Health Authority".

(135) "OHP" means "Oregon Health Plan".

(136) "Older Adult" means an adult at least 65 years of age.

(137) "Oregon Intervention System" is the system of providing training of elements of positive behavior support and non-aversive behavior intervention. The Oregon Intervention System uses principles of pro-active support and describes approved protective physical intervention techniques that are used in an emergency to maintain health and safety.

(138) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(139) "Oregon Supplemental Income Program-Medical" is Oregon Medicaid insurance coverage for individuals who meet the eligibility criteria described in OAR chapter 461.

(140) "Parent" means the biological parent, adoptive parent, or step-parent of a child. Unless otherwise specified, references to parent also include a person chosen by the parent or guardian to serve as the designated representative of the parent or guardian in connection with the provision of ODDS funded supports.

(141) "Person-Centered Planning":

(a) Means a timely and formal or informal process driven by an individual, includes people chosen by the individual, ensures the individual directs the process to the maximum extent possible, and enables the individual to make informed choices and decisions consistent with 42 CFR 441.540.

(b) Person-centered planning includes gathering and organizing information to reflect what is important to and for the individual and to help:

(A) Determine and describe choices about personal goals, activities, services, providers, service settings, risks, and lifestyle preferences;

(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources; and

(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.

(c) The methods for gathering information vary, but all are consistent with the cultural considerations, needs, and preferences of the individual.

(142) "Personal Agent" means a person who:

(a) Is a case manager for the provision of case management services;

(b) Is the person-centered plan coordinator for an individual as defined in the Community First Choice state plan;

(c) Works directly with individuals and, if applicable, the legal or designated representatives and families of individuals to provide or arrange for support services as described in these rules; and

(d) Meets the qualifications set forth in OAR 411-340-0150(5).

(143) "Personal Support Worker":

(a) Means a person:

(A) Who has a Medicaid provider number.

(B) Who is hired or selected by an individual with an intellectual or developmental disability or the representative of the individual.

(C) Who receives money from the Department for the purpose of delivering services to the individual in the home or community of the individual.

(D) Whose compensation for providing services is provided in whole or in part through a case management entity.

(b) This definition of personal support worker is intended to be interpreted consistently with ORS 410.600.

(144) "Plan Year" means 12 consecutive months from the start date specified on an authorized ISP or Annual Plan.

(145) "Positive Behavioral Theory and Practice" means a proactive approach to behavior and behavior interventions that:

(a) Emphasizes the development of functional alternative behavior and positive behavior intervention;

(b) Uses the least intrusive intervention possible;

(c) Ensures that abusive or demeaning interventions are never used; and

(d) Evaluates the effectiveness of behavior interventions based on objective data.

(146) "Prescription Medication" means any medication that requires a prescription from a physician before the medication may be obtained from a pharmacist.

(147) "Primary Caregiver" means:

(a) For a child, the parent, guardian, relative, or other non-paid parental figure of a child that normally provides direct care to the child. In this context, the term parent or guardian may include a designated representative.

(b) For an adult, the person identified in an Individual Support Plan as providing the majority of services and support for an individual in the home of the individual.

(148) "Primary Care Provider" means the health care provider who delivers day-to-day comprehensive health care. Typically, the primary care provider acts as the first contact and principal point of continuing care for an individual within the health care system and coordinates other specialist care that the individual may need.

(149) "Private Duty Nursing" means the State Plan nursing services described in OAR chapter 410, division 132 (OHA, Private Duty Nursing Services) and OAR 411-350-0055 that are determined medically necessary to support an individual aged 18 through 20.

(150) "PRN (pro re nata)" means the administration of a medication to an individual on an 'as needed' basis.

(151) "Productivity" as defined in ORS 427.005 means regular engagement in income-producing work, preferable competitive employment with supports and accommodations to the extent necessary, by an individual that is measured through improvements in income level, employment status, or job advancement or engagement by an individual in work contributing to a household or community.

(152) "Progress Note" means a written record of an action taken by provider in the delivery of a service to support an individual. A progress note may also be a recording of information related to services, support needs, or circumstances of the individual which is necessary for the effective delivery of services.

(153) "Protection" means the necessary actions offered to an individual as soon as possible to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, or to safeguard the person, property, and funds of the individual.

(154) "Protective Physical Interventions" are safety procedures utilized with an individual that assists in keeping the individual protected from harming themselves or others through supportive measures, as taught in the Oregon Intervention System.

(155) "Protective Services" mean the necessary actions offered to an individual as soon as possible to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, or to safeguard the person, property, and funds of the individual.

(156) "Provider" means a person, agency, organization, or business that is approved by the Department or other appropriate agency and selected by an individual, designated or legal representative to provide Department-funded services. The provider for a child may not also be the primary caregiver of the child.

(157) "Provider Agency" means a public or private community organization that delivers developmental disabilities services and is certified and endorsed by the Department under the rules in OAR chapter 411, division 323 or division 340, that:

(a) Is primarily in business to provide supports for individuals eligible to receive developmental disabilities;

(b) Provides supports for the individual through employees, contractors, or volunteers; and

(c) Receives compensation to recruit, supervise, and pay the person who actually provides support for the individual.

(158) "Provider Owned, Controlled, or Operated Setting" means:

(a) The provider is responsible for delivering home and community-based services to individuals in the setting and the provider:

(A) Owns the setting;

(B) Leases or co-leases the residential setting; or

(C) If the provider has a direct or indirect financial relationship with the property owner, the setting is presumed to be provider controlled or operated.

(b) A setting is not provider-owned, controlled, or operated if the individual leases directly from a third party that has no direct or indirect financial relationship with the provider.



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(c) When an individual receives services in the home of a family member, the home is not considered provider-owned, controlled, or operated.

(159) "Psychotropic Medication" means a medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including, but not limited to, anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(160) "Quality Assurance" means a systematic procedure for assessing the effectiveness, efficiency, and appropriateness of services.

(161) "Relief Care" means the service that is provided on a periodic basis for the relief of, or due to the temporary absence of, a person normally available to provide supports to an individual. A unit of service of relief care is 24 hours. It is available through the Community First Choice state plan.

(162) "Request for Service" means:

(a) Submission of a completed application for developmental disabilities services as described in OAR 411-320-0080;

(b) A written request for a new developmental disabilities service or provider; or

(c) A written request for a change in a developmental disabilities service currently provided.

(163) "Residency Agreement" means the written and legally enforceable agreement between a residential provider and an individual or the legal or designated representative of the individual when the individual is receiving home and community-based services in a provider owned, controlled, or operated residential setting. The Residency Agreement identifies the rights and responsibilities of the individual and the residential provider and provides the individual protection from eviction substantially equivalent to landlord-tenant laws.

(164) "Residential Programs" means services delivered by:

(a) 24-hour residential programs described in OAR chapter 411, division 325;

(b) Adult foster homes described in OAR chapter 411, division 360;

(c) Supported living programs described in OAR chapter 411, division 328; and

(d) Foster homes for children described in OAR chapter 411, division 346.

(165) "Residential Settings" mean the location where individuals who get services from a residential program live.

(166) "Restraint" means any physical hold, device, or chemical substance that restricts, or is meant to restrict, the movement or normal functioning of an individual.

(167) "Review" means a request for reconsideration of a decision.

(168) "Safeguarding Equipment" means a device used to provide support to an individual for the purpose of achieving and maintaining functional body position, proper balance, and protecting the individual from injury or symptoms of existing medical conditions.

(169) "School Aged" means the age at which an individual is old enough to attend kindergarten through high school.

(170) "Self-Administration of Medication" means an individual manages and takes his or her own medication, identifies his or her own medication and the times and methods of administration, places the medication internally in or externally on his or her own body without staff assistance upon written order of a physician, and safely maintains the medication without supervision.

(171) "Self-Determination" means a philosophy and process by which individuals with intellectual or developmental disabilities are empowered to gain control over the selection of support services that meet their needs. The basic principles of self-determination are:

(a) Freedom. The ability for an individual, together with freely-chosen family and friends, to plan a life with necessary support services rather than purchasing a predefined program;

(b) Authority. The ability for an individual, with the help of a social support network if needed, to control resources in order to purchase support services;

(c) Autonomy. The arranging of resources and personnel, both formal and informal, that assists an individual to live a life in the community rich in community affiliations; and

(d) Responsibility. The acceptance of a valued role of an individual in the community through competitive employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for the individual.

(172) "Self-Direction" means that an individual, or as applicable the legal or designated representative of the individual, has decision-making authority over services and takes direct responsibility for managing services with the assistance of a system of available supports that promotes personal choice and control over the delivery of waiver and state plan services.

(173) "Sensory Impairment" means loss or impairment of sight or hearing from any cause, including involvement of the brain.

(174) "Service Agreement":

(a) Is a component of the ISP that is the written agreement for a particular provider that describes at a minimum:

(A) The services authorized in an ISP to be delivered by the provider;

(B) Hours, rates, location of services, and expected outcomes of the services; and

(C) Any specific individual health, safety, and emergency procedures that may be required, including action to be taken if an individual is unable to provide for their own safety and the individual is missing while in the community.

(b) For employed personal support workers, the Service Agreement serves as the written job description for Oregon Home Care Commission purposes.

(c) For non-personal support worker providers, the ISP when signed by the provider serves as the Service Agreement.

(175) "Service Element" means a funding stream to fund programs or services including, but not limited to, foster care, 24-hour residential, case management, supported living, support services, crisis diversion services, in-home comprehensive supports, or family support.

(176) "Service Record" means the combined information related to an individual.

(177) "Services Coordinator" means an employee of the Department, CDDP, or other agency that contracts with the county or Department who provides case management services. A services coordinator acts as the proponent for individuals with intellectual or developmental disabilities and is the person-centered plan coordinator for the individual as defined in the Community First Choice state plan.

(178) "Setting" means the community-based location where services are delivered.

(179) "Sheltered Workshop" means a facility in which individuals with intellectual or developmental disabilities are congregated for the purpose of receiving employment services and performing work tasks for pay at the facility. A sheltered workshop primarily employs individuals with intellectual and developmental disabilities, or other disabilities, with the exception of service support staff. A sheltered workshop is a fixed site that is owned, operated, or controlled by a provider, where an individual has few or no opportunities to interact with individuals who do not have disabilities, not including paid support staff. A sheltered workshop is not small group employment in an integrated employment setting, and is not otherwise an integrated employment setting.

(180) "Significant Other" means a person selected by an individual to be the friend of the individual.

(181) "Skills Training" means the hourly service that is intended to increase the independence of an individual through training, coaching, and prompting the individual to accomplish ADL, IADL, and health-related skills. Skills training is available through the Community First Choice State Plan Amendment.

(182) "Social Benefit" means that developmental disabilities services are intended to assist an individual to function in society on a level comparable to that of a person who does not experience a developmental disability.

(a) Social benefits may not:

(A) Duplicate benefits and services otherwise available to a person regardless of disability;

(B) Replace normal parental responsibilities for the services, education, recreation, and general supervision of a child;

(C) Except as described in OAR chapter 411, division 435 for transition services, provide financial assistance with food, clothing, shelter, and laundry needs common to any person; or

(D) Replace other governmental or community services available to an individual.

(b) Assistance provided as a social benefit is reimbursement for an expense previously authorized in an ISP.

(c) Assistance provided as a social benefit may not exceed the actual cost of the support required by an individual to be supported in the home of the individual.

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(183) “Staff” means a paid employee who is responsible for providing services and supports to individuals and whose wages are paid in part or in full with funds sub-contracted with a Community Developmental Disabilities Program, Brokerage, or contracted directly through the Department.

(184) “Substantiated” means an abuse investigation has been completed by the Department or the designee of the Department and the preponderance of the evidence establishes the abuse occurred.

(185) “Support” means:

(a) For a child, the assistance that a child and a family requires, solely because of the effects of a condition that makes the child eligible for developmental disabilities, to maintain or increase the age-appropriate independence of the child, achieve age-appropriate community presence and participation of the child, and to maintain the child in the family home. Support is subject to change with time and circumstances.

(b) For an adult, the assistance that an adult individual requires, solely because of the effects of an intellectual or developmental disability, to maintain or increase independence, achieve community presence and participation, and improve productivity. Support is subject to change with time and circumstances.

(186) “Transfer” means movement of an individual from one service setting to a different service setting administered or operated by the same provider.

(187) “Transition-Age” means:

(a) Not older than 24 years of age.

(b) Not younger than 14 years of age. With respect to Vocational Rehabilitation Services, persons who are under 16 years of age may receive employment services with Department approval. With respect to ODDS, persons who are under 18 years of age may receive employment services with Department approval.

(188) “Unacceptable Background Check” means an administrative process that produces information related to the background of a person that precludes the person from being an independent provider for one or more of the following reasons:

(a) Under OAR 407-007-0275, the person applying to be an independent provider has been found ineligible due to ORS 443.004;

(b) Under OAR 407-007-0275, the person was enrolled as an independent provider for the first time, or after any break in enrollment, after July 28, 2009 and has been found ineligible due to ORS 443.004; or

(c) A background check and fitness determination has been conducted resulting in a “denied” status as defined in OAR 407-007-0010.

(189) “Unusual Incident” means any incident involving an individual that includes serious illness or an accident, death, injury or illness requiring inpatient or emergency hospitalization, a suicide attempt, when an individual contacts the police or is contacted by the police, a fire requiring the services of a fire department, an act of physical aggression, or any incident requiring an abuse investigation.

(190) “Variance” means the temporary exemption from a regulation or provision of the rules that may be granted by the Department upon written application.

(191) “Volunteer” means any person assisting a provider without pay to support the services and supports provided to an individual.

(192) “Workday” means 12:00 AM through 11:59 PM.

(193) “Workweek” means 12:00 AM Sunday through 11:59 PM Saturday.

(194) “Written Outcome” means the written response from the Department or the local program to a complaint following a review of the complaint.

(195) “Young Adult” means a young individual aged 18 through 20.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: APD 22-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 39-2014, f. 12-26-14, cert. ef. 12-28-14; APD 40-2014, f. 12-26-14, cert. ef. 12-28-14; APD 38-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 26-2016, f. & cert. ef. 6-29-16; APD 32-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-325-0020

### Definitions and Acronyms

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 325:

(1) “24-Hour Residential Program” means the distinct method for the delivery of home and community-based services in a 24-hour residential setting by a provider certified and endorsed under the rules in OAR chapter 411, division 323.

(2) “24-Hour Residential Setting” means a residential home, apartment, or duplex licensed by the Department under ORS 443.410 in which

home and community-based services are provided to individuals with intellectual or developmental disabilities. A 24-hour residential setting is considered a provider owned, controlled, or operated residential setting.

(3) “Apartment” means “24-hour residential setting” as defined in this rule.

(4) “Appeal” means the process under ORS chapter 183 that a provider may use to petition a civil penalty.

(5) “Applicant” means a person, agency, corporation, or governmental unit who applies for a license to deliver home and community-based services in a 24-hour residential setting.

(6) “Board of Directors” means the group of people formed by the provider agency to set policy and give directions to a provider delivering supports to individuals in a community-based service setting. A board of directors may include local advisory boards used by multi-state organizations.

(7) “CDDP” means “Community Developmental Disabilities Program”.

(8) “Certificate” means the document issued by the Department to a provider that certifies the provider is eligible under the rules in OAR chapter 411, division 323 to receive state funds for the delivery of services through an endorsed 24-hour residential program.

(9) “Competency Based Training Plan” means the written description of the process of the provider for providing training to newly hired staff. At a minimum, the Competency Based Training Plan:

(a) Addresses health, safety, rights, values and personal regard, and the mission of the provider; and

(b) Describes competencies, training methods, timelines, how competencies of staff are determined and documented, including steps for remediation, and when a competency may be waived by a provider to accommodate the specific circumstances of a staff member.

(10) “Condition” means a provision attached to a new or existing certificate, endorsement, or license that limits or restricts the scope of the certificate, endorsement, or license or imposes additional requirements on the provider.

(11) “Denial” means the refusal of the Department to issue a certificate, endorsement, or license to operate a 24-hour residential program or 24-hour residential setting because the Department has determined the provider or the home is not in compliance with these rules or the rules in OAR chapter 411, division 323.

(12) “Duplex” means “24-hour residential setting” as defined in this rule.

(13) “Educational Surrogate” means the person who acts in place of the parent of a child in safeguarding the rights of the child in the public education decision-making process:

(a) When the parent of the child cannot be identified or located after reasonable efforts;

(b) When there is reasonable cause to believe that the child has a disability and is a ward of the state; or

(c) At the request of the parent of the child or young adult student.

(14) “Endorsement” means the authorization to provide services in a 24-hour residential setting that is issued by the Department to a certified provider that has met the qualification criteria outlined in these rules and the rules in OAR chapter 411, division 323.

(15) “Executive Director” means the person designated by a board of directors or corporate owner responsible for the operation of a 24-hour residential program and the administration of services in a 24-hour residential setting.

(16) “Home” means “24-hour residential setting” as defined in this rule.

(17) “ICF/ID” means “Intermediate Care Facility for Individuals with Intellectual or Developmental Disabilities”.

(18) “ISP” means “Individual Support Plan”.

(19) “License” means a document granted by the Department to an applicant who is in compliance with the requirements of these rules and the rules in OAR chapter 411, division 323.

(20) “Licensee” means the person or organization to whom a certificate, endorsement, and license is granted.

(21) “Modified Diet” means the texture or consistency of food or drink is altered or limited, such as no nuts or raw vegetables, thickened fluids, mechanical soft, finely chopped, pureed, or bread only soaked in milk.

(22) “Nursing Services” means the provision of individual-specific advice, plans, or interventions by a nurse at a home based on the nursing process as outlined by the Oregon State Board of Nursing. Nursing services differ from administrative nursing services.

(23) “OCCS” means the “Office of Client and Community Services”.

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(24) "OIS" means "Oregon Intervention System".

(25) "Oregon Core Competencies" means:

(a) The list of skills and knowledge required for newly hired staff in the areas of health, safety, rights, values and personal regard, and the mission of the provider; and

(b) The associated timelines in which newly hired staff must demonstrate the competencies.

(26) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(27) "Revocation" means the action taken by the Department to rescind a certificate, endorsement, or license to operate a 24-hour residential program or 24-hour residential setting after the Department determines a provider or home is not in compliance with these one or more of these rules or the rules in OAR chapter 411, division 323.

(28) "Special Diet" means the specially prepared food or particular types of food that are specific to the medical condition or diagnosis of an individual and in support of an evidence-based treatment regimen. Examples include, but are not limited to, low calorie, high fiber, diabetic, low salt, lactose free, or low fat diets. A special diet does not include a diet where extra or additional food is offered without the order of a physician, but may not be eaten, such as offering prunes each morning at breakfast or including fresh fruit with each meal.

(29) "Suspension" means an immediate temporary withdrawal of the approval to operate a 24-hour residential program or 24-hour residential setting after the Department determines a provider or home is not in compliance with one or more of these rules or the rules in OAR chapter 411, division 323.

(30) "These Rules" mean the rules in OAR chapter 411, division 325.

(31) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department upon written application by a provider.

Stat. Auth.: ORS 409.050, 443.450, 443.455

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 1-2012, f. & cert. ef. 1-6-12; SPD 23-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 58-2013, f. 12-27-13, cert. ef. 12-28-13; APD 24-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 42-2014, f. 12-26-14, cert. ef. 12-28-14; APD 34-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 24-2016, f. & cert. ef. 6-29-16; APD 32-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-328-0560

### Definitions

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 328:

(1) "Board of Directors" means the group of people formed by the provider agency to set policy and give directions to a provider delivering supports to individuals in a community-based service setting. A board of directors may include local advisory boards used by multi-state organizations.

(2) "CDDP" means "Community Developmental Disabilities Program".

(3) "Certificate" means the document issued by the Department to a provider that certifies the provider is eligible under the rules in OAR chapter 411, division 323 to receive state funds for the provision of services in an endorsed supported living setting.

(4) "Endorsement" means the authorization to provide services in a supported living setting that is issued by the Department to a certified provider that has met the qualification criteria outlined in these rules and the rules in OAR chapter 411, division 323.

(5) "Executive Director" means the person designated by a board of directors or corporate owner that is responsible for the administration of services in a supported living setting.

(6) "Individual" means an adult applying for, or determined eligible for, Department-funded developmental disabilities services.

(7) "Individual Profile" means the written profile that describes an individual entering into a supported living setting. The profile may consist of materials or assessments generated by a provider or other related agencies, consultants, family members, or the legal or designated representative of the individual (as applicable).

(8) "ISP" means "Individual Support Plan".

(9) "OIS" means "Oregon Intervention System".

(10) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(11) "Provider" means a public or private community agency or organization that provides recognized developmental disabilities services

and is certified and endorsed by the Department to provide these services under these rules and the rules in OAR chapter 411, division 323.

(12) "Supported Living" means the endorsed program that provides the opportunity for individuals to live in the residence of their own choice within the community. Supported living is not grounded in the concept of "readiness" or in a "continuum of services model" but rather provides the opportunity for individuals to live where they want, with whom they want, for as long as they desire, with a recognition that needs and desires may change over time.

(13) "These Rules" mean the rules in OAR chapter 411, division 328.

(14) "Unit" means the personal space and bedroom of an individual receiving home and community-based services in a provider owned, controlled, or operated residential setting, as agreed to in the Residency Agreement.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

Hist.: MHD 5-1992, f. 8-21-92, cert. ef. 8-24-92; MHD 3-1997, f. & cert. ef. 2-7-97; Renumbered from 309-041-0560 by SPD 17-2009, f. & cert. ef. 12-9-09; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 1-2012, f. & cert. ef. 1-6-12; SPD 24-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 59-2013, f. 12-27-13, cert. ef. 12-28-13; APD 24-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 42-2014, f. 12-26-14, cert. ef. 12-28-14; APD 33-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 23-2016, f. & cert. ef. 6-29-16; APD 32-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-345-0020

### Definitions and Acronyms

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 345:

(1) "CDDP" means "Community Developmental Disabilities Program".

(2) "Competitive Integrated Employment" means work that is performed on a full-time or part-time basis (including self-employment):

(a) For which an individual:

(A) Is compensated at a rate that:

(i) Is not less than the higher of the rate specified in federal, state, or local minimum wage law, and also is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(ii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(B) Is eligible for the level of benefits provided to other employees.

(b) That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(3) "Customized Employment" means competitive integrated employment for an individual with a disability that is based on an individualized determination of the strengths, needs, and interests of the individual, is designed to meet the specific abilities of the individual and the business needs of the employer.

(4) "Discovery" is a time-limited comprehensive, person-centered, and community-based employment planning support service to better inform an individual seeking an individualized job in a competitive integrated employment setting and to create a Discovery Profile. Discovery includes a series of work or volunteer related activities to inform the individual and the job developer about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as identify the conditions and employment settings in which the individual will be successful. Discovery is also an opportunity for the individual to begin active pursuit of competitive integrated employment.

(5) "Discovery Profile" is a comprehensive and person-centered report produced as an outcome of discovery, representing an individual and providing information to better inform employment service planning and job development activities. The Discovery Profile includes information about the strengths, interests, abilities, skills, experiences, and support

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needs of the individual, as well as information about conditions and employment settings for the success of the individual.

(6) "Employment Path Services" means services to provide learning and work experiences, including volunteer opportunities, for an individual to develop general, non-job-task-specific, strengths and skills that contribute to employability in an individual job in a competitive integrated employment setting in the general workforce.

(7) "Employment Professional" means an employee of a provider agency or an independent provider who has the qualifications and training to provide employment services under these rules, including individual employment support, small group employment support, discovery, or employment path services.

(8) "Endorsement" means the authorization to provide program services issued by the Department to a certified provider agency that has met the qualification criteria outlined in these rules, the corresponding program rules, and the rules in OAR chapter 411, division 323.

(9) "Evidence-Based Practices" means well-defined best practices, which have been demonstrated to be effective by multiple peer-reviewed research studies that are specific to the relevant population or subset of that population.

(10) "Executive Director" means the person designated by a board of directors or corporate owner of a provider agency who is responsible for the administration of agency provided employment services.

(11) "Individual Employment Support" means job coaching or job development services to obtain, maintain, or advance in an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(12) "ISP" means "Individual Support Plan".

(13) "Job Coaching" means support for an individual to maintain or advance in an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(14) "Job Development" means support for an individual to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(15) "OSIPM" means "Oregon Supplemental Income Program Medical".

(16) "PRN" means the administration of medication to an individual on an 'as needed' basis (pro re nata).

(17) "Small Group Employment Support" means services and training activities provided in regular business, industry, and community settings for groups of two to eight individuals with disabilities. Small group employment support is provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces.

(18) "These Rules" mean the rules in OAR chapter 411, division 345.

(19) "Vocational Assessment" means an assessment administered to provide employment related information essential to the development of, or revision of, the employment related planning documents for an individual.

Stat. Auth.: ORS 409.050 & 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

Hist.: MHD 26-1982(Temp), f. & cert. ef. 12-3-82; MHD 9-1983, f. & cert. ef. 6-7-83; MHD 7-1990(Temp), f. & cert. ef. 6-12-90; MHD 13-1990, f. & cert. ef. 12-7-90; MHD 1-1997, f. & cert. ef. 1-31-97; Renumbered from 309-047-0005, SPD 23-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 12-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 14-2011, f. & cert. ef. 7-1-11; SPD 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 1-2012, f. & cert. ef. 1-6-12; SPD 26-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 61-2013, f. 12-27-13, cert. ef. 12-28-13; APD 27-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 45-2014, f. 12-26-14, cert. ef. 12-28-14; APD 31-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 22-2016, f. & cert. ef. 6-29-16; APD 32-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-360-0020

### Definitions and Acronyms

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 360:

(1) "Adult Foster Home (AFH)" means any home in which residential care and services are provided in a home-like environment for compensation to five or fewer adults who are not related to the provider by blood, marriage, or adoption. An adult foster home does not include any house, institution, hotel, or other similar living situation that supplies room or board only, if no individual thereof requires any element of care.

(2) "Adult Foster Home for Individuals with Intellectual or Developmental Disabilities (AFH-DD)" means an adult foster home in which residential care and services are provided to support individuals with intellectual or developmental disabilities.

(3) "Advance Directive" or "Advance Directive for Health Care" means the legal document signed by an individual or the legal representative of the individual that provides health care instructions in the event the individual is no longer able to give directions regarding his or her wishes. The Advance Directive gives the individual the means to control his or her own health care in any circumstance. An Advance Directive for Health Care does not include Physician Orders for Life-Sustaining Treatment (POLST).

(4) "Advocate" means a person other than a paid caregiver who has been selected by an individual or the legal representative of the individual to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(5) "AFH-DD" means an "adult foster home for individuals with intellectual or developmental disabilities" as defined in this rule.

(6) "Applicant" means a person who completes an application for an adult foster home license who is also the owner of the business or a person who completes an application to become a resident manager. The term applicant includes a co-applicant (if applicable).

(7) "Bill of Rights" means civil, legal, or human rights afforded to individuals in an adult foster home that are in accordance with those rights afforded to all other U.S. citizens including, but not limited to, those rights delineated in the Adult Foster Home Bill of Rights for individuals with intellectual or developmental disabilities described in OAR 411-360-0170.

(8) "Care" means supportive services that encourage maximum individual independence and enhance the quality of life for an individual including, but not limited to:

(a) Provision of 24-hour supervision, being aware of the whereabouts of the individual, and ensuring the health, safety, and welfare of the individual;

(b) Assistance with activities of daily living as defined in OAR 411-317-0000;

(c) Assistance with instrumental activities of daily living as defined in OAR 411-317-0000;

(d) Assistance with quality of life activities, such as socialization and recreation; and

(e) Monitoring the activities of the individual to ensure the health, safety, and welfare of the individual.

(9) "Caregiver" means any person responsible for providing care and services to support individuals. A caregiver includes a provider, resident manager, and any temporary, substitute, or supplemental caregiver or other person designated to provide care and service to support individuals in an adult foster home for individuals with intellectual or developmental disabilities.

(10) "CDDP" means "Community Developmental Disabilities Program".

(11) "CMS" means "Centers for Medicare and Medicaid Services".

(12) "Community Nursing Services" mean the nursing services that focus on the chronic and ongoing health and safety needs of an individual. Community nursing services include an assessment, monitoring, delegation, training, and coordination of services. Community nursing services are provided according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851.

(13) "Compensation" means monetary or in-kind payments by or on behalf of an individual to a provider in exchange for room and board, care, and services as indicated in the ISP or Service Agreement. Compensation does not include the voluntary sharing of expenses between or among roommates.

(14) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.

(15) "Controlled Substance" means any drug classified as schedules one through five under the Federal Controlled Substance Act.

(16) "Day Care" means care, assistance, and supervision of an individual who does not stay overnight. Individuals receiving day care services are included in the licensed capacity of a home as described in OAR 411-360-0060.

(17) "Denial" means the refusal of the Department to issue a license to operate an adult foster home for individuals with intellectual or developmental disabilities because the Department has determined that an applicant or the home is not in compliance with one or more of these rules.

(18) "Disaster" means an occurrence beyond the control of a licensee, whether natural, technological, or man-made that renders a home uninhabitable on a temporary, extended, or permanent basis.

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(19) "Domestic Animals" mean the animals domesticated so as to live and breed in a tame condition, such as dogs, cats, and domesticated farm stock.

(20) "Enjoin" means to prohibit by judicial order.

(21) "Exempt Area" means a county where there is a county agency that provides similar programs for licensing and inspection of adult foster homes that the Director finds are equal to or superior to the requirements of ORS 443.705 to 443.825 and that the Director has exempted from the license, inspection, and fee provisions described in ORS 443.705 to 443.825. Exempt area county licensing rules require review and approval by the Director prior to implementation.

(22) "Facility" means the physical structure of an adult foster home for individuals with intellectual or developmental disabilities.

(23) "Guardian" means the parent for an individual less than 18 years of age or the person or agency appointed and authorized by a court to make decisions about services for the individual. A paid provider for an individual may not be the guardian of the individual.

(24) "Hearing" means a contested case hearing subject to OAR 137-003-0501 to 137-003-0070, which results in a Final Order.

(25) "Home" means the physical structure of an adult foster home for individuals with intellectual or developmental disabilities.

(26) "Homelike" means an environment that promotes the dignity, security, and comfort of individuals through the provision of personalized care and services to support and encourage independence, choice, and decision making by the individuals.

(27) "House Rules" mean the social courtesies identified through a voluntary collaborative process by members of the household. The identified rules are non-binding and may not be solely provider driven expectations for individuals residing in the home.

(28) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in the disclosing entity.

(29) "Individual" means a young adult or adult residing in an adult foster home for individuals with intellectual or developmental disabilities, regardless of source of compensation.

(30) "Individualized Education Program" means the written plan of instructional goals and objectives developed in conference with an individual less than 21 years of age, the parent or legal representative of the individual (as applicable), teacher, and a representative of the public school district.

(31) "ISP" means "Individual Support Plan".

(32) "License" means a document granted by the Department to an applicant who is in compliance with the requirements of these rules.

(33) "Licensee" means the person who is issued a license, whose name is on the license, and who is responsible for the operation of an adult foster home. The licensee of an adult foster home does not include the owner or lessor of the building in which the adult foster home is situated unless the owner or lessor of the building is the provider.

(34) "Limited License" means a license is issued to a licensee who intends to provide care and services for compensation to a specific individual who is unrelated to the licensee but with whom the licensee has an established relationship of no less than one year.

(35) "Liquid Resource" means cash or those assets that may readily be converted to cash, such as a life insurance policy that has a cash value, stock certificates, or a guaranteed line of credit from a financial institution.

(36) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not, the resin extracted from any part of the plant, and every compound, manufacture, salt derivative, mixture, or preparation of the plant or its resin. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Legal medical marijuana" refers to the use of marijuana authorized under the Oregon Medical Marijuana Act (OMMA), ORS 475.300 to 475.346.

(37) "Mental Health Assessment" means the assessment used to determine the need for mental health services by interviewing an individual and obtaining all pertinent biopsychosocial information as identified by the individual, the family of the individual, and collateral sources. A mental health assessment:

- (a) Addresses the condition presented by the individual;
- (b) Determines a diagnosis; and
- (c) Provides treatment direction and individualized services and supports.

(38) "Modified Diet" means the texture or consistency of food or drink is altered or limited, such as no nuts or raw vegetables, thickened fluids, mechanical soft, finely chopped, pureed, or bread only soaked in milk.

(39) "Nursing Services" means the provision of individual-specific advice, plans, or interventions by a nurse at a home based on the nursing process as outlined by the Oregon State Board of Nursing. Nursing services differ from administrative nursing services.

(40) "OCCS" means the "Office of Client and Community Services".

(41) "Occupant" means any person residing in or using the facilities of an adult foster home including the individuals, licensee, resident manager, friends, family members, a person receiving day care services, and room and board tenants.

(42) "OIS" means the "Oregon Intervention System".

(43) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(44) "Over the Counter Topical" means a medication that is purchased without a prescription and is applied to the skin and not in an orifice.

(45) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an adult foster home. A person with an ownership or control interest means a person or corporation that:

- (a) Has an ownership interest totaling 5 percent or more in a disclosing entity;
- (b) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;
- (c) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;
- (d) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;
- (e) Is an officer or director of a disclosing entity that is organized as a corporation; or
- (f) Is a partner in a disclosing entity that is organized as a partnership.

(46) "Provider" means any person operating an adult foster home, such as a licensee or resident manager. "Provider" does not include caregivers or the owner or lessor of the building in which an adult foster home is situated unless the owner or lessor of the building is also the operator of the adult foster home.

(47) "Provider Enrollment" means an agreement between the Department and a Medicaid provider to provide room and board and care and services for compensation to support a Medicaid eligible individual in an adult foster home.

(48) "Provisional License" means a 60-day license issued in an emergency situation when a licensed provider is no longer overseeing the operation of an adult foster home. A provisional license is issued to a qualified person who meets the standards of OAR 411-360-0070 and 411-360-0110.

(49) "Qualified Entity Initiator (QEI)" has the meaning set forth in OAR 407-007-0210 (Criminal Records and Abuse Checks for Providers).

(50) "Qualified Mental Health Professional" means a licensed medical practitioner or any other person meeting the qualifications specified in OAR 309-019-0125.

(51) "Relief Care" means the intermittent services that are provided on a periodic basis for the relief of, or due to the temporary absence of, a person normally providing care and services to support an individual. Relief care may include 24-hour relief care or hourly relief care. Individuals receiving relief care are included in the licensed capacity of a home as described in OAR 411-360-0060.

(52) "Reside" means for a person to live in an adult foster home for a permanent or extended period of time. For the purpose of a background check, a person is considered to reside in a home if the visit of the person is for four consecutive weeks or greater.

(53) "Resident Manager" means an employee of a licensee approved by the Department, who resides in an adult foster home and is directly responsible for the care and services to support individuals on a day-to-day basis.

(54) "Respite" means "relief care" as defined in this rule.

(55) "Revocation" means the action taken by the Department to rescind an adult foster home license after the Department determines the provider or home is not in compliance with one or more of these rules.

(56) "Room and Board" means receiving compensation for the provision of meals, a place to sleep, laundry, basic utilities, and housekeeping to a person that does not need assistance with activities of daily living. Room and board facilities for two or more people are required to register with the Department as described in OAR chapter 411, division 068, unless regis-

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tered with the local authority having jurisdiction. Room and board does not include provision of care.

(57) "Self-Preservation" in relation to fire and life safety means the ability of an individual to respond to an alarm without additional cues and reach a point of safety without assistance.

(58) "Special Diet" means the specially prepared food or particular types of food that are specific to the medical condition or diagnosis of an individual and in support of an evidence-based treatment regimen. Examples include, but are not limited to, low calorie, high fiber, diabetic, low salt, lactose free, or low fat diets. A special diet does not include a diet where extra or additional food is offered without the order of a physician or licensed health care provider but may not be eaten, such as offering prunes each morning at breakfast or including fresh fruit with each meal.

(59) "Subject Individual" means:

(a) Any person 16 years of age or older, including:

(A) A licensed adult foster home provider and provider applicant;

(B) A person intending to work in or currently working in an adult foster home, including but not limited to a substitute caregiver and a potential substitute caregiver in training;

(C) A volunteer if allowed unsupervised access to an individual; and

(D) An occupant, excluding an individual, residing in or on the premises of a proposed or currently licensed adult foster home, including:

(i) A member of the household;

(ii) A room and board tenant; and

(iii) A person visiting for four consecutive weeks or greater.

(b) Subject individual does not apply to:

(A) An individual of the adult foster home or a visitor of an individual;

(B) A person who resides or works in an adult foster home who does not have:

(i) Regular access to the home for meals;

(ii) Regular use of the appliances or facilities of the adult foster home;

or

(iii) Unsupervised access to an individual or the personal property of an individual.

(C) A person providing services to an individual that is employed by a private business not regulated by the Department.

(60) "Substitute Caregiver" means any person who provides care and services in an adult foster home under the jurisdiction of the Department that is left in charge of the individuals for any period of time and has access to the individuals' records.

(61) "Suspension" means an immediate, temporary withdrawal of the approval to operate an adult foster home after the Department determines a provider or home is not in compliance with one or more of these rules or there is a threat to the health, safety, or welfare of individuals.

(62) "Tenant" means an individual who resides in an adult foster home and receives services, such as meal preparation, laundry, and housekeeping.

(63) "These Rules" mean the rules in OAR chapter 411, division 360.

(64) "Urgent Medical Need" means the onset of psychiatric or medical symptoms requiring attention within 48 hours to prevent a serious deterioration in the mental or physical condition of an individual.

(65) "Variance" means the temporary exemption from a regulation or provision of these rules that may be granted by the Department upon written application by the provider.

(66) "Young Adult" means a young individual age 18 through 21 who resides in an adult foster home under the custody of the Department, voluntarily, or under guardianship. A young adult may include an individual who is less than 18 years of age.

Stat. Auth.: ORS 409.050, 410.070, 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

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13; APD 28-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 47-2014, f. 12-26-14, cert. ef. 12-28-14; APD 30-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 21-2016, f. & cert. ef. 6-29-16; APD 32-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

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**Rule Caption:** ODDS: Independent Providers Delivering Developmental Disabilities Services

**Adm. Order No.:** APD 33-2016(Temp)

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**Rules Amended:** 411-375-0010, 411-375-0020, 411-375-0035, 411-375-0040, 411-375-0050, 411-375-0055, 411-375-0070

**Subject:** The Department of Human Services (Department), Office of Developmental Disabilities Services (ODDS) is temporarily amending the rules for independent providers delivering developmental disabilities services in OAR chapter 411, division 375.

OAR 411-375-0000 about definitions and acronyms is being amended to include claiming payment for hours that exceed limitations in the definition for fiscal improprieties and define non-motorized transportation to be consistent with the rules for homecare workers.

OAR 411-375-0020 about qualifications, exclusions, and enrollment responsibilities for independent providers is being amended to specify an employee of the State of Oregon may not be authorized to deliver services as a personal support worker.

OAR 411-375-0035 about documentation and reporting requirements is being amended to update the statutory references for mandatory reporters.

OAR 411-375-0040 about fiscal and accountability responsibility is being amended to update payment limitations to reflect that a personal support worker may not work more than 40 hours in a workweek, inclusive of travel time and time worked with other Department programs as a personal support worker or homecare worker, unless the personal support worker meets specific criteria or an exception has been granted.

OAR 411-375-0050 about benefits and secondary expenses for personal support workers is being amended to clarify that travel between worksites contributes to the limitation of hours a personal support worker may work in a workweek as described in OAR 411-375-0040.

OAR 411-375-0055 about standards for common law employers for personal support workers is being amended to specify the legal or designated representative of an individual may be a common law employer.

OAR 411-375-0070 about inactivation and termination of independent providers is being amended to include that an independent provider may be terminated if the independent provider fails to complete training required by the Department as a condition of retaining their provider number due to a violation of the rules.

In addition, edits have been made to ensure consistent terminology, update statutory and rule references, correct formatting and punctuation, and improve ease of reading.

**Rules Coordinator:** Kimberly Colkitt-Hallman — (503) 945-6398

## 411-375-0010

### Definitions and Acronyms

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 375.

(1) "Active Provider Number" means an identifying number issued by the Department to an independent provider who has completed the qualification and enrollment conditions described in OAR 411-375-0020. An active provider number is a provider number not currently in inactivated or terminated status.

(2) "ADL" means "activities of daily living".

(3) "Base Pay Rate" means the hourly wage to be paid to personal support workers, without any differentials, established in the Collective Bargaining Agreement.

(4) "Behaviorally-Driven Services and Supports" means the behavioral treatments an individual requires in addition to routine assessed ADL and IADL supports as identified in a functional needs assessment.

(5) "Burden of Proof" means the existence or nonexistence of a fact is established by a preponderance of the evidence.

(6) "CDDP" means "Community Developmental Disabilities Program".

(7) "CIIS" means "Children's Intensive In-Home Services".

(8) "Collective Bargaining Agreement" means the ratified agreement between the Home Care Commission and the Service Employees International Union, Local 503, Oregon Public Employees Union regarding wages, hours, rules, and working conditions for personal support workers.

(9) "Common Law Employer" means the employer of record (EOR) responsible for the duties described in OAR 411-375-0055.

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(10) "Common Law Employer Proxy" means a person delegated specific tasks to assist a common law employer in the duties described in OAR 411-375-0055.

(11) "Community Transportation" means the non-medical transportation provided to an individual. "Community Transportation" is further defined in OAR 411-435-0020 and described in OAR 411-435-0050.

(12) "Confidentiality" means the conditions for use and disclosure of specific information governed by other laws and rules including, but not limited to, OAR 407-014-0000 to 407-014-0070 (Privacy of Protected Information).

(13) "Department Funds" means state public funds or Medicaid funds used to purchase developmental disabilities services and supports for individuals enrolled in developmental disabilities services.

(14) "Enhanced Personal Support Worker" means a personal support worker certified by the Home Care Commission to deliver services to individuals who require advanced medically or behaviorally-driven services and supports as identified in a functional needs assessment.

(15) "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.

(16) "Exceptional Personal Support Worker" means a personal support worker certified by the Home Care Commission to deliver services to individuals who require extensive medically or behaviorally-driven services and supports as identified in a functional needs assessment and whose service needs also require the personal support worker to be awake more than 20 hours in a 24-hour period.

(17) "eXPRS" means "Express Payment and Reporting System". eXPRS is the information system used by the Department to track and document service delivery of claims funded by the Department.

(18) "FICA" means "Federal Insurance Contributions Act".

(19) "Fiscal Improprieties" means financial misconduct involving the money, property, or benefits of an individual.

(a) Fiscal improprieties include, but are not limited to, financial exploitation, borrowing money from an individual, taking property or money from an individual, having an individual purchase items for the independent provider, forging the signature of an individual, falsifying payment records, claiming payment for hours not worked, claiming payment for hours not prior authorized, claiming payment for hours that exceed limitations, or similar acts intentionally committed for financial gain.

(b) Fiscal improprieties do not include the exchange of money, gifts, or property between a personal support worker and an individual with whom the personal support 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.

(20) "Fiscal Intermediary" means a person or entity that receives and distributes Department funds on behalf of an individual who employs or contracts with a personal support worker to deliver services.

(21) "IADL" means "instrumental activities of daily living".

(22) "Imminent Danger" means there is reasonable cause to believe the life or physical, emotional, or financial well-being of an individual is in danger if no intervention is immediately initiated.

(23) "Inactivation" means an independent provider has a Department issued provider number that has been inactivated in accordance with sections (1) or (2) of OAR 411-375-0070.

(24) "Independent Provider" means a personal support worker, a person who is paid as a contractor, or a self-employed person. An agency or the employee of an agency is not an independent provider.

(25) "ISP" means "Individual Support Plan".

(26) "Lack of Skills, Knowledge, or Ability to Adequately or Safely Provide Services" means an independent provider does not possess the physical, mental, or emotional skills or abilities necessary to deliver services and the lack of skills or abilities puts an individual at risk because the independent provider fails to perform, or learn to perform, the duties needed to adequately meet the needs of the individual.

(27) "Medically-Driven Services and Supports" means the medical treatments an individual requires in addition to routine assessed ADL and IADL supports as identified in a functional needs assessment.

(28) "Non-Motorized Transportation" means traveling on foot, riding a bicycle, traveling in a wheelchair or scooter, or other similar means of transportation.

(29) "Office of Administrative Hearings" means the office described in ORS 183.605 established within the Employment Department to conduct contested case proceedings on behalf of designated state agencies.

(30) "Personal Support Worker":

(a) Means a person:

(A) Who has a Medicaid provider number;

(B) Who is hired or selected by an individual with an intellectual or developmental disability or their representative;

(C) Who receives money from the Department for the purpose of delivering services to the individual in the home or community of the individual; and

(D) Whose compensation for providing services is provided in whole or in part through a case management entity.

(b) This definition of personal support worker is intended to be interpreted consistently with ORS 410.600.

(31) "Preponderance of the Evidence" means the evidence of one party is more convincing than the evidence of the other party in a contested case hearing.

(32) "Protective Service and Abuse Rules" include any of the rules described in OAR chapter 411, division 020 (Adult Protective Services), OAR chapter 407, division 045 (Department - Office of Investigations and Training), OAR chapter 413, division 015 (Child Protective Services), and OAR chapter 943, division 045 (Authority - Office of Investigations and Training).

(33) "Proxy" means "Common Law Employer Proxy" as defined in this rule.

(34) "Provider Enrollment" means the process for enrolling an independent provider for the purpose of receiving payment for authorized services delivered to an individual. Provider enrollment includes the completion and submission of a Provider Enrollment Agreement before receiving a provider number.

(35) "Provider Number" means the identifying number issued to each qualified independent provider enrolled through the Department as a provider.

(36) "Restricted Personal Support Worker" means the Department or the designee of the Department has placed restrictions on the provider enrollment of a personal support worker as described in OAR 411-375-0020.

(37) "Termination" means an independent provider has a Department issued provider number that has been terminated in accordance with OAR 411-375-0070(3).

(38) "Travel Directly" means the travel time for a personal support worker from one worksite to another worksite is not interrupted for reasons other than to eat a meal, purchase fuel for the vehicle being used for the travel, use a restroom, or change buses, trains, or other modes of public transit.

(39) "These Rules" mean the rules in OAR chapter 411, division 375.

(40) "Violation of Protective Service and Abuse Rules" means, based on a substantiated allegation of abuse, an independent provider was found to have violated the protective service and abuse rules.

(41) "Workday" means 12:00 AM through 11:59 PM.

(42) "Worksite" means the physical location where a personal support worker is authorized to deliver services to an individual. A worksite may be the home of an individual, the community of the individual, or a home and community-based setting.

(43) "Workweek" means 12:00 AM Sunday through 11:59 PM Saturday.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 410.600, 410.606-619, 427.007

Hist.: APD 30-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 48-2014, f. 12-26-14, cert. ef. 12-28-14; APD 29-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 29-2016, f. & cert. ef. 6-29-16; APD 33-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-375-0020

### Qualifications, Exclusions, and Enrollment Responsibilities for Independent Providers

(1) QUALIFICATIONS. An independent provider who is qualified to provide services must meet the following requirements:

(a) Be at least 18 years of age.

(b) Have approval to work based on a background check completed by the Department as described in OAR 407-007-0200 to 407-007-0370 and section (3) of this rule.

(c) Not have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275 unless hired or contracted with prior to July 28, 2009 and remaining in the original position for which the independent provider was hired or contracted.

(d) Be free of convictions, founded allegations of abuse, or substantiated allegations of abuse by the appropriate agency including, but not limited to, the Department or case management entity.

(e) Be legally eligible to work in the United States.

(f) Demonstrate by background, education, references, skills, and abilities, the independent provider is capable of safely and adequately per-

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forming the tasks specified in an ISP or Service Agreement, with such demonstration of the following confirmed in writing by the individual, or as applicable their legal or designated representative:

(A) Ability and sufficient education to follow oral and written instructions and keep any required records.

(B) Possess the physical health, mental health, good judgment, and good personal character determined necessary to deliver services.

(C) Ability to communicate with the individual.

(D) Training of a nature and type sufficient to ensure that the independent provider has knowledge of emergency procedures specific to the individual.

(g) Maintain confidentiality and safeguard individual information. An independent provider may not share any personal information about the individual, including medical, social service, financial, public assistance, legal, or other personal details, unless given specific permission by the individual or as applicable their legal representative.

(h) Not be on the list of excluded or debarred providers maintained by the Office of the Inspector General (<http://exclusions.oig.hhs.gov/>).

(i) Complete and submit a Provider Enrollment Agreement to the Department and possess a current provider number issued by the Department.

(j) Have a Taxpayer Identification Number or Social Security number that matches the legal name of the independent provider as verified by the Internal Revenue Service or Social Security Administration.

(k) If providing services requiring professional licensure, possess a current and unencumbered license. The individual, or as applicable their designated or legal representative or the case management entity, must check the status of the professional license to verify the license is current and unencumbered.

(l) If transporting an individual, have a valid license to drive and proof of insurance, as well as any other license or certification required under state and local law depending on the nature and scope of the transportation. Copies of a valid license to drive and proof of insurance, as well as any other license or certification (if applicable), must be made available to any case management entity upon authorization of community transportation and as requested.

(m) An independent provider delivering specific services must meet any additional qualifications required by applicable program rules relevant to the services being delivered.

## (2) EXCLUSIONS.

(a) An independent provider may not be authorized to deliver services to an individual in any of the following circumstances:

(A) The individual is less than 18 years of age and the independent provider is the parent of the individual.

(B) The independent provider is the legal representative of the individual and has not appointed a designated representative to plan supports for the individual.

(C) The independent provider is the designated representative of the individual.

(D) The independent provider is the spouse of the individual.

(E) The independent provider is the common law employer or the proxy of the common law employer.

(b) An employee of the State of Oregon may not be authorized to deliver services as a personal support worker.

## (3) BACKGROUND CHECKS.

(a) A subject individual as defined in OAR 407-007-0210 may be approved for one position to work statewide when the subject individual is working in the same employment role with the same population. The Background Check Request Form must be completed by the subject individual to show intent to work statewide.

(b) When an independent provider is approved without restrictions following a background check fitness determination, the approval must meet the provider enrollment requirements for the employment role of the independent provider.

(c) If an independent provider has been approved under OAR 407-007-0200 to 407-007-0370 on a background check submitted to the Department between July 1, 2012 and June 30, 2014, the independent provider may use that approval notice to work statewide with the same population until a new background check is needed. Statewide clearance does not apply to a restricted personal support worker.

(d) Background check approval is effective for two years from the date of fitness determination to provide services except in one or more of the following circumstances:

(A) A new fitness determination is conducted resulting in a change in approval status.

(B) The Department has terminated the provider enrollment for the independent provider.

(e) The case management entity may conduct a background recheck more frequently based on any of the following:

(A) Additional information about the independent provider is discovered, such as possible criminal activity or other allegations.

(B) At the request of the individual or the common law employer or their proxy. Upon request, a personal support worker must provide any additional information within 30 days to complete the background recheck.

(f) An independent provider must self-report any potentially disqualifying crimes under OAR 125-007-0270 and potentially disqualifying conditions under OAR 407-007-0290 to the case management entity within 24 hours.

## (4) ENROLLMENT RESPONSIBILITIES.

(a) The Department may not complete provider enrollment in any of the following circumstances:

(A) The applicant has been suspended or terminated as a provider by another division within the Department or the Oregon Health Authority.

(B) The applicant has a history of violating the protective service and abuse rules or has a founded report of child abuse or substantiated adult abuse.

(C) The applicant has committed fiscal improprieties.

(D) The applicant has demonstrated a lack of skills, knowledge, or ability to adequately or safely provide services.

(E) The applicant has an unacceptable background check or the background check results in a closed case pursuant to OAR 407-007-0320.

(F) The applicant is on the list of excluded or debarred providers maintained by the Office of the Inspector General (<http://exclusions.oig.hhs.gov/>).

(G) The case management entity has documentation the applicant is not capable of performing required services in a professionally competent, safe, legal, or ethical manner.

(H) The Taxpayer Identification Number or Social Security number for the applicant does not match the legal name of the applicant as verified by the Internal Revenue Service or Social Security Administration.

## (b) CONTINUED ENROLLMENT.

(A) An independent provider is responsible for maintaining an active provider number by:

(i) Completing and submitting a new Provider Enrollment Agreement to the Department at least 55 calendar days prior to the end date of the Provider Enrollment Agreement; and

(ii) Completing and submitting a Background Check Request Form and receiving approval to work by the Department at least 55 calendar days prior to the end of the background check approval period.

(B) An independent provider is responsible to attend trainings and maintain certifications as required by applicable program rules.

(5) The individual, or as applicable their legal or designated representative, has the right to choose any independent provider who meets all additional program qualifications for the services to be delivered and is enrolled as a provider described in this rule.

## (6) PERSONAL SUPPORT WORKERS.

(a) ORIENTATION. A personal support worker must attend a personal support worker orientation consistent with the Collective Bargaining Agreement.

(b) RESTRICTED PERSONAL SUPPORT WORKER PROVIDER ENROLLMENT.

(A) The Department may enroll an applicant as a restricted personal support worker. A restricted personal support worker may only provide services to a specific individual who is a family member, neighbor, or friend.

(i) After conducting a weighing test as described in OAR 407-007-0200 to 407-007-0370, the Department may approve a restricted enrollment for an applicant with a prior criminal record, unless under OAR 407-007-0275 the applicant has been found ineligible due to ORS 443.004.

(ii) The Department may approve a restricted enrollment for an applicant based on their lack of skills, knowledge, or ability to adequately or safely provide services.

(B) To remove restricted personal support worker status, the applicant must complete a new application and background check and be approved by the Department.

(c) ENHANCED AND EXCEPTIONAL PERSONAL SUPPORT WORKERS.

## (A) ENHANCED PERSONAL SUPPORT WORKERS.

(i) A personal support worker must be certified by the Home Care Commission as an enhanced personal support worker to deliver services to



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individuals who require advanced medically- or behaviorally-driven services and supports as identified by a functional needs assessment.

(ii) Enhanced personal support workers are paid for providing ADL and IADL services at the enhanced personal support worker rate set forth in the Collective Bargaining Agreement. The enhanced personal support worker rate is effective the first day of the month following the month in which both:

(I) The personal support worker is certified by the Oregon Home Care Commission to deliver services.

(II) The outcome of the functional needs assessment for an individual indicates the need for assistance with advanced medically- or behaviorally-driven services.

## (B) EXCEPTIONAL PERSONAL SUPPORT WORKER.

(i) A personal support worker must be certified by the Home Care Commission as an exceptional personal support worker to deliver services to individuals who require assistance with extensive medically- or behaviorally-driven services and supports as identified by a functional needs assessment.

(ii) Exceptional personal support workers are paid for providing ADL and IADL services at the exceptional personal support worker rate set forth in the Collective Bargaining Agreement. The exceptional personal support worker rate is effective the first day of the month following the month in which both:

(I) The personal support worker is certified by the Oregon Home Care Commission to deliver services.

(II) The outcome of the functional needs assessment for an individual indicates the need for assistance with extensive medically- or behaviorally-driven services and at least 20 hours per day of attendant care support excluding 2:1 support hours.

(C) A personal support worker who has been certified by the Oregon Home Care Commission to provide enhanced or exceptional supports may not receive the enhanced or exceptional rate when providing services to an individual whose functional needs assessment does not indicate the need for assistance with advanced or extensive medically- or behaviorally-driven services, except as required by the Collective Bargaining Agreement.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 410.600, 410.606-619, 427.007

Hist.: APD 30-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 48-2014, f. 12-26-14, cert. ef. 12-28-14; APD 29-2016, f. & cert. ef. 6-29-16; APD 29-2016, f. & cert. ef. 6-29-16; APD 33-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-375-0035

### Documentation and Reporting Requirements

#### (1) SERVICE AGREEMENT.

(a) An independent provider may not provide services to an individual without a completed and authorized Service Agreement. For independent providers who are not personal support workers, the signature of the independent provider on the ISP for an individual may serve as the Service Agreement.

(b) An independent provider must maintain a copy of the authorized Service Agreement for the authorized service period.

(c) For personal support workers, the Service Agreement serves as a job description.

#### (2) PROGRESS NOTES.

(a) Independent providers must maintain regular progress notes. The progress note must include, at minimum, the following information regarding the service rendered:

(A) Date and time the service was delivered.

(B) Information regarding progress towards achieving the intended ISP goal identified in the Service Agreement for which the service was delivered.

(b) For a personal support worker, progress notes must be submitted to the case management entity with their timesheet as part of their claim for payment and additionally upon request from the case management entity.

(c) For an independent provider who is not a personal support worker, progress notes must be submitted as required by applicable program rules.

#### (3) INCIDENT REPORTING.

(a) Independent providers must notify the case management entity of any injury, accident, act of physical aggression, or unusual incident involving an individual.

(b) Independent providers must notify the case management entity of any reasonable suspicion that an individual is the victim of abuse.

(c) Independent providers who are mandatory reporters must also make reports of suspected abuse consistent with the following:

(A) ORS 419B.010 and 419B.015 for abuse of a child.

(B) ORS 124.060 and 124.065 for abuse of an older adult 65 years of age or older.

(C) ORS 430.737 and 430.743 for abuse of an adult with an intellectual or developmental disability or mental illness.

(D) ORS 441.640 and 441.645 for abuse of a resident of a long term care facility as defined in ORS 442.015.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 410.600, 410.606-410.619, 427.007

Hist.: APD 29-2016, f. & cert. ef. 6-29-16; APD 33-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-375-0040

### Fiscal and Accountability Responsibility

(1) DIRECT SERVICE PAYMENTS. The case management entity or contracted fiscal intermediary makes payment to an independent provider on behalf of an individual for all services.

(a) Payment is considered full payment for the services rendered. The independent provider may not, under any circumstances, demand or receive additional payment for Department-funded services from the individual or any other source.

(b) The Department only makes payment for services authorized in an ISP, included in a Service Agreement, and delivered by a provider authorized in eXPRS to deliver the service.

(c) The Department does not make Department funds available to an individual or common law employer to pay an independent provider.

(d) The Department only makes payment to an enrolled provider who actually performs the authorized services. Federal regulations prohibit the Department from making payment to a collection agency.

(e) All Department funds paid to a personal support worker must come through a fiscal intermediary.

(2) TIMELY SUBMISSION OF CLAIMS. In accordance with 42 CFR 447.45, all claims for services must be submitted within 12 months from the date of services in order to be considered for payment. A claim submitted after 12 months from the date of services may not be considered for payment.

#### (3) CLAIM OR ENCOUNTER SUBMISSION.

(a) Submission of a claim, encounter, or other payment request document constitutes the agreement of an independent provider to all of the following:

(A) The services were delivered in compliance with the Service Agreement in effect on the date of service.

(B) The information on the claim, encounter, or other payment request document, regardless of the format, is true, accurate, and complete.

(C) The independent provider understands payment of the claim, encounter, or other payment request document is from Department funds and any falsification or concealment of a material fact may result in prosecution under federal and state laws.

(b) The independent provider must submit a claim for payment directly into eXPRS, unless an exception has been granted by the case management entity.

(A) Claims for payment submitted by independent providers who are not personal support workers must include documentation from the provider of services delivered.

(B) Claims for payment submitted by personal support workers must meet the requirements of a properly completed timesheet as defined by the Collective Bargaining Agreement including submission of progress notes as required by OAR 411-375-0035.

(4) CLAIM OR ENCOUNTER AUTHORIZATION. Authorization of a submitted claim, encounter, or other payment request document by the employer, constitutes agreement the independent provider delivered services in accordance with the claim.

#### (5) PAYMENT LIMITATIONS.

(a) Department funds may not pay for services delivered by an independent provider who does not possess an active provider number issued by the Department on the date services are delivered.

(b) An active provider number with the Department is not a guarantee that an independent provider shall receive any minimum amount of work or payment from the case management entity.

(c) Payment is not made for services delivered to any individual prior to the following:

(A) The return of a signed Service Agreement, specific to the individual, to the case manager of the individual.

(i) When the provider is a personal support worker, a completed Service Agreement must include a dated signature from the common law employer and the personal support worker.

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(ii) When the provider is an independent provider, but not a personal support worker, a completed Service Agreement must include the name and dated signature of the individual or as applicable their legal or designated representative.

(B) Authorization of the services in eXPRS.

(d) A personal support worker may not work more than 40 hours in a workweek, inclusive of travel time and time worked with other Department programs as a personal support worker or homecare worker, unless the personal support worker meets the criteria in subsection (A) or (B) of this section.

(A) A personal support worker may work 50 hours per workweek if the personal support worker claimed more than an average of 40 hours per workweek during the months of March, April, and May of 2016.

(B) A personal support worker may work more than 40 hours in a workweek if an exception has been granted by the case management entity. All determinations regarding exceptions to the 40 hour limitation are final.

## (6) ANCILLARY CONTRIBUTIONS FOR PERSONAL SUPPORT WORKERS.

(a) FICA. Acting on behalf of the individual, the case management entity or contracted fiscal intermediary applies applicable FICA regulations, including the following:

(A) Withholding the FICA contribution of the personal support worker from the payment to the personal support worker.

(B) Submitting the FICA contribution of the individual and the amounts withheld from the payment to the personal support worker to the Social Security Administration.

(b) BENEFIT FUND ASSESSMENT. The Workers' Benefit Fund pays for programs that provide direct benefits to an injured worker and the beneficiary of the injured worker and also assists an employer in helping an injured worker return to work. The Department of Consumer and Business Services sets the Workers' Benefit Fund assessment rate for each calendar year. The case management entity or contracted fiscal intermediary 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 individual, the case management entity or contracted fiscal intermediary performs the following duties:

(A) Deducts the share of the Benefit Fund assessment rate for the personal support worker for each hour or partial hour worked.

(B) Collects the share of the Benefit Fund assessment rate for the individual for each hour or partial hour of paid services received.

(C) Submits the contributions of the personal support worker and the individual to the Workers' Benefit Fund.

(c) The case management entity or contracted fiscal intermediary submits the unemployment tax.

(7) STATE AND FEDERAL INCOME TAX WITHHOLDING.

(a) The case management entity or contracted fiscal intermediary withholds state and federal income taxes on all payments to personal support workers, as indicated in the Collective Bargaining Agreement.

(b) Personal support workers must complete and return a current Internal Revenue Service (IRS) W-4 form.

(A) Personal support workers working with individuals receiving services through a CDDP or Brokerage must return all applicable IRS forms to the local office of the CDDP or Brokerage.

(B) Personal support workers working with children receiving services through CIIS must return the IRS forms to the Central Office of the Department.

(C) The case management entity or contracted fiscal intermediary must apply standard income tax withholding practices in accordance with 26 CFR 31.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 410.600, 410.606-619, 427.007

Hist.: APD 30-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 48-2014, f. 12-26-14, cert. ef. 12-28-14; APD 29-2016, f. & cert. ef. 6-29-16; APD 33-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-375-0050

### Personal Support Worker Benefits and Secondary Expenses

(1) The only benefits available to personal support workers are negotiated in the Collective Bargaining Agreement and provided in Oregon Revised Statute. The Collective Bargaining Agreement does not include participation in the Public Employees Retirement System or the Oregon Public Service Retirement Plan. Personal support workers are not employees of a case management entity.

(2) Workers' compensation, as defined in Oregon Revised Statute, is available to eligible personal support workers as described in the Collective Bargaining Agreement. In order to receive services delivered by a personal

support worker, an individual, the designated common law employer, or the proxy must provide written authorization and consent to the Department for the provision of workers' compensation insurance for the personal support worker.

(3) MILEAGE REIMBURSEMENT.

(a) COMMUNITY TRANSPORTATION.

(A) A personal support worker may be reimbursed for providing community transportation related to services if the community transportation is prior authorized by a case manager and reflected in the ISP for an individual in accordance with OAR 411-435-0050. A personal support worker providing community transportation must have a valid license to drive, a good driving record, and proof of insurance for the vehicle used to transport the individual, as well as any other license or certificate that may be required under state and local law depending on the nature and scope of the transportation. Copies of a valid license to drive and proof of insurance, as well as any other license or certification that may be required, must be made available to any case management entity upon authorization of community transportation and as requested.

(B) Community transportation services exclude medical transportation. Medical transportation is provided through the Health Systems Division of the Oregon Health Authority.

(C) The Department is not responsible for vehicle damage or personal injury sustained while using a personal motor vehicle for ISP-related transportation except as may be covered by workers' compensation.

(D) Reimbursement for transporting an individual to accomplish ADL, IADL, or a health-related task within the community in which the individual lives or an employment goal identified in an ISP is on a per-mile basis as outlined in the Collective Bargaining Agreement.

(b) TRAVEL BETWEEN WORKSITES.

(A) A personal support worker who travels directly between one worksite to another worksite is paid at the base pay rate, as defined in the Collective Bargaining Agreement, for the time spent traveling directly between the worksites.

(B) Unless otherwise specified in statute or rule, the amount of time a personal support worker may take to travel directly from one worksite to another worksite may not exceed one hour.

(C) The total time spent traveling directly between worksites for all individuals a personal support worker is authorized to deliver services to, may not total more than 10 percent of the total wages the personal support worker claims during a pay period as described in the Collective Bargaining Agreement.

(D) The time claimed by a personal support worker for travel directly between worksites contributes to the limitation of hours a personal support worker may work in a workweek as described in OAR 411-375-0040(5)(d).

(E) The Department determines the time needed for a personal support worker to travel directly between worksites.

(i) When a personal support worker uses their own vehicle to travel directly between worksites, payment for travel time is based on a time estimate published in a common, publicly-available, web-based mapping program.

(ii) When a personal support worker uses public transportation to travel directly between worksites, payment for travel time is based on the scheduled pick-up and drop-off times for the stops nearest the worksites.

(iii) When a personal support worker uses non-motorized transportation to travel directly between worksites, payment for travel time is based on a time estimate published in a common, publicly-available, web-based mapping program.

(c) Claims for travel time exceeding the travel time estimated by the Department require a written explanation from the personal support worker. Travel time claimed in excess of the time estimated by the Department may not be paid.

(d) Under no circumstances may a personal support worker be paid for time spent in transit to or from their own residence.

(e) Personal support workers receive mileage reimbursement only as set forth in this section of this rule.

(4) GLOVES AND MASKS. Once all public and private resources have been exhausted and in response to a documented change or newly identified individual need, an emergency supply of protective gloves and masks must be made available to a personal support worker for the safety of the personal support worker, as outlined in the Collective Bargaining Agreement.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 410.600, 410.606-619, 427.007

Hist.: APD 30-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 48-2014, f. 12-26-14, cert. ef. 12-28-14; APD 29-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 29-2016, f. & cert. ef. 6-29-16; APD 33-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

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## 411-375-0055

### Standards for Common Law Employers for Personal Support Workers

(1) A common law employer is required when a personal support worker is selected by an individual, or as applicable their legal or designated representative, to deliver supports.

(2) The Department, provider agencies, or case management entities may not act as the common law employer for a personal support worker.

(3) The relationship between a personal support worker and an individual, or their designated common law employer, is an employee and employer relationship.

(4) Common law employers do not qualify for any benefits including, but not limited to, financial compensation.

#### (5) COMMON LAW EMPLOYER REQUIREMENTS.

(a) Common law employers may be one of the following:

(A) The individual.

(B) The legal or designated representative of the individual.

(C) A person who is designated by the individual, or as applicable their legal or designated representative, to act as the designated common law employer on behalf of the individual.

(i) As of October 1, 2016, a designated common law employer or proxy must sign a Department-approved form affirming the designated common law employer or proxy is able to fulfill the responsibilities, or responsibilities delegated to them, as outlined in subsection (b) of this section.

(ii) A designated common law employer must not have any of the following:

(I) A history of substantiated abuse of an adult as described in OAR 411-045-0250 to 411-045-0370.

(II) A history of founded abuse of a child as described in ORS 419B.005.

(III) A conviction of any crimes found in OAR 407-007-0275.

(IV) An indictment or conviction of fraud pursuant to federal law under 42 CFR 455.23.

(iii) A common law employer must not currently be employed as a provider in any capacity for an individual receiving services.

(iv) A common law employer must meet federal and state requirements to enter an employment relationship.

(b) Common law employers have the following responsibilities:

(A) Locating, screening, and hiring a qualified personal support worker.

(B) Assisting in developing a Service Agreement with the case management entity as needed.

(C) Ensuring services are delivered in accordance with the Service Agreement.

(D) Supervising and training the personal support worker.

(E) Scheduling work, leave, and coverage.

(F) Tracking the hours worked and verifying the authorized hours completed by the personal support worker.

(G) Recognizing, discussing, and attempting to correct, with the personal support worker, any performance deficiencies and provide appropriate and progressive disciplinary action as needed.

(H) Notifying the case management entity of any suspected fraud or abuse by the personal support worker.

(I) Discharging an unsatisfactory personal support worker.

(c) A common law employer must meet all of the employer responsibilities described in subsection (b) of this section.

(d) The Department or case management entity may be required to intervene as described in section (6) of this rule when a common law employer or their proxy or a designated common law employer, has demonstrated an inability to meet one or more of the employer responsibilities described in subsection (b) of this section. Indicators that a common law employer or their proxy or a designated common law employer may not be meeting one or more of the responsibilities include, but are not limited to:

(A) Complaints to the case management entity or Department from the personal support worker.

(B) Scheduling personal support workers for more time than authorized in the Service Agreement.

(C) Scheduling multiple personal support workers for the same time period without authorization.

(D) Approving time worked without verifying services were delivered as described in the Service Agreement.

(E) Verifying time not actually worked by a personal support worker.

(F) Refusal to verify time worked by a personal support worker for services delivered as described in the Service Agreement.

(G) Complaints to Medicaid fraud involving the common law employer or their proxy or the designated common law employer.

(H) Documented observation by the case management entity or Department services are not being delivered as identified in a Service Agreement.

(e) In the event an individual is unable or unwilling to perform the duties of a common law employer and has not already designated a common law employer, the individual, or as applicable their legal or designated representative, must either:

(A) Designate a proxy meeting the requirements of a designated common law employer described in subsection (a)(C) of this section.

(i) A proxy may not be delegated all of the responsibilities of the common law employer.

(ii) The proxy may not perform any common law employer tasks not delegated to the proxy on a Department approved form.

(B) Select a designated common law employer as outlined in subsection (a)(C) of this section.

(f) A designated common law employer must be able to fulfill all of the duties outlined in subsection (b) of this section and may not utilize a proxy.

(g) If an individual is unable to fulfill the responsibilities of a common law employer and is unable to select a proxy or designated common law employer who meets the requirements outlined in subsection (a)(C) of this section, the individual may only select services from providers who are not personal support workers.

#### (6) INTERVENTION.

(a) For the purposes of this rule, "intervention" means the action the Department or the case management entity requires when a common law employer fails to meet the responsibilities described in section (5)(b) of this rule.

(b) Interventions may include any of the following:

(A) A review of the employer responsibilities described in section (5)(b) of this rule.

(B) Training related to employer responsibilities or referral to a Department approved resource for training.

(C) Corrective action taken as a result of a personal support worker filing a complaint with the Department or the case management entity.

(D) Recommending alternative designation of common law employer responsibilities, such as a new designated common law employer or proxy.

(c) Any intervention initiated by the Department or the case management entity against a common law employer designated prior to October 1, 2016 must include the common law employer accepting, on a Department approved form, the responsibilities outlined in section (5)(b) of this rule.

#### (7) REMOVAL OF COMMON LAW AND DESIGNATED COMMON LAW EMPLOYERS AND PROXIES.

(a) The individual or their legal or designated representative may remove a designated common law employer or proxy at any time, for any reason. Such an action by the individual or their legal or designated representative is not subject to sections (7)(b) through (8) of this rule.

(b) Prior to the removal of any common law employer or designated common law employer or proxy by the Department or case management entity, the Department or case management entity must intervene at least once, as described in section (6) of this rule, unless:

(A) There is an imminent danger to the health and safety of the individual receiving services, including:

(i) Pending charges against or conviction for any crimes found in OAR 407-007-0275.

(ii) An open protective services case for an allegation of abuse as defined in OAR 407-045-0260.

(iii) Finding of substantiated abuse of an adult as described in OAR 411-045-0250 to 411-045-0370.

(iv) Finding of abuse of a child as described in ORS 419B.005.

(B) There is a credible allegation, indictment, or conviction of fraud pursuant to federal law under 42 CFR 455.23.

(c) The Department or case management entity shall remove any designated common law employer or proxy for any violation of section (5)(a)(C)(ii) or subsection (b) of this section.

(d) Any common law employer or their proxy or designated common law employer may be removed by the case management entity or Department for failure to meet the responsibilities of a common law employer as referenced in section (5)(b) after a documented intervention as outlined in section (6) of this rule.

(e) A common law employer or designated common law employer or proxy who is removed by the case management entity or Department may

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not act in any capacity as a common law employer or proxy for any individual receiving Department funded services effective:

(A) 30 days from the date of removal; or

(B) Immediately if removed for reasons listed under section (5)(b) of this rule.

(f) If a designated common law employer or proxy is removed, the individual or their legal or designated representative may select another designated common law employer or proxy. If a designated common law employer or proxy is not selected and the individual is unable or unwilling to serve as their own common law employer, the individual may only select providers who are not personal support workers.

(8) NOTIFICATION OF DESIGNATED COMMON LAW EMPLOYER OR PROXY REMOVAL. The Department or case management entity shall notify the designated common law employer or proxy and the individual and their legal or designated representative (as applicable) of the removal of the designated common law employer or proxy.

(9) REQUEST FOR REINSTATEMENT OF COMMON LAW EMPLOYER, DESIGNATED COMMON LAW EMPLOYER, OR PROXY STATUS.

(a) An individual, designated common law employer, or proxy is eligible to request reinstatement of their previous common law employer status if:

(A) The common law employer was the individual; or

(B) The designated common law employer or proxy no longer meets the criteria in section (7)(b) of this rule or is removed under section (7)(c) of this rule and the individual or their legal or designated representative agrees to the reinstatement.

(b) Requests for reinstatement:

(A) Must be submitted to the case management entity.

(B) Must include evidence of improvement in the areas for which they were removed. Evidence may include, but is not limited to:

(i) Improvements in health and cognitive functioning; or

(ii) Participation in a Department or case management entity approved training plan.

(C) May be approved by the case management entity when there is evidence of improvement in the ability to perform the responsibilities of being a designated common law employer and the individual agrees with the reinstatement.

(D) No more than one request for reinstatement may be submitted in a six month period unless approved by the case management entity.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 410.600, 410.606-619, 427.007

Hist.: APD 29-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 29-2016, f. & cert. ef. 6-29-16; APD 29-2016, f. & cert. ef. 6-29-16; APD 33-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-375-0070

### Provider Enrollment Inactivation and Termination

(1) An independent provider may not be paid for work performed while their provider number is inactivated. A provider number for an independent provider may be inactivated by the Department for any of the following reasons until the independent provider takes action to reinstate their provider enrollment:

(a) The independent provider has not provided any paid services to an individual within the previous 12 months.

(b) The independent provider informs the case management entity the independent provider is no longer providing services in Oregon.

(c) For a personal support worker, the personal support worker fails to participate in a required orientation for personal support workers as described in the Collective Bargaining Agreement.

(d) The background check for an independent provider results in a closed case pursuant to OAR 407-007-0320.

(e) More than two years have passed since the date on the most recent background check final fitness determination for an independent provider.

(f) More than two years have passed since the signature date on the most recent Provider Enrollment Application and Agreement for an independent provider.

(g) The independent provider fails to participate in training required by the Department.

(h) The independent provider does not request a hearing within 10 business days of a notice of proposed termination.

(2) An independent provider may not be paid for work performed while their provider number is inactivated during an investigation for any of the following reasons:

(a) The independent provider, even if not providing any paid services to an individual, is being investigated for alleged violation of the protective

service and abuse rules by a case management entity for suspected abuse that poses imminent danger to current or future individuals.

(b) The independent provider, even if not providing any paid services to an individual, is being investigated by law enforcement for any of the crimes listed in OAR 407-007-0275.

(c) The independent provider has a credible allegation of fraud pursuant to federal law under 42 CFR 455.23.

(3) An independent provider may not be paid for work performed while their provider number is terminated. A provider number for an independent provider may be terminated by the Department for any of the following reasons:

(a) The independent provider violates the requirement to maintain a drug-free work place by:

(A) Being intoxicated by alcohol, inhalants, prescription drugs, or other drugs, including over-the-counter medications, while responsible for the care of an individual, while in the home of the individual, or while transporting the individual; or

(B) Manufacturing, possessing, selling, offering to sell, trading, or using illegal drugs while providing authorized services to an individual or while in the home of the individual.

(b) The independent provider has an unacceptable background check and the background check results in a closed case pursuant to OAR 407-007-0320.

(c) The independent provider demonstrates a lack of skills, knowledge, or ability to adequately or safely provide services as defined in OAR 411-375-0010.

(d) The independent provider has a violation of the protective service and abuse rules as defined in OAR 411-375-0010.

(e) Notwithstanding abuse as defined in OAR 407-045-0260, 411-020-0002, 943-045-0260, or child abuse and neglect as defined in OAR 413-015-0115, the independent provider fails to safely and adequately provide authorized services.

(f) The independent provider commits fiscal improprieties including, but not limited to, billing excessive or fraudulent charges or has a conviction for fraud pursuant to federal law under 42 CFR 455.23.

(g) The independent provider fails to provide services to an individual as described in their Service Agreement or ISP.

(h) The independent provider lacks the ability or willingness to maintain individual confidentiality.

(i) The independent provider engages in repeated unacceptable conduct at work, such as:

(A) Delay in arriving to work or absences from work not scheduled in advance with the individual, or as applicable their legal or designated representative, that are either unsatisfactory to the individual, or as applicable their legal or designated representative, or that neglect the service needs of the individual; or

(B) Inviting unwelcome guests or pets into the home or community with the individual resulting in the dissatisfaction of the individual, or as applicable their legal or designated representative, or inattention to the service needs of the individual.

(j) The independent provider has been excluded or debarred by the Office of the Inspector General.

(k) The independent provider fails to perform the applicable duties as a mandatory reporter as required by any of the following:

(A) ORS 419B.010 and 419B.015 for abuse of a child.

(B) ORS 124.060 and 124.065 for abuse of an older adult 65 years of age or older.

(C) ORS 430.737 and 430.743 for abuse of an adult with an intellectual or developmental disability or mental illness.

(D) ORS 441.640 and 441.645 for abuse of a resident of a long term care facility as defined in ORS 442.015.

(l) The independent provider fails to provide a Taxpayer Identification Number or Social Security number that matches the legal name of the independent provider as verified by the Internal Revenue Service or Social Security Administration.

(m) The independent provider fails to complete training required by the Department as a condition of retaining their provider number due to a violation of these rules.

(4) NOTIFICATION OF PROPOSED CHANGE IN PROVIDER NUMBER STATUS.

(a) The Department must issue a written notice of the proposed inactivation of a provider number to the independent provider when the inactivation is based on section (1)(g) or section (2) of this rule.

(b) The Department must issue a written notice of the proposed termination of a provider number to the independent provider. For termina-

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tions based on violation of the protective service and abuse rules, the written notice of termination may only contain the information allowed by law. In accordance with ORS 430.753, 430.763, and OAR 411-020-0030, the name of a complainant, witness, or alleged victim, and protected health information may not be disclosed.

(c) The Department-issued written notice of the proposed change in provider number status must include:

(A) An explanation of the reason for terminating or inactivating the provider number.

(B) The alleged violation as listed in sections (1) or (2) of this rule.

(C) The hearing rights, if any, of the independent provider as described in OAR 411-375-0080, including the right to legal representation, if applicable, and where to file a request for hearing.

(D) The effective date of the termination or inactivation.

(5) RETENTION OF PROVIDER NUMBER PENDING HEARING OUTCOME.

(a) Unless an independent provider is immediately terminated as described in subsection (b) of this section, the provider number of an independent provider may not be inactivated during the first 10 business days after a notice of proposed termination to provide the opportunity for the independent provider to file a request for hearing.

(A) The independent provider must file a request for hearing within 10 business days from the date of the notice of proposed termination if the independent provider wishes to continue to work during the hearing process as described in OAR 411-375-0080.

(B) If the independent provider files a written request for a hearing prior to the deadline, the provider number of the independent provider may not be inactivated or terminated until the hearing process is concluded.

(b) EXCLUSIONS. An independent provider may be terminated immediately by the Department for any of the following reasons and the independent provider may not continue to work during the hearing process as described in OAR 411-375-0080:

(A) Termination is based on a background check. The independent provider has the right to a hearing in accordance with OAR 407-007-0200 to 407-007-0370.

(B) Termination is based on being excluded or debarred by the Office of the Inspector General.

(C) Termination is based on a conviction for fraud pursuant to federal law under 42 CFR 455.23.

(D) Termination is based on an alleged violation listed in section (3) of this rule and the alleged violation presents imminent danger to current or future individuals.

(6) TERMINATION IF NO HEARING REQUEST FILED.

(a) An independent provider must file a request for hearing within 30 calendar days from the date of the notice of proposed termination as described in OAR 411-375-0080.

(b) The decision of the Department becomes final if an independent provider does not request a hearing within 30 calendar days from the date of the notice of proposed termination.

(c) The Department issues a Final Order by Default to the independent provider in accordance with OAR 137-003-0670. The provider enrollment for the independent provider is terminated once the time period for the independent provider to request a hearing has expired.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 410.600, 410.606-619, 427.007

Hist.: APD 30-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; APD 48-2014, f. 12-26-14, cert. ef. 12-28-14; APD 29-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 29-2016, f. & cert. ef. 6-29-16; APD 33-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

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**Rule Caption:** ODDS: Direct Nursing Services for Adults with Intellectual or Developmental Disabilities

**Adm. Order No.:** APD 34-2016(Temp)

**Filed with Sec. of State:** 8-30-2016

**Certified to be Effective:** 9-1-16 thru 2-27-17

**Notice Publication Date:**

**Rules Amended:** 411-380-0020, 411-380-0030, 411-380-0060, 411-380-0090

**Subject:** The Department of Human Services (Department), Office of Developmental Disabilities Services (ODDS) is temporarily amending the rules for direct nursing services for adults with intellectual or developmental disabilities in OAR chapter 411, division 380.

OAR 411-380-0020 about definitions and acronyms and OAR 411-380-0030 about eligibility and limitations for direct nursing serv-

ices are being amended to expand Medicaid eligibility and incorporate related definitions.

OAR 411-380-0060 about qualifications for providers of direct nursing services is being amended to specify that background check approval is effective for two years from the initial fitness determination.

OAR 411-380-0090 about provider billing and payment is being amended to correct rule references.

In addition, edits have been made to ensure consistent terminology, update statutory and rule references, correct formatting and punctuation, and improve ease of reading.

**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

## 411-380-0020

### Definitions and Acronyms

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 380.

(1) “Acuity Level” means the amount of the medically related support needs of an individual as measured by an assessment.

(2) “Authorization” means the approval of the case management entity for planning, provision, and payment of direct nursing services.

(3) “Case Management Entity” means the Community Developmental Disabilities Program or Support Services Brokerage contracted to deliver the functions of case management.

(4) “Complex Health Management Support Needs” mean those medical or nursing tasks, activities, or duties in response to a health condition or series of conditions that impacts all aspects of the care of an individual, requiring oversight by a nurse and physician.

(5) “Direct Nursing Services” mean the services described in OAR 411-380-0050 determined medically necessary to support an individual with complex health management support needs in their home and community. Direct nursing services are provided on a shift staffing basis.

(6) “Direct Nursing Services Criteria” means the assessment to measure the acuity and support level of nursing tasks to determine eligibility for direct nursing services.

(7) “Enrolled Medicaid Provider” means an RN or LPN that meets and completes all the requirements in these rules, OAR 407-120-0300 to 407-120-0400, and OAR chapter 410, division 120, as applicable.

(8) “Home Health Agency” has the meaning given that term in ORS 443.005.

(9) “Individual” means an adult applying for, or determined eligible for, Department-funded developmental disabilities services.

(10) “In-Home Care Agency” has the meaning given that term in ORS 443.305.

(11) “ISP” means “Individual Support Plan”.

(12) “LPN” means a licensed practical nurse who holds a current license from the Oregon State Board of Nursing pursuant to ORS chapter 678 and OAR chapter 851, division 045. An LPN providing direct nursing services under these rules is either an independent contractor who is an enrolled Medicaid provider or an employee of an in-home care or home health agency that is an enrolled Medicaid provider.

(13) “MMIS” means “Medicaid Management Information System”. MMIS is the automated claims processing and information retrieval system for handling all Medicaid transactions. The objectives of the system include verifying provider enrollment and individual eligibility, managing health care provider claims and benefit package maintenance, and addressing a variety of Medicaid business needs.

(14) “Medicaid Provider Enrollment Agreement” means an agreement between the Department and a provider for the provision of covered services to covered individuals for payment.

(15) “National Provider Index Number” means a federally directed provider number mandated for use on Health Insurance Portability and Accountability Act (HIPAA) covered transactions by individuals, provider organizations, and subparts of provider organizations that meet the definition of health care provider (45 CFR 160.103) and who conduct HIPAA covered transactions electronically.

(16) “Nursing Intervention” means the actions deliberately designed, selected, and performed by a nurse to implement the Nursing Service Plan.

(17) “Nursing Service Plan” means the written guidelines developed by an RN as described in OAR 411-380-0050 that identifies the specific needs of an individual and the intervention or regimen to assist the individual to achieve optimal health potential. Developing the Nursing Service Plan includes a comprehensive and focused nursing assessment of the

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health status of the individual as part of the standards outlined in OAR 851-045-0040(2), establishing individual and nursing goals, and determining nursing interventions to meet care objectives.

(a) The Nursing Service Plan is specific to an individual and identifies the diagnoses and health needs of the individual and all direct nursing service needs.

(b) The Nursing Service Plan is separate from the ISP as well as any service plans developed by other health professionals.

(18) "OCCS" means "Office of Client and Community Services".

(19) "OHA" means "Oregon Health Authority".

(20) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(21) "Prior Authorization for Services" means payment authorization for direct nursing services given by the Department or contracted agencies of the Department prior to provision of the service. A physician referral is not a prior authorization for services.

(22) "Provider" means an enrolled Medicaid provider who holds a current license from the Oregon State Board of Nursing as an RN or LPN pursuant to ORS chapter 678.

(23) "RN" means a registered nurse who holds a current license from the Oregon State Board of Nursing pursuant to ORS chapter 678 and OAR chapter 851, division 045. An RN providing direct nursing services under these rules is either an independent contractor who is an enrolled Medicaid provider or an employee of an in-home care or home health agency that is an enrolled Medicaid provider.

(24) "These Rules" mean the rules in OAR chapter 411, division 380.

(25) "Third Party Resources" means a medical or financial resource that, under law, is available and applicable to pay for medical services and items for an individual.

Stat. Auth.: ORS 409.050, 413.085

Stats. Implemented: ORS 409.050, 413.085

Hist.: APD 28-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 14-2016, f. 6-28-16, cert. ef. 6-29-16; APD 34-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-380-0030

### Eligibility and Limitations for Direct Nursing Services

(1) ELIGIBILITY. To be eligible for direct nursing services, an individual must meet the following requirements:

(a) Be 21 years of age or older.

(b) Be determined eligible for developmental disabilities services by a Community Developmental Disabilities Program in the county of origin as described in OAR 411-320-0080.

(c) Be receiving a Medicaid Title XIX benefit package through OSIPM or the OCCS Medical Program. Individuals receiving Medicaid Title XIX under OCCS medical coverage for services in a nonstandard living arrangement as defined in OAR 461-001-0000 are subject to the requirements in the same manner as if the individual requested these services under OSIPM, including the rules regarding:

(A) The transfer of assets as set forth in OAR 461-140-0210 to 461-140-0300; and

(B) The equity value of a home which exceeds the limits as set forth in OAR 461-145-0220.

(d) Be determined to meet the ICF/IDD Level of Care as defined in OAR 411-317-0000;

(e) Based on a functional needs assessment, require oversight for complex health management support needs;

(f) Based on a Direct Nursing Services Criteria completed by the Department, score 45 or higher; and

(g) Have health impairments requiring long term direct nursing services determined medically necessary and appropriate based on the order of a physician.

(2) ACUITY LEVELS. The amount of hours available for direct nursing services is based on the following acuity levels as measured by the Direct Nursing Services Criteria:

(a) Level 1: Score of 75 or above and on a ventilator for 20 hours or more per day = up to a maximum of 554 hours per month for direct nursing services.

(b) Level 2: Score of 70 or above = up to a maximum of 462 hours per month for direct nursing services.

(c) Level 3: Score of 65 to 69 = up to a maximum of 385 hours per month for direct nursing services.

(d) Level 4: Score of 60 to 64 = up to a maximum of 339 hours per month for direct nursing services.

(e) Level 5: Score of 50 to 59 or if an individual requires ventilation for sleeping hours = up to a maximum of 293 hours per month for direct nursing services.

(f) Level 6: Score of 45 to 49 = up to a maximum of 140 hours per month for direct nursing services.

(3) SERVICE DELIVERY.

(a) Except as limited under section (4)(a) of this rule, direct nursing services may be delivered in the home of an individual, in an adult foster home, at an employment or day service site, or in the community.

(b) The hours for direct nursing services for individuals accessing other attendant care services at an employment setting or in the community, are prorated based on the acuity level of the individual between the employment setting and the home or adult foster home of the individual.

(4) LIMITATIONS.

(a) Direct nursing services are excluded for:

(A) An individual residing in a licensed 24-hour residential setting as described in OAR chapter 411, division 325;

(B) An individual while in a medical or psychiatric hospital; or

(C) An individual residing in a school, nursing facility, assisted living facility, or residential care facility.

(b) Direct nursing services may not substitute for or duplicate other direct or private duty nursing services provided by State Plan or third party resources.

(c) Direct nursing services provided concurrently with hospice services provided under OAR 410-142-0240 or home health care services provided under OAR 410-127-0040 are not reimbursable under these rules.

(d) Direct nursing services are not covered in conjunction with any intravenous, enteral, or parenteral related skilled nursing services as described in OAR 410-148-0300.

(e) Direct nursing services may not duplicate school-based nursing services covered under the provision of the Individuals with Disabilities Education Act (IDEA).

(f) Direct nursing services do not include any of the following:

(A) Hours spent receiving professional training or career development.

(B) Administrative functions such as non-individual-specific services, quality assurance reviews, authoring health related agency policies and procedures, or providing general training for caregivers.

(C) Travel time spent in transit to or from the residence of the provider.

(D) Long term care community nursing services as described in OAR chapter 411, division 048. This includes nurse delegation.

Stat. Auth.: ORS 409.050, 413.085

Stats. Implemented: ORS 409.050, 413.085

Hist.: APD 28-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 14-2016, f. 6-28-16, cert. ef. 6-29-16; APD 34-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-380-0060

### Qualifications for Providers of Direct Nursing Services

(1) The direct nursing services provided under these rules may be delivered by the following enrolled Medicaid providers:

(a) Self-employed LPNs or RNS licensed under ORS 678.021.

(b) Home health agencies licensed under ORS 443.015 and meeting the requirements in OAR chapter 333, division 027.

(c) In-home care agencies licensed under ORS 443.315 and meeting the requirements in OAR chapter 333, division 536.

(d) An adult foster home provider as described in OAR 411-360-0140 and section (2) of this rule.

(e) A family member as described in section (2) of this rule.

(2) The decision to have an adult foster home provider or family member deliver direct nursing services must be made by the individual and the ISP team and may not be for the convenience of the adult foster home provider or family member.

(3) The legal representative of an individual is prohibited from providing direct nursing services.

(4) A provider of direct nursing services must:

(a) Be a licensed RN or LPN with a current and unencumbered license; and

(b) Meet and maintain provider enrollment requirements under OAR 407-120-0320 as follows:

(A) Providers delivering services prior to January 1, 2016 must meet the provider enrollment requirements under OAR 407-120-0320 no later than June 28, 2016.

(B) Provider applicants enrolling on or after January 1, 2016 must meet the provider enrollment requirements under OAR 407-120-0320 upon enrollment.

(5) Providers must submit a resume to the case management entity indicating the education, skills, and abilities necessary to provide nursing services in accordance with Oregon law. At least one year of experience

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working with individuals with intellectual or developmental disabilities is recommended, but not required.

(6) The provider must maintain in force, at the expense of the provider, professional liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence. Professional liability insurance is to cover damages caused by error, omission, or negligent acts related to the professional services.

(a) The provider must provide written evidence of insurance coverage to the Department prior to beginning work and at any time upon the request of the Department.

(b) There must be no cancellation of insurance coverage without 30 days prior written notice to the Department.

## (7) PROVIDER ENROLLMENT.

(a) Providers must enroll through the MMIS system by:

(A) Completing and submitting the Medicaid Provider Enrollment Application that includes the Provider Enrollment Agreement;

(B) Completing a Criminal Background Check as described in OAR 407-007-0200 to 407-007-0370. Subject to the provisions of OAR 407-007-0620, background check approval is effective for two years from the initial fitness determination; and

(C) Enrolling, receiving, and submitting a National Provider Index Number.

(b) An applicant listed in the exclusions database of the Office of the Inspector General is not eligible to become an enrolled Medicaid provider per OAR 410-120-1400(3)(b).

(8) All enrolled Medicaid providers must comply with federal, state, and Department conflict of interest regulations or policy.

Stat. Auth.: ORS 409.050, 413.085

Stats. Implemented: ORS 409.050, 413.085

Hist.: APD 28-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 14-2016, f. 6-28-16, cert. ef. 6-29-16; APD 34-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

## 411-380-0090

### Provider Billing and Payment

(1) AUTHORIZATION OF HOURS. Authorization for direct nursing service hours are:

(a) Based on acuity levels from the Direct Nursing Services Criteria; and

(b) Authorized in the ISP by the case management entity.

## (2) PRIOR AUTHORIZATION.

(a) Providers must request electronic authorization for direct nursing service hours through MMIS and have hours prior authorized by the Department.

(b) The Department may withdraw, modify, or deny prior authorization in the event of any of the following:

(A) Change in the status of the individual, such as eligibility for direct nursing services, hospitalization, improvement in health status, or death.

(B) Decision of the individual or their family or legal representative to change providers.

(C) Failure to comply with the delivery of direct nursing services and documentation.

(D) Failure to perform other expected duties.

## (3) CLAIMS.

(a) A provider must comply with the rules for timely submission of claims as written in OAR 410-120-1300 and authorization of payment in OAR 410-120-1320. A provider must submit a claim for payment to the case management entity within 12 months of the date of service.

(b) A provider must follow all Department required documentation procedures for timesheets, invoices, and signatures and submit true and accurate information.

(c) Medicaid funds are the payer of last resort. A provider must bill all third party resources until all resources are exhausted.

(d) A provider may not submit any of the following to the Department or case management entity:

(A) A false billing form for payment.

(B) A billing form for payment that has been, or is expected to be, paid by another source.

(C) Any billing form for services that have not been provided.

(e) The billing form used to submit a claim must include the prior authorization number.

(f) A provider must sign the billing form acknowledging agreement with the terms and conditions of the claim and attesting that the hours were delivered as billed.

(g) The case management entity must review the claim and match the number of hours claimed by the provider against the number of hours prior

authorized. The case management entity must review, approve, and forward the claim to the Department in a timely manner.

## (4) PAYMENT.

(a) Payment for direct nursing services is made in accordance with the following:

(A) These rules.

(B) OAR 410-120-1300 for timely submission of claims.

(C) OAR 410-120-1320 for authorization of payment.

(D) OAR 410-120-1340 for payment.

(E) OAR 410-120-1380 for compliance with federal and state statutes.

(F) OAR 407-120-300 to 407-120-400 for provider enrollment and claiming.

(G) OAR 407-120-1505 for provider and contractor audits, appeals, and post payment recoveries.

(b) Funds may not be used to support, in whole or in part, a provider in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(c) Payment for direct nursing services are fee for service with payment made subsequent to the delivery of the services.

(d) The Department does not pay for services that are not authorized in the ISP.

(e) Providers must be present with an individual in the delivery of direct nursing services in order to claim payments.

(f) Holidays are paid at the same rate as non-holidays.

(g) Overtime hours are not authorized.

(h) Payment by the Department for direct nursing services is considered payment in full for the services rendered under Medicaid. A provider may not demand or receive additional payment for direct nursing services from an individual or their family member, foster care provider, agency provider, or any other source, under any circumstances.

(i) Payment may be denied based on the provisions of these rules and OAR 410-120-1320.

(5) OVERPAYMENT. An overpayment occurs when a provider submits a claim or encounter, or received payment the provider is not properly entitled too. The determination of overpayment is based on OAR 410-120-1397(5)(a)-(h). The Department and OHA recoup all overpayments under OAR 410-120-1397.

Stat. Auth.: ORS 409.050, 413.085

Stats. Implemented: ORS 409.050, 413.085

Hist.: APD 28-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; APD 14-2016, f. 6-28-16, cert. ef. 6-29-16; APD 34-2016(Temp), f. 8-30-16, cert. ef. 9-1-16 thru 2-27-17

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**Rule Caption:** ODDS: Case Management Services and Community Living Supports for Individuals with Intellectual or Developmental Disabilities

**Adm. Order No.:** APD 35-2016(Temp)

**Filed with Sec. of State:** 8-31-2016

**Certified to be Effective:** 9-1-16 thru 2-27-17

**Notice Publication Date:**

**Rules Amended:** 411-415-0020, 411-415-0060, 411-415-0070, 411-450-0020, 411-450-0030, 411-450-0060

**Subject:** The Department of Human Services (Department), Office of Developmental Disabilities Services (ODDS) is temporarily amending the rules for case management services in OAR chapter 411, division 415 and community living supports in OAR chapter 411, division 450 to take action to more efficiently align service authorization with individual's needs and to incorporate appropriate limits as directed in the 2016 Legislative Session SB5701A Budget Note.

OAR 411-415-0020 about definitions and acronyms is being amended to remove the definition for functional needs assessment and the In-Home Expenditure Guidelines. The definitions for functional needs assessment and the In-Home Expenditure Guidelines are now located in the general definitions, OAR 411-317-0000.

OAR 411-415-0060 about assessment and reassessment activities is being amended to specify that a functional needs assessment must be completed within 45 days from the date a case management entity acquires information that the support needs of an individual may have changed significantly enough to change the current service level.

OAR 411-415-0070 about service planning is being amended to require that an ISP for community living supports be developed

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based on assessed need and within the service level as defined in OAR 411-450-0020 and as determined by an Adult Needs Assessment (ANA) or Children's Needs Assessment (CNA).

OAR 411-450-0020 about definitions and acronyms is being amended to:

- Define Adult In-Home Support Needs Assessment, Version C (ANA-C); Adult In-Home Support Needs Assessment, Version D (ANA-D); ANA/CNA Manual, Version 2; Child In-Home Support Needs Assessment, Version C (CNA-C); Child In-Home Support Needs Assessment, Version D (CNA-D); and Service Level.

- Update the definition of functional needs assessment.

- Remove the definition for the In-Home Expenditure Guidelines.

OAR 411-450-0030 about eligibility for community living supports is being amended to require that to be eligible for community living supports, an individual must participate in a functional needs assessment and provide information necessary to complete the functional needs assessment and reassessment annually prior to the end date of the Individual Support Plan (ISP) for the individual and as required by the Department.

OAR 411-450-0060 about community living supports is being amended to clearly outline service limits and provide the criteria for when the Department may approve a service level greater than was determined by a functional needs assessment.

In addition, edits have been made to ensure consistent terminology, update statutory and rule references, correct formatting and punctuation, and improve ease of reading.

**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

## 411-415-0020

### Definitions and Acronyms

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 415:

(1) "Affiliated Entity" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), or a political subdivision or instrumentality, including a municipal corporation of a state, that has an incident of ownership in the CME.

(2) "Case Management Contact" means a reciprocal interaction between a case manager and an individual or the legal or designated representative of the individual (as applicable).

(3) "Case Management Services" mean the functions performed by a case manager that are funded by the Department. Case management services include, but are not limited to:

(a) Assessment of support needs;

(b) Developing an ISP or Annual Plan that may include authorized services;

(c) Information and referral for services; and

(d) Monitoring the effectiveness of services and supports.

(4) "Case Manager" means the person who delivers case management services who meets the qualifications of OAR 411-415-0040 and is employed:

(a) As a Personal Agent by a Brokerage;

(b) As a Services Coordinator by a CDDP; or

(c) As a Services Coordinator by the Department.

(5) "CDDP" means "Community Developmental Disabilities Program".

(6) "CIIS" means "Children's Intensive In-Home Services".

(7) "CME" means "Case Management Entity". A CME includes the following:

(a) A CDDP.

(b) A Brokerage.

(c) CIIS.

(d) The Children's Residential Program of the Department.

(8) "Geographic Service Area" means the area within the state of Oregon where a CME is approved to provide developmental disabilities services. The geographic service area for a CDDP is the county.

(9) "IEP" means "Individualized Education Program".

(10) "Incident of Ownership" means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interest.

(11) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership

interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.

(12) "Initial ISP" means the first ISP:

(a) For an individual who is newly entered into case management services; or

(b) Following a period when the individual did not have an authorized ISP.

(13) "Initial Level of Care" means the first level of care determination:

(a) For an individual who is newly accessing Community First Choice state plan or waiver services; or

(b) Following a period when the individual was not determined to meet level of care.

(14) "ISP" means "Individual Support Plan".

(15) "Level of Care" means ICF/IDD Level of Care, Hospital Level of Care, or Nursing Facility Level of Care, as defined in OAR 411-317-0000.

(16) "OHP" means "Oregon Health Plan".

(17) "Owner" means a person with an ownership interest.

(18) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an entity.

(19) "SSI" means "Supplemental Security Income".

(20) "These Rules" mean the rules in OAR chapter 411, division 415.

(21) "Transition Period" means the first 60 days after an individual enters a new program type, setting, or CME.

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

Stats. Implemented: ORS 427.005, 427.007, 427.101, 427.154-427.163, 430.212, 430.610, 430.620, 430.662-430.695

Hist.: APD 28-2016, f. & cert. ef. 6-29-16; APD 35-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

## 411-415-0060

### Assessment and Reassessment Activities

(1) LEVEL OF CARE DETERMINATION.

(a) A case manager must assure that an individual has an initial level of care determination prior to accessing Community First Choice state plan or waiver services. The level of care determination must be made using a Department prescribed form based on a face to face contact. An initial level of care determination must be submitted to the Department within 30 days of the date the individual or their legal representative signed the completed level of care determination.

(b) A case manager must assure that a level of care determination is reviewed for every individual receiving Community First Choice state plan or waiver services:

(A) Within 12 months from the previous annual review.

(i) The first annual review must be completed no later than 12 months from the date of the approval of the Diagnosis and Evaluation Coordinator (D & E Coordinator).

(ii) The annual review date may be reset for a date earlier than 12 months from the date of the approval of the D & E Coordinator, but no later than 12 months from the date of the review of the D & E Coordinator.

(B) No earlier than 60 days prior to the implementation of a renewed ISP.

(C) Any time there is a significant change in a condition that qualified the individual for the level of care.

(c) When a case manager completes an initial level of care determination, the case manager must ensure that an individual enrolled to a Medicaid Title XIX (OHP) Benefit Package is:

(A) Offered and advised of all services available for which the individual is eligible including, but not limited to, the choice of institutional or home and community-based services.

(B) Provided a Notification of Rights (form APD 0948).

(d) The occasion of the level of care determination must be documented in a progress note in the service record for the individual, including that the determination was made based on a face to face contact with the individual.

(2) FUNCTIONAL NEEDS ASSESSMENT. A case manager must assure a functional needs assessment is conducted initially and at least annually for each individual who has or is expected to have an ISP.

(a) The functional needs assessment must be completed:

(A) Within 45 days from the date that the individual submitted a completed application or the date the CME learns of the eligibility of the individual for a Medicaid Title XIX (OHP) Benefit Package;

(B) Prior to, but not more than 60 days prior to, the authorization of an initial ISP or the annual renewal of an ISP;



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(C) Within 45 days from the date an individual, or as applicable their legal or designated representative, requests a new functional needs assessment; and

(D) Within 45 days from the date the CME acquires information that the support needs of an individual may have changed significantly enough to change the current service level as defined in OAR 411-450-0020.

(b) No fewer than 14 days prior to conducting a functional needs assessment, the CME must mail a notice of the assessment process to the individual to be assessed. The notice must include a description and explanation of the assessment process and an explanation of the process for appealing the results of the assessment.

(c) At the discretion of the Department, the Department may conduct or assign an alternate assessor to conduct the functional needs assessment in lieu of a case manager.

(d) The functional needs assessment must include a face to face contact with the individual by the case manager or alternate assessor.

(3) An assessment for State Plan Personal Care must be completed by a case manager as described in OAR 411-034-0070.

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

Stats. Implemented: ORS 427.005, 427.007, 427.101, 427.154-427.163, 430.212, 430.610, 430.620, 430.662-430.695

Hist.: APD 28-2016, f. & cert. ef. 6-29-16; APD 35-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

### 411-415-0070

#### Service Planning

This rule prescribes standards for the development and implementation of an ISP or Annual Plan.

(1) An ISP must meet the following requirements:

(a) Be developed based on assessed need.

(b) For community living supports, be developed and based on assessed need and within the service level as defined in OAR 411-450-0020 and as determined by an ANA or CNA (as applicable).

(c) Be developed using a person-centered process consistent with OAR 411-004-0030(1) and in a manner that addresses issues of independence, integration, and provides opportunities to seek employment and work in competitive integrated employment settings, in order to assist with establishing outcomes, planning for supports, and reviewing and redesigning support strategies.

(d) Be designed to enhance the quality of the life of the individual.

(e) Be consistent with the following principles:

(A) Adult individuals have the right to make informed choices about the level of family member participation.

(B) The preferences of the individual and the family of a child must serve to guide the ISP team. The case manager must facilitate active participation of the individual throughout the planning process.

(C) The planning process is designed to identify the types of services and supports necessary to achieve the preferences of an individual and the family of a child, identify the barriers to providing those preferred services, and develop strategies for reducing the barriers.

(D) Specify cost-effective arrangements for obtaining the required supports and applying public, private, formal, and informal resources available to the eligible individual.

(E) When planning for a child in a 24-hour residential program or foster care, the following must apply:

(i) Unless contraindicated, there must be a goal for family reunification.

(ii) The number of moves or transfers must be kept to a minimum.

(iii) Unless contraindicated, if the placement of a child is distant from their family, the case manager must continue to seek a placement that brings the child closer to their family.

(2) An individual enrolled in waiver or Community First Choice state plan services must have an ISP, completed on a Department approved document, consistent with the outcome of the person centered planning process and OAR 411-004-0030(2).

(a) The initial ISP:

(A) May begin a transition period; and

(B) Must be authorized no more than 90 days from the date a completed application is submitted to the CDDP as described in OAR 411-320-0080.

(b) An initial ISP has a duration of 12 full months, beginning the month following the authorization of the ISP.

(c) The duration of an annual ISP may not exceed 12 months. With the consent of an individual, or as applicable their legal or designated representative, a new start date for an ISP may be established within the 12 months when the individual enters or exits any of the following:

(A) A 24-hour residential program as described in OAR chapter 411, division 325. A transfer to a new setting within the same 24-hour residential program may not cause a new start date for an ISP.

(B) A supported living program as described in OAR chapter 411, division 328. A transfer to a new setting within the same supported living program may not cause a new start date for an ISP.

(C) A foster home as described in OAR chapter 411, division 346 for children or OAR chapter 411, division 360 for adults.

(D) A CHS program.

(d) During a transition period, the ISP must include the minimum necessary services and supports for an individual upon entry to a new program type, setting, or CME. The ISP during a transition period must include, at a minimum, an authorization of necessary services, the supports needed to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and consultations necessary for further ISP development.

(e) All Department funded developmental disabilities services included in an ISP must be consistent with the ISP manual, Department policy, and the In-Home Expenditure Guidelines when applicable.

(f) For Community First Choice state plan and waiver services, the supports included in an ISP must address a need that has been determined to be necessary by a functional needs assessment and the identified goals and preferences of the individual.

(g) An initial or annual ISP authorized to begin on or after March 1, 2017 must include any individually-based limitations as described in OAR 411-004-0040. All individually-based limitations must be included in the ISP no later than February 28, 2018.

(3) CAREER DEVELOPMENT PLAN.

(a) A Career Development Plan must be completed as part of the ISP:

(A) When the individual is working-age; or

(B) Prior to the expected exit from school for students eligible for services under the Individuals with Disabilities Education Act (I.D.E.A.). If a student leaves school prior to the expected exit, the student must have the opportunity to have a Career Development Plan within one year of the unexpected exit.

(b) The Career Development Plan must meet the following requirements:

(A) For an individual who uses employment services under OAR chapter 411, division 345, include goals and objectives related to obtaining, maintaining, or advancing in competitive integrated employment, or, at minimum, exploring competitive integrated employment or developing skills that may be used in competitive integrated employment.

(B) Be developed based on a presumption that, with the right support and job match, the individual may succeed and advance in an integrated employment setting and earn minimum wage or better.

(C) Prioritize competitive integrated employment in the general workforce.

(D) For an individual who has competitive integrated employment, person-centered service planning must focus on maintaining employment, maximizing the number of hours an individual works consistent with their preferences and interests, improving wages and benefits, and promoting additional career or advancement opportunities.

(E) For an individual using job coaching or job development services, the Career Development Plan must document either a goal or discussion regarding opportunities for maximizing work hours and other career advancement opportunities. The recommended standard for planning job coaching and job development is the opportunity to work at least 20 hours per week. Individualized planning should ultimately be based on individual choice, preferences, and circumstances, and recognize that an individual may choose to pursue working full time, part time, or another goal identified by the individual.

(F) Document all employment service options presented, including the option to use employment services in a non-disability specific setting, meaning a setting that is not owned, operated, or controlled by a provider of home and community-based services.

(G) For individuals who use employment services in sheltered workshop settings, the Career Development Plan must document that the individual has been encouraged to choose a community-based employment service option and not a sheltered workshop setting option.

(4) ISP REVIEWS.

(a) An ISP must be reviewed, revised, and re-authorized as needed:

(A) No more than 30 days following a functional needs assessment conducted pursuant to sections (2)(a)(C) or (D) of OAR 411-415-0060;

(B) Prior to the expiration of the ISP;

(C) No later than the end of a transition period;

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(D) When the circumstances or needs of an individual change significantly; and

(E) At the request of an individual or as applicable their legal or designated representative.

(b) For an individual who changes CME, but remains in an in-home setting, the ISP authorized by the previous CME may be used as authorization for available services for the new CME for up to 60 days when the services in the new setting remain appropriate services.

(5) **TEAM PROCESS IN PERSON-CENTERED PLANNING.** This section applies to an ISP developed for an individual receiving services in a residential program:

(a) The ISP is developed by the individual, their legal or designated representative (as applicable), and the Services Coordinator. Others may be included as a part of the ISP team at the invitation of the individual and as applicable their legal or designated representative. In order to assure adequate planning, provider representatives are necessary informants to the ISP team even when not ISP team members.

(b) In circumstances where an individual is unable to express their opinion or choice using words, behaviors, or other means of communication and the individual does not have a legal or designated representative the following apply:

(A) The ISP team is empowered to make a decision on behalf of the individual the ISP team feels best meets the health, safety, and assessed needs of the individual.

(B) Consensus amongst ISP team members is prioritized. When consensus may not be reached, majority agreement is used. For purposes of reaching a majority agreement each interested party, which may be represented by more than one person, is considered as one member of the ISP team. Interested parties may include, but are not limited to, the provider, family, Services Coordinator, and designated representative.

(C) No one member of an ISP team has the authority to make decisions for the ISP team.

(c) Any objections to decisions of the ISP team by a member of the ISP team must be documented in the ISP.

(d) A Services Coordinator must track the ISP timelines and coordinate the resolution of complaints and conflicts arising from ISP discussions.

(6) **ISP AUTHORIZATION.**

(a) An initial and annual ISP must be authorized prior to implementation.

(b) A revision to an initial or annual ISP that involves the types of developmental disabilities services paid using Department funds must be authorized prior to implementation.

(c) A revision to an initial or annual ISP that does not involve the types of developmental disabilities services paid using Department funds does not require authorization. Documented agreement to the revision by the individual, or as applicable their legal or designated representative, is required prior to implementation of the revision.

(d) An initial ISP, and a revision to an initial or annual ISP requiring authorization, is authorized on the date:

(A) The signature of the individual, or as applicable their legal or designated representative, is present on the ISP or documentation is present explaining the reason an individual who does not have a legal or designated representative may be unable to sign the ISP.

(i) Acceptable reasons for an individual without a legal or designated representative not to sign the ISP include physical or behavioral inability to sign the ISP.

(ii) Unavailability is not an acceptable reason for an individual, or as applicable their legal or designated representative, not to sign the ISP.

(iii) In the case of a revision to an initial or annual ISP that is in response to immediate, unexpected change in circumstance, and is necessary to prevent injury or harm to the individual, documented oral agreement may substitute for a signature for up to 10 business days.

(B) The signature of the case manager involved in the development of, or revision to, the ISP is present on the ISP.

(e) A renewing ISP signed as described in this section is authorized to begin the first day after the previous ISP expired.

(f) After September 1, 2018, newly authorized developmental disabilities services may only be authorized to occur in a setting consistent with OAR 411-004-0020. By March 17, 2019, all authorized developmental disabilities services must occur in a setting consistent with OAR 411-004-0020.

(g) Community First Choice state plan and waiver services are only funded by the Department when the services are authorized on an ISP developed in a manner consistent with this rule.

(h) A legal or designated representative responsible for directing the development of the ISP on behalf of the individual (as applicable) may not be authorized to be a paid provider for the individual.

(i) An ISP must authorize the hours for personal support workers consistent with the payment limitations described in OAR 411-375-0040.

(j) The CME may not authorize a service provider, setting, or a combination of services selected by an eligible individual or the representative of the individual when:

(A) The setting has dangerous conditions that jeopardize the health or safety of the individual and necessary safeguards cannot be taken to improve the setting;

(B) Services cannot be provided safely or adequately by the service provider based on:

(i) The extent of the service needs of the individual; or

(ii) The choices or preferences of the eligible individual or as applicable their legal or designated representative.

(C) Dangerous conditions in the service setting jeopardize the health or safety of the service provider authorized and paid for by the Department, and necessary safeguards cannot be taken to minimize the dangers; or

(D) The individual does not have the ability to express their informed decision, does not have a designated representative to make decisions on their behalf, and the Department or CME cannot take necessary safeguards to protect the safety, health, and welfare of the individual.

(k) The case manager must present the individual, or as applicable their legal or designated representative, with information on service alternatives and provide assistance to assess other choices when the service provider or service setting selected by the individual, or as applicable their legal or designated representative, is not authorized.

(l) The ISP for an adult enrolled in foster care under OAR chapter 411, division 360, must include at least six hours of activities each week that are of interest to the individual that do not include television or movies made available by the provider. Activities are those available in the community and made available or offered by the provider or the CDDP.

(A) Activities may include:

(i) Recreational and leisure activities; and

(ii) Other activities required to meet the needs of an individual as described in the ISP for the individual.

(B) Activities that contribute to the six hours may not include:

(i) Rehabilitation;

(ii) Educational services; or

(iii) Employment services.

(m) Not more than two weeks after authorization, the CME must provide a copy of the most current ISP to the individual, their legal and designated representative (as applicable), and others as identified by the individual. The ISP must be made available using language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and the people important in supporting the individual. When an authorized ISP must be translated from English, translation must be initiated within two weeks of authorization and the translated document must be provided to the individual by the CME upon receipt.

(7) **DEVELOPMENTAL DISABILITIES SERVICE AUTHORIZATIONS.**

(a) Developmental disabilities services may not be authorized when:

(A) The individual does not meet the service eligibility requirements in the program rule corresponding to the service.

(B) The case manager is not permitted to conduct a monitoring visit to the home as required in OAR 411-415-0090(3)(d).

(b) A Services Coordinator employed by a CDDP, or a sub-contractor of a CDDP contracted to deliver case management, may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services.

(B) Services described in the ICF/IDD Comprehensive 1915(c) waiver.

(C) State Plan Personal Care as described in OAR chapter 411, division 034.

(D) Home delivered meals as described in OAR chapter 411, division 40.

(E) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(c) A Personal Agent may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services, except services delivered as part of a residential program.

(B) Services described in the Support Services 1915(c) waiver.

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(C) State Plan Personal Care as described in OAR chapter 411, division 034.

(D) Home delivered meals as described in OAR chapter 411, division 40.

(E) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(d) A CHS Services Coordinator may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services.

(B) Services described in the following 1915(c) waivers:

(i) Medically Involved Children's Waiver;

(ii) Medically Fragile (Hospital) Model Waiver; and

(iii) Behavioral (ICF/IDD) Model Waiver.

(C) State Plan Personal Care as described in OAR chapter 411, division 034.

(D) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(e) The Department authorizes entry for children into residential programs, CHS, and the Stabilization and Crisis Unit.

(8) ANNUAL PLANS. Individuals enrolled in case management services, but not accessing Community First Choice state plan or waiver services must have an Annual Plan.

(a) A case manager must develop an Annual Plan within 90 days of the enrollment of an individual into case management services and annually thereafter if the individual is not enrolled in any Community First Choice state plan or waiver services.

(b) An Annual Plan must be developed as follows:

(A) For an adult, a written Annual Plan must be documented as an Annual Plan or as a comprehensive progress note in the service record for the individual and consist of the following:

(i) A review of the current living situation of the individual.

(ii) A review of the employment status of the individual and a summary of any related support needs.

(iii) A review of any personal health, safety, or behavioral concerns.

(iv) A summary of the support needs of the individual.

(v) Actions to be taken by the case manager and others.

(B) For a child receiving family support services, a Services Coordinator must coordinate with the child and their family or guardian in the development of an Annual Plan. The Annual Plan for a child receiving family support services must be in accordance with OAR 411-305-0080.

(c) An Annual Plan must be kept current. A case manager must ensure that a current Annual Plan is maintained for each individual receiving services.

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

Stats. Implemented: ORS 427.005, 427.007, 427.101, 427.154-427.163, 430.212, 430.610, 430.620, 430.662-430.695

Hist.: APD 28-2016, f. & cert. ef. 6-29-16; APD 35-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

## 411-450-0020

### Definitions and Acronyms

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 450:

(1) "ADL" means "Activities of Daily Living".

(2) "Adult In-Home Support Needs Assessment, Version C (ANA-C)" means the Adult In-Home Support Needs Assessment in use through October 31, 2016. The ANA-C was developed prior to the action of the Department to implement the legislative direction found in the 2016 Legislative Session SB5701A Budget Note to more efficiently align service levels with the needs of individuals and to incorporate appropriate limits.

(a) The Department incorporates the ANA-C into these rules by this reference. The ANA-C is maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/cm/Adult%20In-home%20Version%20C.xlsm>.

(b) A printed copy of the assessment tool may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(3) "Adult In-Home Support Need Assessment, Version D (ANA-D)" means the Adult In-Home Support Needs Assessment that implements the legislative direction to the Department found in the 2016 Legislative Session SB5701A Budget Note to more efficiently align service levels with the needs of individuals and to incorporate appropriate limits. The service level determined by the ANA-D is based on data that showed service levels determined by the ANA-C exceeded the number of hours required for

an individual to meet identified support needs. The Department incorporates the ANA-D into these rules by this reference.

(a) The ANA-D is maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/cm/ANA-Adult%20In-Home-Version-D.xlsm>.

(b) A printed copy of the assessment tool may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(4) "ANA-C" means "Adult In-Home Support Needs Assessment, Version C".

(5) "ANA-D" means "Adult In-Home Support Needs Assessment, Version D".

(6) "ANA/CNA Manual, Version 2" means the document that describes how to administer an ANA and CNA. The Department incorporates the ANA/CNA Manual, Version 2 into these rules by this reference.

(a) The ANA/CNA Manual is maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/bpa/ana-cna-manual.pdf>.

(b) A printed copy of the ANA/CNA Manual may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(7) "CDDP" means "Community Developmental Disabilities Program".

(8) "Child In-Home Support Needs Assessment, Version C (CNA-C)" means the Child In-Home Assessment in use through October 31, 2016. The CNA-C was developed prior to the action of the Department to implement the legislative direction found in the 2016 Legislative Session SB5701A Budget Note to more efficiently align service levels with the needs of individuals and to incorporate appropriate limits.

(a) The Department incorporates the CNA-C into these rules by this reference. The CNA-C is maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/cm/Child%20In-home%20Version%20C.xlsm>.

(b) A printed copy of the assessment tool may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(9) "Child In-Home Support Needs Assessment, Version D (CNA-D)" means the Child In-Home Assessment that implements the legislative direction to the Department found in the 2016 Legislative Session SB5701A Budget Note to more efficiently align service levels with the needs of individuals and to incorporate appropriate limits. The service level determined by the CNA-D is based on data that showed service levels determined by the CNA-C exceeded the number of hours required for a child to be supported in a manner typical of non-disabled peers and was under accounting for normal parental responsibility. The Department incorporates CNA-D into these rules by this reference.

(a) The CNA-D is maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/cm/CNA-Child%20In-Home-Version-D.xlsm>.

(b) A printed copy of the assessment tool may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(10) "CNA-C" means "Child In-Home Support Needs Assessment, Version C".

(11) "CNA-D" means "Child In-Home Support Needs Assessment, Version D".

(12) "Facility-Based" means a service that is operated at a fixed site owned, operated, or controlled by a service provider where an individual has few or no opportunities to interact with people who do not have a disability except for paid staff.

(13) "Family":

(a) Means a unit of two or more people that includes at least one individual, found to be eligible for developmental disabilities services, where the primary caregiver is:

(A) A family member as defined in OAR chapter 411, division 317;

or

(B) In a domestic relationship where partners share:

(i) A permanent residence;

(ii) Joint responsibility for the household in general, such as child-rearing, maintenance of the residence, and basic living expenses; and

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(iii) Joint responsibility for supporting the individual when the individual is related to one of the partners by blood, marriage, or legal adoption.

(b) The term “family” is defined as described above for purposes of determining the service eligibility of an individual for community living supports as a resident in the family home.

(14) “Functional Needs Assessment”:

(a) Means the comprehensive assessment or re-assessment that:

(A) Measures the level of support required by an individual in the areas of:

(i) ADL/IADL care.

(ii) Care related to health supports.

(iii) Nighttime needs.

(iv) Social supports and behavior management.

(B) Determines the service level, including the maximum number of hours that may be authorized.

(b) The functional needs assessment required for an adult who is not enrolled in a residential program to access community living supports is known as the ANA-C or ANA-D.

(c) The functional needs assessment required for a child to access community living supports is known as the CNA-C or CNA-D.

(d) A printed copy of the assessment tool may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(15) “IADL” means “Instrumental Activities of Daily Living”.

(16) “ISP” means “Individual Support Plan”.

(17) “OCCS” means the “Office of Client and Community Services”.

(18) “OSIPM” means “Oregon Supplemental Income Program-Medical”.

(19) “Primary Caregiver” means the person identified in an ISP as providing the majority of service and support for an individual in the home of the individual.

(20) “PSW” means “Personal Support Worker”.

(21) “Service Level” means the maximum number of hours available to an individual for any combination of attendant care, skills training services, or state plan personal care. The service level is determined by a formula embedded in the functional needs assessment. The formula uses the individual items within the areas measured by the assessment to generate the service level.

(22) “These Rules” mean the rules in OAR chapter 411, division 450.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

Hist.: APD 27-2016, f. & cert. ef. 6-29-16; APD 35-2016(Temp), f. 8-31-16, cert. ef. 9-1-16

thru 2-27-17

## 411-450-0030

### Eligibility for Community Living Supports

(1) An individual may not be denied community living supports or otherwise discriminated against on the basis of age, diagnostic or disability category, race, color, creed, national origin, citizenship, income, or duration of Oregon residence.

(2) To be eligible for community living supports, an individual must:

(a) Be an Oregon resident.

(b) Be determined eligible for developmental disabilities services by the CDDP of the county of origin as described in OAR 411-320-0080, except for those enrolled in the Medically Involved Children’s Waiver or the Medically Fragile Children’s Program as described in OAR chapter 411, division 300.

(c) Choose to use a case management entity for assistance with design and management of developmental disabilities services.

(d) Be receiving a Medicaid Title XIX benefit package through OSIPM or OCCS medical program.

(A) An adult is eligible for community living supports if the adult had been receiving community living supports as a child up to the 18th birthday and has not become ineligible due to section (2)(d)(B) of this rule.

(B) Eligibility for community living supports based on section (2)(d)(A) of this rule ends if:

(i) The individual does not apply for a disability determination and Medicaid within 10 business days of his or her 18th birthday;

(ii) The Social Security Administration or the Presumptive Medicaid Disability Determination Team of the Department finds that the individual does not have a qualifying disability; or

(iii) The individual is determined by the state of Oregon to be ineligible for a Medicaid Title XIX (OHP) benefit package through OSIPM or OCCS medical program.

(C) Individuals receiving Medicaid OHP under OCCS medical coverage for services in a nonstandard living arrangement as defined in OAR 461-001-0000 are subject to the requirements in the same manner as if they were requesting these services under OSIPM, including the rules regarding:

(i) The transfer of assets as set forth in OAR 461-140-0210 to 461-140-0300; and

(ii) The equity value of a home which exceeds the limits as set forth in OAR 461-145-0220.

(e) Be determined to meet the level of care defined in OAR 411-415-0020.

(f) POST ELIGIBILITY TREATMENT OF INCOME Individuals with excess income must contribute to the cost of service pursuant to OAR 461-160-0610 and OAR 461-160-0620.

(g) Participate in a functional needs assessment and provide information necessary to complete the functional needs assessment and reassessment annually prior to the end date of the ISP for the individual and as required by the Department.

(A) Failure to participate in the functional needs assessment or to provide information necessary to complete the functional needs assessment or reassessment within the applicable time frame results in the denial of service eligibility. In the event service eligibility is denied, a written Notification of Planned Action must be provided as described in OAR chapter 411, division 318.

(B) The Department may allow additional time if circumstances beyond the control of the individual prevent timely participation in the functional needs assessment or timely submission of information necessary to complete the functional needs assessment or reassessment.

(h) A child receiving supports and services under the family support program as described in OAR 411-305-0120 is not eligible to receive community living supports.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

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thru 2-27-17

## 411-450-0060

### Community Living Supports

(1) Department funds may be used to purchase community living supports available through the Community First Choice state plan that include:

(a) Attendant care as described in section (2) of this rule;

(b) Skills training as described in section (3) of this rule; and

(c) Relief care as described in section (4) of this rule.

(2) ATTENDANT CARE SERVICES. Attendant care services include direct support provided to an individual in the home of the individual or community by a qualified provider. ADL and IADL services provided through attendant care must be necessary to permit an individual to live independently in a community-based setting.

(a) ADL services include, but are not limited to:

(A) Basic personal hygiene — providing or assisting with needs such as bathing (tub, bed, bath, shower), hair care, grooming, shaving, nail care, foot care, dressing, skin care, or oral hygiene.

(B) Toileting, bowel, and bladder care — assisting to and from the bathroom, on and off toilet, commode, bedpan, urinal, or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, managing menses, cleansing an individual or adjusting clothing related to toileting, emptying a catheter, drainage bag, or assistive device, ostomy care, or bowel care.

(C) Mobility, transfers, and repositioning — assisting with ambulation or transfers with or without assistive devices, turning an individual or adjusting padding for physical comfort or pressure relief, or encouraging or assisting with range-of-motion exercises.

(D) Eating — assisting with adequate fluid intake or adequate nutrition, assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with adaptive utensils, cutting food, and placing food, dishes, and utensils within reach for eating.

(E) Cognitive assistance or emotional support provided to an individual due to an intellectual or developmental disability — helping the individual cope with change and assisting the individual with decision-making, reassurance, orientation, memory, or other cognitive functions.

(b) IADL services include, but are not limited to:

(A) Light housekeeping tasks necessary to maintain an individual in a healthy and safe environment — cleaning surfaces and floors, making the individual’s bed, cleaning dishes, taking out the garbage, dusting, and laundry.

(B) Grocery and other shopping necessary for the completion of other ADL and IADL tasks.

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(C) Meal preparation and special diets.

(D) Support with participation in the community:

(i) Support with community participation — assisting an individual in acquiring, retaining, and improving skills to use available community resources, facilities, or businesses, and improving self-awareness and self-control; and

(ii) Support with communication — assisting an individual in acquiring, retaining, and improving expressive and receptive skills in verbal and non-verbal language, social responsiveness, social amenities, and interpersonal skills, and the functional application of acquired reading and writing skills.

(c) Assistance with ADLs, IADLs, and health-related tasks may include cueing, monitoring, reassurance, redirection, set-up, hands-on, or standby assistance. Assistance may be provided through human assistance or the use of electronic devices or other assistive devices. Assistance may also require verbal reminding to complete any of the IADL tasks described in subsection (b) of this section.

(A) “Cueing” means giving verbal, audio, or visual clues during an activity to help an individual complete the activity without hands-on assistance.

(B) “Hands-on” means a provider physically performs all or parts of an activity because an individual is unable to do so.

(C) “Monitoring” means a provider observes an individual to determine if assistance is needed.

(D) “Reassurance” means to offer an individual encouragement and support.

(E) “Redirection” means to divert an individual to another more appropriate activity.

(F) “Set-up” means the preparation, cleaning, and maintenance of personal effects, supplies, assistive devices, or equipment so that an individual may perform an activity.

(G) “Stand-by” means a provider is at the side of an individual ready to step in and take over the task if the individual is unable to complete the task independently.

(d) For a child, the primary caregiver is expected to be present or available during the provision of attendant care. ADL and IADL services provided through attendant care must support the child to live as independently as appropriate for the age of the child and support, but not supplant, the family in their primary caregiver role.

(3) SKILLS TRAINING. Skills training is specifically tied to accomplishing ADL, IADL, and other health-related tasks as identified by the functional needs assessment and ISP and permit an individual to live independently in a community-based setting.

(a) Skills training may be applied to the use and care of assistive devices and technologies.

(b) Skills training is authorized when:

(A) The anticipated outcome of the skills training, as documented in the ISP, is measurable;

(B) Timelines for measuring progress towards the anticipated outcome are established in the ISP; and

(C) Progress towards the anticipated outcomes are measured and the measurements are evaluated by a case manager no less frequently than every six months, based on the start date of the initiation of the skills training.

(c) When anticipated outcomes are not achieved within the timeframe outlined in the ISP, the case manager must reassess or redefine the use of skills training with the individual for that particular goal.

(d) For a child, the primary caregiver is expected to be present or available during the provision of skills training. ADL and IADL services provided through skills training must support the child to live as independently as appropriate for the age of the child and support, but not supplant, the family in their primary caregiver role.

(e) Skills training may not replace or supplant the services of the educational system in fulfilling its obligation to educate an individual.

(4) RELIEF CARE.

(a) Relief care may not be characterized as daily or periodic services provided solely to allow the primary caregiver to attend school or work. Daily relief care may be provided in segments that are sequential. Daily relief care delivered by a PSW may not exceed seven consecutive days without permission from the Department.

(b) Relief care may be provided in:

(A) The home of the individual;

(B) A licensed or certified setting;

(C) The home of a qualified provider, chosen by the individual or the representative of the individual, that is a safe setting for the individual; or

(D) The community, during the provision of ADL, IADL, health-related tasks, and other supports identified in the ISP for the individual.

(c) No other community living supports may be provided to an individual during the 24-hour unit of daily relief care.

(5) Community living supports may be delivered:

(a) Individually or in a group as indicated by the outcome of the person centered planning process for the individual.

(b) In the home, community, or a facility.

(A) Community living supports are facility-based if delivered at a fixed site outside of the home of the individual that is operated, owned, or controlled by the service provider.

(B) Facility-based community living supports must, at minimum, provide on-going opportunities and encouragement to individuals for going out into the broader community. Providers initially certified or endorsed by the Department or the Oregon Health Authority on or after January 1, 2016, must comply with this requirement prior to being certified and endorsed to provide services under these rules. Existing providers certified and endorsed prior to January 1, 2016, must make measurable progress toward compliance with this requirement, consistent with a department approved transition plan, and be in full compliance with these rules by September 1, 2018.

(6) SETTING LIMITATIONS.

(a) An individual who lives in their own or family home is eligible for community living supports described in these rules for which the individual has an assessed need and the person centered planning process determines to be appropriate unless:

(A) The Department determines that the health and safety of the individual cannot be reasonably assured through the delivery of community living supports; or

(B) Dangerous conditions in the service setting jeopardize the health or safety of the individual or provider, and the individual, or the legal or designated representative of the individual, is unable or unwilling to implement necessary safeguards to minimize the dangers.

(b) An individual enrolled to a residential program, an adult foster home licensed under OAR chapter 411, division 050, or an assisted living facility licensed under OAR chapter 411, division 054 is not eligible for:

(A) Community living supports provided by a personal support worker.

(B) Community living supports delivered in the home of the individual, whether the home is a licensed setting or not.

(C) Relief care.

(c) A child living in a Behavior Rehabilitation Services (BRS) program as described in OAR 410-170-0000 through 410-170-0120, or Psychiatric Residential Treatment Services (PRTS) as defined in OAR 309-022-0100 is not eligible for community living supports.

(7) SERVICE LIMITS.

(a) All community living supports must be authorized in an ISP as described in OAR 411-415-0070.

(b) For an individual residing in their own or family home, the amount of community living supports in any plan year is limited to the service level determined by a functional needs assessment when conducted as described in the ANA/CNA Manual. A service level determined by an ANA-C or CNA-C is available until an ISP is implemented using a service level determined by an ANA-D or CNA-D. All functional needs assessments conducted in order to develop an initial ISP after September 1, 2016 must use the ANA-D or CNA-D. All functional needs assessments conducted after October 31, 2016 must use the ANA-D or CNA-D.

(c) A change in service level must be based on a reassessment.

(d) The functional needs assessment determines:

(A) The service level. The service level may not be exceeded without prior approval from the Department. The service level applies to hours used for:

(i) Attendant care described in this rule;

(ii) Skills training described in this rule; and

(iii) State plan personal care service hours as described in OAR chapter 411, division 034.

(B) The need for two staff to be available simultaneously to provide community living supports to the individual. When such a need is identified, the functional needs assessment determines the maximum number of hours two staff may be simultaneously available.

(C) The Department may approve a service level greater than was determined by the functional needs assessment if the individual cannot get support needs met within the assessed service level because the individual has:

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(i) Intermittent needs that cannot be scheduled that must be met throughout the day to keep the individual healthy and safe;

(ii) A specific support that takes an exceptional amount of the time and there is justification of the amount of time that is needed; or

(iii) Support needs that must be met in order to prevent a serious risk of institutionalization.

(D) The Department may put limits on how Department funds and resources are used, as long as those limited funds and resources are adequate to meet the individual's needs.

(e) For an individual enrolled in a residential program, an adult foster home licensed under OAR chapter 411, division 050, or an assisted living facility licensed under OAR chapter 411, division 054, any combination of job coaching, supported employment - small group employment support, employment path services, and community living supports must not exceed a combined average of 25 hours per week.

(f) No more than 14 days of relief care in a plan year are allowed without approval from the Department. Each day of respite services described in and provided under OAR 411-070-0043(5) contributes to the 14-day limit for relief care.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

Hist.: APD 27-2016, f. & cert. ef. 6-29-16; APD 35-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

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**Rule Caption:** ODDS: Developmental Disabilities - Ancillary Services

**Adm. Order No.:** APD 36-2016(Temp)

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**Notice Publication Date:**

**Rules Amended:** 411-435-0020, 411-435-0050, 411-435-0060, 411-435-0070

**Subject:** The Department of Human Services, Office of Developmental Disabilities Services (ODDS) is temporarily amending the rules for ancillary services in OAR chapter 411, division 435.

OAR 411-435-0020 about definitions and acronyms is being amended to include a definition for community transportation as it is specific to ancillary services and remove the definition for the In-Home Expenditure Guidelines as it has been added to the general definitions in OAR 411-317-0000.

OAR 411-435-0050 about Community First Choice ancillary services is being amended to include behavior support services and the qualifications for a behavior consultant.

OAR 411-435-0060 and OAR 411-435-0070 about waiver ancillary services are being amended to expand Medicaid eligibility.

In addition, edits have been made to ensure consistent terminology, update statutory and rule references, correct formatting and punctuation, and improve ease of reading.

**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

## 411-435-0020

### Definitions and Acronyms

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 435:

(1) "ADL" means "activities of daily living".

(2) "Ancillary Services" means the array of services described in these rules that may be authorized as stand-alone services, separate from attendant care, relief care, and skills training, and an all-inclusive rate paid to a residential program or a foster care provider.

(3) "Assistive Devices" means the ancillary service that makes available devices, aids, controls, supplies, or appliances necessary to enable an individual to increase the ability of the individual to perform ADL and IADLs or to communicate in the home and community. Assistive devices are available through the Community First Choice state plan.

(4) "Assistive Technology" means the ancillary service that makes available devices, aids, controls, supplies, or appliances that are purchased to provide support for an individual and replace the need for direct interventions or to increase independence. Assistive technology is available through the Community First Choice state plan.

(5) "CDDP" means "Community Developmental Disabilities Program".

(6) "Chore Services" means the ancillary service that is needed to restore a hazardous or unsanitary situation in the home of an individual to a sanitary, safe environment. Chore services are available through the Community First Choice state plan.

(7) "CHIS" means "Children's Intensive In-home Services".

(8) "Community Nursing Services" means the ancillary service that provides for the nursing services that focus on the chronic and ongoing health and safety needs of an individual. Community nursing services are provided according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851. Community nursing services are available through the Community First Choice state plan.

(9) "Community Transportation" means the ancillary service that enables an individual to gain access to community-based state plan and waiver services, activities, and resources, not medical in nature. Community transportation is provided in the area surrounding the home of the individual commonly used by people in the same area to obtain ordinary goods and services. Community transportation is available through the Community First Choice state plan.

(10) "Environmental Modifications" means the ancillary service that provides for physical adaptations that are necessary to ensure the health, welfare, and safety of an individual in his or her own home, or that are necessary to enable the individual to function with greater independence around his or her own home or lead to a substitution for, or decrease in, direct human assistance to the extent expenditures may otherwise be made for human assistance. Environmental modifications are available through the Community First Choice state plan.

(11) "Environmental Safety Modifications" means the ancillary service that provides for physical adaptations that are made to the exterior of the home of an individual or the home of the family of the individual as identified in the ISP for the individual to ensure the health, welfare, and safety of the individual or to enable the individual to function with greater independence around the home or lead to a substitution for, or decrease in, direct human assistance to the extent expenditures may otherwise be made for human assistance. Environmental safety modifications are available through a 1915(c) waiver.

(12) "Family Training" means the ancillary service that provides for the training services that are available to the family of an individual to increase the capacity of the family to care for, support, and maintain the individual in the home of the individual. Family training is available through a 1915(c) waiver.

(13) "IADL" means "instrumental activities of daily living".

(14) "Individual-Directed Goods and Services" means the ancillary service that provides for services, equipment, or supplies not otherwise provided through other waiver or state plan services, that address an identified need in an ISP. Individual-directed goods and services may include services, equipment, or supplies that maintain a child in the community. Individual-directed goods and services are available through a 1915(c) waiver.

(15) "ISP" means "Individual Support Plan".

(16) "OCCS" means the "Office of Client and Community Services".

(17) "OHP" means "Oregon Health Plan".

(18) "OIS" means "Oregon Intervention System".

(19) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(20) "Scope of Work" means the written statement of all proposed work requirements for an environmental modification which may include dimensions, measurements, materials, labor, any pertinent building permits, and outcomes necessary for a contractor to submit a proposal to complete such work. The scope of work is specific to the identified tasks and requirements necessary to address the needs outlined in the supplemental assessment referenced in the ISP and relating to the ADL, IADL, and health-related tasks of the individual as discussed by the individual, designated representative, legal representative, homeowner, case manager, and ISP team.

(21) "Special Diets" means the ancillary service that provides for the specially prepared food or particular types of food that are specific to the medical condition or diagnosis of an individual and in support of an evidence-based treatment regimen.

(22) "Specialized Medical Supplies" means the ancillary service, available through a 1915(c) waiver, that provides for medical and ancillary supplies such as:

(a) Necessary medical supplies specified in an ISP that are not available through state plan or alternative resources;

(b) Ancillary supplies necessary to the proper functioning of items necessary for life support or to address physical conditions; and

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(c) Supplies necessary for the continued operation of augmentative communication devices or systems.

(23) "These Rules" means the rules in OAR chapter 411, division 435.

(24) "Transition Costs" means the ancillary service that provides for expenses such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from residing in a nursing facility or intermediate care facility for individuals with intellectual or developmental disabilities to residing in a community-based home. Transition costs are available through the Community First Choice state plan.

(25) "Vehicle Modifications" means the ancillary service that provides for the adaptations or alterations that are made to the vehicle that is the primary means of transportation for an individual in order to accommodate the service needs of the individual. Vehicle modifications are available through a 1915(c) waiver.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

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## 411-435-0050

### Developmental Disabilities — Community First Choice Ancillary Services

(1) The following ancillary services are available through the Community First Choice state plan.

(a) Community Nursing Services as described in section (2) of this rule.

(b) Environmental modifications as described in section (3) of this rule.

(c) Assistive devices as described in section (4) of this rule.

(d) Assistive technology as described in section (5) of this rule.

(e) Chore services as described in section (6) of this rule.

(f) Community transportation as described in section (7) of this rule.

(g) Transition costs as described in section (8) of this rule.

(h) Behavior support services as described in section (9) of this rule.

#### (2) COMMUNITY NURSING SERVICES.

(a) In addition to the general eligibility criteria listed in OAR 411-435-0030, to access community nursing services an individual may not be enrolled in a 24 hour residential program under OAR chapter 411, division 325. An individual enrolled in a supported living program under OAR chapter 411, division 328 is eligible to access community nursing services when the cost of the service is not included in the rate paid to the provider.

(b) Community nursing services include:

(A) Nursing assessments, including medication reviews;

(B) Care coordination;

(C) Monitoring;

(D) Development of a Nursing Service Plan;

(E) Delegation and training of nursing tasks to a provider and primary caregiver;

(F) Teaching and education of the provider and primary caregiver and identifying supports that minimize health risks while promoting the autonomy of an individual and self-management of healthcare; and

(G) Collateral contact with a case manager regarding the community health status of an individual to assist in monitoring safety and well-being and to address needed changes to the ISP for the individual.

(c) Community nursing services exclude direct nursing services as described in OAR chapter 411, division 380 and private duty nursing described in OAR chapter 411, division 300.

(d) A Nursing Service Plan must be present when Department funds are used for community nursing services. A case manager must authorize the provision of community nursing services as identified in an ISP.

(e) After an initial nursing assessment, a nursing re-assessment must be completed every six months or sooner if a change in a medical condition requires an update to the Nursing Service Plan.

#### (3) ENVIRONMENTAL MODIFICATIONS.

(a) In addition to the general eligibility criteria stated in OAR 411-435-0030, an individual may access this service if:

(A) Environmental modification may be reasonably expected to reduce the need for human assistance or increase the independence of an individual with meeting an identified support need related to the completion of an ADL, IADL, or health related task; and

(B) The individual is not enrolled in a residential program, unless the enrollment is in a supported living program described in OAR chapter 411, division 328 and the dwelling is not a provider owned, controlled, or operated setting.

(b) Environmental modifications include, but are not limited to:

(A) Installation of shatter-proof windows;

(B) Hardening of walls or doors;

(C) Specialized, hardened, waterproof, or padded flooring;

(D) An alarm system for doors or windows;

(E) Protective covering for smoke alarms, light fixtures, and appliances;

(F) Installation of ramps, grab-bars, and electric door openers;

(G) Adaptation of kitchen cabinets and sinks;

(H) Widening of doorways;

(I) Handrails;

(J) Modification of bathroom facilities;

(K) Individual room air conditioners for an individual whose temperature sensitivity issues create behaviors or medical conditions that put the individual or others at risk;

(L) Installation of non-skid surfaces;

(M) Overhead track systems to assist with lifting or transferring;

(N) Specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies necessary for the welfare of the individual; and

(O) Adaptations to control the home environment including lights and heat.

(c) Environmental modifications exclude:

(A) Adaptations or improvements to the home that are of general utility, such as carpeting, roof repair, and central air conditioning, unless directly related to the assessed health and safety needs of the individual and identified in the ISP for the individual as the most cost effective solution;

(B) Adaptations that add to the total square footage of the home except for ramps that attach to the home for the purpose of entry or exit;

(C) Except for ramps, adaptations outside of the home; and

(D) General repair or maintenance and upkeep required for the home.

(d) Environmental modifications must be tied to supporting assessed ADL, IADL, and health-related tasks as identified in the needs assessment and ISP for an individual.

(e) Environmental modifications are limited to \$5,000 per modification. A case manager must request approval for additional expenditures through the Department prior to authorization of the service in an ISP. Approval is based on the service and support needs and goals of the individual and the determination by the Department of appropriateness and cost-effectiveness. In addition, separate environmental modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review.

(f) Any modification requiring a permit must be inspected by a local inspector and certified as in compliance with local codes. Certification of compliance must be filed in the file for the contractor prior to payment.

(g) Environmental modifications must be made within the existing square footage of the home, except for external ramps, and may not add to the square footage of the home.

(h) Payment to the contractor is to be withheld until the work meets specifications.

(i) A scope of work must be completed for each identified environmental modification project. All contractors submitting bids must be given the same scope of work.

(j) For all environmental modifications, a case management entity must assure a minimum of three written bids from qualified providers as described in OAR 411-435-0080 are acquired. When it is not possible to reasonably obtain three written bids, exceptions to this requirement may be granted by the Department.

(k) A case manager must assure the processes outlined in the In-home Expenditure Guidelines for contractor bids and the awarding of work are followed.

(l) All dwellings must be in good repair and have the appearance of sound structure.

(m) The identified home may not be in foreclosure or be the subject of legal proceedings regarding ownership.

(n) Environmental modifications must only be completed to the primary residence of the individual.

(o) Upgrades in materials that are not directly related to the health and safety needs of the individual are not paid for or permitted.

(p) Environmental modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials, manuals, and industry and risk management publications.

(q) RENTAL PROPERTY.

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(A) Environmental modifications to rental property may not substitute or duplicate services otherwise the responsibility of the landlord under the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore the rental structure to the former condition of the rental structure.

(4) ASSISTIVE DEVICES. Assistive devices are primarily and customarily used to meet an ADL, IADL, or health-related support need. The purchase, rental, or repair of an assistive device with Department funds must be limited to the types of equipment and accessories that are not excluded under OAR 410-122-0080. An individual who meets the general eligibility criteria in OAR 411-435-0030 may access this service when assistive devices may be reasonably expected to reduce the need for human assistance, or increase the independence of an individual, with meeting an identified support need related to the completion of an ADL, IADL, or health related task.

(a) Assistive devices may include the purchase of devices, aids, controls, supplies, or appliances primarily and customarily used to enable an individual to increase the ability of the individual to perform and support ADLs and IADLs or to communicate in the home and community.

(b) Assistive devices may be purchased with Department funds when the intellectual or developmental disability of an individual otherwise prevents or limits the independence of the individual in areas identified in a functional needs assessment.

(c) Assistive devices that may be purchased for the purpose described in subsection (b) of this section must be of direct benefit to the individual.

(d) Expenditures for assistive devices are limited to \$5,000 per plan year without Department approval. Any single purchase costing more than \$500 or any combination of items that meet a single assessed need totaling more than \$500, must be approved by the Department prior to expenditure. A case manager must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and a determination by the Department of appropriateness and cost-effectiveness.

(e) Devices must be limited to the least costly option necessary to meet the assessed need of an individual.

(f) Assistive devices must meet applicable standards of manufacture, design, and installation.

(g) Assistive devices exclude:

(A) Items that do not address the underlying need for the device;

(B) Items intended to supplant similar items furnished under OHP, private insurance, or alternative resources;

(C) Items that are unsafe for an individual;

(D) Toys or outdoor play equipment; and

(E) Equipment and furnishings of general household use.

(5) ASSISTIVE TECHNOLOGY Assistive technology is primarily and customarily used to provide additional safety and support and replace the need for direct interventions, to enable self-direction of care, or increase independence. An individual who meets the general eligibility criteria in OAR 411-435-0030 may access this service when assistive technology may be reasonably expected to reduce the need for human assistance, or increase the independence of an individual, with meeting an identified support need related to the completion of an ADL, IADL, or health related task.

(a) Expenditures for assistive technology are limited to \$5,000 per plan year without Department approval. Any single purchase costing more than \$500, or any combination of items that meet a single assessed need totaling more than \$500, must be approved by the Department prior to expenditure. A case manager must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and a determination by the Department of appropriateness and cost-effectiveness.

(b) Payment for ongoing electronic back-up systems or assistive technology costs must be paid to providers each month after services are received.

(A) Ongoing costs do not include electricity or batteries.

(B) Ongoing costs may include minimally necessary data plans and the services of a company to monitor emergency response systems.

(c) Assistive technology includes, but is not limited to:

(A) Motion or sound sensors;

(B) Two-way communication systems;

(C) Automatic faucets and soap dispensers;

(D) Incontinence and fall sensors;

(E) Devices to secure assistance in an emergency in the community;

(F) Medication minders;

(G) Alert systems for ADL or IADL supports; or

(H) Mobile electronic devices or other electronic backup systems, including the expense necessary for the continued operation of the assistive technology.

(6) CHORE SERVICES.

(a) To be eligible to access chore services an individual must:

(A) Meet the general eligibility criteria in OAR 411-435-0030; and

(B) Not be enrolled in a residential program, unless the enrollment is in a supported living program described in OAR chapter 411, division 328 and the dwelling is not a provider owned, controlled, or operated setting.

(b) Chore services include heavy household chores, such as:

(A) Washing floors, windows, and walls;

(B) Tacking down loose rugs and tiles; and

(C) Moving heavy items of furniture for safe access and egress.

(c) Chore services may include yard hazard abatement to ensure the outside of the home is safe for the individual to traverse and enter and exit the home.

(d) Chore services may be provided only in situations where no one else is responsible to perform or pay for the services.

(7) COMMUNITY TRANSPORTATION.

(a) Community transportation may only be authorized on an ISP when an individual meets the general eligibility criteria in OAR 411-435-0030, voluntary natural supports or volunteer services are not available, when the individual is not enrolled in a residential program, when it is not the responsibility of the parent of a child, and one of the following is identified in the ISP of the individual:

(A) The individual has an assessed need for ADL, IADL, or health-related task during transportation; or

(B) The individual has either an assessed need for ADL, IADL, or health-related task at the destination or a need for waiver funded services at the destination.

(b) Community transportation includes, but is not limited to:

(A) Community transportation provided by a common carrier, taxi-cab, or bus in accordance with standards established for these entities.

(B) Reimbursement on a per-mile basis for transporting an individual to accomplish ADL, IADL, a health-related task, or employment goal identified in an ISP.

(C) The purchase of a bus pass.

(c) Community transportation must be provided in the most cost effective manner which meets the needs identified in the ISP for the individual.

(d) Community transportation expenses exceeding \$500 per month must be approved by the Department.

(e) Community transportation must be prior authorized by a case manager and documented in an ISP. The Department does not pay any provider under any circumstances for more than the total number of hours, miles, or rides prior authorized by the case manager and documented in the ISP. Personal support workers who use their own personal vehicle for community transportation are reimbursed as described in OAR chapter 411, division 375.

(f) Mileage reimbursement for community transportation is only authorized when a provider is also being paid for delivering community living supports or job coaching. Mileage may not be authorized as a stand-alone payment.

(g) Community transportation services exclude:

(A) Medical transportation;

(B) Purchase or lease of a vehicle;

(C) Routine vehicle maintenance and repair, insurance, and fuel;

(D) Ambulance services;

(E) Costs for transporting a person other than the individual;

(F) Transportation for a provider to travel to and from the workplace of the provider;

(G) Transportation that is not for the sole benefit of the individual;

(H) Transportation as part of a vacation or trips for relaxation purposes;

(I) Transportation provided by family members who are not personal support workers;

(J) Reimbursement for out-of-state travel expenses;

(K) Mileage reimbursement to the individual or a personal support worker when the individual owns the vehicle doing the transportation;

(L) Transportation normally provided by schools;

(M) Transportation normally provided by a primary caregiver for a child of similar age without disabilities; and



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(N) Transportation for a child that is typically the responsibility of a parent. Transportation for a child that is not typically a parental responsibility is limited to transportation:

(i) Concurrent with the delivery of relief care as described in OAR 411-450-0060; or

(ii) Included in a Behavior Support Plan.

(8) TRANSITION COSTS.

(a) To be eligible to access transition costs an individual must meet the general eligibility criteria in OAR 411-435-0030 and not be enrolled in a residential program.

(b) Transition costs are limited to an individual transitioning from residing in a nursing facility or intermediate care facility for individuals with intellectual or developmental disabilities to residing in a community-based home when the cost for the service is not included in the rate paid to the provider.

(c) Transition costs are based on an the assessed need of an individual determined during the person-centered service planning process and must support the desires and goals of the individual receiving services and supports. Final approval for transition costs must be through the Department prior to expenditure. The approval of the Department is based on the need of an individual and the determination by the Department of appropriateness and cost-effectiveness.

(d) Financial assistance for transition costs is limited to:

(A) Moving and move-in costs, including movers, cleaning and security deposits, payment for background or credit checks (related to housing), or initial deposits for heating, lighting, and phone;

(B) Payment of previous utility bills that may prevent the individual from receiving utility services and basic household furnishings, such as a bed; and

(C) Other items necessary to re-establish a home.

(e) Transition costs are provided no more than twice annually.

(f) Transitions costs for basic household furnishings and other items are limited to one time per year.

(g) Transition costs may not supplant the legal responsibility of the parent or guardian of a child. In this context, the term parent or guardian does not include a designated representative.

(9) BEHAVIOR SUPPORT SERVICES. Behavior support services are provided to assist individuals with behavioral challenges due to their disability that prevent them from accomplishing ADL's, IADL's, and health-related tasks. Behavior support services include, behavior modification and intervention supports to allow individuals to develop, maintain, or enhance skills to accomplish ADL's, IADLs and health-related tasks. The need for behavior support services is determined through a functional needs assessment and the goals of the individual as identified in the person-centered planning process. Positive behavioral support services may also include consultation to the service provider on how to mitigate behavior that may place the health and safety of the individual at risk and prevent institutionalization. Behavior support services may be implemented in the home or community, based on the assessed needs of the individual. All behavior support services must be for the direct benefit of the Medicaid beneficiary.

(a) In addition to the general eligibility criteria listed in OAR 411-435-0030, an individual enrolled in a 24-hour residential program under OAR chapter 411, division 325 may not access behavior support services. An individual enrolled in a supported living program under OAR chapter 411, division 328 is eligible to access behavior support services when the cost of the service is not included in the rate paid to the provider.

(b) A qualified behavior consultant must:

(A) Work with the individual and, if applicable, caregivers to:

(i) Address the needs of the individual to acquire, maintain and enhance skills necessary for the individual to accomplish ADLs, IADLs, and health-related tasks.

(ii) Identify the issues that are of most concern;

(iii) Evaluate the formal or informal responses caregivers have used to address those issues; and

(iv) Identify the unique characteristics of the individual and the individual circumstances that may influence the responses that may work with the individual.

(B) Assess the individual. The assessment must include:

(i) Specific identification of the behaviors or areas of concern;

(ii) Identification of the settings or events likely to be associated with, or to trigger, the behavior;

(iii) Identification of early warning signs of the behavior;

(iv) Identification of the probable reasons that are causing the behavior and the needs of the individual that are met by the behavior, including the possibility that the behavior is:

(I) An effort to communicate;

(II) The result of a medical condition;

(III) The result of an environmental cause; or

(IV) The symptom of an emotional or psychiatric disorder.

(v) Evaluation and identification of the impact of disabilities (i.e. autism, blindness, deafness, etc.) that impact the development of strategies and affect the individual and the area of concern; and

(vi) An assessment of current communication strategies.

(C) Develop a variety of positive strategies that assist a caregiver to help the individual to use acceptable, alternative actions to assist the individual to develop or enhance skills to accomplish ADL, IADL, and health-related tasks. These strategies may include changes in the physical and social environment, developing effective communication, and appropriate responses by the caregiver.

(i) When interventions in behavior are necessary, the interventions must be performed in accordance with positive behavioral theory and practice as defined in OAR 411-317-0000.

(ii) The least intrusive intervention possible to keep the individual and others safe must be used.

(iii) Abusive or demeaning interventions must never be used.

(iv) The strategies must be adapted to the specific disabilities of the individual and, when applicable, to the style or culture of the family.

(D) Develop a written Behavior Support Plan using clear, concrete language that is understandable to the individual and caregivers that describes the assessment, strategies, and procedures to be used.

(E) Develop emergency and crisis procedures to be used to keep the individual and caregivers safe. When interventions in the behavior of the individual are necessary, positive, preventative, non-aversive interventions that conform to OIS must be utilized. The use of protective physical intervention must be part of the Behavior Support Plan. When protective physical intervention is required, the protective physical intervention must only be used as a last resort and the provider must be appropriately trained in OIS.

(F) Teach caregivers the strategies and procedures to be used.

(G) Monitor and revise the Behavior Support Plan as needed.

(C) Behavior support services may include:

(A) Training a primary caregiver on the behavior modifications and interventions identified in the BSP;

(B) Developing a visual communication system as a strategy for behavior support; and

(C) Communicating with other professionals about the strategies and outcomes of the Behavior Support Plan as written in the Behavior Support Plan within authorized consultation hours only.

(d) Behavior support services exclude:

(A) Rehabilitation or treatment of mental health conditions including, but not limited to, therapy or counseling;

(B) Health or mental health plan coverage;

(C) Educational services including, but not limited to, consultation and training for classroom staff;

(D) Adaptations to meet the needs of an individual at school;

(E) An assessment in a school setting;

(F) Attendant care;

(G) Relief care; or

(H) Communication or activities not directly related to the development, implementation, or revision of the Behavior Support Plan.

(e) BEHAVIOR CONSULTANTS. Behavior consultants must meet the qualifications described in this section of this rule. Behavior consultants are not personal support workers. Behavior consultants may include, but are not limited to, autism specialists, licensed psychologists, or other behavioral specialists. Behavior consultants providing specialized supports must:

(A) Have education, skills, and abilities necessary to provide behavior support services as described in this rule;

(B) Have current certification demonstrating completion of OIS training; and

(C) Submit a resume or the equivalent to the Department indicating at least one of the following:

(i) A bachelor's degree in special education, psychology, speech and communication, occupational therapy, recreation, art or music therapy, or a behavioral science or related field, and at least one year of experience with individuals who present difficult or dangerous behaviors; or

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(ii) Three years of experience with individuals who present difficult or dangerous behaviors and at least one year of that experience includes providing the services of a behavior consultant as described in this rule.

(D) Additional education or experience may be required to safely and adequately provide the services described in this rule.

(E) A behavior consultant may not have a conflict of interest associated with the delivery of the service unless the conflict is waived by the Department prior to delivering the service. A conflict of interest exists when the provider may benefit from the delivery of the service or is:

(i) Related by blood or marriage to the individual, or to any paid caregiver of the individual.

(ii) Financially responsible for the individual.

(iii) Empowered to make financial or health-related decisions on behalf of the individual.

(F) A behavior consultant who meets the definition of an independent provider must:

(i) Meet the qualifications described in OAR 411-375-0020; and

(ii) Meet the qualifications listed in subsections (A) to (E) of this section.

(G) An agency certified by the Department according to OAR chapter 411, division 323 may provide behavior support services to an individual that is not enrolled to a provider's residential program when the agency employee meets the qualifications listed in subsections (A) to (E) of this section.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

Hist.: APD 20-2016, f. & cert. ef. 6-29-16; APD 36-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

## 411-435-0060

### Developmental Disabilities — Waiver Ancillary Services

(1) The following ancillary services are available through the ICF/IDD Comprehensive Waiver, ICF/IDD Support Services Waiver, Medically Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IDD) Model Waiver:

(a) Family training as described in section (2) of this rule.

(b) Environmental safety modifications as described in section (3) of this rule.

(c) Vehicle modifications as described in section (4) of this rule.

(d) Specialized medical supplies as described in section (5) of this rule.

#### (2) FAMILY TRAINING.

(a) To be eligible to access family training an individual must meet the general eligibility criteria in OAR 411-435-0030 and not be enrolled in a residential program.

(b) Family training services include:

(A) Instruction about treatment regimens and use of equipment specified in an ISP;

(B) Information, education, and training about the disability, medical, and behavioral conditions of an individual; and

(C) Registration fees for organized conferences and workshops specifically related to the intellectual or developmental disability of the individual or the identified, specialized, medical, or behavioral support needs of the individual.

(i) Conferences and workshops must be prior authorized by a case manager, directly relate to the intellectual or developmental disability of the individual, and increase the knowledge and skills of the family to care for and maintain the individual in the home of the individual.

(ii) Conference and workshop costs exclude:

(I) Travel, food, and lodging expenses;

(II) Services otherwise provided under OHP or available through other resources; or

(III) Costs for individual family members who are employed to care for the individual.

(c) Family training services exclude:

(A) Mental health counseling, treatment, or therapy;

(B) Training for a paid provider, including a paid family member;

(C) Legal fees;

(D) Training for a family to carry out educational activities in lieu of school;

(E) Vocational training for family members; and

(F) Paying for training to carry out activities that constitute abuse of an adult.

(d) Prior authorization by the case manager is required for attendance by family members at organized conferences and workshops funded with Department funds.

#### (3) ENVIRONMENTAL SAFETY MODIFICATIONS.

(a) To be eligible to access environmental safety modifications an individual must meet the general eligibility criteria in OAR 411-435-0030 and not enrolled in a residential program, unless the enrollment is in a supported living program described in OAR chapter 411, division 328 and the dwelling is not a provider owned, controlled, or operated setting.

(b) Environmental safety modifications must be made using materials of the most cost effective type and may not include decorative additions.

(c) Fencing may not exceed 200 linear feet without approval from the Department.

(d) Environmental safety modifications exclude:

(A) Large gates, such as automobile gates;

(B) Costs for paint and stain;

(C) Adaptations or improvements to the home that are of general utility and are not for the direct safety or long-term benefit to the individual or do not address the underlying environmental need for the modification;

(D) Adaptations that add to the total square footage of the home; and  
(E) Adaptations that are prohibited by local codes and ordinances or neighborhood Covenants, Conditions, and Restrictions (CCR).

(e) Environmental safety modifications must be tied to supporting ADL, IADL, and health-related tasks as identified in the ISP.

(f) Environmental safety modifications are limited to \$5,000 per modification. A case manager must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and the determination by the Department of appropriateness and cost-effectiveness. In addition, separate environmental safety modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review.

(g) Environmental safety modifications must be completed by a state licensed contractor with a minimum of \$1,000,000 liability insurance. Any modification requiring a permit must be inspected by a local inspector and certified as in compliance with local codes. Certification of compliance must be filed in the file for the contractor prior to payment.

(h) Environmental safety modifications must be made within the existing square footage of the home and may not add to the square footage of the home.

(i) Payment to the contractor is to be withheld until the work meets specifications.

(j) A scope of work as defined in OAR 411-435-0020 must be completed for each identified environmental safety modification project. All contractors submitting bids must be given the same scope of work.

(k) For all environmental safety modifications, a minimum of three written bids from qualified providers as described in OAR 411-435-0080 are required.

(l) A case manager must follow the processes outlined in the In-home Expenditure Guidelines for contractor bids and the awarding of work.

(m) The identified home may not be in foreclosure or the subject of legal proceedings regarding ownership.

(n) Environmental safety modifications must only be completed to the primary residence of the individual.

(o) Upgrades in materials that are not directly related to the health and safety needs of the individual are not paid for or permitted.

(p) Environmental safety modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials manuals, and industry and risk management publications.

#### (q) RENTAL PROPERTY.

(A) Environmental safety modifications to rental property may not substitute or duplicate services otherwise the responsibility of the landlord under the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental safety modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore the rental structure to the former condition of the rental structure.

#### (4) VEHICLE MODIFICATIONS.

(a) To be eligible to access vehicle modifications an individual must meet the general eligibility criteria in OAR 411-435-0030 and not be enrolled in a residential program.

(b) Vehicle modifications may only be made to the vehicle primarily used by an individual to meet the unique needs of the individual. Vehicle modifications may include a lift, interior alterations to seats, head and leg rests, belts, special safety harnesses, other unique modifications to keep the

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individual safe in the vehicle, and the upkeep and maintenance of a modification made to the vehicle.

(c) Vehicle modifications exclude:

(A) Adaptations or improvements to a vehicle that are of general utility and are not of direct medical benefit to the individual or do not address the underlying need for the modification;

(B) The purchase or lease of a vehicle; or

(C) Routine vehicle maintenance and repair.

(d) Vehicle modifications are limited to \$5,000 per modification. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and the determination by the Department of appropriateness and cost-effectiveness. In addition, separate vehicle modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review.

(e) Vehicle modifications must meet applicable standards of manufacture, design, and installation.

(5) SPECIALIZED MEDICAL SUPPLIES. Specialized medical supplies do not cover services which are otherwise available to an individual under Vocational Rehabilitation and Other Rehabilitation Services, 29 U.S.C. 701-7961, as amended, or the Individuals with Disabilities Education Act, 20 U.S.C. 1400 as amended. Specialized medical supplies may not overlap with, supplant, or duplicate other services provided through a waiver, OHP, or Medicaid state plan services. To be eligible to access specialized medical supplies an individual must meet the general eligibility criteria in OAR 411-435-0030.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

Hist.: APD 20-2016, f. & cert. ef. 6-29-16; APD 36-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

## 411-435-0070

### Developmental Disabilities — Other Waiver Ancillary Services

(1) SPECIAL DIET. Special diets are specially prepared food or particular types of food, ordered by a physician and periodically monitored by a dietician, specific to the medical condition or diagnosis of an individual that are needed to sustain the individual in the home of the individual. Special diets are supplements and are not intended to meet the complete daily nutritional requirements of the individual. Special diet supplies must be supported by an evidence-based treatment regimen. This ancillary service is available through the ICF/IDD Support Services Waiver, Medically Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IDD) Model Waiver.

(a) Special diets are available to only individuals who meet the general eligibility criteria in OAR 411-435-0030 and are enrolled in a Brokerage or a CIIS program.

(b) A special diet is a supplement and is not intended to meet complete, daily nutritional requirements.

(c) A special diet must be ordered at least annually by a physician licensed by the Oregon Board of Medical Examiners and periodically monitored by a dietician or physician.

(d) The maximum monthly purchase for special diet supplies for a child in a CIIS program may not exceed \$100 per month.

(e) Special diet supplies must be in support of an evidence-based treatment regimen.

(f) A special diet excludes restaurant and prepared foods, vitamins, and supplements.

(2) INDIVIDUAL-DIRECTED GOODS AND SERVICES. This ancillary service is available through the Medically Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IDD) Model Waiver.

(a) Only a child who meets the general eligibility criteria in OAR 411-435-0030 and is enrolled in CIIS may access individual-directed goods and services.

(b) Individual-directed goods and services provide equipment and supplies that are not otherwise available through another source, such as waiver services or state plan services.

(c) Authorization of individual directed goods and services must be based on an assessed need.

(d) Individual-directed goods and services must directly address an identified disability related need of a child in the ISP.

(e) Individual-directed goods and services must:

(A) Decrease the need for other Medicaid services;

(B) Promote inclusion of a child in the community; or

(C) Increase the safety of a child in the family home.

(f) Individual-directed goods and services may not be:

(A) Otherwise available through another source, such as waiver services or state plan services;

(B) Experimental or prohibited treatment; or

(C) Goods or services that are normally purchased by a family for a typically developing child of the same age.

(g) Individual-directed goods and services purchased must be the most cost effective option available to meet the needs of the child.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

Hist.: APD 20-2016, f. & cert. ef. 6-29-16; APD 36-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

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**Rule Caption:** ODDS: Community Living Supports for Individuals with Intellectual or Developmental Disabilities

**Adm. Order No.:** APD 37-2016(Temp)

**Filed with Sec. of State:** 9-15-2016

**Certified to be Effective:** 9-15-16 thru 2-27-17

**Notice Publication Date:**

**Rules Amended:** 411-450-0060

**Rules Suspended:** 411-450-0060(T)

**Subject:** The Department of Human Services, Office of Developmental Disabilities Services (Department) temporarily amended OAR 411-450-0060 on September 1, 2016 to clearly outline service limits and the functional needs assessments used to determine service levels. This action was taken to more efficiently align service authorization with an individual's needs and to incorporate appropriate limits as directed in the 2016 Legislative Session SB5701A Budget Note.

The Department is amending OAR 411-450-0060(T) to specify that all functional needs assessments conducted to renew an annual ISP that has a start date on or after November 1, 2016 must use the Adult In-Home Support Needs Assessment, Version D (ANA-D) or Child In-Home Support Needs Assessment, Version D (CNA-D).

**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

## 411-450-0060

### Community Living Supports

(1) Department funds may be used to purchase community living supports available through the Community First Choice state plan that include:

(a) Attendant care as described in section (2) of this rule;

(b) Skills training as described in section (3) of this rule; and

(c) Relief care as described in section (4) of this rule.

(2) ATTENDANT CARE SERVICES. Attendant care services include direct support provided to an individual in the home of the individual or community by a qualified provider. ADL and IADL services provided through attendant care must be necessary to permit an individual to live independently in a community-based setting.

(a) ADL services include, but are not limited to:

(A) Basic personal hygiene — providing or assisting with needs such as bathing (tub, bed, bath, shower), hair care, grooming, shaving, nail care, foot care, dressing, skin care, or oral hygiene.

(B) Toileting, bowel, and bladder care — assisting to and from the bathroom, on and off toilet, commode, bedpan, urinal, or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, managing menses, cleansing an individual or adjusting clothing related to toileting, emptying a catheter, drainage bag, or assistive device, ostomy care, or bowel care.

(C) Mobility, transfers, and repositioning — assisting with ambulation or transfers with or without assistive devices, turning an individual or adjusting padding for physical comfort or pressure relief, or encouraging or assisting with range-of-motion exercises.

(D) Eating — assisting with adequate fluid intake or adequate nutrition, assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with adaptive utensils, cutting food, and placing food, dishes, and utensils within reach for eating.

(E) Cognitive assistance or emotional support provided to an individual due to an intellectual or developmental disability — helping the individual cope with change and assisting the individual with decision-making, reassurance, orientation, memory, or other cognitive functions.

(b) IADL services include, but are not limited to:

(A) Light housekeeping tasks necessary to maintain an individual in a healthy and safe environment — cleaning surfaces and floors, making the individual's bed, cleaning dishes, taking out the garbage, dusting, and laundry.

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(B) Grocery and other shopping necessary for the completion of other ADL and IADL tasks.

(C) Meal preparation and special diets.

(D) Support with participation in the community:

(i) Support with community participation — assisting an individual in acquiring, retaining, and improving skills to use available community resources, facilities, or businesses, and improving self-awareness and self-control; and

(ii) Support with communication — assisting an individual in acquiring, retaining, and improving expressive and receptive skills in verbal and non-verbal language, social responsiveness, social amenities, and interpersonal skills, and the functional application of acquired reading and writing skills.

(c) Assistance with ADLs, IADLs, and health-related tasks may include cueing, monitoring, reassurance, redirection, set-up, hands-on, or standby assistance. Assistance may be provided through human assistance or the use of electronic devices or other assistive devices. Assistance may also require verbal reminding to complete any of the IADL tasks described in subsection (b) of this section.

(A) “Cueing” means giving verbal, audio, or visual clues during an activity to help an individual complete the activity without hands-on assistance.

(B) “Hands-on” means a provider physically performs all or parts of an activity because an individual is unable to do so.

(C) “Monitoring” means a provider observes an individual to determine if assistance is needed.

(D) “Reassurance” means to offer an individual encouragement and support.

(E) “Redirection” means to divert an individual to another more appropriate activity.

(F) “Set-up” means the preparation, cleaning, and maintenance of personal effects, supplies, assistive devices, or equipment so that an individual may perform an activity.

(G) “Stand-by” means a provider is at the side of an individual ready to step in and take over the task if the individual is unable to complete the task independently.

(d) For a child, the primary caregiver is expected to be present or available during the provision of attendant care. ADL and IADL services provided through attendant care must support the child to live as independently as appropriate for the age of the child and support, but not supplant, the family in their primary caregiver role.

(3) SKILLS TRAINING. Skills training is specifically tied to accomplishing ADL, IADL, and other health-related tasks as identified by the functional needs assessment and ISP and permit an individual to live independently in a community-based setting.

(a) Skills training may be applied to the use and care of assistive devices and technologies.

(b) Skills training is authorized when:

(A) The anticipated outcome of the skills training, as documented in the ISP, is measurable;

(B) Timelines for measuring progress towards the anticipated outcome are established in the ISP; and

(C) Progress towards the anticipated outcomes are measured and the measurements are evaluated by a case manager no less frequently than every six months, based on the start date of the initiation of the skills training.

(c) When anticipated outcomes are not achieved within the timeframe outlined in the ISP, the case manager must reassess or redefine the use of skills training with the individual for that particular goal.

(d) For a child, the primary caregiver is expected to be present or available during the provision of skills training. ADL and IADL services provided through skills training must support the child to live as independently as appropriate for the age of the child and support, but not supplant, the family in their primary caregiver role.

(e) Skills training may not replace or supplant the services of the educational system in fulfilling its obligation to educate an individual.

(4) RELIEF CARE.

(a) Relief care may not be characterized as daily or periodic services provided solely to allow the primary caregiver to attend school or work. Daily relief care may be provided in segments that are sequential. Daily relief care delivered by a PSW may not exceed seven consecutive days without permission from the Department.

(b) Relief care may be provided in:

(A) The home of the individual;

(B) A licensed or certified setting;

(C) The home of a qualified provider, chosen by the individual or the representative of the individual, that is a safe setting for the individual; or

(D) The community, during the provision of ADL, IADL, health-related tasks, and other supports identified in the ISP for the individual.

(c) No other community living supports may be provided to an individual during the 24-hour unit of daily relief care.

(5) Community living supports may be delivered:

(a) Individually or in a group as indicated by the outcome of the person centered planning process for the individual.

(b) In the home, community, or a facility.

(A) Community living supports are facility-based if delivered at a fixed site outside of the home of the individual that is operated, owned, or controlled by the service provider.

(B) Facility-based community living supports must, at minimum, provide on-going opportunities and encouragement to individuals for going out into the broader community. Providers initially certified or endorsed by the Department or the Oregon Health Authority on or after January 1, 2016, must comply with this requirement prior to being certified and endorsed to provide services under these rules. Existing providers certified and endorsed prior to January 1, 2016, must make measurable progress toward compliance with this requirement, consistent with a department approved transition plan, and be in full compliance with these rules by September 1, 2018.

(6) SETTING LIMITATIONS.

(a) An individual who lives in their own or family home is eligible for community living supports described in these rules for which the individual has an assessed need and the person centered planning process determines to be appropriate unless:

(A) The Department determines that the health and safety of the individual cannot be reasonably assured through the delivery of community living supports; or

(B) Dangerous conditions in the service setting jeopardize the health or safety of the individual or provider, and the individual, or the legal or designated representative of the individual, is unable or unwilling to implement necessary safeguards to minimize the dangers.

(b) An individual enrolled to a residential program, an adult foster home licensed under OAR chapter 411, division 050, or an assisted living facility licensed under OAR chapter 411, division 054 is not eligible for:

(A) Community living supports provided by a personal support worker.

(B) Community living supports delivered in the home of the individual, whether the home is a licensed setting or not.

(C) Relief care.

(c) A child living in a Behavior Rehabilitation Services (BRS) program as described in OAR 410-170-0000 through 410-170-0120, or Psychiatric Residential Treatment Services (PRTS) as defined in OAR 309-022-0100 is not eligible for community living supports.

(7) SERVICE LIMITS.

(a) All community living supports must be authorized in an ISP as described in OAR 411-415-0070.

(b) For an individual residing in their own or family home, the amount of community living supports in any plan year is limited to the service level determined by a functional needs assessment when conducted as described in the ANA/CNA Manual. A service level determined by an ANA-C or CNA-C is available until an ISP is implemented using a service level determined by an ANA-D or CNA-D.

(A) All functional needs assessments conducted in order to develop an initial ISP after September 1, 2016 must use the ANA-D or CNA-D.

(B) All functional needs assessments conducted to renew an annual ISP that has a start date on or after November 1, 2016 must use the ANA-D or CNA-D.

(C) All functional needs assessments conducted after October 31, 2016 must use the ANA-D or CNA-D.

(c) A change in service level must be based on a reassessment.

(d) The functional needs assessment determines:

(A) The service level. The service level may not be exceeded without prior approval from the Department. The service level applies to hours used for:

(i) Attendant care described in this rule;

(ii) Skills training described in this rule; and

(iii) State plan personal care service hours as described in OAR chapter 411, division 034.

(B) The need for two staff to be available simultaneously to provide community living supports to the individual. When such a need is identi-

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fied, the functional needs assessment determines the maximum number of hours two staff may be simultaneously available.

(C) The Department may approve a service level greater than was determined by the functional needs assessment if the individual cannot get support needs met within the assessed service level because the individual has:

- (i) Intermittent needs that cannot be scheduled that must be met throughout the day to keep the individual healthy and safe;
- (ii) A specific support that takes an exceptional amount of the time and there is justification of the amount of time that is needed; or
- (iii) Support needs that must be met in order to prevent a serious risk of institutionalization.

(D) The Department may put limits on how Department funds and resources are used, as long as those limited funds and resources are adequate to meet the individual's needs.

(e) For an individual enrolled in a residential program, an adult foster home licensed under OAR chapter 411, division 050, or an assisted living facility licensed under OAR chapter 411, division 054, any combination of job coaching, supported employment - small group employment support, employment path services, and community living supports must not exceed a combined average of 25 hours per week.

(f) No more than 14 days of relief care in a plan year are allowed without approval from the Department. Each day of respite services described in and provided under OAR 411-070-0043(5) contributes to the 14-day limit for relief care.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

Hist.: APD 27-2016, f. & cert. ef. 6-29-16; APD 35-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17; APD 37-2016(Temp), f. & cert. ef. 9-15-16 thru 2-27-17

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

**Rule Caption:** Amending rule relating to disclosure of information compiled for criminal law purposes

**Adm. Order No.:** CWP 14-2016(Temp)

**Filed with Sec. of State:** 8-25-2016

**Certified to be Effective:** 8-25-16 thru 2-20-17

**Notice Publication Date:**

**Rules Amended:** 413-010-0035

**Subject:** The Department of Human Services, Office of Child Welfare Programs, is amending OAR 413-010-0035 to remove the requirement for explicit law enforcement approval prior to disclosing records that include investigatory information compiled for criminal law purposes. The amended rule prohibits disclosure of this information unless the Department determines after consultation with law enforcement or a prosecutor that the information can be disclosed without interfering in an ongoing law enforcement investigation or prosecution of a case or disclosure is required under ORS 419B.035. Disclosure will still need to be approved by the manager or designee.

The rule text showing proposed changes is available at [http://www.dhs.state.or.us/policy/childwelfare/implement/temp\\_rules.htm](http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm).

**Rules Coordinator:** Kris Skaro—(503) 945-6067

### 413-010-0035

#### Prohibited Disclosures

(1) If a court order or a specific statute requires the Department to disclose information that this rule protects, the Department must disclose the information.

(2) The Department may not disclose client information:

(a) For purposes not directly connected with the administration of child welfare laws; or

(b) When disclosure is not required nor authorized by:

(A) ORS 419B.035 (governing confidentiality of child abuse records), set out in section (11) of this rule;

(B) ORS 419A.255 (governing confidentiality of juvenile court records) set out in section (12) of this rule; or

(C) Another statute.

(3) The Department may not disclose investigatory information compiled for criminal law purposes, including the record of an arrest or a report of a crime, unless:

(a) The Department determines after consultation with law enforcement or a prosecutor that the information can be disclosed without interfering with an ongoing law enforcement investigation or prosecution of a case; or

(b) The Department determines that disclosure is required by ORS 419B.035(1)(i) because a child, as the result of abuse, died or suffered serious physical injury taking into account the factors listed in ORS 419B.035(2)(a).

(4) Department employees may not disclose the information described in section (3) of this rule unless authorized to do so by the manager or designee.

(5) A person authorized to review client records may not review the complete case file if the complete file contains confidential information about other persons, including, but not limited to other clients, ex-spouses, battering partners, housemates, and half-siblings unless the other person provides written consent that meets the requirements of OAR 413-010-0045(2)(a).

(6) The Department may not disclose the records of a patient at a drug and alcohol abuse treatment facility to any person without the consent of the patient.

(7) The Department may not disclose client information contained in a record sealed by a court order of expunction or any part of the expunged record.

(8) Department Adoption Records.

(a) The Department must seal Department adoption records in its possession consistent with ORS 109.319.

(b) The Department may not access, use, or disclose Department adoption records in its possession except as provided in ORS 109.319.

(c) Subject to subsection (d) of this section, the Department may, without a court order, access, use, or disclose Department adoption records in its possession for the purpose of providing adoption services or administering child welfare services that the Department is authorized to provide under federal or state law.

(d) The Child Permanency or Post-Adoption Program Manager, or their designee, must authorize the unsealing of and access to, use of, or disclosure of Department adoption records by other Department employees.

(e) The Department may, upon request and if available, disclose the county in which an adoption was finalized and the case number of the adoption proceeding as provided in section 6 of HB 2365 (2015).

(9) Reporter of Abuse. The identity of the person making a report of suspected child abuse, and any identifying information about the reporting person, must be removed from the records or shielded from view before records are viewed or copied. The name, address or other identifying information may only be disclosed to a law enforcement officer or district attorney in order to complete an investigation report of child abuse.

(10) Reports and Records Compiled Pursuant to the Child Abuse Reporting Law.

(a) Each report of suspected child abuse must be immediately reported to a law enforcement agency.

(b) The Department must assist in the protection of a child who is believed to have been abused or neglected by providing information as needed to:

(A) The juvenile court;

(B) The district attorney;

(C) Any law enforcement agency or a child abuse registry in another state investigating a child abuse report;

(D) Members of a child protection team or consultants involved in assessing whether or not abuse occurred and determining appropriate treatment for the child and family;

(E) A physician who is examining a child or providing care or treatment, and needs information about the child's history of abuse; and

(F) A non-abusing parent, foster parent, or other non-abusing person responsible for the care of the child.

(c) A report, record, or findings of an assessment of child abuse may not be disclosed until the assessment is completed, except for the reasons stated in paragraphs (e)(A) and (B) of this section. An assessment will not be considered completed while either a protective service assessment or a related criminal investigation is in process. The Department determines when the protective service assessment is completed. The district attorney determines when a criminal investigation is completed.

(d) Records or findings of completed child abuse assessments must be released upon request to the following:

(A) Attorneys of record for the child or child's parent or guardian in a juvenile court proceeding for use in that proceeding; and

# ADMINISTRATIVE RULES

(B) A citizen review board established by the Department or by a juvenile court to review the status of children under the jurisdiction of the court for the purpose of completing a case review. Before providing information to a citizen review board, the Department must assure that the board has informed participants of their statutory responsibility to keep the information confidential, and will maintain records in an official, confidential file.

(e) Records or information from records of abuse and neglect assessments may be disclosed to other interested parties if the Department determines that disclosure to a person or organization is necessary to:

(A) Administer child welfare services and is in the best interests of the affected child. When disclosure is made for the administration of child welfare services, the Department will release only the information necessary to serve its purpose; and

(B) Prevent abuse and neglect, assess reports of abuse or neglect, or protect children from further abuse or neglect.

(11) Juvenile Court Records in Department Files.

(a) The Department may not disclose records and information in its possession that are also contained in the juvenile court's record of the case or supplemental confidential file, defined in subsections (b) and (c) of this section, except as provided in ORS 419A.255 and other federal and state confidentiality laws pertaining to client records.

(b) Record of the Case.

(A) The juvenile court's "record of the case", as defined in ORS 419A.252, includes but is not limited to the summons, the petition, papers in the nature of pleadings, answers, motions, affidavits, and other papers filed with the court, orders and judgments, including supporting documentation, exhibits and materials offered as exhibits whether or not received in evidence, and other records listed in ORS 419A.252.

(B) The record of the case is unavailable for public inspection, but is open to inspection and copying as provided in ORS 419A.255.

(c) Supplemental Confidential File.

(A) The juvenile court's "supplemental confidential file", as defined in ORS 419A.252, includes reports and other material relating to the child's history and prognosis, including but not limited to reports filed under ORS 419B.440, that are not or do not become part of the record of the case and are not offered or received as evidence in the case.

(B) The supplemental confidential file is unavailable for public inspection, but is open to inspection and copying as provided in ORS 419A.255.

(C) The Department is entitled to copies of material maintained in the supplemental confidential file and if such material is obtained, the Department must ensure the confidentiality of that material as provided in ORS 419A.255.

(d) Reports and other materials relating to the child's history and prognosis in the record of the case or in the supplemental confidential file are privileged and except at the request of the child, are unavailable for public inspection but are open to inspection and copying as provided in ORS 419A.255.

(e) When the Department inspects or obtains copies of reports, materials, or documents pursuant to ORS 419A.255(4), the Department may not use or disclose the reports, materials, or documents except as provided in ORS 419A.255.

(12) Records Received from the Oregon Youth Authority or the Juvenile Department. The Department must preserve the confidentiality of reports and other materials it receives from the Oregon Youth Authority or the juvenile department relating to the child, ward, youth or youth offender's history and prognosis, as provided in ORS 419A.257.

Stat. Auth.: ORS 409.050, 418.005, 418.340

Stats. Implemented: ORS 109.319, 109.329, 409.010, 409.194, 409.225, 418.005, 419A.102, 419A.252, 419A.255, 419A.263, 419B.035, 432.420, OLs 2015, ch 511

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 2-2016, f. & cert. ef. 2-1-16; CWP 14-2016(Temp), f. & cert. ef. 8-25-16 thru 2-20-17

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**Rule Caption:** Adopting and incorporating by reference the updated Behavior Rehabilitation Services (BRS) Rates Table

**Adm. Order No.:** CWP 15-2016

**Filed with Sec. of State:** 8-31-2016

**Certified to be Effective:** 9-1-2016

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 413-090-0085

**Rules Repealed:** 413-090-0085(T)

**Subject:** OAR 413-090-0085 is being amended to incorporate by reference and adopt as Exhibit 1 the BRS (Behavior Rehabilitation

Services) Rates Table dated May 1, 2016, which lists the rates at which the Department compensates BRS contractors in accordance with OAR 410-170-0110. These rates will be effective for services provided on or after May 1, 2016. This makes permanent a temporary rule adopted on May 1, 2016 and effective on June 14, 2016.

The Oregon Youth Authority (OYA), the Department, and the Oregon Health Authority (OHA) participate in the Medicaid State Plan BRS program. The updates to the rate model included in the policy option package were based on work completed through a joint effort of the three state agencies, providers, and child advocates. A 2011 lawsuit filed by providers and settled in 2014 included a requirement for a comprehensive review of the program including eligibility, program standards, design, and rates. The settlement agreement stipulated state agencies shall seek "approval to pursue additional funding for BRS programs during the 17-19 budget cycle." BRS is a Medicaid program and Foster Care Title IV-E program used by OYA, DHS and OHA. County juvenile departments access the federal match for BRS through contracts with OHA.

**Rules Coordinator:** Kris Skaro—(503) 945-6067

## 413-090-0085

### Billing and Payment for Services and Placement-Related Activities

(1) Billable care day (see OAR 410-170-0020):

(a) The BRS contractor (see OAR 410-170-0020) is compensated for a billable care day services (see OAR 410-170-0020) and placement-related activities (see OAR 410-170-0020) rates on a fee-for-service basis in accordance with OAR 410-170-0110.

(b) The BRS contractor may include an overnight transitional visit by the BRS client (see OAR 410-170-0020) to another placement in its billable care days. The BRS contractor must:

(A) Receive prior approval for the transitional visit from the Department;

(B) Ensure that the transitional visit is in support of the MSP (see OAR 410-170-0020) goals related to transition;

(C) Pay the hosting placement at the established absent day rate for the sending BRS provider (see OAR 410-170-0020); and

(D) Ensure the hosting placement will not seek any reimbursement from the Department for the care of the visiting BRS client.

(2) Absent Days:

(a) The BRS contractor is compensated for an absent day at the absent day rate in order to hold a BRS program placement for a BRS client with the prior approval of the BRS client's caseworker (see OAR 410-170-0020).

(b) Notwithstanding OAR 410-170-0110(4), the BRS contractor may request prior approval from the BRS client's caseworker to be reimbursed for more than 8 but no more than 14 calendar days of home visits in a month for a BRS client. However, any additional days of home visits approved under this rule will be paid at the absent day rate.

(3) The BRS contractor may only be reimbursed for the BRS type of care (see OAR 410-170-0020) authorized in the contract with the Department.

(4) Invoice Form:

(a) The BRS contractor must submit to the Department a monthly invoice in a format acceptable to the Department, on or after the first day of the month following the month in which services and placement-related activities were provided to the BRS client. The monthly invoice must specify the number of billable care days and absent days for each BRS client in that month.

(b) The BRS contractor must provide upon request, in a format approved by the Department, written documentation of each BRS client's location for each day claimed as a billable care day and an absent day.

(5) Billable care day and absent day rates for BRS services provided on or after May 1, 2016, are in the "BRS Rates Table", dated May 1, 2016, which is adopted as Exhibit 1 and incorporated by reference into this rule. A printed copy may be obtained from the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 15-2015(Temp), f. & cert. ef. 8-26-15 thru 2-21-16; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; CWP 9-2016(Temp), f. & cert. ef. 6-14-16 thru 12-10-16; CWP 15-2016, f. 8-31-16 cert. ef. 9-1-16

# ADMINISTRATIVE RULES

**Rule Caption:** Amending rules relating to guardianship assistance  
**Adm. Order No.:** CWP 16-2016(Temp)  
**Filed with Sec. of State:** 9-2-2016  
**Certified to be Effective:** 9-2-16 thru 2-28-17  
**Notice Publication Date:**

**Rules Amended:** 413-070-0900, 413-070-0917, 413-070-0959  
**Subject:** The Department of Human Services, Office of Child Welfare Programs, is adopting temporary rules relating to eligibility for guardianship assistance. The amendments state that to be eligible for guardianship assistance, a child must be determined to have special needs or be placed with a potential guardian who indicates an economic need to care for the child. The rule is also amended to allow the Director of DHS to waive some of the eligibility requirements for state-funded guardianship assistance when certain requirements are met.

The rule text showing proposed changes is available at [http://www.dhs.state.or.us/policy/childwelfare/implement/temp\\_rules.htm](http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm).

**Rules Coordinator:** Kris Skaro—(503) 945-6067

## 413-070-0900

### Purpose

(1) The purpose of OAR 413-070-0900 to 413-070-0974 is to describe Department criteria for eligibility and receipt of guardianship assistance for:

(a) A child in the care or custody of the Department or a participating tribe;

(b) A young adult on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child of age 16 or 17;

(c) A young adult who qualifies for disability services and on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child;

(d) A subsequent legal guardianship of a child in the care of a successor legal guardian as described in OAR 413-070-0925; or

(e) A child whose eligibility was determined by the Director of the Department pursuant to OAR 413-070-0917(5).

(2) Guardianship assistance for a child or young adult placed for guardianship in Oregon by a public child welfare agency other than the Department is not the responsibility of the state of Oregon.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2016(Temp), f. & cert. ef. 9-2-16 thru 2-28-17

## 413-070-0917

### Eligibility for Guardianship Assistance

(1) To be eligible for Title IV-E guardianship assistance, a child must meet all of the following:

(a) Be a United States citizen or qualified non-citizen as described in OAR 413-100-0210 and in 8 USC section 1641(b) or (c).

(b) Be placed in the United States or a possession thereof.

(c) Have resided in the home of the potential guardian for a period of at least six consecutive months during which the potential guardian was fully licensed, certified, or approved by the state or a participating tribe as meeting the licensure or certification requirements for a foster family home in the state where the home is located.

(d) Be placed with the potential guardian who meets the relative definition as described in OAR 413-070-0000(78)(a) to (e).

(e) Demonstrate a strong attachment to the potential guardian.

(f) Be removed from his or her home pursuant to a voluntary placement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.

(g) Be eligible for Title IV-E foster care maintenance payments.

(h) Be in the care or custody of the Department or participating tribe.

(i) Be determined to have special needs or be placed with a potential guardian who indicates an economic need to care for the child.

(2) Each sibling of a child or young adult eligible for Title IV-E guardianship assistance is also eligible for Title IV-E guardianship assis-

tance without meeting the eligibility requirements in subsections (c) to (g) of section (1) of this rule when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department or participating tribe agree that placing the child's sibling in the home of the potential guardian or guardian is appropriate.

(3) Effective August 12, 2015, to be eligible for state-funded guardianship assistance, a child must:

(a) Be ineligible for Title IV-E funded guardianship assistance;

(b) Meet the eligibility requirements in subsections (a) to (e) and (i) of section (1) of this rule; and

(c) Be in the care or custody of the Department.

(4) Each sibling of a child or young adult eligible for state-funded guardianship assistance as described in section (3) of this rule is also eligible for state-funded guardianship assistance without meeting the eligibility requirements in subsections (b) to (f) of section (1) of this rule when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department agree that placing the child's sibling in the home of the potential guardian or guardian is appropriate.

(5) For state-funded guardianships only, the Director of the Department may authorize a waiver of the eligibility requirements in subsection (1)(c) to (h) of this rule when the following requirements are met:

(a) The child had an open assessment or open case with the Department;

(b) The Department recommends the guardianship be established to prevent the child from entering Oregon foster care or to expedite the child leaving Oregon foster care;

(c) Pursuant to OAR 413-120-0440 to 413-120-0475, the guardian and all adults living in the home of the guardian have been approved through a Department-approved, fingerprint-based criminal records check of the National Crime Information Databases (NCID) and a Child Abuse and Neglect (CAN) registry check; and

(d) The Department reviews known information regarding the guardian and all adults living in the home and determines they have the ability to meet the safety, well-being, and permanency needs of the child.

(6) For consideration of guardianship assistance under section (5) of this rule, the Child Welfare Program Manager must submit a written recommendation to the Child Permanency Program Manager outlining why it is in the best interest of the child to receive guardianship assistance pursuant to section (5) of this rule.

(7) When a recommendation outlined in section (6) of this rule is received, the Child Permanency Program Manager must submit it to the Director of the Department for review and consideration.

(8) The child must be consulted regarding the guardianship arrangement when the child has attained 14 years of age.

(9) In the event of the death or incapacity of the guardian, a child eligible for Title IV-E or state-funded guardianship assistance remains eligible if a successor legal guardian is named in the guardianship assistance agreement, including any amendments to the agreement, prior to the death or incapacity of the guardian, and the requirements of OAR 413-070-0925(2) are met.

(10) All of the following must be documented in the child's case plan:

(a) How the child meets the eligibility requirements.

(b) The steps the Department or participating tribe has taken to determine that return to the home or adoption is not appropriate.

(c) The efforts the Department or participating tribe has made to discuss adoption with the child's relative caregiver and the reasons adoption is not an option.

(d) The efforts the Department or participating tribe has made to discuss kinship guardianship with the child's parent or parents or the reasons why efforts were not made.

(e) The reason a permanent placement with a potential relative guardian and receipt of a kinship guardian assistance payment is in the child's best interests.

(f) The reasons for any separation of siblings during placement. If the child's placement with the potential relative guardian does not include siblings, the case plan must also include a description of the reasons the child is separated from siblings during placement.

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(11) A guardianship assistance agreement must be signed by the potential guardian and a Department representative before guardianship has been legally established by a state or participating tribal court.

Stat. Auth.: ORS 409.050, 418.005, OL 2015, ch 840  
Stats. Implemented: ORS 409.010, 411.141, 418.005, OL 2015, ch 840  
Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 14-2015(Temp), f. & cert. ef. 8-19-15 thru 2-14-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 16-2016(Temp), f. & cert. ef. 9-2-16 thru 2-28-17

## 413-070-0959

### Court Order of Guardianship

(1) Except for guardianships established pursuant to OAR 413-070-0917(5), guardianship assistance may only be provided for a legal guardianship established under ORS 419B.365 or 419B.366, as provided under ORS 419B.367 to 419B.369, or as provided by the statutory code or laws of a participating tribe.

(2) The Department or participating tribe may not pursue a court order establishing an assisted guardianship until a guardianship assistance agreement between the Department and the potential guardian has been signed by all parties.

(3) The Department or participating tribe, through counsel if the child is in the care or custody of the Department, must move the court for an order establishing the guardianship and, when the child is in the care or custody of the Department or participating tribe, directing one of the following:

(a) Termination of Department or participating tribe's care or custody and dismissal of the Department or participating tribe as a party to the case; or

(b) If the child has been committed permanently to the Department, an order setting aside the order of permanent commitment and relieving the Department of responsibility for the care, placement, and supervision of the child.

(4) The Department may not provide guardianship assistance if the court establishes guardianship but orders the Department or participating tribe to continue supervision of the child or guardian.

(5) The guardian is not eligible for payments provided under OAR 413-090-0000 to 413-090-0050 and OAR 413-090-0100 to 413-090-0210 once the guardianship is effective and the Department's or participating tribe's custody of the child is dismissed by court order.

Stat. Auth.: ORS 411.141 & 418.005  
Stats. Implemented: ORS 409.010, 411.141, 418.005  
Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0937, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2016(Temp), f. & cert. ef. 9-2-16 thru 2-28-17

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

**Rule Caption:** Amending rule relating to child care assistance

**Adm. Order No.:** SSP 30-2016

**Filed with Sec. of State:** 9-1-2016

**Certified to be Effective:** 9-1-16

**Notice Publication Date:** 6-1-2016

**Rules Amended:** 461-155-0150

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

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 punc-

tuation; improve ease of reading; and clarify Department rules and processes.

**Rules Coordinator:** Kris Skaro—(503) 945-6067

## 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.

(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



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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 section (12), (13), or (14) 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. 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. 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) The filing group may not exceed the resource limit in OAR 461-160-0015.

(e) 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.

(f) 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.

(g) 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.

(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

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if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(12) Effective 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.

(14) The ERDC copay will be reduced starting the month after the ERDC case has been electronically connected to a Department approved child care provider with a Quality Rating and Improvement System (QRIS) star rating of 3, 4, or 5. The copay will be reduced by the following amounts:

(a) A copay set at \$27 is waived, unless the copay is \$27 under section (13) of this rule in which case the copay is not waived under this section.

(b) Copay amounts of \$28 to \$200 are reduced by \$20.

(c) Copay amounts of \$201 or more are reduced by 10 percent rounding to the nearest dollar.

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

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.070, 411.122, 411.141, 412.006, 412.049, 412.124, 418.485

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 10-7-12; 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; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 30-2016, f. & cert. ef. 9-1-16

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**Rule Caption:** Establishing the general assistance project as required by HB 4042 (2016)

**Adm. Order No.:** SSP 31-2016

**Filed with Sec. of State:** 9-1-2016

**Certified to be Effective:** 9-1-16

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461-145-0470, 461-145-0510, 461-145-0540, 461-145-0600, 461-145-0910, 461-145-0920, 461-145-0930, 461-150-0050, 461-155-0010, 461-155-0020, 461-155-0210, 461-155-0360, 461-155-0580, 461-155-0600, 461-155-0610, 461-155-0620, 461-155-0640, 461-155-0670, 461-160-0010, 461-160-0015, 461-160-0055, 461-160-0060, 461-160-0500, 461-160-0620, 461-165-0030, 461-165-0050, 461-165-0120, 461-170-0011, 461-175-0210, 461-175-0240, 461-175-0310, 461-180-0010, 461-180-0065, 461-180-0070, 461-180-0090, 461-195-0521, 461-195-0541

**Rules Repealed:** 461-001-0000(T), 461-101-0010(T), 461-110-0390, 461-110-0630(T), 461-110-0750(T), 461-115-0030(T), 461-115-0050(T), 461-115-0071(T), 461-115-0430(T), 461-115-0700(T), 461-120-0030(T), 461-120-0125(T), 461-120-0210(T), 461-120-0315(T), 461-120-0345(T), 461-120-0350(T), 461-120-0510(T), 461-125-0510, 461-125-0810(T), 461-135-0560(T), 461-135-0700(T), 461-135-0701(T), 461-135-0705, 461-135-0708(T), 461-135-0950(T), 461-135-0990(T), 461-140-0010(T), 461-140-0040(T), 461-140-0120(T), 461-140-0210(T), 461-140-0242(T), 461-140-0250(T), 461-140-0296(T), 461-140-0300(T), 461-145-0005(T), 461-145-0040(T), 461-145-0050(T), 461-145-0110(T), 461-145-0220(T), 461-145-0230(T), 461-145-0240(T), 461-145-0250(T), 461-145-0259(T), 461-145-0260(T), 461-145-0320(T), 461-145-0330(T), 461-145-0340(T), 461-145-0360(T), 461-145-0365(T), 461-145-0370(T), 461-145-0410(T), 461-145-0420(T), 461-145-0455(T), 461-145-0460(T), 461-145-0470(T), 461-145-0510(T), 461-145-0540(T), 461-145-0600(T), 461-145-0910(T), 461-145-0920(T), 461-145-0930(T), 461-150-0050(T), 461-155-0010(T), 461-155-0020(T), 461-155-0210(T), 461-155-0360(T), 461-155-0580(T), 461-155-0600(T), 461-155-0610(T), 461-155-0620(T), 461-155-0640(T), 461-155-0670(T), 461-160-0010(T), 461-160-0015(T), 461-160-0055(T), 461-160-0060(T), 461-160-0500(T), 461-160-0620(T), 461-165-0030(T), 461-165-0050(T), 461-165-0120(T), 461-170-0011(T), 461-175-0210(T), 461-175-0240(T), 461-175-0310(T), 461-180-0010(T), 461-180-0065(T), 461-180-0070(T), 461-180-0090(T), 461-195-0521(T), 461-195-0541(T)

**Subject:** The Department of Human Services is reestablishing the GA (General Assistance) program to comply with HB 4042 (2016). The program provides cash assistance to individuals who have a disability, are experiencing homelessness, and meet other eligibility requirements in OAR 461-135-0700. Rules throughout OAR chapter 461 are also being amended to remove all references to the GAM (General Assistance - Medical) program and remove references to GA when applicable. This makes permanent temporary rules adopted on July 1, 2016.

In addition, non-substantive edits were 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.

**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 SDS), 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

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of domestic violence (see section (24) 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 (20) 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 (27) 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 (22) 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 stepsister.

(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 (62) 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 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.

(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) "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.

(20) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(21) "Department" means the Department of Human Services (DHS).

(22) "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.

(23) "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).

(24) "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:

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- (A) Spouse;
- (B) Former spouse;
- (C) Individuals related by blood, marriage (see section (42) 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.

(25) "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.

(26) "Electronic application" is an application electronically signed and submitted through the Internet.

(27) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(28) "Equity value" means fair market value (see section (29) of this rule) minus encumbrances.

(29) "Fair market value" means the amount an item is worth on the open market.

(30) "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.

(31) "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 (30) of this rule).

(32) "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.

(33) "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.

(34) "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).

(35) "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 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 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.

(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.

(36) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(37) "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.

(38) "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.

(39) "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 OSIP, OSIPM, and QMB programs, for room and board.

(B) In the OSIP, OSIPM, and QMB programs, for room with or without board.

(40) "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).

(41) "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.

(42) "Marriage" means the union of two individuals who are legally married (see section (37) of this rule).

(43) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(44) "Minor parent" in the ERDC and TANF programs means a parent under the age of 18.

(45) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, 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).

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(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 “non-standard living arrangement”.

(b) In all programs except GA, 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.

(46) “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.

(47) “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.

(48) “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.

(49) “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.

(50) “Payment month” means, for all programs except EA, the calendar month for which benefits are issued.

(51) “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.

(52) “Periodic income” means income received on a regular basis less often than monthly.

(53) “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) In the TANF program, the parent or caretaker relative.
- (b) In the ERDC program, the caretaker.
- (c) In the SNAP program, see OAR 461-001-0015.
- (d) In the GA, OSIP, OSIPM, QMB, REF, and REFM programs, the client or client’s spouse.

(54) “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.

(55) “Real property” means land, buildings, and whatever is erected on or affixed to the land and taxed as “real property”.

(56) “Reimbursement” means money or in-kind compensation provided specifically for an identified expense.

(57) “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.

(58) “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.

(59) “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.

(60) “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.

(61) “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.

(62) “Spouse” means an individual who is legally married to another individual.

(63) “Stable income” means income that is the same amount each time it is received.

(64) “Standard living arrangement” means a location that does not qualify as a nonstandard living arrangement.

(65) “Teen parent” means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(66) “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.

(67) “Trust funds” mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(68) “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.

(69) “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. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, 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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-101-0010

### Program Acronyms and Overview

(1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.

(2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs list-

# ADMINISTRATIVE RULES

ed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.

(3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.

(4) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for individuals who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements.

(5) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.

(6) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.

(7) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.

(8) GA; General Assistance. Cash assistance to certain low-income individuals with disabilities.

(9) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.

(10) JOBS; Job Opportunity and Basic Skills. An employment program for TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.

(11) JOBS Plus. Provides subsidized jobs rather than SNAP or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for SNAP clients and noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, SNAP clients, and noncustodial parents of children receiving TANF is determined by the Department. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

(a) TANF-PLS; Clients eligible for JOBS Plus based on TANF.

(b) SNAP-PLS; Clients eligible for JOBS Plus based on SNAP.

(c) NCP-PLS; Noncustodial parents of children receiving TANF.

(12) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.

(13) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare clients who are eligible for extra help meeting their Medicare Part D prescription drug costs.

(14) OFSET. The Oregon Food Stamp Employment Transition Program, which helps SNAP program benefit recipients find employment. This program is mandatory for some SNAP program benefit recipients.

(15) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to individuals who are blind, disabled, or 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:

(a) OSIP-AB; Oregon Supplemental Income Program - Aid to the Blind.

(b) OSIP-AD; Oregon Supplemental Income Program - Aid to the Disabled.

(c) OSIP-EPD; Oregon Supplemental Income Program - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIP-OAA; Oregon Supplemental Income Program - Old Age Assistance.

(16) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:

(a) OSIPM-AB; Oregon Supplemental Income Program Medical - Aid to the Blind.

(b) OSIPM-AD; Oregon Supplemental Income Program Medical - Aid to the Disabled.

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical - Employed Persons with Disabilities program. This program provides

Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical - Old Age Assistance.

(e) OSIPM-IC; Oregon Supplemental Income Program Medical - Independent Choices

(17) The Post-TANF program provides a monthly transitional payment to employed clients who are no longer eligible for the Pre-TANF or TANF programs due to earnings, and meet the other eligibility requirements.

(18) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.

(19) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:

(a) QMB-BAS; Qualified Medicare Beneficiaries - Basic. The basic QMB program.

(b) QMB-DW; Qualified Medicare Beneficiaries - Disabled Worker. Payment of the Medicare Part A premium for individuals under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

(c) QMB-SMB; Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.

(d) QMB-SMF; Qualified Medicare Beneficiaries - Qualified Individuals. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMF. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.

(20) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.

(21) REFM; Refugee Assistance Medical. Medical coverage for low-income refugees.

(22) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.

(23) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low-income seniors. Funded by a grant from the United States Department of Agriculture.

(24) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

(25) SNAP; Supplemental Nutrition Assistance Program. Helps low-income households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps; any reference to SNAP also includes FS and Food Stamps.

(26) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of individuals threatened by domestic violence.

(27) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 414.025 & 414.826  
Stats. Implemented: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826 & 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 16-1990, f. 6-29-90, cert. ef. 7-1-90; 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 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; 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 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; 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 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 9-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; 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 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert.

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ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; 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 26-2008, 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 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 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; 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 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 16-2014, f. & cert. ef. 7-1-1; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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 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.

(5) 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.

(6) 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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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 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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-115-0030

### Date of Request

(1) For all programs covered by OAR chapter 461, an individual or someone authorized to act on behalf of an individual must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.

(2) The “date of request” is one of the following:

(a) In the EA, ERDC, GA, OSIP, REF, and TANF programs and for support service payments in the JOBS program authorized by OAR 461-190-0211, the “date of request” is the day the request for benefits is received by the Department.

(b) In the SNAP program, this section does not apply. See OAR 461-115-0040.

(c) In the OSIPM, QMB, and REFM programs, for a new applicant, the “date of request” is determined as follows:

(A) The day the request for medical benefits is received by a Department representative, except as described in paragraph (B) of this subsection.

(B) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the “date of request” is the day these medical services were received.

(d) In the OSIPM, QMB, and REFM programs, for a current recipient, the “date of request” is one of the following:

(A) The date the individual reports a change requiring a redetermination of eligibility (see OAR 461-001-0000).

(B) The date the Department initiates a review.

(C) The date the individual establishes a “date of request” by contacting the Department orally or in writing or by submitting an application.

(e) In the SFPSS program:

(A) Except as provided in paragraph (B) of this subsection, the “date of request” is the day the individual signs the Interim Assistance Agreement.

(B) The “date of request” for support service payments is the day the request for benefits is received by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.041, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; 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 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; 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 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 12-2008(Temp), f. & cert. ef. 4-17-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 2-21-10; 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 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 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 16-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

# ADMINISTRATIVE RULES

## 461-115-0050

### When an Application Must Be Filed

(1) An individual must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:

(a) An individual may apply for the GA program by completing an application for the OSIPM program.

(b) An individual may apply for the TA-DVS program as provided in OAR 461-135-1220.

(c) In all programs except the TA-DVS program:

(A) Except as provided otherwise in this rule, to apply for program benefits, an individual must submit a complete application on a form approved by the Department.

(B) An application is complete if all of the following requirements are met:

(i) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided on the application for each individual in the filing group (see OAR 461-110-0310).

(ii) The applicant, even if homeless, provides a valid mailing address.

(iii) The application is signed by the individual, the authorized representative (see OAR 461-115-0090 and 461-115-0140) of the individual, or another individual applying for benefits on behalf of the individual, and received by the Department.

(I) An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(II) An individual submitting an electronic application (see OAR 461-001-0000) must submit the application with an electronic signature.

(2) A new application is not required in the following situations:

(a) In the GA program, when an individual is receiving OSIPM on the date of request (see OAR 461-115-0030) for GA.

(b) In the SNAP program, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when:

(A) Anticipated changes make the filing group (see OAR 461-110-0370) eligible the second month; or

(B) The filing group provides verification between 30 and 60 days following the filing date (see OAR 461-115-0040), under OAR 461-180-0080.

(c) In all programs except the SNAP program, when a single application can be used both to determine an individual is ineligible on the date of request (see OAR 461-115-0030) and to determine the individual is eligible when anticipated changes make the filing group eligible within 45 days from the date of request.

(d) When the case is closed and reopened during the same calendar month.

(e) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(f) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950, notwithstanding subsection (g) of this section.

(g) In the ERDC program, when a case closed during the certification period (see OAR 461-001-0000) and the individual reports a change in circumstances prior to the end of the month following the closure and the reported change will make the individual eligible.

(h) In the OSIPM and QMB programs, when the medical benefits of an individual are suspended because the individual lives in a public institution (see OAR 461-135-0950), if the inmate is released within 12 months of admission and the inmate provides notification to the Department within 10 days of the release.

(3) When an individual establishes a new date of request prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:

(a) In the OSIPM program, when the individual's case closed due to failure to make a liability payment required under OAR 461-160-0610.

(b) In the OSIPM-EPD program, when the individual's case closed due to failure to make a participant fee payment required under OAR 461-160-0800.

(4) A new application is required to add a newborn child (see OAR 461-001-0000) to a benefit group (see OAR 461-110-0750) according to the following requirements:

(a) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.

(b) In the OSIPM, QMB, and REFM programs, an additional application is not required to add an assumed eligible newborn (see OAR 461-

135-0010) to a benefit group currently receiving Department medical program benefits.

(c) In the TANF program:

(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.

(B) A new application is required if the child is not included on the application as "unborn."

(d) In all programs other than ERDC, QMB, REF, REFM, SNAP, and TANF, an application is required.

(5) A new application is required to add an individual, other than a newborn child, to a benefit group according to the following requirements:

(a) In the ERDC and SNAP programs, a new application is not required.

(b) In the REF, REFM, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.

(c) In all programs other than the ERDC, REF, REFM, SNAP, and TANF programs, a new application is required.

(6) An individual whose TANF grant is closing may request ERDC orally or in writing.

(7) Except for an applicant for the OSIPM, QMB, or SNAP program, an individual may change between programs administered by the Department using the current application if the following conditions are met:

(a) The individual makes an oral or written request for the change.

(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.

(c) The program change can be effected while the individual is eligible for the first program.

(8) In the OSIP, OSIPM, and QMB programs, a new application is not required to redetermine eligibility if the following conditions are met:

(a) The individual is currently receiving benefits from one of these programs.

(b) The Department has sufficient evidence to redetermine eligibility for the same program or determine eligibility for the new program without a new application or by amending the current application.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.025, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.025, 414.041, 414.231, 414.685, 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 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; 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 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-1996, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; 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 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 1-28-10; 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 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 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 28-2014(Temp), f. & cert. ef. 10-29-14 thru 4-26-15; SSP 16-2015, f. & cert. ef. 4-1-15; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-115-0071

### Who Must Sign the Application and Complete the Application Process

(1) In the ERDC and TANF programs, the following individuals must sign the application and complete the application process:

(a) In the ERDC program, a caretaker (see OAR 461-001-0000).

(b) In the TANF program, at least one caretaker relative (see OAR 461-001-0000).

(2) In the EA program:

(a) A caretaker relative must sign the application and complete the application process for a child (see OAR 461-001-0000). If the child is not living with a caretaker relative, another adult may act on behalf of the child.

(b) If the caretaker relative lives with a spouse (see OAR 461-001-0000), both must sign the application.

(c) A dependent child 18 years of age who applies must sign the application and complete the application process.



# ADMINISTRATIVE RULES

(3) In the GA, OSIPM, and QMB programs, at least one individual 18 years of age or older requesting assistance must complete the application process and sign the application, if able. If no such individual is able to sign the application and complete the application process, this may be done by the authorized representative (see OAR 461-115-0090). If the applicant dies prior to the determination of eligibility for OSIPM, the application may be processed if the Department receives the required verification.

(4) In the REF and REFM programs, at least one adult (see OAR 461-110-0430) member of the filing group (see OAR 461-110-0430) must sign the application.

(5) In the SNAP program, the primary person (see OAR 461-001-0015), the spouse of the primary person, or another adult (see OAR 461-001-0015) member of the filing group (see OAR 461-110-0370) must sign the application and complete the application process.

(6) An individual required to sign the application but unable to sign may sign with a mark, witnessed by an employee of the:

- (a) Branch office (see OAR 461-001-0000); or
- (b) Public institution (see OAR 461-135-0950), when the individual applying is an inmate (see OAR 461-135-0950) and is applying for benefits under the OSIPM program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049  
Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.087, 411.400, 411.404, 411.816, 412.049  
Hist.: SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 23-2010(Temp), f. & cert. ef. 7-15-10 thru 1-11-11; 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 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 19-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-115-0430

### Periodic Redeterminations; Not EA, ERDC, SNAP, or TA-DVS

The Department periodically redetermines the eligibility (see OAR 461-001-0000) of clients for benefits and assigns a redetermination date by which the next determination is required. The Department selects the redetermination date based on the client's circumstances and according to the following requirements:

(1) In the GA program, the Department redetermines eligibility at least once every 12 months.

(2) In the OSIP and OSIPM programs, the Department determines eligibility each 12 months for clients who are not eligible for SSI. No redetermination is required for clients who are eligible for SSI.

(3) In the QMB program, the Department determines eligibility each 12 months for clients who are not eligible for SSI. For QMB recipients who are also eligible for OSIPM, a redetermination for QMB is completed with the redetermination of OSIPM.

(4) The REF and REFM programs are time limited programs; therefore, no periodic redeterminations are made.

(5) In the SFPSS program, the Department redetermines eligibility at least once every 12 months. The Department redetermines program eligibility by redetermining eligibility for the TANF program.

(6) In the TANF program, benefits will end the last day of the certification period (see OAR 461-001-0000). The Department redetermines eligibility according to the following schedule:

(a) At least once every six months for each of the following:

(A) Clients not participating in an activity (see OAR 461-001-0025) of an open case plan (see OAR 461-001-0025).

(B) Clients who are currently serving a JOBS disqualification.

(b) At least once every 12 months for all other clients.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839  
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 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 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 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 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; 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 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; 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 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 37-2012, f. 12-28-12, cert. ef. 1-1-13; 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 16-2014, f. & cert. ef. 7-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-115-0700

### Required Verification; GA, OSIP, OSIPM, and QMB

In the GA, OSIP, OSIPM, and QMB programs:

(1) Except as provided in section (2) of this rule, all eligibility (see OAR 461-001-0000) factors must be verified at initial application, when there is a change to any factor, and whenever eligibility for benefits becomes questionable.

(2) In the OSIP, OSIPM, and QMB-DW programs, if the total reported value of gross "liquid resources" of the financial group (see OAR 461-110-0530) is less than \$400, verification of the value of "liquid resources" is only required if questionable. For the purposes of this rule, "liquid resources" include cash as well as other resources that can be converted to cash within 20 business days, except that the cash surrender value of a life insurance policy is not considered a liquid resource.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685, 414.839  
Hist.: AFS 19-1993, f. & cert. ef. 10-1-93; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-120-0030

### State of Residence for an Individual in a Medical Facility

In the OSIPM, QMB, and REFM programs, the residency of an individual living in a state or private medical facility such as a hospital, mental hospital, nursing home, or convalescent center is determined as follows:

(1) An individual 21 years of age or older who is capable of indicating intent to reside is considered to be --

(a) A resident of the state where the individual is living with the intention to remain permanently or for an indefinite period, except when subsection (b) of this section indicates otherwise.

(b) When a state agency of another state places the individual (other than a child funded under Title IV-E), the individual is considered to be a resident of the state that makes the placement.

(2) An individual 21 years of age or older who became incapable of indicating intent to reside after attaining 21 years of age is considered to be a resident of the state where the facility is located unless the individual was placed in the facility by a state agency of another state. When a state agency of another state places an individual, the individual is considered to be a resident of the state that makes the placement.

(3) For an individual less than 21 years of age who is incapable of forming an intent to reside, or an individual of any age who became incapable of forming that intent before attaining 21 years of age (see OAR 461-120-0050), the state of residence is one of the following:

(a) The state of residence of the individual's parent or legal guardian at the time of application.

(b) The state of residence of the party who applies for benefits on the individual's behalf if there is no living parent or the location of the parent is unknown, and there is no legal guardian.

(c) Oregon, if the individual has been receiving medical assistance in Oregon continuously since November 1, 1981, or is from a state with which Oregon has an interstate agreement that waives the residency requirement.

(d) When a state agency of another state places the individual, the individual is considered to be a resident of the state that makes the placement.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; 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 16-2014, f. & cert. ef. 7-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-120-0125

### Alien Status

(1) For purposes of this chapter of rules, an individual is a "qualified non-citizen" if the individual is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amend-

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ed by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.

(g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) A battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c), as determined by the U.S. Citizenship and Immigration Services.

(i) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(j) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(2) In all programs except the REF and REFM programs, an individual meets the alien status requirements if the individual is one of the following:

(a) An American Indian born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

(b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).

(3) In the ERDC, TA-DVS, and TANF programs, an individual meets the alien status requirements if the individual is one of the following:

(a) An individual who is a qualified non-citizen (see section (1) of this rule).

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(c) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(4) In the OSIPM and QMB programs an individual meets the alien status requirement if:

(a) The individual is a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996 and has been in the U.S. for five years beginning on the date the non-citizen received his or her qualified non-citizen status; or

(b) The individual meets the requirements of one of the following subsections:

(A) An individual granted any of the following alien statuses:

(i) Refugee — under section 207 of the INA.

(ii) Asylum — under section 208 of the INA.

(iii) Deportation being withheld under section 243(h) of the INA.

(iv) Cubans and Haitians who are either public interest or humanitarian parolees.

(v) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(vi) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(vii) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(viii) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(B) Effective October 1, 2009, an individual is a qualified non-citizen and is under 19 years of age.

(C) Was a qualified non-citizen before August 22, 1996.

(D) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date qualified non-citizen status was obtained.

(E) Is under the age of 19 and is one of the following:

(i) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.

(ii) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

(I) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);

(II) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);

(III) Cuban-Haitian entrants, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;

(IV) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;

(V) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;

(VI) An alien currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or

(VII) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.

(iii) An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including those individuals as specified in section 101(a)(15) of the INA (8 USC 1101).

(F) In the OSIPM program, is receiving SSI benefits.

(G) In the QMB program, is receiving SSI and Medicare Part A benefits.

(H) Meets the alien status requirements in section (2) or (5) of this rule.

(5) In all programs except the ERDC, REF, REFM, and TANF programs, a qualified non-citizen meets the alien status requirement if the individual is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).

(b) A member of the United States Armed Forces on active duty (other than active duty for training).

(c) The spouse or a dependent child of an individual described in subsection (a) or (b) of this section.

(d) In the SNAP program, a qualified non-citizen who meets the requirement in section (8) of this rule.

(6) In the REF and REFM programs, an individual meets the alien status requirements if the individual is admitted lawfully under any of the following provisions of law:

(a) An individual admitted as a refugee under section 207 of the INA (8 USC 1157).

(b) An individual granted asylum under section 208 of the INA (8 USC 1158).

(c) Cuban and Haitian entrants, in accordance with requirements in 45 CFR part 401.

(d) An individual paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 USC 1182(d)(5)). For purposes of this section, "Lautenberg" parolees, humanitarian interest parolees, and other public interest parolees do not qualify.

(e) An Amerasian from Vietnam who is admitted to the U.S. as an immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461 as amended)).

(f) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(g) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(h) Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act.

(7) In the SNAP program, an individual meets the alien status requirement if the individual meets the requirements of one or more of the following subsections:

(a) An individual granted any of the following alien statuses--

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- (A) Refugee — under section 207 of the INA.
- (B) Asylum — under section 208 of the INA.
- (C) Deportation being withheld under section 243(h) of the INA.
- (D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(b) A qualified non-citizen under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

(d) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (d) of this section.

(f) A qualified non-citizen who has a disability, as defined in OAR 461-001-0015.

(8) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the SNAP program, subject to the following provisions:

(a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means-tested benefits include SNAP, TANF, and Medicaid (except emergency medical).

(b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.

(c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that the individual has fewer than 40 quarters of coverage, may be provisionally certified for SNAP program benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for SNAP program benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

Stat. Auth.: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.231  
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; 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 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 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2004(Temp), f. & cert. ef. 4-9-04 thru 6-30-04; SSP 14-2004(Temp), f. & cert. ef. 5-11-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; 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 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; 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 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 28-2009, f. & cert. ef. 10-1-09; 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 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 16-2014, f. & cert. ef. 7-1-14; SSP 2-2016, f. & cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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 (6) 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 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 following 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

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ity (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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-120-0315

### Medical Assignment

In the OSIPM, QMB, and REFM programs:

(1) By signing the application for assistance, a client agrees to turn over the rights of each member of the benefit group (see OAR 461-110-0750) to reimbursement for medical care costs to the Department.

(a) If a client or the client's authorized representative (see OAR 461-115-0090) refuses to assign the rights to reimbursement for medical care costs to the Department, the filing group is ineligible until the client complies with this requirement. This includes a client eligible for long term care (see OAR 461-001-0000) insurance payments who fails to comply as described in subsection (b) of this section.

(b) When a client has long term care insurance, the client complies with the requirements of this rule by reducing the Department's share of the long term care service costs by taking the following actions for the entire period of time that the client is eligible for Department-covered long term care services:

(A) For a client in a nursing facility:

(i) Submitting the necessary paperwork to receive the long term care insurance payments and designating the long term care facility as the payee for the long term care insurance benefits; or

(ii) When the insurance company will not pay the long term care insurance benefits directly to the long term care facility, submitting the necessary paperwork to receive insurance payments and then promptly turning over the long term care insurance payments to the long term care facility upon receipt.

(B) For a client in community based care (see OAR 461-001-0000):

(i) Submitting the necessary paperwork to receive the long term care insurance payments and designating the Department as the payee for the long term care insurance benefits; or

(ii) When the insurance company will not pay the long term care insurance benefits directly to the Department, submitting the necessary paperwork to receive the insurance payments and then promptly turning over the long term care insurance payments to the Department upon receipt.

(2) The Department may refuse to pay medical expenses for anyone in the benefit group when another party or resource should pay first.

(3) The amount the Department may collect in reimbursement is limited to the amount of medical services paid by the Department on the client's behalf.

(4) The Department establishes an overpayment if it is discovered after the fact that during any period of time a client or another individual submitting a long term care insurance claim on the client's behalf received a long term care insurance payment that was not turned over to the long term care facility or Department as required by subsection (1)(b) of this rule.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 414.231  
Stats. Implemented: ORS 411.060, 411.404, 411.706, 414.231

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; 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 17-2011, f. & cert. ef. 7-1-11; 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 16-2014, f. & cert. ef. 7-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-120-0345

### Clients Required to Obtain Health Care Coverage and Cash Medical Support; GAM, OSIPM

This rule explains the obligation of clients to obtain health care coverage and cash medical support for members of the benefit group (see OAR 461-110-0750) in the OSIPM program.

(1) Unless excused from the requirements of this section for good cause defined in OAR 461-120-0350, each adult client must assist the Department and the Division of Child Support of the Department of Justice in establishing paternity for each of his or her children and obtaining an order directing the non-custodial parent (see OAR 461-001-0000) of a child (see OAR 461-001-0000) in the benefit group to provide:

(a) Cash medical support for that child; and

(b) Health care coverage for that child.

(2) Each adult client must make a good faith effort to obtain available coverage under Medicare.

(3) To be eligible for the OSIPM program, once informed of the requirement, an individual who is able to must apply for, accept, and maintain cost-effective, employer-sponsored health insurance (see OAR 461-155-0360). In the OSIPM program, the client is not required to incur a cost for the health insurance.

(4) An individual who fails to meet an applicable requirement in sections (1), (2), or (3) of this rule is removed from the need group (see OAR 461-110-0630).

(5) In the case of an individual failing to meet the requirements of section (1) of this rule, the Department applies the penalty after providing the client with notice and opportunity to show the provisions of OAR 461-120-0350 apply.

(6) The penalty provided by this rule ends when the client meets the requirements of this rule.

Stat. Auth.: ORS 411.060, 411.070, 412.024, 412.049, 414.042  
Stats. Implemented: ORS 411.060, 411.070, 412.001, 412.024, 412.049, 414.025, 414.042

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; 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 30-1996, f. & cert. ef. 9-23-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 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 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; 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 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 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-120-0350

### Clients Excused for Good Cause from Compliance with Requirements to Pursue Child Support, Health Care Coverage, and Medical Support

(1) A client is excused from the requirements of OAR 461-120-0340(1) and 461-120-0345(1)(a) if:

(a) The client's compliance would result in emotional or physical harm to the dependent child (see OAR 461-001-0000) or to the caretaker relative (see OAR 461-001-0000). The statement of the caretaker relative alone is prima facie evidence that harm would result;

(b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the dependent child. The statement of the caretaker relative alone is prima facie evidence on the issues of conception and detrimental effect to the dependent child;

(c) Legal proceedings are pending for adoption of the needy child; or

(d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.

(2) In the REFM program, a pregnant client is excused from the requirements of OAR 461-120-0345.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231  
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 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 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 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert.

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ef. 7-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-120-0510

### Age Requirements for Clients to Receive Benefits

(1) If the year of an individual's birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month.

(2) To be eligible for the TANF program:

(a) A dependent child (see OAR 461-001-0000) must be:

(A) Under 18 years of age; or

(B) Under 19 years of age and regularly attending school (see subsection (c) of this section) full time, as determined by the school.

(b) A caretaker relative (see OAR 461-001-0000) may be any age.

(c) "Regularly attending school" means enrolled in and attending any of the following:

(A) A school in grade 12 or below, including home schooling approved by the local school district.

(B) GED classes in lieu of high school.

(C) A course of vocational or technical training, including Job Corps, in lieu of high school.

(D) The Oregon School for the Deaf.

(e) The student's full-time status is defined by the school.

(e) Regular attendance continues when a student misses school because of an illness, family emergency, or vacation, as long as the student intends to return to school. Students are considered to be in attendance for the full month in which they complete or discontinue school or training.

(3) To be eligible for payment of child care costs for the ERDC or TANF program, a child must be--

(a) Under 12 years of age for the ERDC program or under 13 years of age for the TANF program; or

(b) Under 18 years of age and--

(A) Physically or mentally incapable of selfcare;

(B) Under court supervision;

(C) Receiving foster care;

(D) Eligible for the special need rate for child care in OAR 461-155-0150; or

(E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.

(4) To be eligible for the OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, REF, or SNAP programs, a client may be any age.

(5) To be eligible for the OSIP-AD (except OSIP-EPD), OSIPM-AD (except OSIPM-EPD), and QMB-DW programs, a client must be under 65 years of age.

(6) To be eligible for the OSIP-EPD and OSIPM-EPD programs, the client must be 18 years of age or older or be legally emancipated.

(7) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.

(8) To be eligible for the REF program, a client must be:

(a) 18 years of age or older;

(b) A legally emancipated minor; or

(c) Part of a TANF filing group (see OAR 461-110-0310) that is ineligible for the TANF program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 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 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 4-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; 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 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; 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 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 18-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; 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 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; 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 25-2011, f. 9-30-11, cert. ef. 10-1-11; 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 16-2014, f. & cert. ef. 7-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-125-0810

### Using Administrative Medical Examinations

OSIPM blindness, or TANF incapacity, the client may select a qualified medical provider to complete the medical evaluation described in OAR 461-125-0830.

(2) A decision to deny or end benefits must be reconsidered when additional medical documentation relevant to the decision is received by the Department within 30 days of the original effective date of denial or termination.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.710, 412.014

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.710, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-135-0560

### Fleeing Felon and Violators of Parole, Probation, and Post-Prison Supervision; GA, GAM, SNAP and TANF

(1) A person is ineligible for the SNAP and TANF programs if he or she is a fleeing felon or in violation of parole, probation, or post-prison supervision.

(2) A fleeing felon is a person who knowingly flees to avoid either of the following:

(a) Prosecution or custody for a crime or attempt to commit a crime that is classified as a felony.

(b) Confinement following conviction of a felony.

(3) For purposes of this rule, the crime must be considered a felony under the laws of the place from which the person is fleeing or, in the case of New Jersey, a high misdemeanor under the law of New Jersey.

(4) A person is in violation of parole, probation, or post-prison supervision if the Department receives a report of this violation from a local, state, or federal corrections agency or court responsible for supervision of the person. The violation continues until the Department receives a report from the corrections agency or court that the person is no longer in violation.

(5) If there is a pending arrest warrant for a person for a felony, a high misdemeanor under the law of New Jersey, or a violation of parole, probation, or post-prison supervision, the person is ineligible under this rule if the person is aware of the arrest warrant and has not provided the Department with evidence on request that the person made a substantial effort within his or her ability to resolve the warrant.

(6) A person is no longer considered a fleeing felon if the arrest warrant is no longer pending or the person provides the Department with evidence that the person made a substantial effort within his or her ability to resolve the warrant.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-135-0700

### Specific Requirements; GA

(1) For purposes of this rule, "homeless" means any of the following:

(a) The individual does not have a fixed or regular nighttime residence;

(b) The individual will lose his or her own residence within 90 days due to eviction or the inability to pay rent or mortgage; or

(c) The individual's primary residence is one of the following:

(A) A supervised shelter that provides temporary accommodations.

(B) A halfway house or residence for individuals who may become institutionalized.

(C) A temporary accommodation in another individual's or family's residence for 90 days or less.

(D) A place not designed to be or ordinarily used as a place for individuals to sleep, such as a hallway, bus station, or similar place.

(2) To be eligible for GA, an individual must meet all of the following requirements:

(a) The individual must be 18 years of age or older.

(b) The individual must be homeless (see section (1) of this rule).

(c) The individual may not be living with his or her child (see OAR 461-001-0000).

(d) The individual may not be receiving TANF benefits.

(e) The individual must be eligible for and receiving OSIPM with a basis of need established under OAR 461-125-0370(1)(c).

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(f) The individual may not be in a nonstandard living arrangement (see OAR 461-001-0000) other than at home receiving in-home services (see OAR 411-030-0020).

(g) The individual must complete the application process for Supplemental Security Income (SSI); cooperate with the Department in applying to the Social Security Administration for SSI; appeal all denials of SSI made below the Appeal's Council level; and attend all appointments designated by the Department relating to obtaining SSI.

(h) The individual must meet the non-financial, non-disability requirements for SSI.

(i) The individual must sign an interim assistance agreement authorizing the Department to recover interim GA benefits paid to the client (or paid to providers on the client's behalf) from the initial SSI payment or initial post-eligibility payment. The following provisions are considered part of the interim assistance agreement:

(A) Interim GA benefits include only those GA cash benefits paid during the period of time that the SSI benefit covers.

(B) For any month in which SSI is prorated, the Department may recover only a prorated amount of the interim GA cash benefit.

(C) If the Department is unable to stop delivery of a GA benefit issued after the SSI payment is made, the GA payment will be included in the interim assistance to be reimbursed to the Department.

## (3) Financial Eligibility.

(a) The OSIPM income and resource methodology are used to determine financial eligibility for the GA program.

(b) The GA benefit amount is determined according to OAR 461-155-0210 and 461-160-0500.

(4) If the Department determines that the individual no longer has an impairment that meets the criteria in OAR 461-125-0370, the individual is ineligible for GA.

(5) An individual found by the Social Security Administration (SSA) not to meet disability criteria at the initial, reconsideration, or hearing level may continue receiving GA benefits until all SSA administrative appeals are exhausted.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.010, OL 2016, ch 93

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 20-1991, f. & cert. ef. 10-1-91; 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 4-1997(Temp), f. 4-30-97, cert. ef. 5-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; 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 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 11-2004(Temp), f. & cert. ef. 4-15-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-135-0701

### Terminate GA and GAM Programs October 1, 2005; Reinstate GA July 1, 2016

(1) Effective October 1, 2005, funding for the General Assistance (GA) and General Assistance Medical (GAM) programs was discontinued. These programs closed, effective October 1, 2005.

(2) Effective September 30, 2005, all persons eligible for or receiving benefits of the GA or GAM programs became ineligible for these programs. Except as provided in sections (4) and (5) of this rule, the Department did not authorize or provide any benefit under the GA or GAM programs after September 30, 2005.

(3) Effective October 1, 2005, all GA recipients who received medical assistance through the OSIPM program continued to receive OHP Plus benefits through the OSIPM program until they became otherwise ineligible.

(4) Effective October 1, 2005, all recipients of medical assistance through the GAM program who became ineligible for GAM on September 30, 2005 because of the closure of the GAM program received OHP benefits as follows:

(a) Clients who had been determined to meet the eligibility (see OAR 461-001-0000) requirements of the OSIPM program (see OAR 461-125-0370 and the OSIPM eligibility requirements in OAR 461 Division 135) received the OHP Plus benefits package (see OAR 410-120-1210(2)(a)).

(b) Clients may have also received the OHP Plus benefits package for the period that;

(A) The Department had not previously made a determination about whether the client met the disability requirements for OSIPM under OAR 461-125-0370 and the OSIPM eligibility requirements in OAR 461 Division 135; and

(B) A determination was still pending about whether the client met the disability requirements for OSIPM under OAR 461-125-0370 and the OSIPM eligibility requirements in OAR 461 Division 135.

(c) Clients who did not qualify for the OHP Plus benefits may have been eligible for the OHP-OPU program under the eligibility requirements set out in OAR 461 Division 135, and if eligible, received the OHP Standard benefits package (see OAR 410-120-1210(2)(b)).

(5) Effective July 1, 2016, the GA program was restarted as provided in Oregon Laws 2016, chapter 93 and current eligibility rules.

(6) The GA program reinstated on July 1, 2016 is limited to 200 individuals per month.

(a) When the GA program reaches the limit of 200 individuals per month receiving benefits, the Department will place any individual referred for GA on a reservation list.

(b) When a slot becomes available, the Department will determine eligibility for the individual with the earliest date of request (see OAR 461-115-0030) and, if eligible, that individual will begin receiving benefits. When more than one individual has the same date of request, the Department will select from those individuals based on the time the referral was received by the Collaborative Disability Determination Unit (CDDU).

Stat. Auth.: ORS 409.050 & 411.060

Stats. Implemented: ORS 411.010, 411.060, 411.710, 411.730 & 411.740, OL 2016, ch 93  
Hist.: AFS 21-2002(Temp), f. & cert. ef. 12-30-02 thru 6-27-03; SSP 12-2003, f. 5-29-03, cert. ef. 6-1-03; 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 10-2005(Temp), f. & cert. ef. 8-29-05 thru 2-25-06; SSP 12-2005(Temp), f. & cert. ef. 9-20-05 thru 2-25-06; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-135-0708

### Criteria for Developing a Plan for Self-support; OSIP, OSIPM, and QMB

(1) A client and the Department may develop a plan for self-support in the OSIP, OSIPM, and QMB programs for a client who:

(a) Meets the applicable disability or impairment criteria; and

(b) Is not eligible for SSI.

(2) A plan for self-support allows a client to retain a portion of his or her nonexcluded assets for a specific period of time to meet a specific occupational goal. The plan may provide for specialized or advanced education or training for clients with a severe disability.

(3) To be approved, a plan for self-support must meet all of the following criteria:

(a) The plan must be in writing and approved by the Department.

(b) The plan must identify a realistic occupational goal, considering the client's physical limitations and capabilities.

(c) The goal of the plan must be to provide the client with income necessary to meet his or her needs, not just for improving potential earning capability or increasing self-sufficiency within the home.

(d) Resources designated to support the plan must be kept in a separate bank account with a specific savings or planned disbursement goal for using the resources. Previously commingled funds must be put in a separate bank account in order for them to be considered designated for the plan.

(e) The duration of the plan must be limited to the time necessary to complete the plan but cannot exceed thirty-six months plus an additional 12 months if necessary for completion of education or training.

(4) A client must do all of the following to comply with a plan for self-support:

(a) Report any changes in circumstances that require a change to the current plan.

(b) Follow through with the plan without any break in excess of the longer of:

(A) Normal vacations from school or training.

(B) Three months, unless the reasons are beyond his or her control.

(5) If a client fails to comply with the requirements of section (4) of this rule, program eligibility is redetermined without the resource exclusions allowed by OAR 461-145-0405.

(6) The client and the Department may revise a plan for self-support or may agree to a new plan. To be new, the plan must not have any relationship to the old plan. When a plan is revised or a new plan established:

(a) Resources designated to support the old plan may become a part of the revised or new plan.

(b) If changes are made in the amount of resources to support the plan, eligibility and the payment amount for program benefits are redetermined.

(c) If the duration of the revised plan in addition to the months the old plan was in effect exceeds the time limits in subsection (3)(e) of this rule, approval is limited to the remainder of the maximum period only.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

# ADMINISTRATIVE RULES

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2002, f. & cert. ef. 7-1-02; Renumbered from 461-140-0440, 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-135-0950

### Eligibility for Inmates and Residents of State Hospitals

(1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) Definition of an "inmate".

(a) An inmate is an individual living in a public institution who is:

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;

(C) Residing involuntarily in a facility that is under governmental control; or

(D) Receiving care as an outpatient while residing involuntarily in a public institution.

(b) An individual is not considered an inmate when:

(A) The individual is released on parole, probation, or post-prison supervision;

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;

(C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or

(D) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(3) A "public institution" is any of the following:

(a) A state hospital (see ORS 162.135).

(b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

(c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.

(d) A youth correction facility (see ORS 162.135):

(A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or

(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.

(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is both--

(a) Caused primarily by substance abuse; and

(b) Likely to no longer meet the applicable diagnosis if the substance abuse discontinues or declines.

(5) An individual who resides in a public institution, meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the public institution may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.

(6) A client who becomes a resident of a state hospital has medical benefits suspended for up to twelve full calendar months if the client is at least 21 years of age and under 65 years of age. When a client with suspended medical benefits is no longer a resident of the state hospital, medical benefits are reinstated effective the first day the client is no longer a resident, if the client continues to meet eligibility for the medical program.

(7) An individual residing in a state psychiatric institution may be eligible for OSIPM benefits if the individual:

(a) Receives services on a certified ward;

(b) Meets level of care as certified by Acumentra; and

(c) Meets one of the following:

(A) Is 65 years of age or older;

(B) Is under 21 years of age; or

(C) Is 21 years of age or older, if the basis of need is disability or blindness; eligibility was determined before the individual reached 21 years of age; and the individual entered the state hospital before reaching 21 years of age.

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:

(a) If a pregnant woman receiving medical assistance through the OSIPM program becomes an inmate of a public institution, her medical benefits are suspended. When the Department is informed the woman is no longer an inmate, her medical benefits are reinstated--effective on the first day she is no longer an inmate--if she is still in her protected period of eligibility under OAR 461-135-0010.

(b) If an individual receiving medical assistance through the OSIPM or QMB program becomes an inmate of a correctional facility with an expected stay of no more than 12 months, medical benefits are suspended for up to 12 full calendar months during the incarceration period. When the Department is notified that an individual with suspended benefits has been released, and the notification takes place within 10 days of the release, medical benefits are reinstated effective the first day the client is no longer an inmate if the client continues to meet eligibility for the medical program.

(9) In the GA and SNAP programs, in addition to the other provisions of this rule, an inmate released from a public institution on home arrest, and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049, 414.426, 2011 OL 207

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 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 17-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; 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 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; 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 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 9-2014, f. & cert. ef. 4-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-135-0990

### Specific Requirements; Reimbursement of Cost-Effective, Employer-Sponsored Health Insurance Premiums

(1) Clients or an eligible applicant (see section (2) of this rule) for a client in the OSIPM program may be reimbursed for their share of the premiums for private or employer-sponsored group health insurance if:

(a) The insurance covers a member of the benefit group (see OAR 461-110-0750);

(b) The insurance coverage is a comprehensive major medical plan that includes inpatient and outpatient hospital, physician, lab, x-ray and full prescription coverage; and

(c) The premium is cost-effective (see OAR 461-155-0360 and OAR 410-120-1960).

(2) An "eligible applicant" may be a non-Medicaid individual living in or outside of the household. The Department may pay a portion of or the entire premium if payment of the premium for the non-Medicaid individual is necessary in order to enroll the Department client in the group health plan (see OAR 410-120-1960).

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; 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 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-140-0010

### Assets; Income and Resources

(1) An available asset, either income or a resource, is categorized as either excluded or countable (defined in OAR 461-001-0000).

(2) The availability of resources is covered in OAR 461-140-0020.

(3) The availability of income is covered in OAR 461-140-0040.

# ADMINISTRATIVE RULES

(4) Excluded assets are identified in the rules in this chapter (see divisions 140 and 145 in particular) and are not considered when a client's eligibility and benefit level are determined.

(5) In the OSIP, OSIPM, and QMB programs, an asset excluded pursuant to a rule in OAR Chapter 461 remains excluded as long as the asset is used in a manner consistent with the rule that provided the exclusion.

(6) An available asset not specifically excluded is countable, and its value is used in determining the eligibility and benefit level of a client.

(7) An asset may not be counted as a resource and as income in the same month.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049  
Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-140-0040

### Determining Availability of Income

(1) This rule describes the date income is considered available, what amount of income is considered available, and situations in which income is considered unavailable.

(2) Income is considered available the date it is received or the date a member of the financial group (see OAR 461-110-0530) has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(d) Income that is averaged, annualized, converted, or prorated is considered available throughout the period for which the calculation applies.

(e) A payment due to a member of the financial group, but paid to a third party for a household expense, is considered available when the third party receives the payment.

(f) In prospective budgeting, income is considered available in the month the income is expected to be received (see OAR 461-150-0020).

(g) In the OSIP, OSIPM, and QMB programs, except for self-employment (see OAR 461-145-0915), wages that are earned in one period of time but paid in another are considered available when they are received, such as a teacher who works for nine months but is paid over twelve.

(3) The following income is considered available even if not received:  
(a) Deemed income.

(b) In the ERDC, REF, REFM, and TANF programs, the portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security, withheld to repay an overpayment.

(c) In the OSIPM and QMB programs, the portion of a payment from an assistance program (such as public assistance, unemployment compensation, or Social Security) withheld to repay an overpayment of the same source:

(A) If withheld prior to July 1, 2014.

(B) If withheld on or after July 1, 2014 and:

(i) No member of the financial group was receiving OSIP, OSIPM, or QMB during the period the benefit was overpaid; or

(ii) The withheld amount is not excluded under paragraph (5)(e)(A) of this rule.

(d) In the SNAP program, the portion of a payment from the TANF program counted as disqualifying income under OAR 461-145-0105.

(4) The amount of income considered available is the gross before deductions, such as garnishments, taxes, or other payroll deductions including flexible spending accounts.

(5) The following income is not considered available:

(a) Wages withheld by an employer in violation of the law.

(b) Income received by another individual who does not pay the client his or her share.

(c) Income received by a member of the financial group after the individual has left the household.

(d) Moneys withheld from or returned to the source of the income to repay an overpayment from that source unless the repayment is countable (see OAR 461-001-0000):

(A) In the SNAP program, under OAR 461-145-0105.

(B) In the ERDC, REF, REFM, and TANF programs, under subsection (3)(b) of this rule.

(e) In the OSIP, OSIPM, and QMB programs:

(A) The portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security withheld on or after July 1, 2014 to repay an overpayment from the same source if at least one member of the financial group was receiving OSIP, OSIPM, or QMB during the period the benefit was overpaid. The amount considered unavailable cannot exceed the amount of the overpaid benefit previously counted in determining eligibility (see OAR 461-001-0000) for OSIP, OSIPM, or QMB.

(B) Moneys withheld from or returned to a source of income, when the source is not an assistance program, to repay an overpayment of the same source.

(f) For an individual who is not self-employed, income required to be expended on an ongoing, monthly basis on an expense necessary to produce the income, such as supplies or rental of work space.

(g) Income received by the financial group but intended and used for the care of an individual not in the financial group as follows:

(A) If the income is intended both for an individual in the financial group and an individual not in the financial group, the portion of the income intended for the care of the individual not in the financial group is considered unavailable.

(B) If the portion intended for the care of the individual not in the financial group cannot readily be identified, the income is prorated evenly among the individuals for whom the income is intended. The prorated share intended for the care of the individual not in the financial group is then considered unavailable.

(h) In the ERDC, REF, REFM, SNAP, and TANF programs, income controlled by the client's abuser if the client is a victim of domestic violence (see OAR 461-001-0000), the client's abuser controls the income and will not make the money available to the filing group (see OAR 461-110-0310), and the abuser is not in the client's filing group.

(i) In the OSIP, OSIPM, and QMB programs, unearned income not received because a payment was reduced to cover expenses incurred by a member of the financial group to secure the payment. For example, if a retroactive check is received from a benefit program other than SSI, legal fees connected with the claim are subtracted. Or, if payment is received for damages received as a result of an accident the amount of legal, medical, or other expenses incurred by a member of the financial group to secure the payment are subtracted.

(j) In the REFM program, any income used for medical or medical-related purposes.

(6) The availability of lump-sum income (see OAR 461-001-0000) is covered in OAR 461-140-0120.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.049, 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 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; 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 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; 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 15-2014, f. & cert. ef. 7-1-14; SSP 23-2014(Temp), f. & cert. ef. 9-19-14 thru 3-18-15; SSP 13-2015, f. & cert. ef. 3-19-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-140-0120

### Availability and Treatment of Lump-Sum Income

(1) Lump-sum income (see OAR 461-001-0000) is treated as follows if it is received by a member of a financial group (see OAR 461-110-0530).

(2) In the EA, REF, REFM, SNAP, and TANF programs:

(a) Lump-sum income is a resource.

(b) In the EA, REF, REFM, and TANF programs:

(A) Lump-sum income is considered available to the financial group when a member of the group receives the income and until the income becomes unavailable for a reason beyond the group's control.

(B) Lump-sum income is considered unavailable for a reason beyond the group's control if the member who received the lump-sum income:

(i) Leaves the financial group before spending any of the lump-sum income; or

(ii) Spends the lump-sum income on an immediate basic need or emergency.

(3) In the ERDC program, lump-sum income is excluded.

(4) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB-DW programs, lump-sum income is treated as follows:



# ADMINISTRATIVE RULES

(a) Lump-sum income not excluded is unearned income in the month of receipt, and any amount remaining in future months is a resource, except that in the OSIP and OSIPM programs retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.

(b) The following lump-sum income is excluded:

(A) The first \$20 received in a month;

(B) The income the client turns over to the Department as reimbursement for previous assistance; and

(C) The income the client uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following.

(5) In the OSIP-EPD and OSIPM-EPD programs, lump-sum income is counted as a resource.

(6) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(a) Lump-sum income not excluded is unearned income in the month of receipt, except that retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.

(b) The following lump-sum income is excluded:

(A) The first \$20 received in a month;

(B) The income the client turns over to the Department as reimbursement for previous assistance; and

(C) The income the client uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 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 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; 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 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; 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 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; 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 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; 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 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; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-140-0210

### Asset Transfer; General Information and Timelines

(1) OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of an asset on a client.

(2) If an asset is transferred during the periods of time listed in section (4) or (5) of this rule and if the transfer is made in whole or in part for the purpose of establishing or maintaining eligibility for benefits:

(a) In the REF program, the filing group is disqualified if:

(A) A member of the financial group (see OAR 461-110-0530) transferred the asset; and

(B) The client is an inpatient in a nursing facility, or is an inpatient in a medical institution in which payment for the client is based on a level of care provided in a nursing facility.

(b) In the REF, SNAP, and TANF programs, the filing group is disqualified if:

(A) The asset was a resource; and

(B) A member of the financial group transferred the resource.

(c) In the OSIP and OSIPM programs, a client in a nonstandard living arrangement (see OAR 461-001-0000) is disqualified if the client or the spouse of the client transferred the asset.

(3) In all programs except the ERDC program, clients in financial groups whose members transfer an asset covered under section (2) of this rule within the time periods listed in section (4) or (5) of this rule must report the transfer as soon as practicable and must provide information requested by the Department concerning the transfer.

(4) In the REF, REF, SNAP, and TANF programs, a transfer of an asset may be disqualifying if the transfer occurs:

(a) In the REF program, during the three years preceding the date of request (see OAR 461-115-0030).

(b) In the SNAP program, during the three months preceding the filing date or during a certification period (see OAR 461-001-0000) if the asset was a resource.

(c) In the REF and TANF programs, during the three years preceding the date of request (see OAR 461-115-0030) if the asset was a resource.

(5) In the OSIP and OSIPM programs, for a client in a nonstandard living arrangement, a transfer of an asset may be disqualifying if the transfer occurs:

(a) On or before June 30, 2006 and as described in one of the following paragraphs:

(A) On or after the date that is 60 months prior to the date of request — for assets that are transferred without compensation equal to or greater than fair market value from a revocable trust (see OAR 461-145-0540(8)(c)).

(B) On or after the date that is 60 months prior to the date of request — for assets that are transferred without compensation equal to or greater than fair market value to an irrevocable trust (see OAR 461-145-0540(9)(a)).

(C) On or after the date that is 60 months prior to the date of request — when there is a change in circumstances that makes assets in an irrevocable trust unavailable to the client (see OAR 461-145-0540(9)(d)).

(D) On or after the date that is 36 months prior to the date of request — for assets transferred without compensation equal to or greater than fair market value from an irrevocable trust (see OAR 461-145-0540(9)(b) and (c)).

(E) On or after the date that is 36 months prior to the date of request — for other asset transfers made without compensation equal to or greater than fair market value.

(b) On or after:

(A) July 1, 2006; and

(B) The date that is 60 months prior to the date of request.

(6) The duration of the period of disqualification or ineligibility is set out in OAR 461-140-0260 to 461-140-0300.

Stat. Auth.: ORS 411.060, 411.404, 411.710, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.710, 411.816, 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 12-1993, f. & cert. ef. 7-1-93; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. & cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 27-2013, 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-140-0242

### Disqualifying Transfer of Assets Including Home; OSIP and OSIPM

For a client in a nonstandard living arrangement (see OAR 461-001-0000) in the OSIP and OSIPM programs:

(1) For the purposes of this rule:

(a) The definition of “child” in OAR 461-001-0000 does not apply.

(b) “Child” means a natural or adoptive son or daughter who is:

(A) Under age 21; or

(B) Any age and has been determined to meet the blindness criteria of OAR 461-125-0330 or the disability criteria of OAR 461-125-0370.

(2) A transfer of an asset (including a home) by a client or the spouse of the client is a disqualifying transfer unless the requirements of at least one of the following subsections are met:

(a) The transfer was made exclusively for purposes other than establishing eligibility or maintaining benefits.

(b) The title to the asset was transferred to the person’s spouse, the person’s child who is blind or has a disability under the criteria of the Social Security Administration, or another for the sole benefit of the spouse or a child who is blind or has a disability under the criteria of the Social Security Administration, provided that the transfer is arranged in such a way that no individual or entity except this spouse or child can benefit from the asset transferred in any way, whether at the time of transfer or any time in the future. A direct transfer, transfer instrument, or trust that provides for funds or property to pass to a beneficiary who is not the spouse or child who is blind or has a disability under the criteria of the Social Security Administration is not considered to be established for the benefit of one of those individuals. In order for a transfer or a trust to be considered for the sole benefit of one of these individuals, the instrument or document must provide for the spending of the funds involved for the benefit of the individual based on the life expectancy of the individual.

(c) The transfer was made to a trust described in OAR 461-145-0540(10), except that a transfer to a trust under OAR 461-145-0540(10)(a) is disqualifying if the client is age 65 or older.

(d) The transfer was made to a trust described in OAR 461-145-0540(11) established solely for the benefit of an individual under 65 years of age who has a disability that meets the criteria of the Social Security

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Administration. This subsection applies to all transfers made on or after July 1, 2006.

(e) The transfer is a transfer described in OAR 461-160-0580(2).

(f) The resource is transferred by the community spouse after the Department has determined the community spouse's resource allowance in accordance with OAR 461-160-0580 and the resource has not been attributed to the institutionalized spouse. Notwithstanding this subsection, a transfer of a resource by a community spouse who is receiving or applying for benefits remains subject to all rules regarding the transfer of an asset by a client.

(3) A transfer of a home by a client or the spouse of the client is a disqualifying transfer unless the title was transferred to the client's;

(a) Child;

(b) Sibling who has equity interest in the home and was residing in the home for at least one year immediately before the client's admission to long-term care (see OAR 461-001-0000); or

(c) Natural or adoptive son or daughter who meets the requirements of each of the following paragraphs:

(A) The son or daughter resided with the client in the client's home continuously for at least two years immediately prior to the client's admission to long-term care other than an absence from the home that is not intended to, and does not, exceed 30 days.

(B) The son or daughter provides convincing evidence that he or she provided services that permitted the client to reside at home for at least two years rather than in an institution or long-term care facility.

(C) Without receiving payment from the Department, the son or daughter must have directly provided the services required by paragraph (B) of this subsection as described in both of the following subparagraphs for a total of at least 20 hours per week.

(i) On a daily basis, one or a combination of any of the following activities of daily living, as each sub-subparagraph is further defined at OAR 411-015-0006:

(I) Eating.

(II) Dressing/Grooming.

(III) Bathing/Personal Hygiene.

(IV) Mobility.

(V) Elimination.

(VI) Cognition/Behavior.

(ii) One or a combination of any of the following instrumental activities of daily living, as each sub-subparagraph is further defined at OAR 411-015-0007:

(I) Housekeeping.

(II) Laundry.

(III) Meal Preparation.

(IV) Medication Management.

(V) Shopping.

(VI) Transportation.

(4) Except for a transfer permitted under section (3) of this rule, each of the following subsections applies in determining whether an asset is considered transferred for fair market value:

(a) The compensation received for the asset must be in a tangible form with intrinsic value.

(b) The Department presumes that services provided for free at the time were intended to be provided without compensation, and that a transfer to an individual for services provided for free in the past is a disqualifying transfer of assets. This presumption is rebuttable with convincing evidence. This evidence must also show that there was an express agreement to provide services for compensation at the time the services were provided.

(c) Compensation for services is valued at the average market rate at the time the services were provided, unless the express agreement provides a lower rate.

(5) If a transfer is made for less than fair market value and is not exempt from disqualification under this rule, there is a rebuttable presumption that the asset was transferred for the purpose of establishing or maintaining eligibility and is not exempt under subsection (2)(a) of this rule.

(6) To rebut the presumption in section (5) of this rule, the client must present evidence other than his or her own statement and must provide to the Department the information it requests for the purpose of evaluating the purpose of the transfer. To meet the burden, it is sufficient for the client to show one of the following:

(a) The decision to make the transfer was not within the client's control;

(b) At the time of transfer, the client could not reasonably have anticipated applying for medical assistance;

(c) Unexpected loss of resources or income occurred between the time of transfer and the application for medical assistance;

(d) Because of other, similarly convincing, circumstances, it appears more likely than not that the transfer was not made, in whole or in part, for the purpose of establishing or maintaining eligibility for benefits.

(7) The fact that a recipient was already eligible for benefits is not sufficient to rebut the presumption in section (5) of this rule because the asset may not always be excluded and if the client had received full compensation for the asset, the compensation received would have been used to determine future eligibility.

Stat. Auth.: ORS 411.060 & 411.710

Stats. Implemented: ORS 411.060, 411.710, 414.042

Hist.: AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-140-0250

### Determining The Uncompensated Value of a Transferred Asset

(1) The uncompensated value of a disqualifying transfer of an asset is used in OAR 461-140-0260 to 461-140-0300 to calculate the ineligibility period of the financial group (see OAR 461-110-0530).

(2) To determine uncompensated value:

(a) In the OSIP and OSIPM programs:

(A) The value of the compensation received for the asset is subtracted from the fair market value (see OAR 461-001-0000) of the asset. This result is the uncompensated value, unless the financial group had countable (see OAR 461-001-0000) resources of less than the resource limit at the time of the first transfer. If the financial group had countable resources of less than the resource limit at the time of the first transfer, the remainder is then added to other countable resources, and the amount by which the sum exceeds the resource limit in OAR 461-160-0015 is the uncompensated value.

(B) For an annuity, unless the client verifies a lesser amount, the fair market value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

(b) In all other programs, the value of the compensation received for the resource is subtracted from the fair market value of the resource. The remainder is added to the other countable resources at the time of the transfer. The amount by which the sum exceeds the resource limit is the uncompensated value.

(c) The compensation received for a transferred asset includes:

(A) Encumbrances assumed by the buyer; and

(B) Goods or services provided to the client, limited to their true value, if there was a prior agreement to exchange the asset for the goods or services.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.020, 411.060, 411.070, 411.404, 411.632, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-140-0296

### Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to clients in the OSIP and OSIPM programs who live in a nonstandard living arrangement (see OAR 461-001-0000).

(2) A financial group (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the initial month (see OAR 461-001-0000) is prior to October 1, 1998 — \$2,595.

(b) If the initial month is on or after October 1, 1998 and prior to October 1, 2000 — \$3,320.

(c) If the initial month is on or after October 1, 2000 and prior to October 1, 2002 — \$3,750.

(d) If the initial month is on or after October 1, 2002 and prior to October 1, 2004 — \$4,300.

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(e) If the initial month is on or after October 1, 2004 and prior to October 1, 2006 — \$4,700.

(f) If the initial month is on or after October 1, 2006 and prior to October 1, 2008 — \$5,360.

(g) If the initial month is on or after October 1, 2008 and prior to October 1, 2010 — \$6,494.

(h) If the initial month is on or after October 1, 2010—\$7,663.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a nonstandard living arrangement and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030) in a nonstandard living arrangement, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a standard living arrangement (see OAR 461-001-0000), the date of request (see OAR 461-115-0030) for long-term care or home and community-based care as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the date of request, the disqualification begins the first date following the date of request that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a nonstandard living arrangement and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualifica-

tion period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the uncompensated value as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060, 411.704, 411.706

Stats. Implemented: ORS 411.060, 411.704, 411.706

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; 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 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-140-0300

### Adjustments to the Disqualification for Asset Transfer

(1) The disqualification imposed under OAR 461-140-0260 is not adjusted once applied in the SNAP program.

(2) In all other programs, the disqualification ends if the transfer that caused the disqualification is rescinded. The duration of the disqualification is recalculated if the terms of the transfer are modified.

(3) In the OSIP, OSIPM, and REFM programs, the Department may waive the disqualification if the disqualification would create an undue hardship on the client. For purposes of this section, the disqualification would create an undue hardship if the requirements of subsections (a) and (b) of this section are met:

(a) The client has no other means for meeting his or her needs. The client has the burden of proving that no other means exist by:

(A) Exploring and pursuing all reasonable means to recover the assets to the satisfaction of the Department, including legal remedies and consultation with an attorney; and

(B) Cooperating with the Department to take action to recover the assets.

(b) The disqualification would deprive the client of:

(A) Medical care such that the client's health or life would be endangered; or

(B) Food, clothing, shelter, or other necessities of life without which the health or life of the client would be endangered.

(4) As authorized by ORS 411.620, the Department retains the authority to bring a civil suit or action to set aside a transfer of assets for less than fair market value and may seek recovery of all costs associated with such an action.

(5) Notwithstanding the granting of an undue hardship waiver under section (3) of this rule, the Department is not precluded from recovering public assistance or medical assistance from any assets in which the client held an interest, or in which the client previously held an interest, at the time the undue hardship waiver was granted.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.632, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

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## 461-145-0005

### Agent Orange Disability Benefits

For all programs:

(1) Benefits from the Agent Orange Settlement Fund made by Aetna Life and Casualty for settling Agent Orange disability claims are excluded.

(2) Payments made under the Agent Orange Act of 1991, and issued by the U.S. Treasury through the Department of Veterans Affairs, are counted as unearned income.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0040

### Burial Arrangements and Burial Fund

(1) The following definitions apply to this rule:

(a) "Burial arrangement" means an agreement with an entity — such as a funeral agreement (which means an arrangement made with a licensed funeral provider), burial insurance, or a burial trust designating a funeral director as the beneficiary — that makes allowance for burial costs. A "burial arrangement" does not include a burial space, which is covered in OAR 461-145-0050, or a burial fund (see subsection (b) of this section).

(b) "Burial fund" means an identifiable fund set aside for a client's burial costs. A "burial fund" does not include a burial space, which is covered in OAR 461-145-0050, or a burial arrangement (see subsection (a) of this section).

(2) Except as provided in subsection (e) of this section, a burial arrangement is treated as follows:

(a) In the ERDC, REF, REFM, SNAP, and TANF programs, the equity value (see OAR 461-001-0000) of one prepaid burial arrangement for each member of the filing group (see OAR 461-110-0310) is excluded.

(b) For grandfathered OSIP and OSIPM clients (see OAR 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771), up to \$1,000 in combined equity value of each burial arrangement with a licensed funeral director (plus accrued interest) and life insurance policies are excluded. The amount of combined cash and equity value of all life insurance and burial arrangements that is over \$1,000 is counted as a resource.

(c) In the OSIP, OSIPM, and QMB-DW programs, the amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs is excluded.

(d) In all programs not listed in subsection (a) of this section and for OSIP and OSIPM clients not covered by subsection (b) of this section, a burial arrangement is treated in the manner as the program treats a burial fund under section (3) of this rule.

(e) Burial insurance that has cash surrender value is considered life insurance and is treated in accordance with OAR 461-145-0320 and, as applicable, subsection (b) of this section.

(3) A burial fund is treated as follows:

(a) In the OSIP, OSIPM, and QMB-DW programs:

(A) A burial fund may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds, or life insurance policies.

(B) A burial fund is counted as a resource if it is commingled with assets unrelated to a burial. The amount set aside for burial must be in a separate account to be excluded from resource consideration.

(C) A burial fund may be established if the countable (see OAR 461-001-0000) resources of a client exceed allowable limits. A burial fund is excluded from the resource calculation to the extent allowed in paragraph (D) of this subsection.

(D) The following calculation determines the exclusion for a burial fund:

(i) Up to \$1,500 of a burial fund may be excluded from resources for each of the following:

- (I) The client.
- (II) The client's spouse.

(ii) The amount in subparagraph (i) of this paragraph is reduced by the total of the following amounts:

(I) The face value of life insurance policies owned by the client that have already been excluded from resources.

(II) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs.

(E) All interest earned on an excluded burial fund or increases in the value of an excluded burial arrangement if left in the fund is excluded from income.

(b) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, a burial fund is excluded as a resource.

(c) In all programs not listed in subsections (a) or (b) of this section, a burial fund is counted as a resource.

(4) There is no overpayment for the time period during which the burial arrangement or burial fund existed if a client;

(a) Cancels an excluded burial arrangement; or

(b) Uses an excluded burial fund for any purpose other than burial costs.

(5) If an asset originally used as a burial arrangement or burial fund is converted to other uses, the asset is treated under the other applicable rules.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; 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 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; 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 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0050

### Burial Space and Merchandise

(1) Burial spaces include conventional grave sites, crypts, mausoleums, urns, and other repositories that are traditionally used for the remains of deceased individuals. Burial spaces also include headstones and the opening and closing of the grave.

(a) In the ERDC, REF, REFM, SNAP, and TANF programs, the equity value (see OAR 461-001-0000) of one burial space is excluded as a resource for each member of the financial group (see OAR 461-110-0530).

(b) In the OSIP, OSIPM, and QMB-DW programs, the equity value of a burial space is excluded as a resource if owned by the client and designated for the client, the spouse (see OAR 461-001-0000) of the client, minor and adult children, siblings, parents, and the spouse of any of these individuals.

(2) Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations. The equity value of burial merchandise is excluded as a resource if owned by the client and designated for;

(a) In the ERDC, REF, REFM, SNAP, and TANF programs, a member of the financial group.

(b) In the OSIP, OSIPM, and QMB-DW programs, the client, the spouse of the client, minor and adult children, siblings, parents, and the spouse of any of these individuals.

Stat. Auth.: ORS 409.050, 410.070, 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, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 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 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; 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 4-2007, f. 3-30-07, cert. ef. 4-1-07; 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 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0110

### Domestic Volunteer Services Act (VISTA, RSVP, SCORE, ACE)

In all Department programs covered by Chapter 461 of the Oregon Administrative Rules, with respect to federal programs under the Domestic Volunteers Service Act of 1973 (Pub. L. No. 93-113):

(1) Payments under Title I — VISTA, University Year of Action, and Urban Crime Prevention — are treated as follows:

(a) In the ERDC, REF, REFM, and TANF programs, these payments are excluded, except that these payments are counted as earned income if the total value of all compensation is equal to or greater than compensation at the state minimum wage.

(b) In all programs except the ERDC, REF, REFM, and TANF programs:

(A) The payments are excluded if the client is receiving Department program benefits when they join the Title I program. The exclusion of payments continues until the client has a break in receiving Department benefits of more than one month.

(B) The payments are counted as earned income for clients who joined the Title I program before applying for Department program benefits.

# ADMINISTRATIVE RULES

(2) Payments are excluded for programs under Title II (National Older Americans Volunteer Programs), which include:

- (a) Retired Senior Volunteer Program (RSVP) Title II, Section 201.
- (b) Foster Grandparent Program Title II, Section 211.
- (c) Older American Community programs.
- (d) Senior Companion Program.

(3) Payments are excluded for programs under Title III (National Volunteer Programs to Assist Small Businesses and Promote Volunteer Service by Persons with Business Experience), which include:

(a) Service Corps of Retired Executives (SCORE) Title III, Section 302.

(b) Active Corps of Executives (ACE) Title III, Section 302.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049  
Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0220

### Home

(1) Home defined: A home is the place where the filing group (see OAR 461-110-0310) lives. A home may be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:

(a) Land on which the home is built and contiguous property.

(A) In all programs except the OSIP, OSIPM, QMB, and SNAP programs, property must meet all the following criteria to be considered contiguous property:

(i) It must not be separated from the land on which the home is built by land owned by people outside the financial group (see OAR 461-110-0530).

(ii) It must not be separated by a public right-of-way, such as a road.

(iii) It must be property that cannot be sold separately from the home.

(B) In the OSIP, OSIPM, QMB, and SNAP programs, contiguous property is property not separated from the land on which the home is built by land owned by people outside the financial group.

(b) Other dwellings on the land surrounding the home that cannot be sold separately from the home.

(2) Exclusion of home and other property:

(a) For an individual who has an initial month (see OAR 461-001-0000) of long-term care on or after January 1, 2006:

(A) For purposes of this subsection, "child" means a biological or adoptive child who is:

(i) Under age 21; or

(ii) Any age and meets the Social Security Administration criteria for blindness or disability.

(B) The equity value (see OAR 461-001-0000) of a home is excluded if the requirements of at least one of the following subparagraphs are met:

(i) The child (see paragraph (A) of this subsection) of the individual occupies the home.

(ii) The spouse (see OAR 461-001-0000) of the individual occupies the home.

(iii) The equity in the home is \$552,000 or less, and the requirements of at least one of the following sub-subparagraphs are met:

(I) The individual occupies the home.

(II) The home equity is excluded under OAR 461-145-0250.

(III) The home is listed for sale per OAR 461-145-0420.

(iv) Notwithstanding OAR 461-120-0330, the equity in the home is more than \$552,000 and the individual is unable legally to convert the equity value in the home to cash.

(b) For all other filing groups, the value of a home is excluded when the home is occupied by any member of the filing group.

(c) In the SNAP program, the value of land is excluded while the group is building or planning to build their home on it, except that if the group owns (or is buying) the home they live in and has separate land they intend to build on, only the home in which they live is excluded, and the land they intend to build on is treated as real property in accordance with OAR 461-145-0420.

(3) Exclusion during temporary absence: If the value of a home is excluded under section (2) of this rule, the value of this home remains excluded in each of the following situations:

(a) In all programs except the OSIP, OSIPM, and QMB-DW programs, during the temporary absence of all members of the filing group from the property, if the absence is due to illness or uninhabitability (from casualty or natural disaster), and the filing group intends to return home.

(b) In the OSIP, OSIPM, and QMB-DW programs, when the individual is absent to receive care in a medical institution, if one of the following is true:

(A) The absent individual has provided evidence that the individual will return to the home. The evidence must reflect the subjective intent of the individual, regardless of the individual's medical condition. A written statement from a competent individual is sufficient to prove the intent.

(B) The home remains occupied by the individual's spouse, child, or a relative dependent on the individual for support. The child must be less than 21 years of age or, if over the age of 21, blind or an individual with a disability as defined by SSA criteria.

(c) In the REF, REFM, and TANF programs, when all members of the filing group are absent because:

(A) The members are employed in seasonal employment and intend to return to the home when the employment ends; or

(B) The members are searching for employment, and the search requires the members to relocate away from their home. If all members of the filing group are absent for this reason, the home may be excluded for up to six months from the date the last member of the filing group leaves the home to search for employment. After the six months, if a member of the filing group does not return, the home is no longer excluded.

(d) In the SNAP program, when the financial group is absent because of employment or training for future employment.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685, 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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 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 4-2015, f. & cert. ef. 1-1-15; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0230

### Housing and Urban Development

(1) Payments from HUD made to a third party in behalf of the client are treated as follows:

(a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income.

(b) In the EA, ERDC, OSIP, OSIPM, QMB, and SNAP programs, the payments are excluded.

(2) HUD payments made directly to a member of the financial group, except Youthbuild Program payments and Family Investment Centers payments, are treated as follows:

(a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income. If the payments are made in a lump sum, the lump sum is unearned income.

(b) In the EA program, the payment is unearned income.

(c) In the ERDC, OSIP, OSIPM, and QMB programs, the payments are excluded.

(d) In the SNAP program, payments for utilities are excluded. Other payments are unearned income.

(3) Youthbuild Program payments are treated as follows:

(a) In the TANF program, if the Youthbuild Program participant is a dependent child in the filing group or a caretaker relative age 19 or younger, the payments are excluded. If the participant is a caretaker relative over age 19, the payments are treated as follows:

(A) Incentive payments that are reimbursements for specific expenses not covered by program benefits, for instance transportation and school supplies, are excluded.

(B) On-the-job training (OJT) and work experience payments are earned income.

(C) The bonus payment (the incentive payment for attendance) is unearned income.

(b) In the ERDC program, Youthbuild payments are earned income.

(c) In the SNAP program, payments to clients under the age of 19 years who are under the control of an adult member of the filing group are excluded. Other Youthbuild payments are earned income.

(4) Escrow accounts established for families participating in the Family Self-Sufficiency (FSS) program sponsored by HUD are excluded.

(5) Payments related to family investment centers issued under the Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625, sec. 515, 104 Stat. 4196 (1990), are treated as follows:

(a) Wages are earned income, and stipends are unearned income.

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(b) Service payments for items such as child care, basic education, literacy, or computer skills training are excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 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 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0240 Income-Producing Sales Contract

(1) The equity value (see OAR 461-001-0000) of an income-producing sales contract is treated as follows:

(a) In the OSIPM and QMB-DW programs for contracts originating on or after October 1, 2012:

(A) Except for a contract resulting from the sale of a home, that is treated in accordance with paragraph (B) of this subsection, it is a countable (see OAR 461-001-0000) resource valued at the outstanding principal balance of the contract unless the individual provides convincing evidence of a lower cash value or there is a legal bar to the sale of the contract. If there is a legal bar to the sale of the contract, the equity value of the contract is a transfer of assets (OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of assets on a client) for less than fair market value (see OAR 461-001-0000).

(B) The equity value of a contract resulting from the sale of a home is excluded if the entire principal portion of the payments received from the contract is used to purchase another home within three calendar months of receipt of the payments. Otherwise the equity value is treated in accordance with paragraph (A) of this subsection.

(b) Except as provided for in subparagraph (a) of this section, it is excluded.

(2) In all programs, income received from a sales contract is treated as provided in OAR 461-145-0460.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0250 Income-Producing Property; Not OSIP, OSIPM, or QMB

(1) Income from income producing property (see OAR 461-001-0000) is counted as follows:

(a) If a member of the financial group (see OAR 461-110-0530) actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930).

(b) If a member of the financial group does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920. In the SNAP program, if the financial group owns more than one property, the exclusions for one property may not be used to offset income from a different property.

(2) The equity value (see OAR 461-001-0000) of income-producing property is treated as follows:

(a) In the EA and ERDC programs, it is excluded.

(b) In the SNAP program, it is counted as a resource except to the extent described in each of the following situations:

(A) If the property produces an annual countable (see OAR 461-001-0000) income similar to other properties in the community with comparable market value, the equity value of the property is excluded.

(B) The property is excluded under OAR 461-145-0600.

(C) The equity value of income-producing livestock, poultry, and other animals is excluded.

(D) If selling the resource would produce a net gain to the financial group of less than \$1,500, the equity value is excluded.

(c) In the REF, REFM, and TANF programs, it is counted as a resource, except that in the TANF program, it is excluded for a self-employed client participating in the microenterprise (see OAR 461-001-0025) component of the JOBS program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

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 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 19-1994, f. & cert. ef. 9-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; 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 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 13-2013, f. & cert. ef. 7-1-13; 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 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0259 Indian (Native American) Benefits; OSIP, OSIPM, and QMB

(1) The following Indian (Native American) benefits are excluded from income and resources:

(a) Indian lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA).

(b) Payments made under the Indian Judgment Funds Distribution Act (Public Law 93-134).

(c) Distribution of Indian Judgment Funds (Public Law 97-458).

(A) Indian judgment funds include interest and investment income accrued while the funds are held in trust.

(B) Initial purchases made with distributed judgment funds are excluded from resources.

(d) Per capita distributions of all funds held in trust by the Secretary of the Interior to members of an Indian tribe (Public Law 98-64).

(e) The following items received from a native corporation are excluded under the Alaska Native Claims Settlement Act (ANCSA) (Public Law 100-241):

(A) Cash received from a native corporation, including cash dividends on stock received from a native corporation, to the extent it does not exceed \$2,000 per individual per year.

(B) Stock, including stock issued or distributed by a native corporation as a dividend or distribution on stock.

(C) A partnership interest.

(D) Land or an interest in land, including land or an interest in land received from a native corporation as a dividend or distribution on stock.

(E) An interest in a settlement trust.

(f) Up to \$2000 per year received from payments from individual interests in Trust or Restricted Lands (Public Law 103-66).

(g) Distribution of Per Capita Funds to the Red Lake Band of Chippewa Indians from the proceeds of the sale of timber and lumber on the Red Lake Reservation (Public Law 85-794).

(h) Distribution of Per Capita Funds by the Blackfeet and Gros Ventre tribal governments to members, which resulted from judgment funds to the tribes (Public Law 92-254).

(i) Distribution of Claims Settlement Funds to members of the Hopi and Navajo Tribes (Public Laws 93-531 and 96-305).

(j) Receipts and distributions derived from lands held in trust for Indian tribes are excluded from the following Indian groups (Public Law 94-114):

(A) Seminole Indians.

(B) Pueblos of Zia and Jimenez.

(C) Stockbridge Munsee Indian Community.

(D) Burns Indian Colony.

(E) Assiniboine and Sioux Tribe.

(F) Bad River Band of the Lake Superior Tribe of Chippewa Indians.

(G) Blackfeet Tribe of Montana.

(H) Cherokee Nation of Oklahoma.

(I) Cheyenne River Sioux Tribe.

(J) Crow Creek Sioux Tribe.

(K) Devil's Lake Sioux Tribe.

(L) Fort Belknap Indian Community.

(M) Keweenaw Bay Indian Community.

(N) Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(O) Lower Brule Sioux Tribe.

(P) Minnesota Chippewa Tribe.

(Q) Navajo Tribe.

(R) Oglala Sioux Tribe.

(S) Rosebud Sioux Tribe.

(T) Shoshone-Bannock Tribe.

(U) Standing Rock Sioux Tribe.

(k) Judgment funds distributed per capita to, or held in trust for, members of the Sac and Fox Indian Nation (Public Law 94-189).

(l) Judgment funds distributed per capita to, or held in trust for, members of the Grand River Band of Ottawa Indians (Public Law 94-540).

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(m) Judgment funds distributed per capita to members of the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Public Law 95-433).

(n) Receipts derived from trust lands awarded to the Pueblo of Santa Ana and distributed to members of that tribe (Public Law 95-498).

(o) Receipts derived from trust lands awarded to the Pueblo of Zia and distributed to members of that tribe (Public Law 95-499).

(p) Judgment funds distributed per capita or made available for programs for members of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma (Public Law 96-318).

(q) Funds and distributions to members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians under the Maine Indian Claims Settlement Act (Public Law 96-420).

(r) Distributions of judgment funds to members of the San Carlos Tribe of Arizona (Public Law 97-95).

(s) Distributions of judgment funds to members of the Wyandot Tribe of Indians of Oklahoma (Public Law 97-371).

(t) Distributions of judgment funds to members of the Shawnee Tribe of Indians (Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, and the Cherokee Band of Shawnee descendants) (Public Law 97-372).

(u) Judgment funds distributed per capita or made available for programs for members of the Miami Tribe of Oklahoma and the Miami Indians of Indiana (Public Law 97-376).

(v) Distributions of judgment funds to members of the Clallam Tribe of Indians of the State of Washington (Port Gamble Indian Community, Lower Elwha Tribal Community, and the Jamestown Band of Clallam Indians) (Public Law 97-402).

(w) Judgment funds distributed per capita or made available for programs for members of the Pembina Chippewa Indians (Turtle Mountain Band, Chippewa Cree Tribe, Minnesota Chippewa Tribe, and Little Shell Band of Chippewa Indians of Montana) (Public Law 97-403).

(x) Per capita distributions of judgment funds to members of the Gros Ventre and Assiniboine Tribes of Fort Belknap Indian Community, and the Papago Tribe of Arizona (Public Law 97-408).

(y) Up to \$2,000 of per capita distributions of judgment funds to members of the Confederated Tribes of the Warm Springs Reservation (Public Law 97-436).

(z) Judgment funds distributed to the Red Lake Band of Chippewa Indians (Public Law 98-123).

(aa) Funds distributed per capita or family interest payments for members of the Assiniboine Tribe of the Fort Belknap Indian Community of Montana and the Assiniboine Tribe of the Fort Peck Indian Reservation of Montana (Public Law 98-124).

(bb) Judgment funds and income therefrom distributed to members of the Shoalwater Bay Indian Tribe (Public Law 98-432).

(cc) All distributions to heirs of certain deceased Indians under the Old Age Assistance Claims Settlement Act (Public Law 98-500).

(dd) Judgment funds distributed per capita or made available for any tribal program, for members of the Wyandotte Tribe of Oklahoma and the Absentee Wyandottes (Public Law 98-602).

(ee) Per capita and dividend payment distributions of judgment funds to members of the Santee Sioux Tribe of Nebraska, the Flandreau Santee Sioux Tribe, and the Prairie Island Sioux, Lower Sioux, and Shakopee Mdewakanton Sioux Communities of Minnesota (Public Law 99-130).

(ff) Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior and the Chippewas of the Mississippi (Public Law 99-146).

(gg) Distributions of claims settlement funds to members of the White Earth Band of Chippewa Indians as allottees, or their heirs (Public Law 99-264).

(hh) Payments or distributions of judgment funds, and the availability of any amount for such payments or distributions, to members of the Saginaw Chippewa Indian Tribe of Michigan (Public Law 99-346).

(ii) Judgment funds distributed per capita or held in trust for members of the Chippewas of Lake Superior and the Chippewas of the Mississippi (Public Law 99-377).

(jj) Judgment funds distributed to members of the Cow Creek Band of Umpqua Tribe of Indians (Public Law 100-139).

(kk) Per capita restitution payments made to eligible Aleuts who were relocated or interned during World War II (Public Law 100-383).

(ll) Per capita payments of claims settlement funds to members of the Coushatta Tribe of Louisiana (Public Law 100-411).

(mm) Funds distributed per capita for members of the Hoopa Valley Indian Tribe and the Yurok Indian Tribe (Public Law 100-580).

(nn) Judgment funds held in trust by the United States, including interest and investment income accruing on such funds, and judgment funds made available for programs or distributed to members of the Wisconsin Band of Potawatomi (Hannahville Indian Community and Forest County Potawatomi) (Public Law 100-581).

(oo) All funds, assets, and income from the trust fund transferred to the members of the Puyallup Tribe under the Puyallup Tribe of Indians Settlement Act of 1989 (Public Law 101-41).

(pp) Judgment funds distributed per capita, or held in trust, or made available for programs, for members of the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and the independent Seminole Indians of Florida, plus any interest and investment income accruing on the funds held in trust (Public Law 101-277).

(qq) Payments, funds, distributions, or income derived from them under the Seneca Nation Settlement Act of 1990 (Public Law 101-503).

(rr) Per capita distributions of settlement funds under the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Public Law 101-618).

(ss) Settlement funds, assets, income, payments or distributions from Trust Funds to members of the Catawba Indian Tribe under the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993 (Public Law 103-116).

(tt) Settlement funds held in trust, including interest and investment income accruing on such funds, and payments made to members of the Confederated Tribes of the Colville Reservation under the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436).

(uu) Payments made or benefits granted by the Crow Boundary Settlement Act of 1994 (Public Law 103-444).

(vv) Per capita distribution judgment funds to members of the Western Shoshone Indians (Public Law 108-270).

(ww) Payments made or granted to the Aroostook Band of Micmacs under Public Law 102-171.

(xx) Payments made from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla under Public Law 91-259.

(yy) Payments from the Tribal Trust Accounting and Management Lawsuits under Public Law 111-291, section 101.

(2) Bureau of Indian Affairs (BIA) General Assistance payments are federally-funded income based on need and are counted as unearned income, regardless of whether they are paid in cash or in kind. The \$20 per month general income exclusion does not apply to these payments.

(3) Individual Indian Money (IIM) accounts are treated as follows:

(a) For an account that requires BIA Authorization for withdrawal (restricted):

(A) A deposit required by the BIA is excluded as income and as a resource.

(B) A deposit not required by the BIA is counted or excluded as income in accordance with this chapter of rules based on the source of the deposit. The deposit is excluded as a resource.

(C) A withdrawal is treated in accordance with this chapter of rules based on the source of the funds withdrawn. When funds in the account include both excluded and non-excluded funds, the Department presumes that the non-excluded funds are withdrawn first.

(b) For an account that does not require BIA authorization for a withdrawal (unrestricted): Deposits and withdrawals are treated in accordance with this chapter of rules based on the source of the deposit or withdrawal. When funds in the account include both excluded and non-excluded funds, the Department presumes that the non-excluded funds are withdrawn first.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685, 414.839

Hist.: SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

### 461-145-0260

#### Indian (Native American) Benefits; Not OSIP, OSIPM, and QMB

(1) The following Indian (Native American) benefits are excluded:

(a) Indian lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA).

(b) Payments to Puyallup Tribe members from the trust funds established under Public Law 101-41.

(c) Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436).

(2) Payments from the BIA are treated as follows:

(a) In the SNAP program, payments from the General Assistance program are counted as unearned income.

# ADMINISTRATIVE RULES

(b) In all programs except the SNAP program, payments from the General Assistance program are excluded.

(c) The treatment of educational income is covered by OAR 461-145-0150.

(3) Payments under Public Law 92-203 (Alaska Native Claim Settlement Act) are treated as follows:

(a) In the SNAP program, the entire payment is excluded.

(b) In all programs except the SNAP program:

(A) Only the tax-exempt portion of the payment is excluded.

(B) The remainder of the payment is counted as unearned income.

(4) The following types of distributions provided under Public Law 100-241 (Alaska Native Claim Settlement Act) are excluded:

(a) Stock.

(b) A partnership interest.

(c) Land or interest in land.

(d) An interest in a settlement trust.

(e) The first \$2,000 of each per-capita payment per year for each member of the financial group (see OAR 461-110-0530) who receives the payment. The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-001-0000 and 461-140-0120).

(5) The Department excludes Indian benefit payments when federal law requires an exclusion. These include payments under each of the following federal laws:

(a) The Aroostook Band of Micmacs under Public Law 102-171.

(b) Blackfeet, Cherokee, Cheyenne, Chippewa, and Sioux tribes under Public Law 94-114, when the payment is from submarginal land held in trust by the United States.

(c) Blackfoot Indians under Public Law 92-254.

(d) Grand River Ottawa Indians under Public Law 94-540.

(e) Hopi or Navajo Indians under Public Law 93-531.

(f) Passamaquoddy Tribe and Penobscott Nation, including the Holton Band of Maliseet Indians, under the Indian Claims Settlement Act (Public Law 96-420).

(g) Umpqua Tribe Cow Creek Band under Public Law 100-139.

(h) Yakima Nation Confederated Tribes and Bands of the Mescalero Reservation Apache Tribe under Public Law 95-433.

(6) Except in the SNAP program, payments received from trust or restricted lands under Public Law 93-134, Public Law 97-458, and Public Law 103-66 are excluded. In the SNAP program, payments received from trust or restricted lands under 25 USC 1408 (Public Law 93-134, Public Law 97-458, and Public Law 103-66) are treated as follows:

(a) Excluded as a resource.

(b) The first \$2,000 of each per-capita payment per year for each member of the financial group who receives the payment is excluded as income.

(c) The amount over \$2,000 per year paid to any member of the financial group is counted as periodic income (see OAR 461-001-0000 and 461-140-0110).

(7) Payments to Seminole Tribe members under Public Law 101-277 are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the financial group who receives the payment.

(b) The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(8) Payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla under Public Law 91-259 are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the financial group who receives the payment.

(b) The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(9) Payments for assets held in trust to the Sac and Fox Tribe of Oklahoma and Sac and Fox Tribe of the Mississippi in Iowa by the Indian Claims Commission under Public Law 94-189, Section 6 (The Sac and Fox Indian Claims Agreement) are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the financial group who receives the payment.

(b) The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(10) Payments from judgment funds held in trust by the U.S. Secretary of the Interior under Public Law 98-64 are excluded.

(11) Indian Child Welfare payments under Public Law 95-608 are excluded.

(12) Tribal payments for child care are treated as follows:

(a) Provider-direct payments are counted as the provider's earned income.

(b) All client-direct payments are excluded.

(13) Indian benefit payments distributed by the tribe and not excluded for that program by public law are counted as unearned income.

(14) Payments in the tribal-TANF program are counted in the same manner as TANF program payments under OAR 461-145-0410.

(15) Payments from the Tribal Trust Accounting and Management Lawsuits under Public Law 111-291 (section 101) are treated as follows:

(a) The payments are excluded as income in the month of receipt.

(b) The payments are excluded as a resource for the 12 calendar months following the receipt of the payment as long as they are not commingled with other funds.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.083, 411.404, 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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 28-2012(Temp), f. & cert. ef. 8-7-12 thru 2-3-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; 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 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0320

### Life Insurance

(1) Benefits paid on a life insurance policy are counted as unearned income in the month received and a resource if retained into the following month. The Department counts benefits as received when the insured individual dies or when the insured individual is eligible for and receives accelerated payments before death, such as when the insured individual has a terminal illness. When the payment is a lump sum due to the death of the insured individual a deduction is allowed, not to exceed \$1,500, for the cost of the deceased individual's last illness and burial if these costs were not otherwise insured.

(2) Burial insurance that has cash surrender value is treated in the same manner that this rule treats life insurance.

(3) The value of a life insurance policy is treated as follows:

(a) All term insurance that has no cash surrender value is excluded.

(b) In all programs except OSIP, OSIPM, and QMB-DW, the cash surrender value of the life insurance policy is excluded.

(c) In the OSIP, OSIPM, and QMB-DW programs:

(A) For the purposes of this subsection, the following definitions apply:

(i) "Cash surrender value" means the equity that the policy acquires over time.

(ii) "Dividend" means a payment of surplus company earnings from the insurer.

(iii) "Dividend accumulation" means a dividend left with the insurer to accumulate interest that may be withdrawn without affecting the policy's face value or cash surrender value.

(iv) "Dividend addition" means the amount of insurance purchased with a dividend that increases the policy's death benefit and cash surrender value.

(v) "Face value" means the amount of the death benefit contracted for at the time the policy was purchased and does not include a dividend addition added after purchase of the policy.

(vi) "Viatical settlement" means an agreement allowing a third party to acquire a life insurance policy from a terminally ill individual at an agreed-upon percentage of the life insurance policy's face value.

(B) The cash surrender value of life insurance policies owned by the financial group (see 461-110-0530) is excluded if the total face value of all policies for the insured individual is less than or equal to \$1,500. If the total face value of all policies for the insured individual is more than \$1,500, the entire cash surrender value is counted as a resource to the owner of the policy. The total face value does not include any dividend addition. A dividend accumulation must count as a resource even if the face value of the policy that generated the dividend accumulation is excluded.

(C) The cash surrender value of a policy acquired through a viatical settlement is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049,

413.085, 414.685

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839



# ADMINISTRATIVE RULES

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 5-2002, f. & cert. ef. 4-1-02; 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 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

### 461-145-0330

#### Loans and Interest on Loans

(1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.

(2) For purposes of this rule:

(a) In the OSIP, OSIPM, and QMB programs:

(A) "Bona fide loan agreement" means an agreement that --

(i) Is enforceable under state law;

(ii) Is in effect at the time the cash proceeds are provided to the borrower; and

(iii) Includes an obligation to repay and a feasible repayment plan.

(B) "Negotiable loan agreement" means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.

(b) In all programs:

(A) "Reverse-annuity mortgage" means a contract with a financial institution (see OAR 461-001-0000) under which the financial institution provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.

(B) The proceeds of a home equity loan or reverse-annuity mortgage (see paragraph (A) of this subsection) are considered loans.

(3) For payments that a member of the financial group (see OAR 461-110-0530) receives as a borrower to be treated as a loan:

(a) In the OSIP, OSIPM, QMB, and SNAP programs, there must be an oral or written loan agreement, and this agreement must state when repayment of the loan is due to the lender.

(b) In programs other than the OSIP, OSIPM, QMB, and SNAP programs, there must be a written loan agreement, and this agreement must be signed by the borrower and lender, dated before the borrower receives the proceeds of the loan, and state when repayment of the loan is due to the lender.

(4) Payments for a purported loan that do not meet the requirements of section (3) of this rule are counted as unearned income.

(5) When a member of a financial group receives cash proceeds as a borrower from a loan that meets the requirements of section (3) of this rule:

(a) In all programs, educational loans are treated according to OAR 461-145-0150.

(b) In the ERDC, REF, REFM, SNAP, and TANF programs, the loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with OAR 461-140-0070.

(c) In the OSIP, OSIPM, and QMB-DW programs:

(A) If the loan is a bona fide loan agreement (see paragraph (2)(a)(A) of this rule), the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.

(d) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(A) If the loan is a bona fide loan agreement, the money provided by the lender is not considered income.

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received.

(6) In the OSIPM program, if a client or a spouse of a client uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:

(a) In a transaction occurring on or after July 1, 2006:

(A) The balance of the payments owing to the client or spouse of the client is a transfer of assets for less than fair market value (see OAR 461-001-0000), unless all of the following requirements are met:

(i) The total value of the transaction is being repaid to the client or spouse of the client within three months of the client's life expectancy per that person's actuarial life expectancy as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.

(ii) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.

(iii) The contract is not cancelled upon the death of the individual receiving the payments under this transaction.

(B) If the loan results in a disqualification and the disqualification period has been served, payments against the principal and interest are treated as unearned income.

(b) In a transaction occurring before July 1, 2006, or for a transaction occurring on or after July 1, 2006, that does not result in a disqualification in subsection (a) of this section, the loan is treated as follows:

(A) Interest income is treated as unearned income.

(B) The loan is counted as a resource if:

(i) The financial group includes a client in a nonstandard living arrangement (see OAR 461-001-0000) and the client's spouse;

(ii) The transaction is on or after the date of the first continuous period of care (see OAR 461-001-0030); and

(iii) The amount of the loan plus other resources transferred exceeds the largest amount in OAR 461-160-0580(2)(f).

(C) For all other loans:

(i) If the loan is both a negotiable loan agreement (see paragraph (2)(a)(B) of this rule) and a bona fide loan agreement, the loan is counted as a resource valued at the outstanding principal balance.

(ii) If the loan does not qualify under subparagraph (i) of this paragraph, payments against the principal are counted as unearned income.

(7) In the OSIP and QMB-DW programs:

(a) Interest income is treated as unearned income.

(b) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource of the lender valued at the outstanding principal balance.

(c) If the loan does not qualify under subsection (b) of this section, the payments against the principal are counted as income to the lender.

(8) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(a) Interest income is treated as unearned income.

(b) Payments against the principal of all loans are excluded as income.

(9) In all programs other than the OSIP, OSIPM, and QMB programs:

(a) The interest payment is counted as unearned income.

(b) The payment of principal is excluded.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 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 28-1992, f. & cert. ef. 10-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; 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 10-2006, f. 6-30-06, cert. ef. 7-1-06; 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 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; [SSP 20-2009(Temp), f. & cert. ef. 7-29-09 thru 1-25-10]; Suspend by SSP 26-2009(Temp), f. & cert. ef. 9-1-09 thru 1-25-10]; Administrative correction 2-19-10; 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 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

### 461-145-0340

#### Lodger Income

(1) Lodger income is the amount a lodger (see OAR 461-001-0000) pays the filing group for room (rent) and board (meals).

(2) Lodger income is counted as follows:

(a) In the REF, REFM, and TANF programs, lodger income not excluded under OAR 461-155-0350 is treated as self-employment income.

(b) In all programs except the OSIP, OSIPM, QMB, REF, REFM, and TANF programs, lodger income is treated as self-employment income.

(c) In the OSIP, OSIPM, and QMB programs, lodger income is the amount a member of the household group (see OAR 461-110-0210) pays for the use of a room (rent) with or without board (meals) and is treated as unearned income:

(A) Lodger income may be reduced by the following allowable expenses such as--

(i) Interest and escrow portions of a mortgage payment (at the point the payment is made to the mortgage holder);

(ii) If the home is rented or leased by the financial group, the monthly rent payment;

(iii) Real estate insurance;

(iv) Repairs (such as a minor correction to an existing structure);

(v) Property taxes (if not included in an escrow portion of the mortgage payment);

(vi) Lawn care;

(vii) Snow removal;

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- (viii) Advertising for tenants; and
- (ix) Utilities.

(B) Allowable expenses are prorated based on the number of rooms designated for rent compared to the number of rooms in the house (excluding bathrooms). Basements and attics are counted only if they have been converted to living spaces (such as recreation rooms).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049  
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049  
Hist.: AFS 80-1989, f. 12-21-89, 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 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; 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 15-2014, f. & cert. ef. 7-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0360

### Motor Vehicle

(1) The value of disability-related apparatus, optional equipment, or low mileage is not considered in determining the fair market value (see OAR 461-001-0000) of an automobile, truck, or van. The fair market value of an automobile, truck, or van is presumed to be the "average trade-in value" established in the National Automobile Dealers Association's (NADA) Used Car Guide, Kelley Blue Book, or similar publication. A client may rebut the presumption with a statement from a car dealer, mechanic, or other reliable source. If the vehicle is not listed in the NADA Used Car Guide, Kelley Blue Book, or a similar publication, the estimate of the value by the client may be accepted unless it appears questionable, in which case additional evidence of the value is required.

(2) Some programs permit an exclusion for a portion of the equity value (see OAR 461-001-0000) for any licensed and unlicensed motor vehicles owned by the financial group (see OAR 461-110-0530):

(a) In the REF, REFM, SNAP, and TANF programs, this exclusion is up to \$10,000.

(b) Any remaining equity in that vehicle and the total equity value of all other vehicles is counted as a resource.

(3) In the EA and ERDC programs, all motor vehicles are excluded.

(4) In the OSIP, OSIPM, and QMB-DW programs:

(a) The total value of a vehicle selected by the financial group is excluded if it is used for transportation of the client or a member of the client's household.

(b) The total equity value of any vehicle not excluded under subsection (a) of this section and all other vehicles is counted as a resource.

(5) In the OSIP-EPD and OSIPM-EPD programs, if a vehicle was purchased as an employment and independence expense (see OAR 461-001-0035) or with moneys from an approved account (see OAR 461-001-0035), the total value of the vehicle is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049  
Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; 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 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; 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 9-1999, f. & cert. ef. 7-1-99; 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 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 32-2010, f. & cert. ef. 10-1-10; 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 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0365

### National and Community Services Trust Act (NCSTA), including AmeriCorps (other than AmeriCorps VISTA)

(1) The National and Community Service Trust Act (NCSTA) of 1993 (P.L. 103-82) amended the National and Community Service Act (NCSA) of 1990 (P.L. 101-610) that established a Corporation for National and Community Service. The Corporation administers national service programs providing living allowance, educational award, child care, and in-kind benefits.

(2) NCSTA payments, including AmeriCorps (except AmeriCorps VISTA which is covered in OAR 461-145-0110) are treated as follows:

(a) The living allowance (stipend benefits) is excluded.

(b) Educational award and in-kind benefits are excluded.

(c) The child care allowance is treated as follows:

(A) For clients in the ERDC and TANF programs who are eligible for direct provider payment of child care, the allowance is counted as unearned

income. The allowance is excluded only if the client already pays the provider. The provider may be paid for only the costs not covered by the allowance.

(B) For clients in the SNAP program who are receiving a child care deduction, the deduction is allowed only for the costs not covered by the allowance.

(C) In all other programs, the allowance is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049  
Stat. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049  
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0370

### Older Americans Act

(1) In all programs except the SNAP program, benefits under Title III of the Older Americans Act of 1965 (Nutrition Program for the Elderly) are excluded. In the SNAP program, these benefits are considered unearned income.

(2) In all programs except the SNAP program:

(a) A wage or salary paid to persons 55 years of age and older under Title V of the Older Americans Act of 1965 (Experience Works, American Association of Retired Persons, National Association for Spanish-Speaking Elderly, National Council on Aging, National Council on Black Aging, National Council of Senior Citizens, National Urban League, U.S. Forest Service) is considered earned income.

(b) Payments to an individual 55 years of age and older under Title V of the Older Americans Act of 1965 that are not a wage or salary are excluded.

(3) In the SNAP program, payments under Title V of the Older Americans Act of 1965 are excluded.

Stat. Auth.: ORS 411.060 & 411.816  
Stats. Implemented: ORS 411.060 & 411.816  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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 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, SPSS, 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.

# ADMINISTRATIVE RULES

(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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0420 Real Property

(1) For purposes of this rule, manufactured and mobile homes and floating homes and houseboats are treated in the same manner as real property (see OAR 461-001-0000).

(2) The applicant has the burden of proof of establishing the fair market value (see OAR 461-001-0000) of real property. Fair market value may be established by any methodology determined to accurately reflect the fair market value of the real property, including the provision of an appraisal or comparative market analysis performed by an impartial individual who is certified or licensed in the applicable jurisdiction.

(3) Real property that is not income-producing or the home of the financial group (see OAR 461-110-0530) is treated as follows:

(a) In the REF, REFM, and TANF programs, the equity value (see OAR 461-001-0000) of all real property that is not excluded under a TANF Interim Assistance agreement is counted as a resource.

(b) In the EA and ERDC programs, real property is excluded.

(c) In the SNAP program, real property is treated as follows:

(A) The equity value of real property is excluded if the financial group is making a good-faith effort to sell the real property at a fair market price.

(B) The equity value of the real property is counted as a resource if the financial group refuses to make a good-faith effort to sell.

(C) The resource is excluded if selling the resource would produce a net gain to the financial group of less than \$1,500.

(d) In the OSIP, OSIPM, and QMB-DW programs:

(A) The equity value of real property that was the home of the financial group is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price, unless the equity value in the home makes the client ineligible under OAR 461-145-0220(2)(a).

(B) The equity value of all other real property is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price. The equity value is counted after the real property is excluded for nine months unless the failure to sell it is for reasons beyond the reasonable control of the financial group.

(4) The treatment of real property that is income producing is covered in OAR 461-145-0250 and 461-145-0252.

(5) The treatment of the home of the financial group is covered in OAR 461-145-0220.

Stat. Auth.: ORS 411.060, 411.816 & 412.049  
Stats. Implemented: ORS 411.060, 411.816 & 412.049  
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 2-1994, f. & cert. ef. 2-1-94; 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 9-1999, 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; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; 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 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0455

### Resettlement and Placement (R&P) Grants

(1) A Reception and Placement (R&P) grant is a payment made by the United States Department of State through a national refugee resettlement agency to a local resettlement agency, refugee sponsor, or refugee. An R&P grant is provided to the resettlement agency to help with the costs of initial resettlement of a refugee in the United States. The resettlement agency provides a part of this grant to the refugee, usually in the refugee's first month after arrival, for the refugee's initial resettlement needs and not for ongoing living expenses.

(2) In the ERDC, REF, REFM, and TANF programs, an R&P grant is excluded from consideration as income or a resource for purposes of determining program eligibility or benefit levels, except as provided in OAR 461-140-0070.

(3) In the SNAP program, any amount paid directly to a SNAP household from an R&P grant is counted as unearned income. For an in-kind payment made directly to a provider by the resettlement agency, see OAR 461-145-0280.

(4) In the OSIP, OSIPM, and QMB programs, an R&P grant determined to be available to the refugee case is considered unearned income.

Stat. Auth.: ORS 411.060, 411.116, 411.404, 411.816, 412.049  
Stats. Implemented: ORS 411.060, 411.070, 411.116, 411.404, 411.816, 412.006, 412.049  
Hist.: AFS 1-2001(Temp), f. & cert. ef. 1-30-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0460

### Sale of a Resource

(1) In the ERDC program, all proceeds from the sale of a resource are excluded as income and as a resource.

(2) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(a) For the sale of a resource (except a home) originating prior to October 12, 2012:

(A) All proceeds received on a monthly or other periodic basis are counted as unearned income.

(B) All proceeds received on a lump-sum basis are excluded as income.

(b) For the sale of a home originating prior to October 1, 2012 all proceeds are excluded as income.

(c) For a sale of a resource (including a home) originating on or after October 1, 2012:

(A) The interest portion of proceeds is counted as unearned income.

(B) The principal portion of proceeds is excluded as income.

(3) In the REF, REFM, and TANF programs:

(a) Proceeds from the sale of an excluded resource to the extent reinvested in another excluded resource are excluded as income and as a resource.

(b) All proceeds from the sale of the resource are counted as unearned income, unless excluded in subsection (a) of this section.

# ADMINISTRATIVE RULES

(4) In all programs except the ERDC, QMB-BAS, QMB-SMB, QMB-SMF, REF, REFM, and TANF programs, proceeds from the sale of a resource are treated as follows:

(a) Proceeds from the sale of a resource (other than a home) received on a monthly or other periodic basis are counted as unearned income, except that in the OSIPM and QMB-DW programs for a sale originating on or after October 1, 2012 all proceeds that are principal are counted as a resource.

(b) Proceeds from the sale of a resource (other than a home) received on a lump-sum basis are treated as follows, except that in the OSIPM and QMB-DW programs for a sale originating on or after October 1, 2012 all proceeds that are interest are treated as unearned income:

(A) If the proceeds are from the sale of an excluded resource, the amount reinvested in another excluded resource is excluded, and the remainder is counted as a resource.

(B) The proceeds from all other sales are counted as a resource. If the proceeds put the benefit group (see OAR 461-110-0750) over the resource limit, the proceeds are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(c) Proceeds from the sale of the home of the financial group (see OAR 461-110-0530) are excluded for three months if the financial group intends to use the proceeds (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded proceeds in the OSIP and QMB-DW programs) to buy another home, except as follows:

(A) In the OSIPM (except for clients eligible under OAR 461-135-0771) and QMB-DW programs for a home sold on or after October 1, 2012:

(i) Principal payments, including lump-sum payments, are excluded for three full calendar months from the date of receipt if the financial group intends to use the proceeds to buy another home or for associated costs including:

- (I) Downpayments;
- (II) Settlement costs;
- (III) Loan processing fees and points;
- (IV) Moving expenses;
- (V) Necessary repairs to or replacement of the new home's structure or fixtures (including roof, furnace, plumbing, built-in appliances) that are identified and documented prior to occupancy; and
- (VI) Mortgage payments.

(ii) For the purposes of subparagraph (i) of this paragraph, funds that are obligated by contract during these three full calendar months are also excluded.

(iii) Interest payments are counted as unearned income.

(B) For clients eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the financial group's home, if the financial group intends to use them to buy another home (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded proceeds), are treated as follows:

(i) For a home sold prior to October 1, 2012, the proceeds are excluded for 12 full calendar months.

(ii) For a home sold on or after October 1, 2012:

(I) Principal payments, including lump-sum payments, are excluded for 12 full calendar months from the date of receipt.

(II) Interest payments are counted as unearned income.

(d) The proceeds from the sale of a home that are not reinvested in another home are counted as a resource, except as follows:

(A) In the OSIPM and QMB-DW programs for a home sold on or after October 1, 2012:

(i) Principal is counted as a resource.

(ii) Interest payments are counted as unearned income.

(B) In the SNAP program, the proceeds are treated as lump-sum income (see OAR 461-001-0000) under OAR 461-140-0120.

(e) In the SNAP program:

(A) Interest received monthly or on another periodic basis from the sale of a home is counted as unearned income.

(B) If a self-employed client sells a work-related asset, including equipment and inventory, the proceeds of the sale are treated as self-employment income (see OAR 461-145-0910).

(5) Costs of the type excluded under OAR 461-145-0920 are subtracted from proceeds counted as income under this rule.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.070, 410.080, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; 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 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; 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 24-2014, f. & cert. ef. 10-1-14; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0470

### Shelter-in-Kind Income

(1) Except as provided in section (2) of this rule:

(a) In the ERDC program, shelter-in-kind (see OAR 461-001-0000) payments are excluded, except earned shelter-in-kind is not excluded in the ERDC program.

(b) In the REF, REFM, and TANF programs, except for child support (see OAR 461-145-0080 and 461-145-0280), shelter-in-kind payments are excluded.

(c) In the SNAP program, shelter-in-kind housing and utility payments are excluded (see OAR 461-145-0130 about exclusion of earned in-kind income), except an expenditure by a business entity for shelter costs (see OAR 461-001-0000) of a principal (see OAR 461-145-0088) is counted as income.

(d) In the OSIP, OSIPM, and QMB programs:

(A) Except as provided in paragraph (C) of this subsection, unearned shelter-in-kind income is treated as follows:

(i) Shelter-in-kind payments from HUD are excluded.

(ii) If the shelter-in-kind includes all housing and utilities, the Shelter-in-Kind Standard for total shelter (see OAR 461-155-0300) is counted as unearned income.

(iii) If the shelter-in-kind includes all housing (utilities are not included), the Shelter-in-Kind Standard for housing costs (see OAR 461-155-0300) is counted as unearned income.

(B) Except as provided in paragraph (C) of this subsection, earned shelter-in-kind income is treated as follows:

(i) If shelter is provided for services related to the employer's trade or business and acceptance of the shelter is a condition of employment, the shelter-in-kind income is treated in accordance with paragraph (A) of this subsection.

(ii) Except as provided in subparagraph (i) of this paragraph, the fair market value (see OAR 461-001-0000) of the shelter is counted as earned income.

(C) In the OSIP and OSIPM programs, when a prorated standard is used (see OAR 461-155-0020 and OAR 461-155-0250) shelter-in-kind income is excluded.

(2) A payment for which there is a legal obligation to pay to a member of the financial group (see OAR 461-110-0530) that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income.

Stat. Auth.: ORS 409.050, 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, 414.042  
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 13-1991, f. & cert. ef. 7-1-91; 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 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0510

### SSI

(1) In the ERDC and SNAP programs, if an individual is required by law to receive an SSI benefit through a representative payee, the representative's fee is excluded.

(2) In the ERDC program:

(a) A monthly SSI payment is counted as unearned income.

(b) Lump-sum SSI payments are counted according to OAR 461-140-0120.

(3) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB-DW programs, a retroactive SSI payment is excluded for nine months after the month of receipt. After the nine-month period, any remaining amount is a countable (see OAR 461-001-0000) resource. For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.

(4) In the REF, REFM, and TANF programs:

(a) SSI monthly and lump-sum payments are excluded if the recipient will be removed from the financial group (see OAR 461-110-0530) the month following receipt of the payment.

(b) An SSI lump-sum payment is excluded in the month received and the next month.

(5) In the SNAP program:

# ADMINISTRATIVE RULES

(a) A monthly SSI payment is counted as unearned income.

(b) A lump-sum SSI payment is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685, 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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0540

### Trusts

(1) This section applies to all trust funds (see OAR 461-001-0000) in the REF, REFM, SNAP, and TANF programs. It also applies in the OSIP, OSIPM, and QMB-DW programs for trust funds established before October 1, 1993:

(a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group (see OAR 461-110-0530) for items covered by program benefits. In the OSIP, OSIPM, and QMB-DW programs, the amount of the trust that is considered legally available is the maximum amount that could be distributed to the beneficiary under the terms of the trust, regardless of whether the trustee exercises his or her authority to actually make a distribution.

(b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.

(c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.

(2) In the ERDC program, all trust funds are excluded.

(3) In the OSIP, OSIPM, and QMB-DW programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) to (11) of this rule.

(4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(a) All trust funds are excluded as a resource.

(b) A payment made from the trust to or for the benefit of the client is counted as unearned income.

(5) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:

(a) The client.

(b) The client's spouse.

(c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.

(d) Any other person, including a court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

(6) If the trust contains resources or income of another person, only the share attributable to the client is considered available.

(7) Except as provided in section (10) of this rule, the following factors are ignored when determining how to treat a trust:

(a) The purpose for which the trust was established.

(b) Whether or not the trustees have or exercise any discretion under the trust.

(c) Any restrictions on when or if distributions may be made from the trust.

(d) Any restrictions on the use of distributions from the trust.

(8) If the trust is revocable, it is treated as follows:

(a) In all programs except the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(A) The total value of the trust is considered a resource available to the client.

(B) A payment made from the trust to or for the benefit of the client is excluded as income.

(b) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.

(9) If the trust is irrevocable, it is treated as follows:

(a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.

(b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.

(c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.

(d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.

(10) Notwithstanding the provisions in sections (1), (3), and (5) to (9) of this rule, the following trusts are not considered in determining eligibility (see OAR 461-001-0000) for OSIPM and QMB-DW:

(a) A trust containing the assets of a client determined to have a disability that meets the SSI criteria that was created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:

(A) The client's parent (see OAR 461-001-0000).

(B) The client's grandparent.

(C) The client's legal guardian or conservator.

(D) A court.

(b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:

(A) Personal-needs allowance.

(B) Community spouse monthly maintenance needs allowance.

(C) Medicare and other private medical insurance premiums.

(D) Other incurred medical.

(c) A trust established on or after April 1, 1995 for the benefit of the client whose income is above 300 percent of the full SSI standard and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. The trust contains all of the client's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:

(A) Personal needs allowance and applicable room and board standard.

(B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:

(i) Trustee fees.

(ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income.

(iii) Conservatorship and guardianship fees and costs.

(C) Community spouse and family monthly maintenance needs allowance.

(D) Medicare and other private medical insurance premiums.

(E) Other incurred medical costs as allowed under OAR 461-160-0030 and 461-160-0055.

(F) Contributions to reserves or payments for child support, alimony, and income taxes.

(G) Monthly contributions to reserves or payments for the purchase of an irrevocable burial plan with a maximum value of \$5,000.

(H) Contributions to a reserve or payments for home maintenance if the client meets the criteria of OAR 461-155-0660 or OAR 461-160-0630.

(I) Patient liability not to exceed the cost of home and community-based care (see OAR 461-001-0030) or nursing facility services.

(11) This section of the rule applies to a trust signed on or after July 1, 2006.

(a) Notwithstanding the provisions of sections (1), (3), and (5) to (9) of this rule, a trust that meets the requirements of subsection (b) of this section is not considered in determining eligibility for OSIPM and QMB-DW, except that if the client is age 65 or older when the trust is funded or a trans-

# ADMINISTRATIVE RULES

fer is made to the trust, the transfer may constitute a disqualifying transfer of assets under OAR 461-140-0210 and following.

(b) This section of the rule applies to a trust that meets all of the following conditions:

(A) The trust is established and managed by a non-profit association.

(B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

(C) The trust is established by the client, client's parent, grandparent, or legal guardian or a court for clients who have disabilities.

(D) Upon the death of the beneficiary or termination of the trust, the trust pays to the state an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid. The amount paid to the state may be reduced by administrative costs directly related to administering the sub-trust account of the beneficiary.

(E) The trust contains the resources or income of a client who has a disability that meets the SSI criteria.

(12) In the OSIP, OSIPM, and QMB-DW programs, the provisions of this rule may be waived for an irrevocable trust if the Department determines that denial of benefits would create an undue hardship on the client if, among other things:

(a) The absence of the services requested may result in a life-threatening situation.

(b) The client was a victim of fraud or misrepresentation.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; 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 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 18-2002(Temp), f. & cert. ef. 11-19-02 thru 5-18-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; 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 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; 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 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0600

### Work-Related Capital Assets, Equipment, and Inventory

(1) As used in this rule:

(a) "Inventory" means goods that are in stock and available for sale to prospective customers.

(b) "Work-related equipment" means property essential to the employment or self-employment of a financial group (see OAR 461-110-0530) member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.

(2) A capital asset (see OAR 461-001-0000), other than work-related equipment (see section (1) of this rule) and inventory (see section (1) of this rule), is treated as follows:

(a) In the ERDC program, the equity value (see OAR 461-001-0000) of a capital asset is treated according to the rules for the asset.

(b) In the SNAP program, a capital asset used in a business is excluded as follows:

(A) Non-farm assets are excluded as long as the financial group is actively engaged in self-employment activities.

(B) Farm assets are excluded until one year after the date the individual quit self-employment as a farmer.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component (see OAR 461-190-0197) of the JOBS program, the value of a capital asset is excluded.

(B) For all other clients, the value of a capital asset is counted according to the rules in this division of rules.

(d) In the OSIP, OSIPM, and QMB-DW programs, a capital asset is excluded.

(3) Work-related equipment is treated as follows:

(a) In the EA, ERDC, OSIP, OSIPM, QMB-DW, and SNAP programs, the equity value of work-related equipment is excluded.

(b) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the equity value of the equipment is excluded.

(B) For all other clients, the equity value of the equipment is treated as a resource.

(4) Inventory is treated as follows:

(a) In the EA, ERDC, OSIP, OSIPM, QMB-DW, and SNAP programs, inventory is excluded as long as the client is engaged in self-employment activities.

(b) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the wholesale value of inventory remaining at the end of the semi-annual period covered in each income statement (see OAR 461-190-0197), less encumbrances, is counted as a resource.

(B) For all other clients, the wholesale value of inventory remaining at the end of a month, less encumbrances, is counted as a resource.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 23-2003, f. & cert. ef. 10-1-03; 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 23-2008, f. & cert. ef. 10-1-08; 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 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0910

### Self-Employment; General; Not OSIP, OSIPM, or QMB

(1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule, for all programs except SNAP, when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.

(2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual:

(a) Is considered an independent contractor by the business that employs the individual; or

(b) Meets at least four of the following criteria:

(A) Is engaged in an enterprise for the purpose of producing income.

(B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.

(C) Is principally responsible for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business, and has the authority to hire and fire employees to perform the labor or services.

(D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.

(E) Is not covered under an employer's liability or workers' compensation insurance policy.

(3) Notwithstanding section (2) of this rule:

(a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.

(b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered to be self-employed.

(4) In the ERDC, REF, SNAP, and TANF programs, self-employment income, including income from a microenterprise (see OAR 461-001-0000), is counted prospectively to determine eligibility (see OAR 461-001-0000) as follows:

(a) Self-employment income is annualized when it is:

(A) Received during less than a 12-month period but is intended as a full year's income.

(B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.

(b) Except in the ERDC program, self-employment income is treated as anticipated income when a financial group (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.

(5) In the REFM program:

(a) Self-employment income is counted only if received in the month of application.

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(b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.

(6) When determining the amount of countable (see OAR 461-001-0000) self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; 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 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 8-2008, f. & cert. ef. 4-1-08; 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 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0920

### Self-Employment; Costs That Are Excluded To Determine Countable Income

(1) This rule explains how to determine which costs are excluded from gross self-employment income.

(2) In all programs except the OSIP, OSIPM, and QMB programs, unless prohibited by section (4) of this rule, and subject to the provisions of sections (6) and (7) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:

(a) Labor (wages paid to an employee or work contracted out).

(b) Materials used to make a product.

(c) In the SNAP program — principal and interest paid to purchase income-producing property (see OAR 461-001-0000), such as real property, equipment, or capital assets. In all other programs, interest paid to purchase income-producing property, such as equipment or capital assets.

(d) Insurance premiums, taxes, assessments, and utilities paid on income-producing property.

(e) Service, repair, and rental of business equipment, including motor vehicles, and property that is owned, leased, or rented.

(f) Advertisement and business supplies.

(g) Licenses, permits, legal, or professional fees.

(h) Transportation costs at 20 cents per mile, if the cost is part of the business expense. Commuting expenses to and from the worksite are not part of the business expense.

(i) Charges for telephone service that are a necessary cost for self-employment.

(j) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider can document the cost. If the provider cannot document the actual cost, the USDA meal reimbursement rates are used.

(k) Materials purchased for resale, such as cosmetic products.

(l) For newspaper carriers, the cost of newspapers, bags, and rubber bands.

(3) In the OSIP, OSIPM, and QMB programs, unless prohibited by section (5) of this rule, and subject to the provisions of sections (6) and (7) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:

(a) Advertising.

(b) Car and truck expenses.

(c) Commissions and fees.

(d) Contract labor.

(e) Depletion.

(f) Depreciation.

(g) Employee benefit programs.

(h) Insurance, other than health.

(i) Mortgage interest.

(j) Legal and professional services.

(k) Office expenses.

(l) Pension and profit-sharing plans.

(m) Rent or lease of vehicles, machinery, equipment, and other business property.

(n) Repairs and maintenance.

(o) Supplies.

(p) Taxes and licenses.

(q) Travel, meals, and entertainment.

(r) Utilities.

(s) Wages, less employment credits.

(t) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider is able to document the cost. If the provider is unable to document the actual cost, the USDA meal reimbursement rates are used.

(u) Materials purchased for resale, such as cosmetic products.

(v) For newspaper carriers, the cost of newspapers, bags, and rubber bands.

(4) In all programs except the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:

(a) Business losses from previous months.

(b) Except in the SNAP program, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods.

(c) Federal, state, and local income taxes, draws or salaries paid to any financial group member, money set aside for personal retirement, and other work-related personal expenses, such as transportation, personal business, and entertainment expenses.

(d) Depreciation. For purposes of this section, "depreciation" means a prorated lessening of value assigned to a capital asset (see OAR 461-001-0000) based on its useful life expectancy and initial cost.

(e) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.

(f) Interest or fees on personal credit cards.

(g) Personal telephone charges.

(h) Shelter or utility costs associated with the individual's home, except as authorized by section (6) of this rule.

(5) In the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:

(a) Federal, state, and local income taxes.

(b) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.

(c) Interest or fees on personal credit cards.

(d) Personal telephone charges.

(e) Shelter or utility costs associated with the individual's home, except as authorized by section (6) of this rule.

(6) The exclusions for items used for both business and personal purposes, such as automobiles and a residence, including utilities, are limited by the following subsections:

(a) In the ERDC, OSIP, OSIPM, and QMB programs, the portion of the expense that is for business use only is excluded.

(b) In the SNAP program, costs are excluded for a separate office or shop located on the property used as a home, if the costs are billed separately from the residence. Costs for other items used for both business and personal use are excluded.

(7) If no member of the financial group (see OAR 461-110-0530) has been self-employed for a sufficiently long period to ascertain the costs of self-employment, the costs may be estimated.

(8) For an individual participating in the microenterprise component (see OAR 461-190-0197) of the JOBS program, costs are excluded according to this rule and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 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 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; 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 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; 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 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-145-0930

### Self-Employment; Determination of Countable Income

(1) The Department initially determines gross sales and receipts minus any returns and allowances (before excluding or deducting any costs). This rule explains how different programs exclude and deduct costs from self-employment gross sales and receipts.

# ADMINISTRATIVE RULES

(2) In the ERDC program, if an individual claims an excludable cost permitted under OAR 461-145-0920, at least 50 percent of gross self-employment income is excluded. The maximum exclusion is the total excludable cost under OAR 461-145-0920.

(3) In the OSIP, OSIPM, QMB, and REFM programs, all costs permitted under OAR 461-145-0920 are excluded.

(4) In the REF program, no costs are excluded.

(5) In the SNAP program, if there are any costs permitted under OAR 461-145-0920, there is a deduction of 50 percent of gross self-employment income.

(6) In the TANF program:

(a) For an individual participating in the microenterprise (see OAR 461-001-0000) component of the JOBS program, costs are excluded according to OAR 461-145-0920 and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.

(b) For all other individuals, no costs are subtracted (excluded).

Stat. Auth.: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049 & 414.826

Stats. Implemented: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049 & 414.826

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 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; 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 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; 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 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-150-0050

### Prospective Eligibility and Budgeting; OSIP, OSIPM, and QMB

In the OSIP, OSIPM, and all QMB programs, the Department uses prospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000) as follows:

(1) In the OSIP (except OSIP-IC), OSIPM (except OSIPM-IC), and all QMB programs:

(a) For the initial month (see OAR 461-001-0000), the Department uses prospective eligibility and budgeting. Money received from a non-recurring source before the date of application is excluded as income.

(b) Except for QMB-BAS, QMB-SMB, and QMB-SMF, if any money remains from a non-recurring source after the date of application, it is counted as a resource.

(c) For each ongoing month (see OAR 461-001-0000) the Department uses prospective eligibility and budgeting.

(2) In the OSIP-IC and OSIPM-IC programs, the budget month (see OAR 461-001-0000) is the initial month of eligibility.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.070, 410.080, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; 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 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-155-0010

### Use of Payment Standards to Establish Need

(1) Need is the amount at the Department's payment standards that represents the client's need for items covered by the benefit.

(2) Special needs are costs in addition to standard allowances.

(3) In the GA program, ongoing special needs are used to determine benefit amount as specified in OAR 461-160-0500.

(4) In the OSIP and OSIPM programs:

(a) The special need described in OAR 461-155-0630(2) is used to determine initial and ongoing eligibility.

(b) Except for individuals whose eligibility is determined based on the special need described in OAR 461-155-0630(2), special needs are used when determining the benefit amount or the client liability.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 418.100

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; 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 4-2005, f. & cert. ef. 4-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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

(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 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 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

(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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16



# ADMINISTRATIVE RULES

## 461-155-0210

### Payment Standards and Methods of Issuance; GA

In the GA program:

- (1) The payment standards for one person are as follows:
  - (a) The Housing Assistance Payment is the lesser of the individual's rent or \$545.
  - (b) The Utility Allowance is \$90.
  - (c) The Personal Incidental Fund is \$60.
- (2) The payment standards for two people are as follows:
  - (a) The Housing Assistance Payment is the lesser of the couple's rent or \$818.
  - (b) The Utility Allowance is \$139.
  - (c) The Personal Incidental Fund is \$93.
- (3) The Housing Assistance Payment is issued directly to the landlord and is contingent upon the receipt of a signed and valid Rental Agreement.
- (4) The Utility Allowance is issued directly to the individual.
- (5) The Personal Incidental Fund is issued directly to the individual.

Stat. Auth.: ORS 409.050 & 411.060

Stats. Implemented: ORS 411.010, 411.060, 411.710, 411.730 & 411.740

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

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1993(Temp), f. & cert. ef. 9-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 16-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-1996(Temp), f. 1-30-96, cert. ef. 2-1-96; AFS 10-1996, f. 3-27-96, cert. ef. 4-1-96; AFS 11-1997(Temp), f. & cert. ef. 8-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-1999, f. 7-29-99, cert. ef. 8-1-99; AFS 19-2000, f. 7-31-00, cert. ef. 8-1-00; AFS 16-2001(Temp), f. & cert. ef. 8-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; 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 10-2005(Temp), f. & cert. ef. 8-29-05 thru 2-25-06; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-155-0360

### Pursuit of Cost-Effective Employer Sponsored Health Insurance

- (1) This rule applies to the OSIPM program and is for the purpose of applying OAR 461-120-0345.
- (2) The Health Insurance Group (HIG) determines if employer sponsored health insurance meets the criteria as cost effective for the purpose of OAR 410-120-1960.
- (3) If the insurance is determined to be cost effective and the client or eligible applicant pursues the insurance, HIG will authorize reimbursement of the client or eligible applicant's portion of the premium per OAR 410-120-1960.

(4) If the insurance is determined to be cost effective and the client or eligible applicant fails to pursue cost effective employer sponsored insurance, the Department will apply a penalty per OAR 461-120-0345.

Stat. Auth.: ORS 411.060, 411.404

Stats. Implemented: ORS 411.060, 411.404

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2008, f. & cert. ef. 10-1-08; 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 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-155-0580

### Special Need; Laundry Allowances

- (1) OSIP and OSIPM clients who are receiving SSI or home and community-based care (see OAR 461-001-0030) or have adjusted income less than the OSIPM program income standard under OAR 461-155-0250 are eligible for a laundry allowance if they have proven, excessive, coin-operated laundry facility costs and do not:
  - (a) Have their own laundry facilities; or
  - (b) Reside in an adult foster care home, assisted living facility, nursing facility, residential care facility, or specialized living facility, unless the specialized living facility is apartment based.
- (2) This allowance may not exceed the amount required to wash and dry the laundry.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.706

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 12-1993, f. & cert. ef. 7-1-93; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-155-0600

### Special Need; Home Repairs; OSIP and OSIPM

In the OSIP and OSIPM programs, the Department will authorize a special need payment for home repairs for homeowners or buyers as a one-time special need within the following limits:

- (1) The repairs must be needed to remove a physical hazard to the health and safety of the client.
  - (2) Payment for repairs authorized by this rule;
    - (a) Is limited to the least expensive means possible;
    - (b) Cannot exceed \$1,000 in any 24-month period; and
    - (c) When the home is jointly owned, is limited to a percentage of the cost of the repairs equal to the percentage of client ownership.
  - (3) The repairs must cost less than moving to another home.
  - (4) Payment is limited to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless there are not three providers of the service in the local area.
  - (5) Before approving payment for repairs or new installations, the Department must consider the use value and determine whether it is consistent with the service plan for the client to remain in the house.
  - (6) Providers of the repairs or new installations must ensure that the work being completed meets current building codes.

(7) Repairs or replacements include, but are not limited to:

(a) Electrical wiring that does not constitute conversion to electrical space heating but that is needed:

- (A) To avoid condemnation; or
- (B) To remove a definite fire or shock hazard as documented by appropriate public officials.

(b) Plumbing — but not including the costs of plumbing items with which the house is not already equipped except that a toilet may be paid for when newly required by the creation or extension of a sewer district. Examples of what plumbing-related items may be covered include:

- (A) Toilets and sinks.
- (B) Cleaning or replacing septic tanks or cesspools.
- (C) Installing sewer connections from house to street—but not sewer installation — if required by the creation of a new sewer district or the extension of an existing district.
- (c) Repair or replacement of existing electric pumps for wells needed to continue the water supply. This does not include drilling a new well.
- (d) Heating equipment—repair of heating stoves, furnaces and water heaters and, if repair is not possible, replacement with the least expensive adequate equipment.
- (e) Repair of roofs.
- (f) Repair or replacement of steps and repair of floors.
- (8) A client with a life estate is not eligible for this special need allowance. The individual who will benefit from the life estate, following the death of the client, is considered responsible for the home repairs.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

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 12-1993, f. & cert. ef. 7-1-93; 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 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-155-0610

### Special Need; Moving Costs; OSIP and OSIPM

For clients who are 18 years of age or older in the OSIP and OSIPM programs:

- (1) The Department will authorize payment for the cost of moving a client's household effects as a one-time special need if the requirements of at least one of the following subsections are met:
  - (a) Moving is essential to provide nonhazardous housing. "Hazardous" housing means a building so deteriorated and unsafe that it is uninhabitable or subject to condemnation. If no official certification to that effect can be obtained, the condition of the dwelling must have been seen by a Department employee and documented in the case record.
  - (b) The client has been evicted for reasons other than his or her own neglect or failure to make rent or house payments.
  - (c) The move is a result of domestic violence or protective services.
  - (d) For a client in a nonstandard living arrangement (see OAR 461-001-0000), the client must move because the level of needed services increases or decreases.
  - (e) The needs of the client would be better met out of state.
- (2) Payment for moving costs authorized by this rule--
  - (a) May be authorized for not more than one move in any 12-month period;

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- (b) Is limited to the least expensive means possible; and
- (c) Cannot exceed \$500 in any 12-month period.

(3) Payments necessary for a one-time move may be made over a period not to exceed 30 consecutive days.

(4) A filing group that has received a payment for moving costs under this rule is not eligible for a moving cost payment again until the first day of the 12th month following the first payment that was made for the most recent month.

Stat. Auth.: ORS 411.060, 411.070, 411.706  
Stats. Implemented: ORS 411.060, 411.070, 411.704, 411.706  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-155-0620

### Special Need; Property Taxes

(1) OSIP and OSIPM clients who are homeowners or buyers are allowed a special need of one year of delinquent real property taxes, penalties and interest, if needed to prevent imminent foreclosure.

(2) Clients who are eligible for the Oregon Property Tax Deferral Program must opt to defer property taxes. If necessary, the state may provide payment for back property taxes, to bring the tax current, to allow clients to defer their ongoing property taxes.

(3) Clients who have not chosen to defer their property taxes, and have failed to pay their property taxes, will not receive a property tax special need payment unless the exception is authorized by the Department's Estates Administration Unit. The exception will be based on the value of the property, the potential of foreclosure and the potential of an Estates Administration Unit recovery of such property.

(4) Imminent foreclosure is indicated by a formal notice of foreclosure.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706 & 411.710  
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706 & 411.710  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-155-0640

### Special Need; Restaurant Meals

(1) To receive the restaurant meals special need payment, OSIP and OSIPM clients who are receiving SSI, home and community-based care (see OAR 461-001-0030), or have adjusted income less than the OSIPM program income standard under OAR 461-155-0250 must have proven medical and nutritional needs that cannot be met with meals purchased with SNAP program benefits.

(2) A client living in his or her own home who is unable to prepare his or her own meals, but is eligible for SNAP program benefits, may have his or her meals prepared by attendants that volunteer or are compensated by the Seniors and People with Disabilities Division In-Home Services program. A client also may receive, if eligible, Meals on Wheels services to supplement his or her diet.

(3) The payment standard for restaurant meals is \$60 per month.

Stat. Auth.: ORS 411.060  
Stats. Implemented: ORS 411.060, 411.706  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-155-0670

### Special Need; Special Diet Allowance

(1) In the OSIP, OSIPM, REF, REFM, SFPSS, and TANF programs, a client is not eligible for a special diet allowance if receiving any of the following:

- (a) Room and board.
- (b) Residential care facility services or assisted living facility services.
- (c) Nursing facility services.
- (d) Adult foster care services.
- (e) An allowance for restaurant meals.
- (f) A commercial food preparation diet.

(2) An REF, REFM, SFPSS, or TANF client, or an OSIP or OSIPM client receiving SSI, having an adjusted income less than the OSIPM program income standard under OAR 461-155-0250, or receiving in-home services is eligible for a special diet allowance if the client meets the following requirements:

(a) The client would be in an imminent life-threatening situation without the diet, as verified by medical documentation from a Department-approved medical authority (see OAR 461-125-0830); and

(b) A nutritionist verifies that the special diet needed exceeds the cost of a regular diet.

(3) The amount of a special diet allowance is calculated as follows:

(a) In the REF, REFM, SFPSS, and TANF programs, the difference between the actual cost of the special diet and a prorated share of the SNAP program benefit for the appropriate number of clients in the benefit group (see OAR 461-110-0750).

(b) In the OSIP and OSIPM programs, the lesser of the following:

(A) The difference between the actual cost of the special diet and the amount provided in the basic standard for food (see OAR 461-155-0250).

(B) A maximum of \$300 per month, or an exceptional amount, authorized by the SPD Program Assistance Section, which will not exceed the cost of home IV therapy.

(4) Local management staff must approve the request for a special diet allowance.

(5) Each special diet allowance must be reviewed at six-month intervals.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.014, 412.049  
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; 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 38-2009, f. 12-31-09, cert. ef. 1-1-10; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-160-0010

### Use of Resources in Determining Financial Eligibility

Countable (see OAR 461-001-0000) resources are used to determine eligibility (see OAR 461-001-0000) as follows:

(1) In the EA program, the countable resources of a financial group (see OAR 461-110-0530) are used to reduce benefits.

(2) In the ERDC, QMB-DW, REF, SNAP, and TANF programs, a need group (see OAR 461-110-0630) is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).

(3) In the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs, a need group (see OAR 461-110-0630) is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).

(a) When a child (see OAR 461-001-0000) is applying, the parental resources (see subsection (b) of this section) are deemed available to the child. The amount deemed available to the child is the amount the parental resources exceed the resource limit (see OAR 461-160-0015) of:

(A) A one person need group, if one parent (see OAR 461-001-0000) lives in the child's household; or

(B) A two person need group, if two parents (or one parent and the spouse (see OAR 461-001-0000) of that parent) live in the child's household.

(b) As used in this section, "parental resources" means the countable resources of:

(A) Each parent in the child's financial group, and

(B) Each spouse of a parent in the child's financial group.

(c) If more than one child is applying, the value of the deemed resources is divided evenly between the applying children.

(d) The parental resources are not deemed available to an ineligible child.

(e) The value of the parental resources is subject to deeming whether or not those resources are available to the child.

(4) In the OSIP-EPD and OSIPM-EPD programs:

(a) A need group is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).

(b) Any money in an approved account (see OAR 461-001-0035) is excluded during the determination of eligibility.

(c) Assets purchased from moneys in an approved account are excluded, provided they meet the requirements of OAR 461-145-0025.

(d) Assets purchased as employment and independence expenses (see OAR 461-001-0035) are excluded, provided they meet the requirements of OAR 461-145-0025.

(5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded and have no effect on eligibility (see OAR 461-160-0015).

Stat. Auth.: ORS 411.060, 411.070, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

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Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; 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 9-1999, f. & cert. ef. 7-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2013(Temp), f. & cert. ef. 4-10-13 thru 10-7-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-160-0015

### Resource Limits

(1) In the EA program, all countable (see OAR 461-001-0000) resources must be used to meet the emergent need.

(2) In the ERDC program, the limit is \$1,000,000.

(3) In the REFM program, there is no resource limit.

(4) In the OSIP and OSIPM programs, the resource limit is as follows:

(a) \$2,000 for a one-person need group (see OAR 461-110-0630) and \$3,000 for a two-person need group.

(b) \$1,000 for an OSIP need group eligible under OAR 461-135-0771. The total cash resources may not exceed \$500 for a one-person need group or \$1,000 for a two-person need group.

(c) \$5,000 for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).

(5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded.

(6) In the QMB-DW program, the resource limit is amended in January of each year based on the low income subsidy for Medicare Part D as published by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. Effective January 1, 2015 the resource limit is \$7,280 for a one-person need group and \$10,930 for a need group containing two or more individuals.

(7) In the REF program, the resource limit is:

(a) \$2,500 for any of the following:

(A) A new REF applicant for benefits.

(B) REF need group that has at least one mandatory (see OAR 461-130-0305) participant in an employment program who is:

(i) Receiving REF and not progressing in a required activity of an open case plan; or

(ii) Serving a current employment program disqualification (see OAR 461-130-0330).

(b) \$10,000 for a need group not covered under subsection (a) of this section.

(8) In the SNAP program, the resource limit is:

(a) \$3,250 for a financial group (see OAR 461-110-0530) with at least one member who is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).

(b) \$2,250 for all other financial groups.

(9) In the TANF program, the resource limit is:

(a) \$2,500 for any of the following:

(A) A new TANF applicant for benefits.

(B) TANF need group that does not have at least one caretaker relative (see OAR 461-001-0000) or parent (see OAR 461-001-0000) who is receiving TANF.

(C) TANF need group that has at least one JOBS participant who is:

(i) Receiving TANF and not progressing in an activity (see OAR 461-001-0025) of an open JOBS case plan (see OAR 461-001-0025); or

(ii) Serving a current JOBS disqualification (see OAR 461-130-0330).

(b) \$10,000 for a need group not covered under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 411.837, 412.049, 413.085, 414.685, 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 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; 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 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; 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 27-1996, f. 6-27-96, cert. ef. 7-1-96; 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 10-1998, f. 6-29-98, cert. ef. 7-1-98; 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 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2003, f. & cert. ef. 7-1-03; 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 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; 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 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-1; 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 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 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 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 27-2013, 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 26-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-160-0055

### Medical Costs That Are Deductible; OSIP, OSIPM, and SNAP

(1) This rule applies to SNAP filing group (see OAR 461-110-0370) members who are elderly (see OAR 461-001-0015) or who have a disability (see OAR 461-001-0015), and to clients in the OSIP and OSIPM programs.

(2) Medical costs are deductible to the extent a deduction is authorized in OAR 461-160-0415 and 461-160-0430 and in this rule.

(3) Health and hospitalization insurance premiums and coinsurance are deductible. In the OSIPM and SNAP programs, health insurance premiums paid less frequently than monthly may be prorated over the period covered by the premium.

(4) In the OSIPM and SNAP programs:

(a) Long-term care insurance premiums are deductible if the insurance pays for services while an individual is;

(A) Receiving home and community-based care (see OAR 461-001-0030);

(B) Receiving nursing facility services; or

(C) In an intermediate care facility for the mentally retarded (ICF/MR).

(b) A policy that is set up to pay a lump sum, similar to life insurance, is not deductible.

(5) The cost of a medical service is deductible if it is;

(a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or

(b) Except in the SNAP program, a medical necessity approved by the Department.

(6) Medical deductions are also allowed for, among other things, the cost of:

(a) Medical and dental care, including psychotherapy, rehabilitation services, hospitalization, and outpatient treatment.

(b) Prescription drugs and over-the-counter medications prescribed by a licensed practitioner, the annual fee for a drug prescription card, medical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

(c) In the SNAP program, such items as the following:

(A) Nursing care, nursing home care, and hospitalization, including payments for an individual who was a member of the filing group immediately prior to entering a hospital or a nursing home certified by the state. Deduction of these payments is also allowed for an individual who was a member of the filing group immediately prior to death if the remaining filing group members are legally responsible for payment of the expenses.

(B) Services of an attendant, home health aid, housekeeper, or provider of dependent care necessary due to the client's age or illness, including an amount equal to a one-person SNAP benefit group (see OAR 461-110-0750) if the client furnishes the majority of an attendant's meals.

(C) Prescribed assistance animals (such as a Seeing Eye Dog, Hearing Dog, or Housekeeper Monkey) that have received special training to provide a service to the client. This deduction includes the cost of acquiring these animals, their training, food, and veterinarian bills.

(D) Reasonable costs for transportation and lodging needed to obtain medical treatment or services.

(E) Installment plan arrangements made before a bill becomes past due. The expense is not deducted if the client defaults and makes a second agreement.

(7) In the SNAP program, the following costs, even if prescribed by a medical practitioner, are not allowable medical deductions:

(a) Costs for and related to medical use of marijuana, including registry identification cards.

(b) Costs for items related to special diets which can be purchased with SNAP benefits including, but not limited to, nutritional drinks and organic foods.

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 411.837, 414.685, 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 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. &

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cert. ef. 10-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04; 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 7-2005, f. & cert. ef. 7-1-05; 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 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 27-2012(Temp), f. & cert. ef. 7-12-12 thru 1-8-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 9-2015(Temp), f. & cert. ef. 3-10-15 thru 9-5-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-160-0060

### Use of Rounding in Calculating Benefit Amount

(1) In the REF and TANF programs, a benefit amount not a whole number of dollars is rounded down to the next lower whole dollar.

(2) In the ERDC program, total countable income is rounded down to the next lower whole dollar. The benefit figures are not rounded.

(3) In the GA, OSIP, OSIPM, and QMB programs, rounding is not used.

(4) In the SNAP program:

(a) Except as provided in subsection (b) of this section, when income and deductions are calculated, a figure ending with less than 50 cents is rounded to the next lower dollar and a figure ending with 50 cents or more is rounded to the next higher dollar.

(b) After multiplying the adjusted income by 30 percent, any amount from 1 to 99 cents is rounded up to the next higher dollar.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: 411.060, 411.404, 411.816, 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 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; 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 10-2002, f. & cert. ef. 7-1-02; 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 5-2009, f. & cert. ef. 4-1-09; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-160-0500

### Use of Income to Determine Benefits; GA

In the GA program, the countable income (see section (1) of this rule) and adjusted income (see section (3) of this rule) of an individual or couple are used to determine benefit amount as follows:

(1) For purposes of this rule, "countable income" is calculated using OSIPM countable income methodology except that in-kind and shelter in-kind income is excluded.

(2) For purposes of this rule, "eligible spouse" means a spouse who is eligible for and receiving OSIPM under OAR 461-125-0370(1)(c).

(3) To determine "adjusted income", the Department starts with the total countable income of the individual or couple (as applicable) and subtracts in the following order:

(a) One standard deduction of \$20 from unearned income.

(A) This deduction may be taken from earned income if the individual has less than \$20 in unearned income.

(B) This deduction does not apply to a benefit based on need that is totally or partially funded by the federal government or by a nongovernmental agency.

(b) One standard earned income deduction of:

(A) \$65 for an individual who is not blind; or

(B) \$85 for an individual who is blind.

(c) An income deduction for documented impairment-related work expenses or blind work expenses for an individual under age 65.

(d) One half of the remaining earned income.

(e) Deductions under a plan for self-support for an individual less than the age of 65.

(4) For a single individual, the benefit amount for housing assistance is determined by subtracting the adjusted income of the individual from the one-person payment standard (see OAR 461-155-0010).

(5) For a married individual whose spouse is in the OSIPM household group (see OAR 461-110-0210), the amount for housing assistance is determined as follows:

(a) If the individual is married to and living with someone not considered an eligible spouse (see section (2) of this rule), the adjusted income of the couple is subtracted from the one-person standard (see OAR 461-155-0010).

(b) If the individual is married to an eligible spouse, the adjusted income of the couple is subtracted from the two-person payment standard (see OAR 461-155-0010).

(6) The amounts for the Personal Incidental Fund and Utility assistance are not affected by adjusted income and are determined as follows.

(a) Single individuals and individuals married to someone not considered an eligible spouse receive benefits according to the one-person standard (see OAR 461-155-0010).

(b) If the individual is married to an eligible spouse who is in the individual's OSIPM household group, the couple receives benefits according to the two-person standard (see OAR 461-155-0010).

Stat. Auth.: ORS 411.060 & 411.710

Stats. Implemented: ORS 411.060 & 411.710

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 17-1995, f. 7-31-94, cert. ef. 8-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; 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 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-160-0620

### Income Deductions and Client Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM

In the OSIPM program:

(1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.

(2) Except as provided otherwise in OAR 461-160-0610, the liability of the individual is determined according to subsection (3)(i) of this rule.

(3) Deductions are made in the following order:

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM-AD and OSIPM-OAA programs. The deduction is \$85 in the OSIPM-AB program.

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.

(c) One of the following need standards:

(A) A \$60 personal needs allowance for an individual receiving long-term care services.

(B) A \$90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.

(C) For an individual who receives home and community-based care:

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.

(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.

(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutionalized spouse (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.

(A) Step 1 — Determine the maintenance needs allowance. \$2,003 is added to the amount over \$601 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$2,980.50 whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or house-keeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.

(B) Step 2 — Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.

(C) Step 3 — If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(e) A dependent income allowance as follows:

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below \$2,003. To determine the income allowance of each eligible dependent:

(i) The monthly income of the eligible dependent is deducted from \$2,003.

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.

(B) For a case with no community spouse:

# ADMINISTRATIVE RULES

(i) The allowance is the TANF adjusted income standard for the individual and eligible dependents.

(ii) The TANF standard is not reduced by the income of the dependent.

(f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan. This includes the public and private health insurance premiums of the community spouse and the individual's dependent.

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(i) The individual's liability is determined as follows:

(A) For an individual receiving home and community-based care (except an individual identified in OAR 461-160-0610(4)), the liability is the actual cost of the home and community-based care or the adjusted income of the individual, whichever is less. This amount must be paid to the Department each month as a condition of being eligible for home and community-based care. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.

(B) For an individual who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for the Mentally Retarded, or a mental health facility, there is a liability as described at OAR 461-160-0610.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.706, 413.085, 414.065, 414.685  
 Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.706, 413.085, 414.065, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; 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 5-1997, f. 4-30-97, cert. ef. 5-1-97; 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 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 6-1999, f. & cert. ef. 4-22-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; 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 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; 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 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 9-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; 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 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 23-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 16-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 25-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 3-2014, f. 1-31-14, cert. ef. 2-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 17-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 21-2015, f. & cert. ef. 7-1-15; SSP 24-2016, f. 6-29-16, cert. ef. 7-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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, the GA recipient may not receive a TANF cash payment for themselves in the month a GA cash payment was received.

(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 SSI.

(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, REFM, MAGI Parent or Other Caretaker Relative, or MAGI Pregnant Woman.

(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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-165-0050

### Dual Payee; When to Use

(1) For OSIP, REF, and TANF, use a dual-payee check for protective payments if the benefit group has shown they are not able to properly manage benefits meant to meet their needs. Issue the dual-payee check in both the name of the client and the name of the service provider.

(2) Issue EA checks for shelter, moving costs, property taxes, and home repairs as dual-payee revolving fund checks. The supervisor or branch manager must authorize an exception to this policy in advance.

(3) To make sure a JOBS or OFSET payment is used to meet a specific need, the branch office may write a dual-payee revolving fund check in the name of both the client and the vendor.

Stat. Auth.: ORS 411.060, 411.070, 411.706, 411.816, 412.006, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.706, 411.816, 412.006, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-165-0120

### Benefits for a Client in an Acute Care Hospital

(1) In the REF, REFM, and TANF programs, regular monthly benefits continue when a client enters an acute care hospital. The monthly benefits remain unchanged until the client returns home or enters some other living arrangement. An authorized representative designated by the client or the branch may be used if necessary.

# ADMINISTRATIVE RULES

(2) In the ERDC, GA, OSIP, OSIPM, and QMB programs, regular monthly benefits continue if a client will be in the acute care hospital for less than 30 days. If the client will be in the acute care hospital for 30 days or more or until death, the client's needs are determined as if the client were in a nursing facility.

(3) In the SNAP program, regular monthly benefits continue if the client will be in his or her own home 50 percent of the time or more. If the client will be in an institution for more than 50 percent of a calendar month, the client is not eligible for SNAP benefits.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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, 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.

(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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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, 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:

# ADMINISTRATIVE RULES

(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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-175-0240

### Notice Situation; Lump-Sum

If a financial group (see OAR 461-110-0530) receives lump-sum income that will make the financial group ineligible or cause a reduction in benefits:

(1) The Department will deny benefits to an applicant and send a basic decision notice (see OAR 461-001-0000).

(2) If a benefit group (see OAR 461-110-0750) is receiving benefits, the Department will stop or reduce them and:

(a) If the action is based on changes reported on the Interim Change Report form, send a continuing benefit decision notice (see OAR 461-001-0000).

(b) If the action is not based on changes reported on the Interim Change Report form, send a timely continuing benefit decision notice (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.095, 411.816  
Stats. Implemented: ORS 411.060, 411.095, 411.816  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; 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 13-1994, f. & cert. ef. 7-1-94; AFS 24-2001, f. & cert. ef. 11-1-01; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-175-0310

### Notice Situation; Asset Transfer Disqualification

(1) When the Department proposes to disqualify a filing group (see OAR 461-110-0310) because of a disqualifying transfer of assets (see OAR 461-140-0210), the following notice is sent:

(a) For new applicants, a basic decision notice (see OAR 461-001-0000).

(b) For ongoing clients, a timely continuing benefit decision notice (see OAR 461-001-0000).

(2) A notice required by this rule includes the amount of uncompensated value used in the eligibility determination and the period of ineligibility caused by the transfer.

(3) In the OSIP and OSIPM programs, the notice must also include:  
(a) The action that resulted in the disqualification; and  
(b) Information that the individual, or the facility in which the individual resides (on behalf of the individual), may apply for a waiver of the disqualification on the basis of undue hardship.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 410.070, 411.060, 411.070, 411.095, 411.816, 412.049, 413.085, 414.685  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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 OSIPM program, 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 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 OSIPM on the date of birth, even if she is not currently eligible for benefits.

(b) In the SFPSS and TANF programs, it is:

(A) The date of birth, if all eligibility requirements are met and verified within 45 days after the birth; or

(B) The date all eligibility factors are met and verified, if the verification is completed more than 45 days after the date of birth.

(3) In the ERDC program, the effective date for adding an individual to the need group (see OAR 461-110-0630) or benefit group is as follows:

(a) If adding the individual to the need group will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.

(b) If adding the individual to the need group increases the copay — for instance, because the individual receives income—the effective date is the first of the month following the end of the decision notice period (see OAR 461-175-0050).

(c) The effective date for adding a child to the benefit group — that is, covering the cost of the child's care—is the earliest of the following:

(A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.

(B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.

(C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 414.042  
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 4-2016(Temp), f. & cert. ef. 1-22-16 thru 6-11-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

# ADMINISTRATIVE RULES

## 461-180-0065

### Effective Dates; Ending Disqualifications

(1) The effective date for ending a JOBS disqualification or a disqualification related to diagnosis, counseling, or treatment for substance abuse or mental health is:

(a) The date the client meets the requirements for ending the JOBS disqualification (see OAR 461-130-0335); or

(b) The date the client meets the requirements for ending the disqualification for failure to comply with OAR 461-135-0085(1) (see OAR 461-135-0089).

(2) In the OSIPM program, the effective date for ending the disqualification for failing to enroll in cost-effective, employer-sponsored health insurance is the date the client provides verification of enrollment during the open enrollment period.

(3) In the SNAP program, the effective date for ending an employment program disqualification is the date the client fulfills the requirements to end the disqualification or the first of the month following the minimum disqualification period, whichever occurs later (see OAR 461-180-0010 regarding the effective date for adding a person to an open case).

(4) For an IPV disqualification, the disqualification ends the day after the minimum disqualification period ends, if there is no additional IPV disqualification to be served and all eligibility requirements are met.

(5) For all other disqualifications in the TANF program, the disqualification ends whenever the client agrees to cooperate.

(6) For other disqualifications in the SNAP program, the disqualification ends at the end of the disqualification period.

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 22-2004, f. & cert. ef. 10-1-04; 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 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-180-0070

### Effective Dates; Initial Month Benefits

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made if;

(A) All eligibility (see OAR 461-001-0000) requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is the first of the month following the day all eligibility requirements are met and verified.

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:

(a) The date an individual requests benefits, if the individual was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the REF program, when a filing group (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is:

(a) If all eligibility requirements, including an interview, are completed by the 45th day from the date of request (see OAR 461-115-0030), the effective date for starting benefits is the filing date (see OAR 461-115-0040).

(b) If all eligibility requirements are not met by the 45th day from the date of request, a new date of request and filing date must be established.

(6) In the TANF program, when a filing group (see OAR 461-110-0330) makes an initial application or applies after the end of the certification period (see OAR 461-001-0000), the effective date for starting TANF benefits is one of the following:

(a) Except as provided in subsections (b) to (d) of this section, if all eligibility requirements, including a TANF interview, are completed by the 45th day from the date of request, the effective date for starting benefits is the filing date. If all eligibility requirements are not met by the 45th day from the date of request, a new date of request and filing date must be established.

(b) If the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month preceding the month in which the due date falls.

(c) For an individual in the Pre-TANF program, the effective date for the initial month of benefits is the date the Pre-TANF program ends as provided in OAR 461-135-0475.

(d) For a JOBS support service payment, the effective date is the date the individual meets all eligibility requirements in OAR 461-190-0211.

(7) In the SFPSS program, when moving a TANF program recipient to SFPSS, the effective date for the initial month of SFPSS program benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

(b) If the day all eligibility requirements are met and verified falls after the "compute deadline," the initial month of SFPSS program benefits will be the first of the month following the month after "compute deadline." For purposes of this rule, "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685

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 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 26-1996, f. 6-27-96, cert. ef. 7-1-96; 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 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; 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 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; 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 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; 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 8-2013, f. & cert. ef. 4-1-13; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 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 OSIPM and QMB-DW programs:

(a) Except as provided for in subsections (b) to (h) of this section:

(A) If the client meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the first day of the month that includes the date of request. An OSIPM program client who is assumed eligible under OAR 461-135-0010(5) meets "all eligibility requirements" for the purposes of this section as follows:

(i) Effective the first day of the month of the initial SSI payment if the client is age 21 or older.

(ii) Effective the first day of the month prior to the month of the initial SSI payment if the client is under the age of 21.

(B) If the client does not meet all eligibility requirements on the date of request, but meets all requirements after the date of request, within the application processing time frames of OAR 461-115-0190, it is the first day of the month that includes the date that all eligibility requirements are met.

(b) If the client does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new date of request.

(c) Except as provided for in subsections (d) and (e) of this section, for a new applicant who is an inmate (see OAR 461-135-0950) on any day of the month during the month that the applicant is determined to meet all eligibility requirements, the effective date is determined in accordance with subsections (a) and (b) of this section, except that coverage is not in effect for any day during the month that the applicant is an inmate other than the date of incarceration and the date of release.

(d) The effective date for an individual residing in a public institution (see OAR 461-135-0950) meeting the requirements of OAR 461-135-0950 regarding applications received by individuals with a serious mental illness is determined in accordance with OAR 461-135-0950.

(e) The effective date for an individual meeting the eligibility requirements of OAR 461-135-0950 regarding residents of a state psychiatric



# ADMINISTRATIVE RULES

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; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-195-0521

### Calculation of Overpayments

This rule specifies how the Department calculates an overpayment (see OAR 461-195-0501).

(1) The Department calculates an overpayment by determining the amount the client received or the payment made by the Department on behalf of the client that exceeds the amount for which the client was eligible.

(2) When a filing group, OCCS Medical programs household group (see OAR 410-200-0015), ineligible student, or authorized representative (see OAR 461-115-0090 and OAR 410-200-0015) fails to report income, the Department calculates and determines the overpayment by assigning unreported income to the applicable budget month without averaging the unreported income, except:

(a) A client's earned income reported quarterly from the Employment Department is considered received by the client in equal amounts during the months identified in the report.

(b) In the ERDC, MAA, MAF, REF, SNAP, and TANF programs, a client's actual self-employment income is annualized retrospectively to calculate the overpayment.

(c) In the OCCS Medical programs, if actual income is not available for the months in which an overpayment occurred, a client's actual self-employment income (see OAR 410-200-0015) received during the year when an overpayment occurred is annualized to calculate an overpayment.

(3) When using prospective budgeting (see OAR division 461-150) and the actual income differs from the amount determined under OAR 461-150-0020(2), there may be a client error overpayment (see OAR 461-195-0501) only when the filing group, ineligible student, or authorized representative withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.

(4) When using anticipated income for the OCCS Medical programs and the actual income differs from the amount determined under OAR 410-200-0310, there may be a client error overpayment only when the OCCS Medical programs household group (see OAR 410-200-0015) or authorized representative (see OAR 410-200-0015) withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.

(5) When a filing group, ineligible student, or authorized representative fails to report all earned income within the reporting time frame, the earned income deduction (see OAR 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) is applied as follows:

(a) In the OSIP, OSIPM, QMB, and REFM programs, the Department allows the earned income deduction.

(b) In the MAA, MAF, REF, and TANF programs, the Department allows the earned income deduction when good cause (see section (6) of this rule) exists.

(c) In the SNAP program, no deduction is applied to earned income if the amount or source of income was not timely reported.

(6) For the purposes of OAR 461-195-0501 to 461-195-0561, "good cause" means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.

(7) When support is retained:

(a) In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimbursement each month is added to other income to determine eligibility (see OAR 461-001-0000). When a client is not eligible for TANF program benefits, the overpayment is offset by the support the Department of Justice retains as a current reimbursement.

(b) In the medical programs, the amount of the cash medical support the Department retains each month is excluded income and not used to determine eligibility for medical program benefits. When a client has incurred a medical program overpayment, the overpayment is offset by the amount of the cash medical support the Department retains during each month of the overpayment.

(8) In the REF and TANF programs, when a client directly receives support used to determine eligibility or calculate benefits, the overpayment is:

(a) If still eligible for REF or TANF program benefits, the amount of support the client received directly; or

(b) If no longer eligible for REF or TANF program benefits, the amount of program benefits the client received.

(9) When an overpayment occurs due to the failure of an individual to reimburse the Department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the overpayment is limited to the lesser of the following:

(a) The amount of the payment from the Department;

(b) Cash medical support; or

(c) The amount by which the total of all payments exceeds the amount payable for such a need under the Department's rules.

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(10) Benefits paid during a required notice period (see OAR 461-175-0050, OAR 410-200-0120) are included in the calculation of the overpayment when:

(a) The filing group, OCCS Medical programs household group (see OAR 410-200-0015), ineligible student, or authorized representative (see OAR 461-115-0090 and 410-200-0015) failed to report a change within the reporting time frame under OAR 461-170-0011 or 410-200-0235; and

(b) Sufficient time existed for the Department to adjust the benefits to prevent the overpayment if the filing group, OCCS Medical program household group (see OAR 410-200-0015), ineligible student, or authorized representative (see OAR 461-115-0090 and OAR 410-200-0015) had reported the change at any time within the reporting time frame.

(11) In the SNAP program:

(a) If the benefit group (see OAR 461-110-0750) was categorically eligible, there is no overpayment based on resources.

(b) For a filing group (see OAR 461-110-0370) found eligible for SNAP program benefits under OAR 461-135-0505(1)(a) to (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for SNAP program benefits as long as the eligibility requirement under OAR 461-135-0505(1)(d) is met. A benefit group of one or two individuals would be entitled to at least the minimum SNAP program benefit allotment under OAR 461-165-0060.

(c) For a filing group found eligible for SNAP program benefits only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185 percent of the Federal Poverty Level, the filing group is no longer categorically eligible. The overpayment is the amount of SNAP program benefits incorrectly received.

(12) In the OSIP and OSIPM programs, when a client does not pay his or her share of the cost of services (see OAR 461-160-0610) or the OSIP-EPD or OSIPM-EPD program participant fee (see OAR 461-160-0800) in the month in which it is due, an overpayment is calculated as follows:

(a) All payments made by the Department on behalf of the client during the month in question are totaled, including but not limited to any payment for:

- (A) Capitation;
- (B) Long term care services;
- (C) Medical expenses for the month in question;
- (D) Medicare buy-in (when not concurrently eligible for an MSP);
- (E) Medicare Part D;
- (F) Mileage reimbursement;
- (G) Special needs under OAR 461-155-0500 to 461-155-0710; and
- (H) Home and community-based care (see OAR 461-001-0030), including home delivered meals and non-medical transportation.

(b) Any partial or late liability payment made by a client receiving home and community-based care in-home services or participant fee paid by an OSIP-EPD or OSIPM-EPD program client is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the overpayment.

(13) When a client's liability is unreduced pending the outcome of a contested case hearing about that liability the overpayment is the difference between the liability amount determined in the final order and the amount, if any, the client has repaid.

(14) In the OCCS Medical programs, OSIPM, QMB, and REFM programs if the client was not eligible for one program, but during the period in question was eligible for another program:

(a) With the same benefit level, there is no overpayment.

(b) With a lesser benefit level, the overpayment is the amount of medical program benefit payments made on behalf of the client exceeding the amount for which the client was eligible.

(15) When an overpayment is caused by administrative error (see OAR 461-195-0501), any overpayment of GA, OSIP, REF, SFPSS, or TANF program benefits is not counted as income when determining eligibility for the OCCS Medical programs, OSIPM, and REFM programs.

(16) Credit against an overpayment is allowed as follows:

(a) In the GA, REF, and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless the Department authorized the procedure prior to its completion.

(b) In the SNAP program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.

(c) In the SFPSS and TANF programs, if the overpayment is caused by reported earned income, a credit is allowed for the Post-TANF grant if

the client meets eligibility under OAR 461-135-1250 and the client has received less than 12 months of Post-TANF program benefits.

(d) In all programs, for an underpayment of benefits in the program in which the overpayment occurred.

(17) In the SNAP program, in compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009 through September 30, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the overpayment amount unless the filing group was ineligible for SNAP program benefits. [Table not included. See ED. NOTE.]

(18) In the REF program, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(8)(a), the amount of the overpayment is the amount of cash benefits the client used or accessed.

(19) In the SFPSS and TANF programs, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(9)(a), the amount of the overpayment is the amount of cash benefits the client used or accessed.

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, HB 2089 (2013, Section 10)  
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, 416.350  
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 36-2013(Temp), f. & cert. ef. 11-1-13 thru 4-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 19-2015, f. & cert. ef. 7-1-15; SSP 2-2016, f. & cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

## 461-195-0541

### Liability for Overpayments

(1) In all programs except the OCCS Medical, OSIP, OSIPM, QMB, REFM, and SNAP programs or a child care program, the following persons are liable for repayment of an overpayment (see OAR 461-195-0501):

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative (see OAR 461-001-0000) and his or her spouse (see OAR 461-001-0000) who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent (see OAR 461-001-0000) or caretaker relative of a child (see OAR 461-001-0000) in the benefit group (see OAR 461-110-0750) and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An individual determined liable for an overpayment remains liable when the individual becomes a member of a new filing group.

(e) An authorized representative (see OAR 461-115-0090) when the authorized representative gave incorrect or incomplete information or withheld information resulting in the overpayment.

(2) In the OCCS Medical and REFM programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group, the OCCS Medical programs household group (see OAR 410-200-0015), or required to be in the filing group and the payee when the overpayment was incurred, except an individual who;

(A) Was a child or dependent child (see OAR 461-001-0000) at the time of the overpayment; or

(B) Did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group or OCCS Medical programs household group (see OAR 410-200-0015) when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group or OCCS Medical programs household group (see OAR 410-200-0015) and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group or OCCS Medical programs household group when the overpayment was incurred.

(d) An authorized representative (see OAR 461-001-0000 and OAR 410-200-0015) when the authorized representative gave incorrect or incomplete information or withheld information that resulted in the overpayment.

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(3) In a child care program:

(a) An overpayment caused by administrative error is collectible as follows:

(A) The provider is liable for a provider overpayment made on behalf of a client eligible for child care payments.

(B) Each adult in the filing group or required to be in the filing group is liable for an overpayment if the client was not eligible for the payment.

(b) Each adult in the filing group or required to be in the filing group is liable for a client overpayment, and a provider is liable for an overpayment caused by the provider. The client and provider are jointly and severally liable for an overpayment caused by both. In the case of an alleged provider overpayment, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.

(c) An adult who cosigned an application with a minor provider applicant is liable for an overpayment incurred by the minor provider.

(4) In the GA, OSIP, OSIPM, and QMB programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who;

(A) Was a child or dependent child at the time of the overpayment; or

(B) Did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An authorized representative when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.

(5) In the SNAP program, the following persons are liable for repayment of an overpayment or a claim that results from trafficking (see OAR 461-195-0601(2)) of SNAP benefits:

(a) The primary person (see OAR 461-001-0015) of any age, an ineligible student in the household, and all adults (see OAR 461-001-0015) who were members of or required to be in the filing group (see OAR 461-110-0370) when excess benefits were issued.

(b) A sponsor of a non-citizen household member if the sponsor is at fault, for payments prior to November 21, 2000.

(c) A drug or alcohol treatment center or residential care facility that acted as the authorized representative of the client.

(6) Except as provided otherwise in section (7) of this rule, in all programs, both a non-citizen and the sponsor of the non-citizen are liable for an overpayment incurred if the overpayment results from the failure of the sponsor to provide correct information (see OAR 461-145-0820 to 461-145-0840). If the sponsor had good cause (see OAR 461-195-0521(5)) for withholding the information, the sponsor is not liable for the overpayment.

(7) In the SNAP program, the sponsor of a non-citizen is not liable under section (6) of this rule for payments on or after November 21, 2000.

(8) In the OCCS medical programs, the November 2013 amendments to OAR 461-195-0501, 461-195-0521, 461-195-0541, and 461-195-0561 apply as of October 1, 2013.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 2013 HB 2089 Sec. 10

Stats. Implemented: ORS 409.010, 411.060, 411.087, 411.404, 411.630, 411.635, 411.640, 411.690, 411.816, 412.014, 412.049, 416.350

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; 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 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 14-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 23-2013, f. & cert. ef. 9-20-13; SSP 36-2013(Temp), f. & cert. ef. 11-1-13 thru 4-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16

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**Rule Caption:** Aligning eligibility policy for the general assistance project established by HB 4042 (2016)

**Adm. Order No.:** SSP 32-2016(Temp)

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**Notice Publication Date:**

**Rules Amended:** 461-110-0530

**Subject:** OAR 461-110-0530 about financial groups is being amended to remove reference to the GA program. The rule text showing proposed changes is available at [http://www.dhs.state.or.us/policy/selfsufficiency/ar\\_temporary.htm](http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm).

**Rules Coordinator:** Kris Skaro—(503) 945-6067

## 461-110-0530

### Financial Group

(1) Except as provided in section (4) of this rule, the “financial group” consists of the filing group (see OAR 461-110-0310) members whose income and resources the Department considers in determining eligibility (see OAR 461-001-0000) and benefits.

(2) In the ERDC, OSIPM-EPD, QMB, and SNAP programs, the “financial group” consists of each individual in the filing group.

(3) In the REF and REFM programs, the “financial group” consists of each individual in the filing group, except an individual who is eligible for and receives an SSI cash payment.

(4) In the OSIPM (except OSIPM-EPD) program:

(a) For the purposes of this section of this rule, “ineligible” means an individual not eligible to receive either SSI or TANF program benefits.

(b) When an individual lives in a standard living arrangement (see OAR 461-001-0000):

(A) Except as provided in paragraph (B) of this subsection, each member of the filing group is in the “financial group”.

(B) When an individual, whose eligibility is not determined under certain protected groups (see OAR 461-135-0771 to OAR 461-135-0830), is married, not assumed eligible (see OAR 461-135-0010) for OSIPM, and the individual's spouse (see OAR 461-001-0000) is considered “ineligible” (see subsection (a) of this section):

(i) If the individual's adjusted income (see OAR 461-001-0000) using the deductions allowed under OAR 461-160-0550(4) is greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250, the individual is in his or her own “financial group” and not eligible for OSIPM.

(ii) When there are children in the home, if the ineligible spouse's remaining countable (see OAR 461-001-0000) income after allocation (see OAR 461-160-0551) to each ineligible child is equal to or less than the difference between the couple and the individual SSI standards: the spouse is not included in the “financial group” when determining income eligibility; however, the spouse is included in the “financial group” when determining resource eligibility.

(iii) When there are no children in the home, if the ineligible spouse's countable income is less than the difference between the couple and the individual SSI standards: the spouse is not included in the “financial group” when determining income eligibility; however, the spouse is included in the “financial group” when determining resource eligibility.

(c) When an individual lives in a nonstandard living arrangement (see OAR 461-001-0000), the “financial group” consists only of the individual applying for benefits, except that the community spouse (see OAR 461-001-0030) is included in the “financial group” to determine initial eligibility. At initial eligibility, the resources of the community spouse are considered and the provisions of OAR 461-160-0580 apply. The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.

(5) In the TANF program, the “financial group” consists of each individual in the filing group except the following:

(a) A caretaker relative, other than a parent, who chooses not to be included in the need group and has income less than the non-needy countable income limit standard (see OAR 461-155-0030) for the filing group of the caretaker relative;

(b) The spouse of a caretaker relative, when the caretaker relative meets the requirements under subsection (a) of this section;

(c) A dependent child of a caretaker relative when the caretaker relative meets the requirements under subsection (a) of this section;

(d) An individual in the filing group solely due to the requirements of OAR 461-110-0310(2)(b); and

(e) An individual who is eligible for and receives an SSI cash payment.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712, 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 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 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 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f.

# ADMINISTRATIVE RULES

6-29-07, cert. ef. 7-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 14-2009(Temp), f. & cert. ef. 7-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; 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 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 15-2014, f. & cert. ef. 7-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 32-2016(Temp), f. & cert. ef. 9-1-16 thru 2-27-17

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**Department of Justice**  
**Chapter 137**

**Rule Caption:** Increases fees related to charitable organizations' filing of required annual financial reports

**Adm. Order No.:** DOJ 10-2016

**Filed with Sec. of State:** 9-15-2016

**Certified to be Effective:** 1-1-17

**Notice Publication Date:** 12-1-2015

**Rules Amended:** 137-010-0030

**Subject:** The proposed rule amends OAR 137-010-0030 to increase fees associated with registered charitable organizations' filing of annual financial reports required by ORS 128.650 and 128.670. ORS 128.670(7)(e) requires charitable report fees be sufficient to pay the expenses associated with the Department's charitable oversight program. The new fees will continue to be on a sliding scale based on income and assets.

**Rules Coordinator:** Carol Riches—(503) 378-5987

**137-010-0030**

**Payment of Fees**

(1) Payment of Fees. Each charitable organization filing a report required by this Act shall pay to the Department of Justice, with each such report, a fee based in part on the total amount of the organization's income and receipts during the period covered by the report and in part on its fund balance at the close of the report period as provided in the schedule set forth below. References to "total amount of its income and receipts" shall mean total revenue or income as defined by Internal Revenue Service form 990, 990EZ, 990-PF or 5227, and, if no financial return is filed, shall mean the total amount of revenue the organization received from all sources. References to "fund balance" shall mean net assets or fund balances as defined by Internal Revenue Service form 990, 990-EZ, 990-PF, or 5227.

(a) The fee based on total amount of income and receipts is as follows in the table below: [Table not included. See ED. NOTE.]

(b) The fee based on the organization's fund balance is one-hundredth of one percent of the fund balance at the close of the calendar or fiscal year covered by the report. Fund balances in excess of \$20 million or less than \$50,000 shall not be subject to the fund balance fee. A charitable organization's fixed assets used for operations are excluded from its fund balance. The fee shall be rounded off to whole dollars; amounts under 50 cents shall be dropped and amounts from 50 cents to 99 cents shall be increased to the next dollar.

(c) The fees described in paragraphs 1(a) and (b) above apply to organizations' 2016 report year and subsequent years. The fee schedule in effect on December 31, 2015 will apply for report years 2015 and earlier or to reports received prior to the effective date of the revised fee schedule set forth in paragraphs 1(a) and (b) above. The fee schedule for report years 2015 and earlier is available from the Department.

(2) If the report fees are not paid when due or if the charitable corporation, trustee or other charitable organization fails to file a report by the date due, a delinquency fee shall be paid to the Department of Justice in accordance with the schedule set forth below, except that if a written request for an extension of time is submitted on or prior to the due date for filing the report and is approved, the delinquency fee will not be due unless the report or fee are not filed within the extended period granted for filing the report. If the extension request is denied, the delinquency fee will not be due if the report and fee are filed within ten days after the denial is received by the charitable organization or the filing has subsequently been completed by the ordinary due date for filing the report. The delinquency fees apply automatically and increase based upon the length of time a report or payment remains delinquent. The delinquency fees are as follows:

(a) A delinquency fee of \$20 applies if the report or applicable fees are not received by the due date, including failing to file a request for an extension on or before the initial due date, provided the delinquent report is filed and payment is made no later than 13 months from the close of the organization's report year;

(b) A delinquency fee of \$50 applies if the report or applicable fees are received more than 13 months after the close of the organization's report year, provided the delinquent report is filed and payment is made no later than 16 months from the close of the organization's report year; and

(c) A delinquency fee of \$100 applies if the report or applicable fees are received more than 16 months after the close of the organization's report year.

(3) The filing fee paid with the filing of a short period report, due to a change of accounting year, shall be based on the organization's reported net assets or fund balance at the end of the period, prorated for the number of months covered by the report, and the organization's reported total revenue for the period covered by the report.

(4) A foreign charitable corporation, trustee, or other charitable organization subject to the reporting requirements of this Act shall pay fees based on the same fee schedules identified in this rule. The report fees shall be based on the organization's total Oregon revenue and its net assets or fund balance held in Oregon at the end of the reporting period. If, for any reporting period, the organization cannot determine the amount of total revenue derived in Oregon, the revenue fee shall be computed on the total revenue for the organization. If for any reporting period, the organization cannot determine the exact amount of net assets or fund balance or the fixed assets for use in the organization's charitable operations held in Oregon, the fund balance fee shall be computed on the organization's total net assets or fund balance.

(5) Split interests trusts shall pay a fee based on the total fund balance of the trust plus a fee based on the amount of the charitable distribution, which will be treated as charitable organization income for the purposes of determining the fees as described in the table above.

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

Stat. Auth.: ORS 128.670, 128.876

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

Hist.: 1AG 5, f. 8-2-72, ef. 8-15-72; 1AG 6, f. 8-2-72, ef. 8-15-72; 1AG 11, f. 3-29-74, ef. 4-25-74; 1AG 1-1979, f. & ef. 2-1-79; 1AG 2-1981, f. & ef. 12-1-81; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 4-1998, f. & cert. ef. 4-2-98; DOJ 18-2005, f. 12-5-05, cert. ef. 12-31-05; DOJ 7-2008, f. & cert. ef. 4-22-08; DOJ 10-2016, f. 9-15-16, cert. ef. 1-1-17

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**Department of State Police,**  
**Oregon State Athletic Commission**  
**Chapter 230**

**Rule Caption:** Amendment allows weigh-ins to be conducted beyond twenty-four hours of event start time.

**Adm. Order No.:** SAC 1-2016(Temp)

**Filed with Sec. of State:** 8-25-2016

**Certified to be Effective:** 9-30-16 thru 3-28-17

**Notice Publication Date:**

**Rules Amended:** 230-030-0150

**Subject:** OAR 230-030-0150 Dictates the procedure for which competitors are weighed in at an Oregon State Athletic Commission regulated event. Subsection two states that boxing and mixed martial arts competitors shall be officially weighed within twenty-four hours prior to the commencement of the event.

This current rule requires weigh-ins to be done within twenty-four hours prior to the commencement of the event. Current research shows that allowing a weigh-in to occur more than twenty-four hours prior to the event allows the competitor a longer time to re-hydrate. This allows the commission to better protect the health and safety of competitors.

**Rules Coordinator:** Trista Robischon—(503) 378-3580

**230-030-0150**

**Weigh-In, Pre-fight Physical Examination and Post-fight Physical Examination**

(1) No boxing or mixed martial arts competitor shall be weighed-in or administered a pre-fight physical examination unless the competitor is properly licensed by the Superintendent.

(2) Weigh-in. Unless approved by an authorized representative of the superintendent, boxing and mixed martial arts competitors shall be officially weighed within 24 hours prior to the commencement of the event.

(a) The weigh-in shall occur at a time and place designated or approved by the Director, and in the presence of the Director or the authorized representative of the Superintendent.

(b) Scales approved by the Director shall be utilized for the official weigh-in.

# ADMINISTRATIVE RULES

(c) Any boxing or mixed martial arts competitor who has been signed to a contract to compete at any boxing or mixed martial arts event may be ordered by the Superintendent or the Superintendent's representative to appear at any time to be weighed by the Director or the authorized representative of the Superintendent.

(d) If a boxing or mixed martial arts competitor is late to the weigh-in or to the pre-fight physical examination, both the competitor and the competitor's manager may be subject to disciplinary action.

(e) If a boxing or mixed martial arts competitor appears at the weigh-in, and the competitor's body weight is 5% or more over the agreed upon weight, the competitor shall be disqualified from the bout, and the competitor and the competitor's manager may be subject to disciplinary action by the Superintendent.

(f) If in an attempt to make weight, the boxing or mixed martial arts competitor shows evidence of significant dehydration, of having taken diuretics or other drugs, or of having used any other harsh modality, the examining ringside physician or other medical personnel may refuse to medically certify the competitor to participate in an event and may recommend disciplinary action be imposed by the Superintendent.

(g) A professional boxing or mixed martial arts competitor who fails to make the weight contractually agreed upon in his or her bout agreement forfeits 20% of his or her purse to his or her opponent, if the competitor is unable to make the contractually agreed upon weight within two hours directly following the weigh-in, and the bout takes place. If the professional competitor is able to make the contractually agreed upon weight or weighs less than 1 pound outside the agreed limits, no forfeit may be imposed or fine assessed upon the competitor. All boxing or mixed martial arts competitors are permitted two hours directly following their weigh-in to make weight regardless of whether the competitor is competing in a professional or amateur bout.

(A) If a professional boxing or mixed martial arts competitor agrees to fight an opponent who has failed to make weight, the fight may take place, if approved by the Director or authorized representative of the Superintendent. The bout agreement shall be amended to reflect the agreed upon weight.

(B) The 1 pound allowance set forth in this section does not apply to championship or title bouts. In bouts deemed to be championship or title bouts, the competitors must be at or below the agreed upon weight.

(3) Pre-fight Physical Examination. Boxing and mixed martial arts competitors shall undergo a pre-fight physical examination within 24 hours prior to the commencement of the event.

(a) The pre-fight physical examination shall occur at a time and place designated or approved by the Director, and in the presence of the Director or the authorized representative of the Superintendent.

(b) The promoter shall provide a suitable room in which to conduct pre-fight physical examinations.

(c) Only the boxing or mixed martial arts competitor and an authorized representative of the Superintendent are allowed in the examination room while the pre-fight physical examination is being conducted unless the competitor and examining ringside physician or other medical personnel agrees otherwise.

(d) The ringside physician or other medical personnel conducting the pre-fight physical examination shall determine the fitness of the boxing or mixed martial arts competitor to compete in the event based on standards recommended by the Medical Advisory Committee and adopted by the Commission. Standards adopted by the Commission are found referenced on the "Pre/Post Fight Physical Examination Record" form and are available on the Commission website located at [http://www.oregon.gov/osp/gaming/Pages/b\\_w\\_welcome.aspx](http://www.oregon.gov/osp/gaming/Pages/b_w_welcome.aspx).

(e) During the course of the administration of the pre-fight physical examination and the weigh-in, the boxer or mixed martial arts competitor and their manager must make full disclosure of all information required by the ringside physician or other medical personnel and the authorized representative of the Superintendent. Falsification of entries on the pre-fight physical examination form may result in disqualification, suspension or fine of both the competitor and their manager.

(f) The competitor and their manager shall conduct themselves in an appropriate manner and shall desist from unruly, boisterous, or disruptive behavior at all times.

(4) Should any competitor who has been examined and deemed medically unfit for competition or any referee deemed medically unfit for officiating by the ringside physician or other medical personnel, the competitor or referee shall be rejected and an immediate report of that fact shall be made to the Director or authorized representative of the Superintendent.

This determination may be made during the pre-fight physical examination for a competitor or at the event for competitors or referees.

(5) Post-Fight Physical Examination. Immediately upon completion of the bout, boxing and mixed martial arts competitors must participate in a post-fight physical examination by the ringside physician or other medical personnel assigned to the event. The ringside physician or other medical personnel conducting the examination shall submit to the Director a report documenting each competitor's injuries and indicating any recommended medical waiting periods if deemed necessary. Medical waiting periods shall include limits on contact as well as participation in future competition. Medical waiting periods may also include any required tests or follow-up treatment recommended by the ringside physician or other medical personnel conducting the examination.

Stat. Auth.: ORS 463.113

Stats. Implemented: ORS 463.113 & 463.047

Hist.: BWC 1-1988, f. 3-22-88, cert. ef. 3-29-88; BWC 1-1991, f. & cert. ef. 9-20-91, Renumbered from 230-060-0250; BWC 1-1995, f. 10-10-95, cert. ef. 10-13-95; BWC 1-1996, f. & cert. ef. 4-8-96; BWC 1-2002(Temp), f. & cert. ef. 2-15-02 thru 8-13-02; BWC 2-2002, f. & cert. ef. 8-15-02; SAC 1-2015, f. & cert. ef. 2-9-15; SAC 1-2016(Temp), f. 8-25-16, cert. ef. 9-30-16 thru 3-28-17

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## Land Conservation and Development Department Chapter 660

**Rule Caption:** Minor and technical changes to conform to recent legislation and provide clarification

**Adm. Order No.:** LCDD 8-2016

**Filed with Sec. of State:** 8-26-2016

**Certified to be Effective:** 8-26-16

**Notice Publication Date:** 12-1-2015

**Rules Amended:** 660-033-0120

**Subject:** The amendments modify rules to make minor and technical changes to conform to recent legislation and to provide other clarifications. Conforming amendments will implement various provisions in HB 3400 and HB 2457.

**Rules Coordinator:** Casaria Taylor—(503) 373-0050, ext. 322

### 660-033-0120

#### Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the table shall have the following meanings:

(1) "A" Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130 and 660-033-0135. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

(2) "R" Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

(3) "\*" — The use is not allowed.

(4) "#" — Numerical references for specific uses shown in the table refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use in the table, this rule does not establish criteria for the use.

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

Stat. Auth.: ORS 197.040 & 197.245

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780

Hist.: LCDD 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 3-1994, f. & cert. ef. 3-1-94; LCDD 6-1994, f. & cert. ef. 6-3-94; LCDD 2-1995(Temp), f. & cert. ef. 3-14-95; LCDD 7-1995, f. & cert. ef. 6-16-95; LCDD 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 6-2013, f. 12-20-13, cert. ef. 1-1-14; LCDD 2-2014, f. & cert. ef. 10-14-14; LCDD 2-2015, f. & cert. ef. 4-9-15; LCDD 3-2016, f. & cert. ef. 2-10-16; LCDD 8-2016, f. & cert. ef. 8-26-16

# ADMINISTRATIVE RULES

## Landscape Contractors Board Chapter 808

**Rule Caption:** Amend 2015–2017 Budget and specific college credit courses are automatically approved for CEH.

**Adm. Order No.:** LCB 8-2016

**Filed with Sec. of State:** 8-19-2016

**Certified to be Effective:** 8-19-16

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 808-001-0008, 808-040-0050

**Subject:** Amend 2015–2017 Budget and specific college credit courses are automatically approved for CEH.

**Rules Coordinator:** Kim Gladwill-Rowley—(503) 967-6291, ext. 223

### 808-001-0008

#### Operating Budget

(1) Pursuant to ORS 182.462, the Board adopts the budget, for the biennium beginning July 1, 2015 and ending June 30, 2017, as approved at a Board Meeting held June 18, 2015. The Board Administrator will amend accounts as necessary, within the approved budget amount for the effective operation of the Board. Copies of the budget are available at the Board's office.

(2) The Board amends the July 1, 2015 through June 30, 2017 budget to reflect a total income amount of \$1,244,507 and a total expense of 1,241,561.16 with a projected net income of \$3,445.84.

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

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 182.462

Hist.: LCB 3-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 3-2005, f. & cert. ef. 6-1-05; LCB 1-2006, f. 3-27-06, cert. ef. 4-1-06; LCB 2-2007, f. & cert. ef. 5-16-07; LCB 4-2009, f. 6-1-09, cert. ef. 7-1-09; LCB 5-2011, f. & cert. ef. 6-17-11; LCB 5-2012, f. & cert. ef. 8-2-12; LCB 3-2013, f. 6-21-13, cert. ef. 7-1-13; LCB 3-2015, f. & cert. ef. 3-24-15; LCB 5-2015, f. & cert. ef. 6-18-15; LCB 8-2016, f. & cert. ef. 8-19-16

### 808-040-0050

#### Program Approval Process

(1) Pre-approval Process. Except as provided in section (3) of this rule, 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
- (B) The number of CEH allowed for the program, if any.

(3) Credit courses taken by an accredited college or university do not need to be approved prior to or after taking the course as stated in subsections (1) or (2) of this rule. Credit courses are automatically approved if they meet the acceptable subject matter as required in OAR 808-030-0040. Credit is granted as stated in OAR 808-040-0030(1).

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; LCB 8-2016, f. & cert. ef. 8-19-16

## Oregon Department of Education Chapter 581

**Rule Caption:** Healthy and Safe Facilities Plan for Public Schools

**Adm. Order No.:** ODE 42-2016

**Filed with Sec. of State:** 8-19-2016

**Certified to be Effective:** 8-19-16

**Notice Publication Date:** 8-1-2016

**Rules Adopted:** 581-022-2223

**Rules Amended:** 581-024-0275

**Subject:** Proposed new rule and revisions to existing rule would give Department of Education authority to require school districts, public charter schools and ESDs to (1) develop a plan to ensure that recommendations from leading regulatory authorities on clean air, clean water and healthy environments are implemented to ensure our students and school district staff have a safe and healthy environment; and (2) make information available to the community.

**Rules Coordinator:** Cindy Hunt—(503) 947-5651

### 581-022-2223

#### Healthy and Safe Schools Plan

(1) Each school district and public charter school must develop a Healthy and Safe Schools Plan for all buildings owned or leased by the school district or public charter school where students and staff are present on a regular basis.

(2) On or before October 1, 2016, school districts and public charter schools must report to the local school board or charter board on all elements of the Healthy and Safe Schools Plan as described in subsection (5) of this rule.

(3) School districts and public charter schools must submit a preliminary draft of the Healthy and Safe Schools Plan to the Department of Education on or before October 1, 2016. School districts and public charter schools must submit the final draft of the Healthy and Safe Schools Plan to the Department of Education on or before January 1, 2017. Thereafter, school districts and public charter schools must annually submit an updated Healthy and Safe Schools Plan if new buildings are acquired, constructed, or leased or if the plan is modified by the school district or public charter school.

(4) The Department of Education shall develop a model Healthy and Safe Schools Plan. The Department shall seek the input of the Oregon Health Authority Public Health Division, the Oregon Department of Environmental Quality and other stakeholders in developing the model plan. The model plan shall be made available on or before September 15, 2016.

(5) At a minimum, the Healthy and Safe Schools Plan must include:

(a) The position within the school district's or public charter school's administration responsible for maintaining and implementing the Healthy and Safe Schools Plan;

(b) A list of all facilities that are included in the school district's or public charter school's Plan;

(c) A plan to test for elevated levels of radon as required under ORS 332.167;

# ADMINISTRATIVE RULES

(d) A plan to test for and reduce exposure to lead in water used for drinking or food preparation. An Oregon Health Authority accredited lab must be used for all testing.

(e) A plan to reduce exposure to lead paint that includes the following compliance with the United States Environmental Protection Agency's Renovation, Repair and Painting Program Rule.

(f) A plan to implement integrated pest management practices as required under ORS 634.700 through 634.750; and

(g) A plan to communicate results for all tests required under the Healthy and Safe Schools Plan that includes:

(A) The school district or public charter school must make all test results available to the public within five business days of receiving the results;

(B) The school district or public charter school must make the results available to the public by posting the results on the school district or public charter school website, sending notice of the results over the email system, and making the results available in hardcopy at the main administrative office; and

(C) The school district or public charter school must provide detailed information explaining the test results.

(6) School districts and public charter schools must annually provide a statement regarding the Healthy and Safe Schools Plan.

(a) The annual statement must be made to the following:

(A) The school district or charter school board;

(B) All building occupants or for occupants who are under the age of 18, their parents or legal guardians; and

(C) The community by posting information on the school district or public charter school website and making the information available at the main administrative building.

(b) The annual statement must include the following information:

(A) The position within the school district's or public charter school's administration responsible for maintaining and implementing the Healthy and Safe Schools Plan;

(B) How to obtain a copy of the Safe and Healthy Schools Plan;

(C) A certification that the Healthy and Safe School Plan is up to date and that all required testing has been completed;

(D) How to access any results for tests conducted pursuant to the Plan; and

(E) A high level summary of major mitigation efforts in the last year as a result of the Healthy and Safe Schools Plan.

(7) The reports due under subsection (5) of this rule are in addition to any reporting required by any other regulatory authority under state or federal law.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 42-2016, f. & cert. ef. 8-19-16

## 581-024-0275

### Facilities, Safety and Emergency Planning

(1) Each district shall operate and maintain an administration office and other physical facilities as necessary to accommodate district services. These facilities must be in compliance with applicable federal and state health and safety regulations.

(2) Each district shall maintain inspection reports showing the district in compliance with all applicable federal and state health and safety regulations.

(3) In facilities operated by the district, each district shall provide for regularly scheduled and documented safety inspections to assure that the facilities and services are operated and maintained in a manner that protects the safety and health of staff and students.

(4) Each district shall develop a Healthy and Safe Facilities Plan for all buildings owned or leased by the district where students and staff are present on a regular basis. The plan must meet the requirements specified in OAR 581-022-2223, and each education service district shall comply with the reporting provisions of that rule.

(5) In schools operated by the district that are occupied by students, the district must ensure that all students are instructed and have drills on emergency procedures in compliance with ORS 336.071. The emergency procedures shall include drills and instruction on:

(a) Fires;

(b) Earthquakes, which shall include tsunami drills and instruction in schools in a tsunami hazard zone; and

(c) Safety threats including procedures related to lockdown, lockout, shelter in place and evacuation and other appropriate actions to take when there is a threat to safety.

(6) In facilities operated by the district, each district must have a written plan for responding to emergency situations. Emergency situations include but are not limited to: injury accidents, fire, chemical spill, hazardous materials, exposure to contagious disease, fire arms on the premises, and other illegal acts that threaten the health and safety of staff and students.

(a) Emergency plans should be coordinated with appropriate police and fire services, ambulance services and area hospitals.

(b) There should be an adequate internal communication system in district operated facilities to transmit emergency information to staff and students in a rapid and clear manner.

(c) The emergency plan should be posted in conspicuous places throughout district operated facilities.

(d) There should be periodic training for staff and students regarding the emergency plan. Appropriate first-aid supplies and at least one staff member with a current first-aid/CPR card shall be available at all district operated facilities.

Stat. Auth.: ORS 334.125, 334.217 & 336.071

Stat. Implemented: ORS 334.125, 334.217 & 336.071

Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 28-2015, f. & cert. ef. 12-22-15; ODE 42-2016, f. & cert. ef. 8-19-16

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**Rule Caption:** Modifies Extended Diploma requirements for high school graduation.

**Adm. Order No.:** ODE 43-2016

**Filed with Sec. of State:** 9-6-2016

**Certified to be Effective:** 9-6-16

**Notice Publication Date:** 11-1-2014

**Rules Amended:** 581-022-1133

**Subject:** Under current law, a student may earn an extended diploma if they have demonstrated an inability to maintain grade level achievement due to significant learning, instructional, or medical barriers. Additionally, a student must have participated in an alternative assessment beginning no later than grade six and lasting for two or more assessment cycles, or have an illness or injury that occurs after grade eight that changes the student's ability to achieve at grade level and that results in the student participating in alternative assessments. Some students have Individual Education Programs that exempt them from assessments because their team has determined that it is no longer useful for the student to take them. Others that have attended private schools or were homeschooled in their early school years did not have access to the alternative assessment and so could not meet the requirements in the statute. Finally, students who move to Oregon from out of state face the same issues meeting the requirements of the law. The result has been that many students who would otherwise have been eligible for an extended diploma have instead been prevented from taking advantage of the extended diploma option due to their unique circumstances. Instead many of these students accept an alternative certificate and because there are not standards for earning an Alternative Certificate, students are counted as non-completers, HB 2913 and ORS 329.451 eliminates the requirement that students must have completed multiple alternate assessments in order to be eligible for an extended diploma. These changes also eliminate confusing language in the eligibility requirements. Specifically, the changes enable a student to qualify for an extended diploma if they have a documented history of inability to maintain grade level achievement due to significant learning and instructional barriers, a medical condition that creates a barrier to achievement, or a change in ability to participate in grade level activities due to a serious illness or injury that occurred after grade eight and eliminates the requirements related to the alternative assessment. Further, the new rules require school districts or public charter schools to provide information about extended diplomas to parents on an annual basis.

**Rules Coordinator:** Cindy Hunt—(503) 947-5651

## 581-022-1133

### Extended Diploma

(1) Definitions.

(a) "Other services" for the purposes of this rule means:

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(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These “other services” are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-1620(4), such as school assemblies, student orientations, testing, etc, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) A school district or public charter school shall award an extended diploma to a student who satisfies the requirements of this rule.

(3) A school district or public charter school shall award an extended diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations.

(4) A school district or public charter school may award an extended diploma to a student only upon the consent of the parent or guardian of the student, or upon the consent of the adult student or emancipated minor student. A district or school must receive the consent in writing and during the school year in which the extended diploma is awarded.

(a) If student is under 18, consent must be received from the parent or guardian.

(b) If the student is under age 18 and emancipated, consent must be received from the student.

(c) If the adult student is 18 or older, consent must be received from the student.

(d) If the student is under guardianship from the courts, consent must come from the court-appointed authority.

(5) To be eligible for an extended diploma, a student must:

(a) While in grade nine through completion of high school, complete 12 credits, which may not include more than six credits earned in a self-contained special education classroom and shall include:

- (A) Two credits of mathematics;
- (B) Two credits of English;
- (C) Two credits of Science;
- (D) Three credits of history, geography, economics, or civics;
- (E) One credit of health;
- (F) One Credit of physical education; and
- (G) One credit of arts or a second language; and;
- (b) Have a documented history of:

(A) An inability to maintain grade level achievement due to significant learning and instructional barriers;

(B) A medical condition that creates a barrier to achievement; or

(C) A change in the student’s ability to participate in grade level activities as a result of a serious illness or injury that occurred after grade eight.

(6)(a) A student shall have the opportunity to meet the requirements of an extended diploma by the later of:

(A) Four years after starting grade nine; or

(B) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(b) A student may complete the requirements for an extended diploma in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an extended diploma.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction

(D) The consent may not be used to allow a student to satisfy the requirements for an extended diploma in less than three years.

(7) A school district or public charter school shall:

(a) Ensure that students have on-site access to the appropriate resources to achieve an extended diploma at each high school in the school district or at the public charter school.

(b) Beginning in grade five or beginning after a documented history described in section (5)(b) above has been established, annually provide to the parents or guardians of a student who has the documented history, described above, information about the availability of an extended diploma and the requirements for the extended diploma.

(c) A school district or public charter school may not deny a student who has the documented history described in subsection (1)(a) of this section the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason that the student has the documented history.

(8)(a) A student who receives an extended diploma shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school; or,

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education;

(d) Based on the student’s needs and performance level, the student’s IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student’s IEP team decides that the student will not access the total number of hours of instruction and services to which the student has access, the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student, parent, or guardian of the student:

(i) The school district’s or public charter school’s duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district’s or public charter school’s unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

(9) School districts and public charter schools shall make extended diplomas as required by ORS 329.451 and this rule first available to students during the 2009-2010 school year.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 329.451

Hist.: ODE 21-2009, f. & cert. ef. 12-10-09; ODE 3-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 44-2014, f. & cert. ef. 12-17-14; ODE 45-2014, f. & cert. ef. 12-17-14; ODE 29-2016, f. & cert. ef. 4-28-16; ODE 43-2016, f. & cert. ef. 9-6-16

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**Rule Caption:** Interdistrict transfer agreements for K–12 students.

**Adm. Order No.:** ODE 44-2016

**Filed with Sec. of State:** 9-6-2016

**Certified to be Effective:** 9-6-16

**Notice Publication Date:** 1-1-2016

**Rules Amended:** 581-021-0019

**Subject:** Interdistrict transfer allows a student to request permission to enroll in a district in which the student does not reside. Both the sending district and the receiving district must consent to the transfer. In 2015, the Legislature passed SB 709, which amended the state law on interdistrict transfer. The amendments in SB 709 impacted ODE’s administrative rule on interdistrict transfer in two ways: (1) the information a district may request and consider prior to granting



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ng consent, and (2) when a transfer may be granted in the event of hardship.

**Rules Coordinator:** Cindy Hunt—(503) 947-5651

## 581-021-0019

### Interdistrict Transfer Agreement

(1) Definitions. As used in this rule:

(a) “ADM” means the average daily membership as defined in ORS 327.006.

(b) “Emergency to protect the health, safety or welfare of the student” includes but is not limited to sexual assault, threats against a student’s life, or threats of imminent harm.

(c) “Hardship” means any of the following:

(A) The student is impacted by a parent or guardian’s military deployment;

(B) The student is experiencing instability related to homelessness or foster care placement;

(C) The student has a documented medical condition that necessitates transfer;

(D) Death of a student’s parent;

(E) The student does not have access to safe and affordable childcare in the resident district; or

(F) The student is involved in a documented case of severe harassment, intimidation, bullying or cyberbullying.

(d) “Individualized education program” means a written statement of an educational program for a child with a disability that is developed, reviewed and revised in a meeting in accordance with criteria established by rules of the State Board of Education for each child eligible for special education and related services under ORS Chapter 343.

(e) “Interscholastic activities” includes but is not limited to athletics, music, speech, and other related activities.

(f) “Nonresident school district” means a school district that is not the resident school district of a child.

(g) “Person in parental relationship” means, as defined in ORS 339.133, an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. “Person in parental relationship” does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(h) “Resident school district” means the school district that has a legal responsibility to educate a child because the child resides in the district with a parent, guardian or person in parental relationship.

(i) “School district” means a school district as defined in ORS 332.002, a state-operated school or any legally constituted combination of such entities.

(2)(a) Pursuant to ORS 339.127, a nonresident school district may enroll a student who is a resident of another district and receive State School Fund money for the student if there is a signed Interdistrict Transfer Agreement between the resident school district, nonresident school district, and the parent/guardian(s) or person in parental relationship.

(b) Except as provided in (6), in determining whether to admit or release a student requesting inter-district transfer through a signed Interdistrict Transfer Agreement, or in establishing any terms of such consent, neither the resident district nor the nonresident district may consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records.

(c) The provisions of this rule do not affect the authority of a school district to enroll students under section 9, chapter 718, Oregon Laws 2011 (Enrolled House Bill 3681) and do not apply to students who attend a school under that section.

(d) The provisions of this rule do not affect the authority of a school district to enter into a contract with another district under ORS 339.125.

(3) It is understood that upon approval by the district of the Interdistrict Transfer Agreement that:

(a) The Resident District shall fully release the student to the Nonresident District. The Nonresident District shall claim the student as a resident student for the purposes of claiming basic school support under the State School Fund and shall report itself as the Resident District of record for ADM purposes.

(b) The Nonresident District shall report the student as a resident student for ADM per ORS 339.133. The Resident District turns over to the

Nonresident District all portions of the ADMr and the ADMw that is paid from the State School Fund. Funds may only be exchanged between the districts for the student based on the Interdistrict Transfer Agreement.

(c) The Nonresident District will be accountable for meeting the requirements of the standards described in OAR chapter 581, division 22.

(d) The Nonresident District will be accountable for ensuring a free, appropriate public education (FAPE) in the least restrictive environment (LRE) for students on an Individualized Education Program (IEP).

(4) Modification to the original Interdistrict Transfer Agreement requires written consent by the nonresident school district and parent/guardian or person in parental relationship.

(5)(a) Except as provided in (6), a district considering whether to admit a nonresident student through interdistrict transfer may only request the following information prior to admitting the student:

(A) Legal Name;

(B) Date of Birth;

(C) Enrolled Grade;

(D) Primary Phone Number of Parent/Guardian/Person of Parental Relationship;

(E) Primary Email of Parent/Guardian/Person of Parental Relationship;

(F) Mailing Address of Parent/Guardian/Person of Parental Relationship;

(G) Information on any student expulsions within the last calendar year;

(H) Whether the student has siblings who are currently enrolled in a school of the nonresident district and, if so, which school;

(I) Whether the student previously had received consent to remain enrolled in the school district following a legal change of residence to a different school district during the school year or over the summer;

(J) Whether the student attended a public charter school located in the nonresident district for at least three consecutive years, completed the highest grade offered by the public charter school, and did not enroll in and attend school in another district following completion of the highest grade offered by the public charter school; and

(K) Information about which schools in the nonresident district the student prefers to attend.

(b) Except as provided in (6), a district considering whether to admit a nonresident student through interdistrict transfer may not request information on the student’s race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records.

(6)(a) In the event of an emergency to protect the health, safety or welfare of the student or if the student experiences a hardship as defined by these rules, a district may consent to an interdistrict transfer and is not required to comply with the processes, limits, priorities, or timelines established by district policy governing interdistrict transfers so long as the superintendents of the resident district and the nonresident district have conferred and agree that the needs of the student would be better served by the nonresident district.

(b) In determining whether to consent to an interdistrict transfer on the basis of an emergency or hardship, a district may not discriminate on the basis of race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records.

(7) The Oregon Department of Education (ODE) will provide a sample Interdistrict Transfer Agreement form. Resident school districts are responsible for developing their own written instructions.

(8) An Interdistrict Transfer Agreement shall only be between districts within the state of Oregon.

(9) Upon request by the nonresident district, a resident district shall release student records to the nonresident district.

(10) Nothing in this rule prevents a district school board from exercising the authority granted to the district under ORS 339.127(9).

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.133

Hist.: ODE 21-2008, f. 8-28-08, cert. ef. 8-29-08; ODE 1-2012, f. 2-1-12, cert. ef. 2-3-12;

ODE 33-2014, f. 6-24-14, cert. ef. 7-1-14; ODE 44-2016, f. & cert. ef. 9-6-16

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## Oregon Health Authority, Health Policy and Analytics Chapter 409

**Rule Caption:** Extending Patient-Centered Primary Care Home Program application deadline to 90 days from 30 days.

**Adm. Order No.:** OHP 12-2016(Temp)

**Filed with Sec. of State:** 8-29-2016

**Certified to be Effective:** 8-29-16 thru 2-21-17

**Notice Publication Date:**

**Rules Amended:** 409-055-0030

**Subject:** The Authority is filing temporary rules to allow, at the Authority's discretion, a 90 day grace period that may be allowed for Patient-Centered Primary Care Homes to reapply on January 1, 2017 to submit a renewal application without having a lapse in recognition status.

**Rules Coordinator:** Zarie Haverkate—(503) 931-6420

### 409-055-0030

#### Practice Application and Recognition Process

(1) Practices, or other entities on behalf of the practice, that wish to be recognized as a PCPCH shall submit a PCPCH Recognition Application electronically to the Authority via the Program's online application system found on the Program website or by mail to the address posted on the Program website. The application shall include the quantitative data described in OAR 409-055-0040.

(2) The Authority shall review the application within 60 days of its submission to determine whether it is accurate, complete, and meets the recognition requirements. If the application is incomplete the the Authority shall notify the applicant in writing of the information that is missing and when it must be submitted.

(3) The Authority shall review a complete application within 60 days of submission. If the Authority determines that the applicant has met the requirements of these rules the Authority shall:

(a) Inform the applicant in writing that the application has been approved as a recognized PCPCH,

(b) Assign a Tier level, and

(c) Include the effective recognition date.

(4) The Authority shall maintain instructions and criteria for submitting a PCPCH Recognition Application posted on the Program website.

(5) The Authority may deny PCPCH recognition if an applicant does not meet the requirements of these rules.

(6) A practice may request that the Authority reconsider the denial of PCPCH recognition or reconsider the assigned tier level. A request for reconsideration must be submitted in writing to the Authority within 90 days of the date of the denial or approval letter and must include a detailed explanation of why the practice believes the Authority's decision is in error along with any supporting documentation. The Authority shall inform the practice in writing whether it has reconsidered its decision.

(7) Practices submitting applications on or after September 3, 2013 must apply to renew their recognition once every two years. Recognition shall expire two years from the recognition effective date issued by the Authority.

(a) At the Authority's discretion a 30-day grace period may be allowed for PCPCHs to submit a renewal application without having a lapse in recognition status.

(b) If a PCPCH believes that it meets the criteria to be recognized at a higher tier or increase it's point threshold by at least 15 points, it may request to have its tier status reassessed by re-submitting an application not more than once every six months. The Authority may grant exceptions to the six month time period for good cause shown.

(c) Currently recognized PCPCHs that are due to reapply between January 1, 2016 and December 31, 2016 shall be granted an extension of their PCPCH recognition until January 1, 2017.

(d) Currently recognized PCPCHs that choose to reapply for recognition between January 1, 2016 and December 31, 2016 shall be recognized until January 1, 2017.

(e) Practices applying for PCPCH recognition for the first time between January 1, 2016 and December 31, 2016 shall be recognized until January 1, 2017.

(f) At the Authority's discretion a 90-day grace period may be allowed for PCPCHs due to reapply on January 1, 2017 to submit a renewal application without having a lapse in recognition status.

Stat. Auth: ORS 413.042, 413.259 & 414.655

Stats. Implemented: ORS 413.259, 413.260 & 414.655

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 7-2012(Temp), f. & cert. ef. 10-4-12 thru 4-1-13; OHP 5-2013, f. 3-22-13, cert. ef. 4-1-13; OHP 6-2013, f. 8-23-13, cert. ef. 9-3-13; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14; OHP 2-2015, f. 1-16-15, cert. ef. 2-1-15; OHP 10-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-24-16; OHP 9-2016, f. & cert. ef. 5-13-16; OHP 12-2016(Temp), f. & cert. ef. 8-29-16 thru 2-21-17

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**Rule Caption:** Amendments to the All Payer All Claims data reporting program rule.

**Adm. Order No.:** OHP 13-2016

**Filed with Sec. of State:** 9-13-2016

**Certified to be Effective:** 9-13-16

**Notice Publication Date:** 6-1-2016

**Rules Amended:** 409-025-0120, 409-025-0130, 409-025-0150

**Subject:** Note: The Authority is re-filing the Certificate and Order to accurately reflect the correct rule attachments (Attachments A-H and Schedule A). The attachments were found to have a numbering error which was caused by PDF conversion of the original MS Word documents.

The Oregon Health Authority filed a rule amendment on 6-22-2016 for an effective date of 1-1-2017 to update language and align data collection requirements with program needs, OHA priorities, and statutory requirements. The Authority added two new required appendices. Appendix G captures every Billing Provider or Organization with a place of business in Oregon, and accounts for all primary care and non-primary care related dollars disbursed to each of them by the type of payment arrangements in place. Appendix H collects summary data pertaining to Appendix G, such as record counts, which will be used to confirm that the data file is received and loaded correctly.

**Rules Coordinator:** Zarie Haverkate—(503) 931-6420

### 409-025-0120

#### Data File Layout, Format, and Coding Requirements

(1) All data files shall include:

(a) Medical claims;

(b) Eligibility;

(c) Medical provider;

(d) Pharmacy claims;

(e) Control totals;

(f) Subscriber billed premiums;

(g) Annual supplemental provider level APM summary; and

(h) Control totals for annual supplemental provider level APM summary.

(2) The medical claims file shall be submitted using the approved layout, format, and coding described in Appendix A.

(3) The eligibility file shall be submitted using the approved layout, format, and coding described in Appendix B.

(a) Mandatory reporters shall report race and ethnicity data as outlined in Appendix B. This layout aligns with the Office of Management and Budget's (OMB) Federal Register Notice of October 30, 1997 (62 FR 58782-58790).

(b) Mandatory reporters shall report primary language in accordance with ANSI/NISO guidance using the three-character string outlined in Codes for the Representation of Languages for Information Interchange.

(c) Race, ethnicity and primary language data shall be collected in a manner that aligns with the following principles:

(A) To the greatest extent practicable, race, ethnicity, and preferred language shall be self-reported.

(i) Collectors of race, ethnicity and primary language data may not assume or judge ethnic and racial identity or preferred signed, written and spoken language, without asking the individual.

(ii) If an individual is unable to self-report and a family member, advocate, or authorized representative is unable to report on his or her behalf, the information shall be recorded as unknown.

(B) When an individual declines to identify race, ethnicity or preferred language, the information shall be reported as refused.

(4) The medical provider file shall be submitted using the approved layout, format, and coding described in Appendix C.

(5) The pharmacy claims file shall be submitted using the approved layout, format, and coding described in Appendix D.

(6) The control totals file shall be submitted using the approved layout, format, and coding described in Appendix E.

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(7) The subscriber billed premium file shall be submitted using the approved layout, format, and coding described in Appendix F.

(8) The annual supplemental provider level APM summary file shall be submitted using the approved layout, format, and coding described in Appendix G.

(9) The control totals for annual supplemental provider level APM summary file shall be submitted using the approved layout, format, and coding described in Appendix H.

(10) All data elements are required unless specified as optional or situational.

(11) All required data files shall be submitted as delimited ASCII files.

(12) Numeric data are positive integers unless otherwise specified.

(a) Negative values are allowed for revenue codes, quantities, charges, payment, co-payment, co-insurance, deductible, and prepaid amount.

(b) Negative values shall be preceded by a minus sign.

(13) The Authority shall convene a technical advisory group to advise the Authority and associated contractors on submission specifications including but not limited to Appendices A-H, Schedule A and any additional data submission requirements. The advisory group shall include, but is not limited to representatives from:

- (a) Mandatory reporters;
- (b) Providers;
- (c) Researchers, and;
- (d) Other stakeholders and interested parties.

(14) All data files shall pass edit checks and validations implemented by the Authority or the data vendor.

(a) Data vendors may perform quality and edit checks on data file submissions. If data files do not pass data vendor edit checks or validation, mandatory reporters must make corrections and resubmit data. Mandatory reporters must submit corrected data or an exception request within 14 calendar days of notification of error.

(b) Mandatory reporters must participate in efforts to validate and check the quality of current and historic APAC data, as prescribed and requested by the Authority.

(A) The Authority may request from mandatory reporters information from their internal records that is reasonably necessary to validate and check the quality of APAC data. This information may include, but is not limited to, aggregated number of enrolled members, number of claims and claim lines, charges, allowed amounts, paid amounts, co-insurance, co-payments, premiums, number of visits to primary care, emergency department, inpatient, and other health care treatment settings, and number of prescriptions.

(B) Mandatory reporters shall provide the aggregated information within 30 days of the Authority's request.

(C) If the Authority finds errors through edit checks or validation, mandatory reporters must make corrections and resubmit data or submit an exception request within 30 days or at the next regularly scheduled submission due date.

[ED. NOTE: Appendices and Schedules referenced are available from the agency.]  
Stat. Auth.: ORS 442.466  
Stats. Implemented: ORS 442.464 & 442.466  
Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 1-2016, f. & cert. ef. 1-5-16; OHP 10-2016, f. 6-22-16, cert. ef. 1-1-17; OHP 13-2016, f. & cert. ef. 9-13-16

## 409-025-0130

### Data Submission Requirements

(1) Mandatory reporters shall submit data files as specified in Schedule A. Voluntary reporters may consult with the Authority to submit healthcare claims data files on an alternative schedule.

(2) Mandatory and voluntary reporters shall submit data files directly to the data vendor unless otherwise specified by the Authority.

(3) Mandatory and voluntary reporters shall transmit data files using one of the following approved processes:

(a) Secure file transfer protocol (SFTP) including separate strong encryption of data files prior to SFTP transmission; or

(b) Any process incorporating strong encryption that is approved in writing by both the Authority and the data vendor.

[ED. NOTE: Schedule A referenced is available from the agency.]  
Stat. Auth.: ORS 442.466  
Stats. Implemented: ORS 442.464 & 442.466  
Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 1-2016, f. & cert. ef. 1-5-16; OHP 10-2016, f. 6-22-16, cert. ef. 1-1-17; OHP 13-2016, f. & cert. ef. 9-13-16

## 409-025-0150

### Compliance and Enforcement

Penalties for failure to comply shall be enforced by the Authority.

(1) Unless approved by a waiver or exception, failure to comply with general reporting requirements shall include but is not limited to:

- (a) Failure to submit data files for a required line of business; and
- (b) Submitting health information for an excluded line of business.

(2) Unless approved by a waiver or exception, failure to comply with data file requirements shall include but is not limited to:

- (a) Submitting a data file in an unapproved layout;
- (b) Submitting a data element in an unapproved format;
- (c) Submitting a data element with unapproved coding;
- (d) Failure to submit a required data element; or
- (e) Failure to comply with validation and quality control efforts, including resubmitting or correcting data as requested by the Authority.

(3) Unless approved by a waiver or exception, failure to comply with data submission requirements shall include but is not limited to:

- (a) Failure to submit test files as specified by the data vendor;
- (b) Submitting data files later than five days after the submission due date as outlined in Schedule A;
- (c) Rejection of a data file by the data vendor that is not resubmitted or corrected by the submitter within 14 calendar days from notification of error; or
- (d) Transmitting data files using an unapproved process.

(4) The Authority shall provide mandatory reporters written notification of each failure to comply.

(5) The Authority may impose fines of up to \$500 per day for each failure to comply that is not resolved within 30 calendar days of written notification.

(6) If a mandatory reporter has made documented efforts to comply with these rules, the Authority may consider this a mitigating factor before imposing regulatory action against the mandatory reporter.

[ED. NOTE: Schedule A referenced is available from the agency.]  
Stat. Auth.: ORS 442.466 & 442.993  
Stats. Implemented: ORS 442.464, 442.466 & 442.993  
Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 1-2016, f. & cert. ef. 1-5-16; OHP 10-2016, f. 6-22-16, cert. ef. 1-1-17; OHP 13-2016, f. & cert. ef. 9-13-16

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

**Rule Caption:** Applications for Medical Assistance at Provider Locations and a Clarification to the Drug Copay Table

**Adm. Order No.:** DMAP 52-2016

**Filed with Sec. of State:** 8-26-2016

**Certified to be Effective:** 9-1-16

**Notice Publication Date:** 8-1-2016

**Rules Amended:** 410-120-0045, 410-120-1230

**Subject:** The Oregon Health Authority needs to revise OAR 410-120-0045 Applications for Medical Assistance at Provider Locations in order to reflect the new eligibility system and remove all Cover Oregon references. The Authority will also be revising OAR 410-120-1230 copayment table to clarify that the \$1 copay is for non-preferred PDL generics.

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

## 410-120-0045

### Applications for Medical Assistance at Provider locations

(1) The Oregon Health Authority (Authority) allows Division enrolled providers the opportunity to assist patients applying for public and private health coverage offered through the Authority and the Oregon Health Insurance Exchange (OHIX). To apply for this opportunity, providers fill out and submit form OHA 3128, Application Assistance by Provider Staff; this is an addendum to the provider's agreement to provide Medicaid reimbursed services. Once the provider is determined certified by the Authority to provide application assistance, providers shall receive an approval letter, requirements for assister certification, training requirements, and other information.

(2) For purposes of this rule, the provider's practice shall be referred to as a site. Sites can be, but are not limited to, the following:

- (a) Hospitals;
- (b) Federally qualified health centers/rural health clinics (FQHC/RHCs);
- (c) County health departments;

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(d) Substance Use Disorder adult and adolescent treatment and recovery centers;

(e) Tribal health clinics;

(f) Family Planning clinics;

(g) Other primary care clinics as approved by the Authority.

(3) The site may sign the Application Assistance by Provider Staff (OHA 3128) addendum indicating the site's willingness to provide on-site application assistance. The addendum outlines site and application assister standards as well as conflict of interest protections. The site shall require employees that will be assisting to participate in mandatory training sessions for application assistance certification. Employees must pass tests before initiating application assistance service. Sites shall ensure that individuals performing application assistance are recertified at appropriate times as set forth by the Authority. For purposes of this rule, certified staff shall be referred to as "application assisters."

(4) Application assisters shall utilize authorized methods to provide enrollment assistance. Regardless of which form of application is used, the application assister shall write the date the application was started and the assister's assigned assister identification number in the appropriate space on the application. Application assisters shall maintain copies of all eligibility verification documents and all records related to enrollment assistance, including the required, current OHA-provided Consent Form for six years, whether in paper, electronic, or other forms in a secure and locked location. Assistance will support patients potentially eligible for public and private health coverage offered through the Authority and OHIX. Sites are not under an obligation to provide application assistance to individuals other than those for whom they are providing service. Once written on the application, the date can never be changed, altered, or backdated.

(5) The application assister shall encourage applicants to provide accurate and truthful information, assist in completing the application and enrollment process, and shall assure that the information contained on the application is complete. The application assister shall not attempt to predetermine applicant eligibility or make any assurances regarding the eligibility for public or private health coverage offered through the Authority and OHIX.

(6) The application assister shall provide information to applicants about public medical programs and private insurance products so each applicant can make an informed choice when enrolling into a health insurance product. Language interpreters or interpreter services or referrals must be provided if requested by applicants including linguistically and culturally appropriate materials:

(a) The information given to the applicant shall, at a minimum, include an explanation of the significance of the date of request on the application and a review of public medical programs and private insurance products that are available, provide unbiased health coverage choices and information provided by the Authority or OHIX during the enrollment process, answer questions, and assist in filling out online or paper application forms. The information provided at these sessions may include, but is not limited to, the following:

(A) General eligibility criteria for public and private coverage accessible through the Authority and OHIX;

(B) Health plan choices, criteria, and how to enroll in public medical programs or OHIX private insurance product choices.

(b) The application assister shall make copies of the original eligibility verification documentation required to accompany the application, but not uploaded to ONE applicant portal.

(7) Providers, staff, contracted employees, and volunteers are subject to all applicable provisions under General Rules OAR chapter 410, division 120, and Application Assistance by Provider Staff addendum (OHA 3128):

(a) The application assister shall treat all information they obtain for public medical programs and private insurance as confidential and privileged communications. The application assister may not disclose such information without the written consent of the individual, his or her delegated authority, attorney, or responsible parent of a minor child or child's guardian. Nothing prohibits the disclosure of information in summaries, statistical or other form, that does not identify particular individuals;

(b) The Authority and sites shall share information as necessary to effectively serve public medical programs and OHIX eligible or potentially eligible individuals;

(c) Personally identifiable health information about applicants and recipients shall be subject to the transaction, security, and privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA) and the administrative rules there under. Sites shall cooperate with the Authority in the adoption of policies and procedures for maintaining the

privacy and security of records and for conducting transactions pursuant to HIPAA requirements.

(8) The Authority shall be responsible for the following:

(a) The Authority shall provide training to application assisters on public medical programs and private insurance products, eligibility and enrollment, application procedures, and documentation requirements. The Authority shall set dates and times for these additional training classes as needed, following changes in policy or procedure;

(b) The Authority shall make available public medical programs application forms online and in hard copy (in English, translated languages, and alternative formats), health insurance coverage options, assister identification number instructions, reporting guidance, and other necessary forms;

(c) The Authority shall process all applications in accordance with Authority and OHIX standards;

(d) The Authority shall process completed applications that have satisfactory verification information within the time requirements set forth in the Authority and OHIX policy. In the event of a change in policy, the time for completion of processing shall be changed to the new time requirements.

(9) The Authority shall provide all necessary forms and applications as referenced above at no cost to the site. There are no monetary provisions in this rule for any payment for the performance of work by the site, except for those costs provided under OAR 410-147-0400 and 410-146-0460. However, the parties acknowledge the exchange and receipt of other valuable considerations in the spirit of cooperation to the benefit of all by collaborating and authorizing the performance of the work. The Authority does not guarantee a particular volume of business under these rules.

(10) The provider may terminate enrollment at any time as outlined in OAR 410-120-1260(15).

Stat. Auth.: ORS 413.042

Statutes Implemented: ORS 414.041

Hist.: DMAP 12-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 48-2013, f. & cert. ef. 9-12-13; DMAP 71-2013, f. & cert. ef. 12-27-13; DMAP 52-2016, f. 8-26-16, cert. ef. 9-1-16

## 410-120-1230

### Client Co-payment

(1) Oregon Health Plan (OHP) Plus clients shall be responsible for paying a co-payment for some services. This co-payment shall be paid directly to the provider. A co-payment applies regardless of location of services rendered, i.e., provider's office or client's residence.

(2) The following services are exempt from co-payment:

(a) Emergency medical services as defined in OAR 410-120-0000;

(b) Family planning services and supplies;

(c) Prescription drug products for nicotine replacement therapy (NRT);

(d) Prescription drugs ordered through the Division of Medical Assistance Programs' (Division's) Mail Order (a.k.a., Home-Delivery) Pharmacy program;

(e) Services to treat "health care-acquired conditions" (HCAC) and "other provider preventable conditions" (OPPC) services as defined in OAR 410-125-0450.

(3) The following clients are exempt from co-payments:

(a) Pregnant women;

(b) Children under age 19;

(c) Young adults in substitute care and in the former Foster Care Youth Medical program;

(d) Clients receiving services under the Medicaid-funded home and community-based services program;

(e) Inpatients in a hospital, nursing facility, or Intermediate Care Facility for Intellectually or Developmentally Disabled (ICF/IDD);

(f) American Indian/Alaska Native (AI/AN) clients who are members of a federally recognized Indian tribe or receive services through Indian Health Services (IHS), a tribal organization, or services provided at an Urban Tribal Health Clinic as provided under Public Law 93-638;

(g) Individuals receiving hospice care;

(h) Individuals eligible for the Breast and Cervical Cancer program.

(4) Co-payment for services is due and payable at the time the service is provided unless exempted in sections (2) and (3) above. Services to a client may not be denied solely because of an inability to pay an applicable co-payment. This does not relieve the client of the responsibility to pay the applicable co-payment, nor does it prevent the provider from attempting to collect any applicable co-payments from the client. The co-payment is a legal debt and is due and payable to the provider of service.

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(5) Except for prescription drugs, one co-payment is assessed per provider/per visit/per day unless otherwise specified in other Division's program administrative rules.

(6) Fee-for-service co-payment requirements:

(a) The provider may not deduct the co-payment amount from the usual and customary billed amount submitted on the claim. Except as provided in section (2) and (3) of this rule, the Division shall deduct the co-payment from the amount the Division pays to the provider (whether or not the provider collects the co-payment from the client);

(b) If the Division's payment is less than the required co-payment, then the co-payment amount is equal to the Division's lesser required payment, unless the client or services are exempt according to exclusions listed in section (2) and (3) above. The client's co-payment shall constitute payment-in-full;

(c) Unless specified otherwise in individual program rules and to the extent permitted under 42 CFR 1001.951–1001.952, the Division does not require providers to bill or collect a co-payment from the Medicaid client. The provider may choose not to bill or collect a co-payment from a Medicaid client; however, the Division shall still deduct the co-payment amount from the Medicaid reimbursement made to the provider.

(7) CCO, PHP, or PCO co-payment requirements:

(a) Unless specified otherwise in individual program rules and to the extent permitted under 42 CFR 447.58 and 447.60, the Division does not require CCOs, PHPs, or PCOs to bill or collect a co-payment from the Medicaid client. The CCO, PHP, or PCO may choose not to bill or collect a co-payment from a Medicaid client; however, the Division shall still deduct the co-payment amount from the Medicaid reimbursement made to the CCO, PHP, or PCO;

(b) When a CCO, PHP, or PCO is operating within the scope of the safe harbor regulation outlined in 42 CFR 1001.952(l), a CCO, PHP, or PCO may elect to assess a co-payment on some of the services outlined in Table 120-1230-1 but not all. The CCO, PHP, or PCO must assure they are working within the provisions of 42 CFR 1003.102(b) (13).

(8) Services that require co-payments are listed in Table 120-1230-1.  
(9) Table 120-1230-1.

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

Stat. Auth.: ORS 413.042

Stat. Implemented: ORS 414.025, 414.065

Hist.: OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 73-2003, f. & cert. ef. 10-1-03; OMAP 39-2004(Temp), f. 6-14-04 cert. ef. 6-19-04 thru 11-30-04; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 5-2008, f. 2-28-08, cert. ef. 3-1-08; DMAP 38-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14; DMAP 57-2014, f. 9-26-14, cert. ef. 10-1-14; DMAP 52-2016, f. 8-26-16, cert. ef. 9-1-16

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**Rule Caption:** Update DMAP 3165 Form

**Adm. Order No.:** DMAP 53-2016

**Filed with Sec. of State:** 8-26-2016

**Certified to be Effective:** 9-1-16

**Notice Publication Date:** 4-1-2016

**Rules Amended:** 410-120-1280

**Subject:** Update DMAP 3165 Form, but there are no rule language changes. The following parenthesis was added for clarification: Expected date(s) of service (if services are to occur over several months, please list the frequency, beginning and expected end dates). Providers were under the impression that they had to complete this form for each date of service (for example, a series of dental procedures that would take place over several dates), which was not the intent of the form.

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

## 410-120-1280

### Billing

(1) A provider enrolled with the Authority or providing services to a client in a CCO or PHP under the Oregon Health Plan (OHP) may not seek payment, from the client for any services covered by Medicaid fee-for-service or through contracted health care plans:

(a) A client may not be billed for missed appointments. A missed appointment is not considered to be a distinct Medicaid service by the federal government and as such is not billable to the client or the Division;

(b) A client may not be billed for services or treatments that have been denied due to provider error (e.g., required documentation not submitted, prior authorization not obtained, etc.).

(2) For Medicaid covered services the provider may not bill the Division more than the provider's usual charge (see definitions) or the reimbursement specified in the applicable Division program rules.

(3) Providers shall only bill a client or a financially responsible relative or representative of that client in the following situations:

(a) For any applicable coinsurance, copayments and deductibles expressly authorized in OAR chapter 410, divisions 120 and 141, or any other Division program rules;

(b) The client did not inform the provider of their OHP coverage, enrollment in a PHP or CCO, or third party insurance coverage at the time of or after a service was provided, therefore, the provider could not bill the appropriate payer for reasons including, but not limited to, the lack of prior authorization, or the time limit to submit the claim for payment has passed. The provider must verify eligibility, pursuant to OAR 410-120-1140, and document attempts to obtain coverage information prior to billing the client;

(c) The client became eligible for benefits retroactively but did not meet all of the other criteria required to receive the service);

(d) A third party payer made payments directly to the client for services provided;

(e) The client has the limited Citizen Alien Waived Emergency Medical benefit package. CAWEM clients have the benefit package identifier of CWM. Clients receiving CAWEM benefits may be billed for services that are not part of the CAWEM benefits. (See OAR 410-120-1210 for coverage.) The provider must document that the client was informed in advance that the service or item would not be covered by the Division. An OHP 3165 is not required for these services;

(f) The client has requested a continuation of benefits during the contested case hearing process and the final decision was not in favor of the client. The client shall pay for any charges incurred for the denied service, on or after the effective date on the Notice of Action or Notice of Appeal Resolution. The provider must complete the OHP 3165 pursuant to section (3)(h) of this rule before providing these services;

(g) In exceptional circumstances, a client may decide to privately pay for a covered service. In this situation, the provider may bill the client if the provider informs the client in advance of all of the following:

(A) The requested service is a covered service, and the appropriate payer (the Division, PHP, CCO or third party payer) would pay the provider in full for the covered service; and

(B) The estimated cost of the covered service, including all related charges, the amount that the appropriate payer would pay for the service, and that the provider cannot bill the client for an amount greater than the amount the appropriate payer would pay; and

(C) That the client knowingly and voluntarily agrees to pay for the covered service;

(D) The provider documents in writing, signed by the client or the client's representative, indicating that the provider gave the client the information described in section (3)(g)(A-C); and that the client had an opportunity to ask questions, obtain additional information and consult with the client's caseworker or client representative; and the client agreed to privately pay for the service by signing an agreement incorporating all of the information described above. The provider must give a copy of the signed agreement to the client. A provider may not submit a claim for payment for covered services to the Division or to the client's PHP, CCO or third party payer that is subject to the agreement.

(h) A provider may bill a client for services that are not covered by the Division, PHP, or CCO (see definition of non-covered services). Before providing the non-covered service, the client must sign the provider-completed Agreement to Pay (OHP 3165), or a facsimile containing all of the information and elements of the OHP 3165 as shown in Table 3165 of this rule. The completed OHP 3165, or facsimile, is valid only if the estimated fee does not change and the service is scheduled within 30 days of the client's signature. Providers must make a copy of the completed OHP 3165, or facsimile, available to the Division, PHP or CCO upon request.

(4) Code Set requirements:

(a) Federal Code Set requirements (45 CFR 162) apply to all Medicaid Code Set requirements, including the use of diagnostic or procedure codes for prior authorization, claims submissions and payments. Code Set has the meaning set forth in 45 CFR 162.103, and it includes the codes and the descriptors of the codes. Federal Code Set requirements are mandatory, and the Division lacks any authority to delay or alter their application or effective dates as established by the U.S. Department of Health and Human Services;

(b) The Division shall adhere to the Code Set requirements in 45 CFR 162.1000–162.1011;

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(c) Periodically, the Division shall update its provider rules and tables to conform to national codes. In the event of an alleged variation between a Division-listed code and a national code, the Division shall apply the national code in effect on the date of request or date of service;

(d) Only codes with limitations or requiring prior authorization are noted in rules. National Code Set issuance alone should not be construed as coverage or a covered service by the Division;

(e) The Division adopts by reference the National Code Set revisions, deletions, and additions issued and published by the American Medical Association (Current Procedural Terminology — CPT) and on the CMS website (Healthcare Common Procedural Coding System — HCPCS). This code adoption should not be construed as coverage or as a covered service by the Division.

### (5) Claims:

(a) Upon submission of a claim to the Division for payment, the provider agrees that it has complied with all Division program rules. Submission of a claim, however, does not relieve the provider from the requirement of a signed provider agreement;

(b) A provider enrolled with the Division must bill using the Authority assigned provider number, or the National Provider Identification (NPI) number if the NPI is available, pursuant to OAR 410-120-1260;

(c) The provider may not bill the Division more than the provider's usual charge (see definitions) or the reimbursement specified in the applicable Division program rules;

(d) Claims must be submitted on the appropriate form as described in the individual Division program rules or electronically in a manner authorized in OAR chapter 943, division 120;

(e) Claims must be for services provided within the provider's licensure or certification;

(f) Unless otherwise specified, claims must be submitted after:

(A) Delivery of service; or

(B) Dispensing, shipment or mailing of the item.

(g) The provider must submit true and accurate information when billing the Division. Use of a billing provider does not abrogate the performing provider's responsibility for the truth and accuracy of submitted information;

(h) A claim is considered a valid claim only if all required data is entered on or attached to the claim form. See the appropriate provider rules and supplemental information for specific instructions and requirements;

(i) A provider or its contracted agency, including billing providers, may not submit or cause to be submitted:

(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 or is expected to be made by another source unless the amount paid or to be paid by the other party is clearly entered on the claim form;

(D) Any claim for furnishing specific care, items, or services that has not been provided.

(j) The provider is required to submit an Individual Adjustment Request or to refund the amount of the overpayment on any claim where the provider identifies an overpayment made by the Division;

(k) A provider who, after having been previously warned in writing by the Division or the Department of Justice about improper billing practices, is found to have continued improper billing practices and has had an opportunity for a contested case hearing shall be liable to the Division for up to triple the amount of the Division established overpayment received as a result of the violation.

### (6) Diagnosis code requirement:

(a) A primary diagnosis code is required on all claims, using the ICD-10-CM diagnosis code set, unless specifically excluded in individual Division program rules;

(b) The primary diagnosis code must be the code that most accurately describes the client's condition;

(c) All diagnosis codes are required to the highest degree of specificity;

(d) Hospitals must follow national coding guidelines and bill using the 7th digit where applicable in accordance with methodology used in the Medicare Diagnosis Related Groups.

### (7) Procedure code requirement:

(a) For claims requiring a procedure code the provider must bill as instructed in the appropriate Division program rules and must use the appropriate HIPAA procedure code set such as CPT, HCPCS, ICD-10-PCS, ADA CDT, NDC, established according to 45 CFR 162.1000 to 162.1011, which best describes the specific service or item provided;

(b) For claims that require the listing of a procedure code as a condition of payment, the code listed on the claim must be the code that most accurately describes the services provided. Hospitals must follow national coding guidelines;

(c) When there is no appropriate descriptive procedure code to bill the Division, the provider must use the code for "unlisted services." Instructions on the specific use of unlisted services are contained in the individual provider rules. A complete and accurate description of the specific care, item, or service must be documented on the claim;

(d) Where there is one CPT, CDT, or HCPCS code that according to CPT, CDT, and HCPCS coding guidelines or standards describes an array of services, the provider must bill the Division using that code rather than itemizing the services under multiple codes. Providers may not "unbundle" services in order to increase the payment.

### (8) Third party Liability (TPL):

(a) Federal law requires that state Medicaid agencies take all reasonable measures to ensure that in most instances the Division shall be the payer of last resort;

(b) Providers must make reasonable efforts to obtain payment first from other resources. For the purposes of this rule "reasonable efforts" include determining the existence of insurance or other resources on each date of service by:

(A) Using an insurance database such as Electronic Verification System (EVS) available to the provider;

(B) Using the Automated Voice Response (AVR) or secure provider web portal on each date of service and at the time of billing.

(c) Except as noted in section (8)(d)(A through E) below, when third party coverage is known to the provider prior to billing the Division the provider must:

(A) Bill the TPL; and

(B) Except for pharmacy claims billed through the Division's point-of-sale system, the provider must wait 30 days from submission date of a clean claim and have not received payment from the third party; and

(C) Comply with the insurer's billing and authorization requirements; and

(D) Appeal a denied claim when the service is payable in whole or in part by an insurer.

(d) In accordance with federal regulations the provider must bill the TPL prior to billing the Division, except under the following circumstances:

(A) The covered health service is provided by an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID);

(B) The covered health service is provided by institutional services for the mentally and emotionally disturbed;

(C) The covered health services are prenatal and preventive pediatric services;

(D) Services are covered by a third party insurer through an absent parent where the medical coverage is administratively or court ordered;

(E) When another party may be liable for an injury or illness (see definition of Liability Insurance), the provider may bill the insurer, the liable party, place a lien against a settlement, or bill the Division. The provider may not both place a lien against a settlement and bill the Division. The provider may withdraw the lien and bill the Division within 12 months of the date of service. If the provider bills the Division, the provider must accept payment made by the Division as payment in full.

(e) The provider may not return the payment made by the Division in order to accept payment from a liability settlement or liability insurer or place a lien against that settlement:

(A) In the circumstances outlined in section (8)(d)(A) through (E) above, the provider may choose to bill the primary insurance prior to billing the Division. Otherwise, the Division shall process the claim and, if applicable, pay the Division's allowable rate for these services and seek reimbursement from the liable third party insurance plan;

(B) In making the decision to bill the Division the provider should be cognizant of the possibility that the third party payer may reimburse the service at a higher rate than the Division, and that, once the Division makes payment no additional billing to the third party is permitted by the provider.

(f) The provider may bill the Division directly for services that are never covered by Medicare or another insurer on the appropriate form identified in the relevant provider rules. Documentation must be on file in the provider's records indicating this is a non-covered service for purposes of Third Party Resources. See the individual provider rules for further information on services that must be billed to Medicare first;

(g) Providers shall submit an Individual Adjustment Request showing the amount of the third party payment or to refund the amount received

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from another source within 30 days of the date the payment is received. Failure to submit the Individual Adjustment Request 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 and sanction:

(A) When a provider receives a payment from any source prior to the submission of a claim to the Division, the amount of the payment must be shown as a credit on the claim in the appropriate field;

(B) Any provider who accepts third party payment for furnishing a service or item to a Division client after having billed the Division shall:

(i) Submit an Individual Adjustment Request indicating the amount of the third party payment. Follow instructions in the individual Division program rules and supplemental billing; or

(ii) When the provider has already accepted payment from the Division for the service or item, the provider shall make direct payment of the amount of the third party payment to the Division. The check to repay the Division shall include the reason the payment is being made and either:

(I) An Individual Adjustment Request that identifies the original claim, name and number of the client, date of service and items or services for which the repayment is made; or

(II) A copy of the Remittance Advice showing the original Division payment.

(C) Any provider who accepts payment from a client, or client's representative and is subsequently paid for the service by the Division shall reimburse the client or their representative the full amount of their payment.

(h) The Division may make a claim against any third party payer after making payment to the provider of service. The Division may pursue alternate resources following payment if it deems this a more efficient approach. Pursuing alternate resources includes, but is not limited to, requesting the provider to bill the third party and to refund the Division in accordance with this rule;

(i) For services provided to a Medicare and Medicaid dual eligible client, the Division may request the provider to submit a claim for Medicare payment, and the provider must honor that request. Under federal regulation, a provider may not charge a beneficiary (or the state as the beneficiary's subrogee) for services for which a provider failed to file a timely claim (42 CFR 424) with Medicare despite being requested to do so;

(j) If Medicare is the primary payer and Medicare denies payment, Medicare appeals must be timely pursued, and Medicare denial must be obtained prior to submitting the claim for payment to the Division. Medicare denial on the basis of failure to submit a timely appeal may result in the Division reducing from the amount of the claim any amount the Division determines could have been paid by Medicare.

(9) Full use of alternate resources:

(a) The Division shall generally make payment only when other resources are not available for the client's medical needs. Full use must be made of reasonable alternate resources in the local community;

(b) Except as provided in subsection (10) of this rule, alternate resources may be available:

(A) Under a federal or state worker's compensation law or plan;

(B) For items or services furnished by reason of membership in a prepayment plan;

(C) For items or services provided or paid for directly or indirectly by a health insurance plan or as health benefits of a governmental entity such as:

(i) Armed Forces Retirees and Dependents Act (CHAMPVA);

(ii) Armed Forces Active Duty and Dependents Military Medical Benefits Act (CHAMPUS); or

(iii) Medicare Parts A and B.

(D) To residents of another state under that state's Title XIX or state funded medical assistance programs; or

(E) Through other reasonably available resources.

(10) Exceptions:

(a) Indian Health Services or Tribal Health Facilities. Pursuant to 42 CFR 136.61 subpart G and the Memorandum of Agreement in OAR 310-146-0000, Indian Health Services facilities and tribal facilities operating under Public Law 93, Section 638 agreement are payers of last resort and are not considered an alternate resource or TPL;

(b) Veterans Administration. Veterans who are also eligible for Medicaid benefits are encouraged to utilize Veterans' Administration facilities whenever possible. Veterans' benefits are prioritized for service related conditions and as such are not considered an alternate or TPL.

(11) Table 120-1280 – TPR codes.

(12) Table – OHP Client Agreement to Pay for Health Services, OHP 3165.

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81, Renumbered from 461-013-0050, 461-013-0060, 461-013-0090 & 461-013-0020; AFS 47-1982, f. 4-30-82; AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 45-1983, f. 9-19-83, ef. 10-1-83; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 36-1984, f. & ef. 8-20-84; AFS 24-1985, f. 4-24-85, cert. ef. 6-1-85; AFS 33-1986, f. 4-11-86, ef. 6-1-86; AFS 43-1986, f. 6-13-86, ef. 7-1-86; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 14-1987, f. 5-31-87, ef. 4-1-87; AFS 38-1988, f. 5-17-88, cert. ef. 6-1-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0140, 461-013-0150, 461-013-0175 & 461-013-0180; HR 19-1990, f. & cert. ef. 7-9-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040, 410-120-0260, 410-120-0280, 410-120-0300 & 410-120-0320; HR 31-1994, f. & cert. ef. 11-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-10-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 30-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2002, f. 6-14-02 cert. ef. 8-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 10-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 10-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 67-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 45-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 61-2013, f. 10-31-13, cert. ef. 11-1-13; DMAP 40-2015, f. & cert. ef. 7-1-15; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 53-2016, f. 8-26-16, cert. ef. 9-1-16

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**Rule Caption:** Amending Prior Authorization Approval Criteria Guide

**Adm. Order No.:** DMAP 54-2016(Temp)

**Filed with Sec. of State:** 8-26-2016

**Certified to be Effective:** 8-26-16 thru 12-27-16

**Notice Publication Date:**

**Rules Amended:** 410-121-0040

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

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

## 410-121-0040

### Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth in OAR 410-121-0060.

(2) All drugs and categories of drugs including, but not limited to, those drugs and categories of drugs that require PA shall meet the following requirements for coverage:

(a) Each drug shall be prescribed for conditions funded by the Oregon Health Plan (OHP) in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a co-morbid condition for which coverage would be allowed. The use of the medication shall meet corresponding treatment guidelines and be included within the client's benefit package of covered services and not otherwise excluded or limited;

(b) Each drug shall also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Authority may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-for-Service Prior Authorization Approval Criteria (PA Criteria guide) dated August 26, 2016, adopted and incorporated by reference and found at: <http://www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx>.

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. The drugs and categories of drugs for which

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the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First Databank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant shall be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant shall notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner shall document that the use of the generically equivalent drug is medically contraindicated and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA shall be obtained for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV, or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP; or

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.330 to 414.414, 414.312 & 414.316  
Stats. Implemented: 414.065, 414.334, 414.361, 414.371, 414.353 & 414.354

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. & cert. ef. 10-13-14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 36-2015(Temp), f. 6-26-15, cert. ef. 7-1-15 thru 12-27-15; DMAP 41-2015(Temp), f. & cert. ef. 8-7-15 thru 2-2-16; DMAP 44-2015(Temp), f. 8-21-15, cert. ef. 8-25-15 thru 12-27-15; DMAP 58-2015(Temp), f. & cert. ef. 10-9-15 thru 12-27-15; DMAP 80-2015, f. 12-23-15, cert. ef. 12-27-15; DMAP 83-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 6-2016(Temp), f. 2-11-16, cert. ef. 2-12-16 thru 6-28-16; DMAP 19-

2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16; DMAP 26-2016, f. 6-24-16, cert. ef. 6-28-16; DMAP 35-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; DMAP 54-2016(Temp), f. & cert. ef. 8-26-16 thru 12-27-16

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## Oregon Health Authority, Health Systems Division: Mental Health Services **Chapter 309**

**Rule Caption:** Temporary amendments to OAR 309-035 regarding the licensing of treatment facilities for the mentally ill.

**Adm. Order No.:** MHS 13-2016(Temp)

**Filed with Sec. of State:** 9-6-2016

**Certified to be Effective:** 9-7-16 thru 3-3-17

**Notice Publication Date:**

**Rules Adopted:** 309-035-0107, 309-035-0146, 309-035-0160, 309-035-0161

**Rules Amended:** 309-035-0100, 309-035-0105, 309-035-0110, 309-035-0113, 309-035-0115, 309-035-0117, 309-035-0120, 309-035-0125, 309-035-0130, 309-035-0135, 309-035-0140, 309-035-0145, 309-035-0150, 309-035-0155, 309-035-0157, 309-035-0159, 309-035-0167, 309-035-0170, 309-035-0175, 309-035-0185, 309-035-0190, 309-035-0165

**Rules Suspended:** 309-035-0250(T), 309-035-0260(T), 309-035-0270(T), 309-035-0280(T), 309-035-0290(T), 309-035-0300(T), 309-035-0310(T), 309-035-0320(T), 309-035-0330(T), 309-035-0340(T), 309-035-0350(T), 309-035-0360(T), 309-035-0370(T), 309-035-0380(T), 309-035-0390(T), 309-035-0400(T), 309-035-0410(T), 309-035-0420(T), 309-035-0430(T), 309-035-0440(T), 309-035-0450(T), 309-035-0460(T), 309-035-0500(T), 309-035-0550(T), 309-035-0560(T), 309-035-0570(T), 309-035-0580(T), 309-035-0590(T), 309-035-0600(T)

**Subject:** These rules prescribe standards by which the Health Systems Division of the Oregon Health Authority (OHA) licenses community based residential treatment facilities (RTF) and community based residential treatment homes (RTH) for adults with mental or emotional disorders. The standards promote optimum health, mental and social well-being, and recovery of adults with mental or emotional disorders through the availability of a wide range of home and community based residential settings and services. They prescribe how services will be provided in safe, secure and homelike environments that recognize the dignity, individuality and right to self-determination of each individual.

**Rules Coordinator:** Nola Russell—(503) 945-7652

### 309-035-0100

#### Purpose and Scope

(1) Purpose. These rules prescribe standards by which the Health Systems Division of the Oregon Health Authority (OHA) licenses community based residential treatment facilities (RTF) and community based residential treatment homes (RTH) for adults with mental or emotional disorders. The standards promote optimum health, mental and social well-being, and recovery of adults with mental or emotional disorders through the availability of a wide range of home and community based residential settings and services. They prescribe how services will be provided in safe, secure and homelike environments that recognize the dignity, individuality and right to self-determination of each individual.

(a) These rules incorporate and implement the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services for home and community based services (HCBS) authorized under section 1915(i) of the Social Security Act.

(b) These rules establish requirements to ensure individuals receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving HCBS consistent with the standards set out in OAR Chapter 411, Division 4.

(2) Scope. These rules apply to all residential treatment homes and residential treatment facilities providing services to adults with mental or emotional disorders regardless of whether the program receives public funds. These rules prescribe distinct standards in some areas for secure residential treatment facilities or based on the number of individuals receiving services in the program.

Stat. Auth.: ORS 413.042 & 443.450  
Stats. Implemented: ORS 443.400 - 443.465 & 443.991



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Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 10-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 5-2012, f. 5-3-12, cert. ef. 5-4-12; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0105

### Definitions

As used in these rules the following definitions apply:

- (1) "Abuse" includes but is not limited to:
  - (a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;
  - (b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;
  - (c) Willful infliction of physical pain or injury;
  - (d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;
  - (e) Neglect that leads to physical harm through withholding of services necessary to maintain health and wellbeing;
  - (f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual.
- (2) "Program Administrator" means the person designated by the provider as responsible for the daily operation and maintenance of RTH or RTF or the program administrator's designee.
- (3) "Adult" means a person 18 years of age or older.
- (4) "Aid to Physical Functioning" means any special equipment ordered for an individual by a Licensed Medical Professional (LMP) or other qualified health care professional which maintains or enhances the individual's physical functioning.
- (5) "Applicant" means the person(s) or entity, including the Division, who owns, seeks to own, seeks to operate or maintains and operates a program and is applying for the license.
- (6) "Approved" means authorized or allowed by the Director of OHA or his or her designee.
- (7) "Authority" means the Oregon Health Authority or its designee.
- (8) "Building Code" means the Oregon Structural Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.
- (9) "Care" means services such as supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.
- (10) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.
- (11) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for persons with mental or emotional disorders, operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.
- (12) "Competitive Integrated Employment" means work that is performed on a full-time or part-time basis (including self-employment):
  - (a) For which an individual:
    - (A) Is compensated at a rate that:
      - (i) Is not less than the higher of the rate specified in federal, state, or local minimum wage law, and also is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not persons with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or
      - (ii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and
    - (B) Is eligible for the level of benefits provided to other employees.
  - (b) That is at a location where the individual interacts with other persons who are not persons with disabilities (not including supervisory personnel or persons providing services to such individual) to the same extent that persons who are not persons with disabilities and who are in comparable positions interact with others; and

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not persons with disabilities and who have similar positions.

(13) "Contract" means a formal written agreement between the CMHP, CCO, Oregon Health Plan contractor or the Division and a provider.

(14) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 407-007-0000 through 407-007-0370.

(15) "Crisis-Respite Services" means the provision of services to individuals for up to 30 days.

(16) "Controlled" means a provider requires an individual to receive services from the provider or requires the individual to receive a particular service as a condition of living or remaining in the HCB setting.

(17) "Designated Representative" means:

(a) Any adult who is not the individual's paid provider, who:

(A) The individual has authorized to serve as his or her representative; or

(B) The individual's legal representative has authorized to serve as the individual's representative.

(b) The power to act as a designated representative is valid until the individual or the individual's legal representative modifies the authorization and notifies the Division of the modification, the individual or the individual's representative notifies the provider that the designated representative is no longer authorized to act on his or her behalf, or there is a change in the legal authority upon which the designation was based. Notice must include the individual's or the representative's signature as appropriate.

(c) An individual, or the individual's legal representative, is not required to appoint a designated representative.

(18) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)," published by the American Psychiatric Association.

(19) "Deputy Director" means the Deputy Director of the Health Systems Division of the Oregon Health Authority or his or her designee.

(20) "Division" means the Health Systems Division of the Oregon Health Authority or its designee.

(21) "Division Staff" means those staff employed by the Division or persons delegated the authority by the Division to conduct licensing activities under these rules.

(22) "Direct Care Staff Person" means a program staff responsible for providing services an individual.

(23) "Emergency Admission" means an admission to a program made on an urgent basis due to the pressing service needs of the individual.

(24) "Evacuation Capability" means the ability of occupants, including individuals and program staff as a group, to either evacuate the building or relocate from a point of occupancy to a point of safety as defined in the Oregon Structural Specialty Code. The category of evacuation capability is determined by documented evacuation drill times or scores on National Fire Protective Association (NFPA) 101A 2000 edition worksheets. There are three categories of evacuation capability:

(a) Impractical (SR-2): A group, even with staff assistance, that cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes.

(b) Slow (SR-1): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes.

(c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. The Division is authorized to determine evacuation capability for programs in accordance with the NFPA 101A 2000 edition. Programs that are determined to be "Prompt" may be used in Group R occupancies classified by the building official, in accordance with the building code.

(25) "Fire Code" means the Oregon Fire Code as adopted by the State of Oregon Fire Marshal.

(26) "HCB" means Home and Community Based.

(27) "HCBS" means Home and Community-Based Services as defined in OAR chapter 411, division 4. HCBS are services provided in the home or community of an individual.

(28) "Home and Community-Based Settings" or "HCB Settings" means a physical location meeting the qualities of OAR 411-004-0020 where an individual receives Home and Community-Based Services.

(29) "Home-like" means an environment that promotes the dignity, security, and comfort of individuals through the provision of personalized

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care and services, and encourages independence, choice, and decision-making by the individual.

(30) "Individual" means any person being considered for placement or currently residing in a licensed program receiving residential services regulated by these rules on a 24-hour basis, except as excluded under ORS 443.400.

(31) "Individual Service Record" means an individual's records maintained by the program as required and established in OAR 309-035-0117(4).

(32) "Individually-Based Limitation" means a limitation to a quality o listed in OAR 411-004-0020(2)(c) to (2)(g) and as incorporated in OAR 309-035-0161 applied in accordance with applicable requirements provided in OAR 309-035-0161. An individually-based limitation is based on specific assessed need and only implemented with the informed consent of the individual or, as applicable, the individual's legal representative, as described in OAR 411-004-0040 and these rules. These qualities include the individual's right to:

(a) Live under a legally enforceable agreement with protections substantially equivalent to landlord/tenant laws;

(b) The freedom and support to access food at any time;

(c) Have visitors of the individual's choosing at any time;

(d) Have a lockable door in the individual's unit, which may be locked by the individual;

(e) Choose a roommate when sharing a unit;

(f) Furnish and decorate the individual's unit according to the Residency Agreement;

(g) The freedom and support to control the individual's schedule and activities; and

(h) Privacy in the individual's unit.

(33) "Informed Consent" means:

(a) Options, risks, and benefits of the services outlined in these rules have been explained to an individual and, as applicable, the individual's legal representative, in a manner that the individual and, as applicable, the individual's legal representative comprehends; and

(b) The individual and, as applicable, the individual's legal representative, consents to a person-centered service plan of action, including any individually-based limitations to the rules, prior to implementation of the initial or updated person-centered service plan or any individually-based limitation.

(34) "Legal Representative" means a person who has the legal authority to act for an individual and only within the scope and limits to his or her authority as designated by the court or other agreement. A legal representative may include:

(a) For an individual under the age of 18, the parent, unless a court appoints another person or agency to act as the guardian; or

(b) For an individual 18 years of age or older, a guardian appointed by a court order or an agent legally designated as the health care representative.

(35) "Licensed Medical Professional (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licensures:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse Practitioner licensed to practice in the State of Oregon; or

(C) Physician's Assistant licensed to practice in the State of Oregon;

and

(b) Whose training, experience and competence demonstrate the ability to conduct a Comprehensive Mental Health Assessment and provide medication management.

(36) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties operating a CMHP or MHO; or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a public or private corporation which contracts with the Division to operate a CMHP or MHO for that county.

(37) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(38) "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder that limits an individual's ability to perform activities of daily living.

(39) "Mental Health Assessment" means a determination by a Qualified Mental Health Professional (QMHP) of a person's need for mental health services. It involves collection and assessment of data pertinent

to the person's mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services, or a written statement that the person is not in need of community mental health services.

(40) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs may be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(41) "Mistreatment" means the following behaviors, displayed by, program staff when directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm.

(b) "Financial Exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual.

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual.

(D) Failing to use the income or assets of an individual effectively for the support and maintenance of the individual. "Effectively" means use of income or assets for the benefit of the individual.

(c) "Involuntary Restriction" means the involuntary restriction of an individual for the convenience of a program staff or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the setting, residence or program, unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short-term basis when an individual's presence would pose a risk to health or safety to the individual or others.

(d) "Neglect" means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the individual.

(e) "Verbal Mistreatment" means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory statements, inappropriate names, insults, verbal assaults, profanity or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an individual.

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance of sight, regardless of the individual's ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress or fear.

(f) "Wrongful Restraint" means a use of physical or chemical restraint, except for:

(A) An act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730; or

(B) A physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(42) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to a person other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

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(43) "Person-Centered Service Plan" means written documentation that includes details of the supports, desired outcomes, activities, and resources required for an individual to achieve and maintain personal goals, health, and safety as described in OAR 411-004-0030.

(44) "Person-Centered Service Plan Coordinator" means the person, which may be a case manager, service coordinator, personal agents or other person, designated by the Division to provide case management services or person-centered service planning for and with an individual.

(45) "P.R.N. (pro re nata) Medications and Treatments" means those medications and treatments which have been ordered to be given as needed.

(46) "Program" means the Residential Treatment Facility or Residential Treatment Home licensed by the Division and may refer to the provider grounds, caregiver, staff and/or services as applicable to the context.

(47) "Program Staff" means an employee, volunteer, direct care staff or person who, by contract with a program, provides a service to an individual.

(48) "Progress Notes" means the notations in the individual's record documenting significant information concerning the individual and summarizing progress made relevant to the objectives outlined in the residential service plan.

(49) "Protection" means the necessary actions taken by the program to prevent abuse, mistreatment, or exploitation of the individuals, to prevent self-destructive acts, and to safeguard individuals, property and funds when used in the relevant context.

(50) "Provider" means the program administrator, person, or organizational entity, licensed by the Division for the purpose of providing services to an individual through the program. The provider is legally responsible for the operation of the program and the provision of services.

(51) "Representative" refers to both "Designated Representative" and "Legal Representative" as defined in these rules, unless otherwise stated.

(52) "Residency Agreement" means the written, legally enforceable agreement between a provider and an individual or the individual's representative when the individual receives services. The Residency Agreement identifies the rights and responsibilities of the individual and the provider. The Residency Agreement provides the individual protection from eviction substantially equivalent to landlord-tenant laws.

(53) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to an individual in or through the program based upon an individual assessment of care and treatment needs. The residential service plan may be a section or subcomponent of the individual's overall mental health treatment plan when the program is operated by a mental health service agency that provides other services to the individual.

(54) "Residential Treatment Facility (RTF)" means a program that is licensed by the Division and operated to provide services on a 24-hour basis for 6 to 16 individuals as described in ORS 443.400(9). A RTF does not include the entities set out in ORS 443.405.

(55) "Residential Treatment Home (RTH)" means a program that is licensed by the Division and operated to provide services on a 24-hour basis for up to five individuals as defined in ORS 443.400(10). A RTH does not include the entities set out in ORS 443.405.

(56) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of an individual.

(57) "Room and Board" means compensation for the provision of meals, a place to sleep, and tasks, such as housekeeping and laundry.

(58) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(59) "Secure Residential Treatment Facility (SRTF)" means any Residential Treatment Facility, or portion thereof, approved by the Division that restricts an individual's exit from the setting through the use of approved locking devices on individual exit doors, gates or other closures.

(60) "Services" means the care and treatment provided to individuals by a program.

(61) "Setting" means one or more buildings and adjacent grounds on contiguous properties that are used in the operation of a program.

(62) "Supervision" a program staff's observation, and monitoring of ran individual or oversight of a program staff by the program administrator applicable to the context.

(63) "Termination of Residency" means the time at which the individual ceases to live in the program, and includes the transfer of the indi-

vidual to another program, but does not include absences from the setting for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(64) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities consistent with ORS 443.400(12).

(65) "Unit" means the personal space and bedroom of an individual receiving services from a program, as agreed to in the Residency Agreement.

(66) "Volunteer" means a person who provides a service or who takes part in a service provided to an individual receiving supportive services in a program or other provider, and who is not a paid employee of the program or other provider.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07; MHS 13-2007, f. & cert. ef. 8-31-07; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 10-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 5-2012, f. 5-3-12, cert. ef. 5-4-12; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0107

### Required Home-like Qualities

This rule becomes effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(1) A program, except for a SRTF, must have all of the following qualities:

(a) The setting is integrated in and supports the individual's same degree of access to the greater community as people not receiving HCBS, including opportunities for an individual to:

(A) Seek employment and work in competitive integrated employment settings;

(B) Engage in greater community life;

(C) Control personal resources; and

(D) Receive services in the greater community.

(b) The program 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 options must be:

(A) Identified and documented in the person-centered service plan for the individual;

(B) Based on the needs and preferences of the individual; and

(C) Based on the available resources of the individual for room and board.

(c) The program ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint.

(d) The program 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.

(e) The program facilitates individual choice regarding services and supports, and individual choice as to who provides the services and supports.

(2) The individual, or the individual's representative, must have the opportunity to select from among available setting options, including non-disability specific settings and an option for a private unit in a setting. The setting options must be:

(a) Identified and documented in the person-centered service plan for the individual;

(b) Based on the needs and preferences of the individual; and

(c) Based on the available resources of the individual for room and board.

(3) The provider must take reasonable steps to ensure that the program maintains the qualities identified in subsections (2) and (3) of these rules. Failure to take reasonable steps may include, but is not limited to:

(a) Failure to maintain a copy of the person centered plan at the setting;

(b) Failure to cooperate or provide necessary information to the person centered planning coordinator; or

(c) Failure to attend or schedule a person centered planning meeting where applicable.

(4) Additional Requirements. A program must maintain the following:

(a) The setting must be physically accessible to an individual.

(b) The provider must provide the individual a unit of specific physical place that the individual may own, rent, or occupy under a legally enforceable Residency Agreement.

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(c) The provider must provide and include in the Residency Agreement that the individual has, at a minimum, the same responsibilities and protections from an eviction that a tenant has under the landlord-tenant law of Oregon, and other applicable laws or rules of the county, city, or other designated entity. For a setting in which landlord-tenant laws do not apply, the Residency Agreement must provide substantially equivalent protections for the individual and address eviction and appeal processes. The eviction and appeal processes must be substantially equivalent to the processes provided under landlord-tenant laws.

(d) The provider must provide each individual with privacy in his or her own unit.

(e) The provider must maintain units with entrance doors lockable by the individual. The program must ensure that only the individual, the individual's roommate (where applicable), and only appropriate staff, as described in the individual's person-centered plan, have keys to access the unit.

(f) The provider must ensure that individuals sharing units have a choice of roommates.

(g) The provider must provide and include in the Residency Agreement that individuals have the freedom to decorate and furnish his or her own unit

(h) The provider must allow each individual to have visitors of his or her choosing at any time.

(i) The provider must ensure each individual has the freedom and support to control his or her own schedule and activities.

(j) The provider must ensure each individual has the freedom and support to have access to food at any time.

(5) An SRTF is not required to maintain the qualities or meet the obligations identified in subsections (d), (e), (f), (h), or (i) of section 4 of this rule. The provider is not required to seek an individually based limitation to comply with these rules.

(6) A provider is not required to maintain the qualities or meet the obligations identified in subsections (b) or (c) of section 4 of this rule when providing crisis respite services to an individual. The provider is not required to seek an individually based limitation for such an individual to comply with these rules.

(7) When a provider is unable to meet a quality described under sections (4)(e) to (4)(j) of this rule due to threats to the health and safety of the individual or others, the provider may seek an individually-based limitation with the consent of the individual or, as applicable, the individual's legal representative, through the process set out in OAR 411-004-0040 and incorporated by 309-035-0161. The provider may not apply an individually-based limitation until the limitation is approved and documented as required by OAR 309-035-0000.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

Hist.: MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0110

### Licensing

(1) License Required. The Division will license a program that meets the definition of a RTF or RTH and demonstrates compliance with these and all applicable laws and rules. No person or governmental unit acting individually or jointly with any other person or governmental unit will establish, maintain, manage, or operate a program without a license issued by the Division.

(2) Where a program serves or seeks to serve another category of individuals, in addition to adults with a mental or emotional disorder, the Directors of OHA and DHS shall determine the Department responsible for licensure.

(3) Initial Application. An application for a license must be accompanied by the required fee and submitted to the Division using the forms or format required by the Division. The following information must be included in the application:

(a) Full and complete information as to the identity and financial interest of each person, including stockholders, having a direct or indirect ownership interest of five percent or more in the program and all officers and directors in the case of a program operated or owned by a corporation.

(b) Name and resume of the program administrator;

(c) Location (street address) of the setting and mailing address;

(d) Maximum number of individuals to be served at any one time, their age range and evacuation capability;

(e) Proposed annual budget identifying sources of revenue and expenses;

(f) Signed criminal record authorizations for all persons involved in the operation of the program who will have contact with the individuals including but not limited to caregivers;

(g) A complete set of policies and procedures;

(h) Setting plans and specifications; and

(i) Such other information as the Division may reasonably require.

(4) Plans and Design Approval. A complete set of plans and specifications must be submitted to the Division at the time of initial application, whenever a new structure or addition to an existing structure is proposed, or when significant alterations to an existing facility are proposed. Plans will meet the following criteria:

(a) Plans will be prepared in accordance with the Building Code and requirements of OAR 309-035-0125;

(b) Plans will be to scale and sufficiently complete to allow full review for compliance with these rules; and

(c) Plans will bear the stamp of an Oregon licensed architect or engineer when required by the Building Code.

(5) Necessary Approvals. Prior to approval of a license for a new or renovated setting, the applicant must submit the following to the Division:

(a) One copy of written approval to occupy the setting issued by the city or county building codes authority having jurisdiction;

(b) One copy of the fire inspection report from the State Fire Marshal or local jurisdiction indicating that the setting complies with the Fire Code;

(c) When the setting is not served by an approved municipal water system, one copy of the documentation indicating that the state or county health agency having jurisdiction has tested and certified safe the water supply in accordance with OAR chapter 333, Health Services rules to public water systems.

(d) When the setting is not connected to an approved municipal sewer system, one copy of the sewer or septic system approval from the Department of Environmental Quality or local jurisdiction.

(6) Required Fees. The following fees must be submitted with an initial or renewal application:

(a) The RTF license application fee for initial or renewal licensing is \$60. No fee is required in the case of a governmentally operated RTF.

(b) The RTH license application fee for initial or renewal licensing is \$30. No fee is required in the case of a governmentally operated RTH.

(7) Renewal Application. A license is renewable upon submission of a renewal application in the form or format required by the Division and a non-refundable fee as set out in subsection (6), , except that no fee will be required of a governmentally operated program.

(a) Filing of an application for renewal 60 days before the date of expiration extends the effective date of the current license until the Division takes action upon the renewal application.

(b) The Division must deny renewal of a license if the program is not in substantial compliance with these rules, or if the State Fire Marshal or authorized representative has given notice of noncompliance.

(8) Review Process. Upon receipt of an application and fee, the Division will conduct an application review. Initial action by the Division on the application will begin within 30 days of receipt of all application materials. The review will:

(a) Include a complete review of application materials;

(b) Determine whether the applicant meets the qualifications outlined in ORS 443.420 including:

(A) Demonstrates an understanding and acceptance of these rules;

(B) Is mentally and physically capable of providing services for individuals;

(C) Employs or utilizes only persons whose presence does not jeopardize the health, safety, or welfare of individuals; and

(D) Provides evidence satisfactory to the Division of financial ability to comply with these rules.

(c) Include a site inspection; and

(d) Conclude with a report stating findings and a decision on licensing of the program.

(9) Findings of Noncompliance. The provider must submit and complete a plan of correction for each finding of noncompliance with these rules.

(a) If the finding(s) of noncompliance substantially impact the welfare, health and/or safety of individuals, the provider must submit plan of correction and will be approved by the Division prior to issuance of a license. In the case of a currently operating program, such findings may result in suspension or revocation of a license.

(b) If it is determined that the finding(s) of noncompliance do not threaten the welfare, health or safety of individuals and the program meets other requirements of licensing, the Division may issue or renew a license

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with may be issued or renewed, with the plan of correction submitted and completed as a condition of licensing.

(c) The Division will specify required documentation and set the time lines for the submission and completion of plans of correction in accordance with the severity of the finding(s).

(d) The Division will review and evaluate each plan of correction. If the plan of correction does not adequately remedy the finding(s) of non-compliance, the Division may require a revised plan of correction, and/or take action to apply civil penalties or deny, revoke or suspend the license.

(e) The Provider owner may appeal the finding of noncompliance or the disapproval of a plan of correction by submitting a request for reconsideration in writing to the Division. The Division will make a decision on the appeal within 30 days of receipt of the appeal. The decision of the Division will be final.

(10) Variance. The Division, in its discretion, may grant a variance to these rules based upon a demonstration by the applicant or provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health or safety of individuals.

(a) Variance Application. The provider seeking a variance must submit, in writing, an application to the Division which identifies the section of the rules from which the variance is sought, the reason for the proposed variance, the proposed alternative method or different approach, and signed documentation from the CMHP indicating approval of the proposed variance.

(b) Division Review. The Director or designee, will review and approve or deny the request for a variance.

(c) Notification of Decision. The Division will notify the provider of the decision in writing within 30 days after receipt of the application. A variance may be implemented only after receipt of written approval from the Division.

(d) Appeal of Decision. The provider may appeal the denial of a variance request by submitting a request for reconsideration in writing to the Assistant Director of the Division. The Assistant Director of the Division will make a decision on the appeal within 30 days of receipt of the appeal. The decision of the Assistant Director of the Division will be final.

(e) Duration of the Variance. A variance will be reviewed by the Division at least every two years and may be revoked or suspended based upon a finding that the variance adversely impacts the welfare, health or safety of the individuals.

(11) Issuance of License. Upon finding that the applicant is in substantial compliance with these rules, the Division will issue a license.

(a) The license issued will state the name of the provider, the name of the program administrator, the address of the setting to which the license applies, the maximum number of individuals to be served at any one time and their evacuation capability, the type of program, and such other information as the Division deems necessary.

(b) A program license will be effective for two years from the date issued unless sooner revoked or suspended.

(c) A program license is not transferable or applicable to any setting, location, or management other than that indicated on the application and license.

(12) Conditions of License. The license will be valid only under the following conditions:

(a) The provider must not operate or maintain the program in combination with a nursing facility, hospital, retirement facility, or other occupancy unless licensed, maintained, and operated as a separate and distinct part. Each program will have sleeping, dining and living areas for use only by its own individuals, caregivers and invited guests.

(b) The provider must maintain the license posted in the setting and available for inspection at all times.

(c) A license is void immediately upon suspension or revocation of the license by the Division, or if the operation is discontinued by voluntary action of the provider, or if there is a change of ownership.

(13) Site Inspections. Division staff will visit and inspect every setting at least, but not limited to, once every two years to determine whether it is maintained and operated in accordance with these rules. The provider or applicant must allow Division staff entry and access to the setting and individuals for the purpose of conducting the inspections.

(a) Division staff will review methods of individual care and treatment, records, the condition of the setting and equipment, and other areas of operation.

(b) All records, unless specifically excluded by law, must be available to the Division for review.

(c) The State Fire Marshal or authorized representative(s) will, upon request, be permitted access to the setting, fire safety equipment within the setting, safety policies and procedures, maintenance records of fire protection equipment and systems, and records demonstrating the evacuation capability of setting occupants.

(14) Investigation of Complaints and Alleged Abuse. Incidents of alleged abuse covered by ORS 430.735 through 430.765 will be reported and investigated in accordance with OAR 410-009-0050 through 410-009-0160. Division staff will investigate complaints and other alleged abuse made regarding a program, will file a report to be filed, and will take appropriate action under these rules. The Division may delegate the investigation to a CMHP or other appropriate entity.

(15) Denial, Suspension or Revocation of License. The Division may deny, suspend or revoke a license where it finds there has been substantial failure to comply with these rules; or where the State Fire Marshal or authorized representative certifies that there is failure to comply with the Fire Code.

(a) In cases where there exists an imminent danger to the health or safety of an individual or the public, a license may be suspended immediately.

(b) Such revocation, suspension, or denial will be done in accordance with ORS 183.

(16) Reporting Changes. The provider must report promptly to the Division any significant changes to information supplied in the application or subsequent correspondence. Such changes include, but are not limited to, changes in the setting or program name, provider, program administrator, telephone number and mailing address. Such changes also include, but are not limited to, changes in the physical nature of the setting, policies and procedures or staffing pattern when such changes are significant or impact the health, safety or well-being of individuals.

(17) Enforcement of Home and Community Based Services and Settings Requirements.

(a) All programs licensed on or after July 1, 2016 must be in full compliance with all regulatory requirements under these rules at the time of initial licensure;

(b) All programs licensed prior to July 1, 2016 must come into compliance with rules as follows:

(A) All programs must be in full compliance with these rules no later than January 1, 2017.

(B) For the rules designated by the Division to become effective July 1, 2016, the provider must make measureable progress towards compliance with those rules. The Division will not issue sanctions and penalties for failure to meet those rules effective July 1, 2016 or the obligations imposed by OAR chapter 411, division 4 until January 1, 2017 if the provider is making measureable progress towards compliance.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0113

### Contracts and Rates

(1) Contracts. A provider receiving service payments must enter into a contract with the local CMHP, statewide coordinated care organizations, the Division or other Division-approved party. The contract does not guarantee that any number of individuals eligible for Division funded services will be referred to or maintained in the program.

(2) Rates. The provider must specify in a fee policy and procedure rates for all services and the procedures for collecting payments from individuals and/or payees. The fee policy and procedures must describe the schedule of rates, conditions under which rates may be changed, acceptable methods of payment, and the policy on refunds at the time of termination of residency.

(a) For individuals whose services are funded by the Division, reimbursement for services will be made according to the rate schedule outlined in the contract. Room and board payments for individuals receiving Social Security benefits or public assistance will be in accordance with rates determined by the Division.

(b) For private paying individuals, the program will enter into a signed agreement with the individual, and/or if applicable individual's designated representative or legal representative. This agreement must include but not be limited to a description of the services to be provided; the schedule of rates; conditions under which the rates may be changed; and policy on refunds at the time of termination of residency.

(c) Before increasing rates or modifying payment procedures, the program will provide 30 days' advance notice of the change to all individuals,

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individuals, representatives, payees, guardians or conservators, as applicable.

Stat. Auth.: ORS 413.042 & 443.450  
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)  
Hist.: MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0115

### Administrative Management

(1) Provider. The provider is responsible for ensuring, and must ensure, that the program and setting are maintained and operated in compliance with these rules and all other applicable federal, state and local laws and regulations.

(2) Program Administrator. The provider must employ a program administrator who meets the following qualifications and complies with the following standards:

(a) Background including special training, experience, and other demonstrated ability in providing care and treatment appropriate to the individuals served in the program;

(b) Documented approved criminal records checks processed in compliance with the procedures required by OAR 407-007-0000 through 407-007-0370 and no history of abusive behavior;

(c) Ensure that the program operates in accordance with the standards outlined in these rules;

(d) Oversee the daily operation and maintenance of the program and will be available to perform administrative duties at the setting at least 20 hours per week;

(e) Develop and administer written policies and procedures to direct the operation of the program and the provision of services to individuals;

(f) Ensure that qualified program staff are available, in accordance with the staffing requirements specified in these rules;

(g) Supervise or provide for the supervision of program staff and others involved in the operation of the program;

(h) Maintain setting, personnel and individual service records;

(i) Report regularly to the provider on the operation of the program; and

(j) Delegate authority and responsibility for the operation and maintenance of the program to a responsible staff person whenever the Program Administrator is absent from the setting. This authority and responsibility may not be delegated to an individual.

(3) Policies and Procedures. The provider must develop and update policies and procedures and maintain a copy, in a location easily accessible for staff reference, and made available to others upon reasonable request. They must be consistent with requirements of these rules, and must address at minimum:

(a) Personnel practices and staff training;

(b) Individual screening, admission and termination;

(c) Fire drills, emergency procedures, individual safety and abuse reporting;

(d) Health and sanitation;

(e) Records maintenance and confidentiality;

(f) Residential service plan, services and activities;

(g) Behavior management, including the use of seclusion or restraints;

(h) Food Service;

(i) Medication administration and storage;

(j) Individual belongings, storage and funds;

(k) Individual rights and advance directives;

(l) Complaints and grievances;

(m) Setting maintenance;

(n) Evacuation capability determination; and

(o) Fees and money management.

(4) House Rules. The provider must develop reasonable house rules outlining operating protocols concerning, but not limited to, meal times, night-time quiet hours, guest policies, smoking and as follows:

(a) House rules must be consistent with individual rights as delineated in OAR 309-035-0155.

(b) House rules must be posted in an area readily accessible to individuals.

(c) House rules must be reviewed and updated, as necessary.

(d) Individuals must be provided an opportunity to review and provide input into any proposed changes to house rules before the revisions become effective.

(e) Effective July 1, 2016 and enforceable according to 309-035-0110(17), house rules may not restrict or limit the program qualities identified in OAR 309-035-0105.

Stat. Auth.: ORS 443.450  
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 9-1984 (Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0117

### Records

(1) General Requirements. Records must be maintained to document the legal operation of the program, personnel practices and individual services. All records must be properly obtained, accurately prepared, safely stored and readily available within the facility. All entries in records required by these rules will be in ink, indelible pencil, or approved electronic equivalent prepared at the time, or immediately following, the occurrence of the event being recorded; be legible; and be dated and signed by the person making the entry. In the case of electronic records, signatures may be replaced by an approved, uniquely identifiable electronic equivalent.

(2) Program Records. Records documenting the legal operation of the program will include, but not be limited to:

(a) Written approval for occupancy of the setting by the county or city having jurisdiction, any building inspection reports, zoning verifications, fire inspection reports or other documentation pertaining to the safe and sanitary operation of the program issued during the development or operation of the program;

(b) Application for license, related correspondence and site inspection reports;

(c) Program operating budget and related financial records;

(d) Payroll records, program staff schedules and time sheets;

(e) Materials Safety and Data Sheets;

(f) Fire drill documentation;

(g) Fire alarm and sprinkler system maintenance and testing records;

(h) Incident reports; and

(i) Policy and procedure manual.

(3) Personnel Records. Records documenting personnel actions will include:

(a) Job descriptions for all positions; and

(b) Separate program staff records including, but not limited to, written documentation of program staff identifying information and qualifications, criminal record clearance, T.B. test results, Hepatitis B status, performance appraisals, and documentation of pre-service orientation and other training.

(4) Individual Service Record. An individual service record must be maintained for each individual and include:

(a) An easily accessible summary sheet which includes, but is not limited to the individual's name, previous address, date of admission to the program, sex, date of birth, marital status, legal status, religious preference, Social Security number, health provider information, evacuation capability, diagnosis(es), major health concerns, medication allergies, information indicating whether advance mental health and health directives and/or burial plan have been executed, and the name of person(s) to contact in case of emergency;

(b) The names, addresses and telephone numbers of the individual's representative, legal guardian or conservator, parent(s), next of kin, or other significant person(s); physician(s) or other medical practitioner(s); dentist; CMHP case manager or therapist; day program, school or employer; and any governmental or other agency representative(s) providing services to the individual;

(c) A mental health assessment and background information identifying the individual's residential service needs;

(d) Advance mental health and health directives, burial plans or location of these (as available);

(e) A Residential Service Plan and copy(ies) of plan(s) from other service provider(s);

(f) Effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17), a Person-Centered Service Plan;

(g) Documentation of the individual's progress and any other significant information including, but not limited to, progress notes, progress summaries, any use of seclusion or restraints, and correspondence concerning the individual; and

(h) Health-related information and up-to-date information on medications in accordance with OAR 309-035-0175.

(5) Referral and Response Documentation: The program must retain all referral packets, screening materials, and screening responses/placement determinations for a minimum of three years from the date of the referral.

(6) Records for Crisis-respite Individuals. For an individual receiving crisis-respite services, the provider must obtain and maintain records as

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outlined in OAR 309-035-0117(4). Because it may not be possible to assemble complete records during the crisis-respite individual's short stay, the program will, at a minimum, maintain records in accordance with requirements outlined in OAR 309-035-0145, 309-035-0150, 309-035-0159, and 309-035-0175.

(7) Storage. All individual service records must be stored in a weathertight and secure location. Access to records must be limited to the Program Administrator and direct care staff unless otherwise allowed in these rules.

(8) Confidentiality. All individual service records must be kept confidential as required by law. A signed release of information must be obtained for any disclosure from an individual service records in accordance with all applicable laws and rules.

(9) Individual Access to Own Record. An individual, or the individual's representative (as applicable), must be allowed to review and obtain a copy of his/her individual service record as required by ORS 179.505(9).

(10) Transfer of Records. Pertinent information from records of an individual who is being transferred to another facility will be transferred with the individual. A signed release of information must first be obtained in accordance with applicable laws and rules.

(11) Maintenance of Records. The program must keep all records, except those transferred with an individual, for a period of three years.

(12) Administrative Changes. If a program changes ownership or Program Administrator, all individual and personnel records will remain at the setting. Prior to the dissolution of any program, the Program Administrator must notify the Division in writing as to the location and storage of individual service records or those records will be transferred with the individuals.

(13) Individual Contributions to Record. If an individual or an individual's representative (as applicable) disagrees with the content of the individual service record, or otherwise desires to provide documentation for the record, the individual or representative (as applicable) may provide material in writing that then will become part of the individual service record.

(14) Record Preparation. The program must establish an individual service record upon the individual's admission. Prior to admission, within five days after an emergency admission, or within 24 hours of a crisis-respite admission, the program must determine with whom communication needs to occur and make good faith efforts to obtain the needed authorizations for release of information. The record established upon admission must include the materials reviewed in screening the individual, the summary sheet and any other available information. The program must make every effort to complete the individual service record consistent with OAR 309-035-0117(4) in a timely manner. The assessment and residential service plan must be completed in accordance with OAR 309-035-0159. Records on prescribed medications and health needs must be completed as specified in OAR 309-035-0175.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0120

### Staffing

(1) Staff Qualifications. The provider must maintain a written job description for each staff position which specify the position's qualifications and job duties.

(a) A direct care staff person must be at least 18 years of age, be capable of implementing the setting's emergency procedures and disaster plan, and be capable of performing other duties of the job as described in the job description.

(b) A staff person who will have contact with an individual must have a documented approved criminal record clearance, in accordance with OAR 943-007-0001 through 943-007-0501. The provider must maintain documentation of approved criminal records clearance for each applicable staff person.

(c) In accordance with OAR 333-071-0057 and 437, Division 2, Subdivision Z, 4f (1)(2), a program staff who may have contact with an individual must be tested for tuberculosis within two weeks of first employment, additional testing will take place as deemed necessary; and the employment of program staff who test positive for tuberculosis will be restricted if necessary.

(d) All program staff must meet other qualifications when required by a contract or financing arrangement approved by the Division.

(2) Personnel Policies. Personnel policies will be made available to all program staff and will describe hiring, leave, promotion and disciplinary practices.

(3) Program Staff Training. The program administrator must provide or arrange a minimum of 16 hours pre-service orientation and 8 hours in-service training annually for each program staff, including:

(a) Pre-service training for direct care staff will include, but not be limited to, a comprehensive tour of the setting; a review of emergency procedures developed in accordance with OAR 309-035-0130; a review of setting house rules, policies and procedures; background on mental and emotional disorders; an overview of individual rights; medication management procedures; food service arrangements; a summary of each individual's assessment and residential service plan; and other information relevant to the job description and scheduled shift(s).

(b) In-service training will be provided on topics relevant to improving the care and treatment of individuals in the program and meeting the requirements in these administrative rules. In-service training topics include, but are not limited to, implementing the residential service plan, behavior management, daily living skills development, nutrition, first aid, understanding mental illness, sanitary food handling, individual rights, identifying health care needs, and psychotropic medications.

(4) General Staffing Requirements. The provider and program administrator are responsible for assuring that an adequate number of program staff are available at all times to meet the treatment, health and safety needs of individuals. Regardless of the minimum staffing requirements outlined below, program staff must be scheduled to ensure safety and to correspond to the changing needs of individuals. Minimum staffing requirements are as follows:

(a) In RTHs serving 1 to 5 individuals, there must be at least 1 direct care staff person on duty at all times.

(b) In RTFs serving 6 to 16 individuals, there must be at least 1 direct care staff on duty at all times.

(c) In the case of a specialized program, staffing requirements outlined in the contractual agreement for specialized services must be implemented.

(d) Class I and Class II SRTFs must ensure staffing levels are congruent with the requirements set in Chapter 309, Divisions 32 and 33;

(e) Program staff on night duty must be awake and dressed at all times. In settings where individuals are housed in two or more detached buildings, program staff must monitor each building at least once an hour during the night shift. An approved method for alerting program staff to problems must be in place and implemented. This method must be accessible to and usable by the individuals.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0125

### Setting Requirements

(1) Compliance with Building and Fire Codes. The provider must ensure that the setting meets the requirements for approved Group SR or I occupancies in the Building Code and the Fire Code in effect at the time of original licensure. When a change in setting use results in a new building occupancy classification, the program's setting must meet the requirements for approved Group SR or I occupancies in the Building Code in effect at the time of such change. If occupants are capable of evacuation within three minutes refer to Group R occupancies.

(2) Accessibility for Persons with Disabilities. Programs must be accessible as follows:

(a) Those settings, or portions of settings, that are licensed, constructed or renovated after January 26, 1992, and that are covered multi-family dwellings or public accommodations, must meet the physical accessibility requirements in Chapter 11 of the Oregon Structural Specialty Codes. These codes specify requirements for public accommodations as defined in the Americans with Disabilities Act under Title III and for buildings qualifying as multi-family dwellings as defined in the Fair Housing Act, as amended in 1988.

(b) In order to ensure program accessibility under Title II of the Americans with Disabilities Act, the Division may require additional accessibility improvements.

(c) Any accessibility improvements made to accommodate an identified individual will be in accordance with the specific needs of the individual.

(3) Outdoor Areas. An accessible outdoor area is required and will be made available to all individual. For programs, or portions thereof, licensed

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on or after June 1, 1998, a portion of the accessible outdoor area will be covered and have an all-weather surface, such as a patio or deck.

(4) General Storage. The setting must have sufficient and safe storage areas. These will include but not be limited to:

(a) Storage for a reasonable amount of individual belongings beyond that available in individual's unit must be provided appropriate to the size of the setting;

(b) All maintenance equipment, including yard maintenance tools, must be maintained in adequate storage space. Equipment and tools which pose a danger to individuals must be kept in locked storage;

(c) Storage areas necessary to ensure a functional, safe and sanitary environment consistent with OAR 309-035-0125, 309-035-0130, 309-035-0135, 309-035-0140, 309-035-0170, and 309-035-0175.

(5) Hallways. For programs initially licensed on or after June 1, 1998, all individual use areas and individual units must be accessible through temperature controlled common areas or hallways with a minimum width of 36 inches except that a minimum width of 48 inches will be provided along the route to accessible bedrooms and bathrooms and between common areas and required exits.

(6) Administrative Areas. The Setting must have sufficient space will be provided for confidential storage of both individual service records and business records, for program staff use in completing record-keeping tasks, and for a telephone. Other equipment including fire alarm panels and other annunciators must be installed in an area readily accessible to staff in accordance with the Fire Code.

(7) Individual Units. The provider must provide a unit for each individual, although the program may maintain units to be shared by more than one individual, consistent with these rules. The unit must include sleeping accommodations for the individual and be separated from other areas of the setting by an operable door with an approved latching device. The provider must maintain units as follows:

(a) For programs licensed prior to June 1, 1998, units must be a minimum of 60 square feet per resident and allow for a minimum of three feet between beds.

(b) For programs, or portions thereof, initially licensed on or after June 1, 1998, units must be limited to one or two individuals. At least ten percent of units, but no less than one unit, must be accessible for individuals with mobility disabilities. All units must include a minimum of 70 square feet per individual exclusive of closets, vestibules and bathroom facilities and allow a minimum of three feet between beds.

(c) The provider must provide a lockable entrance door(s) to each unit for the individual's privacy as follows:

(A) The locking device must release with a single-action lever on the inside of the room, open to a hall or common-use room;

(B) The provider must provide each individual with a personalized key that operates only the door to his or her unit from the corridor side.

(C) The provider must maintain a master key to access all of the units that is easily and quickly available to the provider, program administrator, and appropriate program staff.

(E) The provider may not disable or remove a lock to a unit without first obtaining consent from the individual, or the individual's representative, through the individually based limitations process described in OAR 411-004-0040(2) and incorporated by 309-035-0161; and

(F) Section (7)(c) of these rules and its subsections are effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(d) A clothes closet, with adequate clothes hanging rods will be accessible within each unit for storage of each individual's clothing and personal belongings. For programs initially licensed on or after June 1, 1998, built-in closet space will be provided totaling a minimum of 64 cubic feet for each individual. In an accessible unit, the clothes hanging rod height must be adjustable or no more than 54 inches in height to ensure accessibility for an individual using a wheelchair.

(e) Each unit must have exterior window(s) with a combined area at least one-tenth of the floor area of the room. Unit windows must be equipped with curtains or blinds for privacy and control of light. For programs, or portions of programs, initially licensed on or after June 1, 1998, an escape window must be provided consistent with Building Code requirements.

(8) Bathrooms. Bathing and toilet facilities must be conveniently located for individual use, provide permanently wired light fixtures that illuminate all parts of the room, provide individual privacy for individuals, provide a securely affixed mirror at eye level, be adequately ventilated, and include sufficient facilities specially equipped for use by individuals with a physical disability in buildings serving such individuals.

(a) In programs licensed prior to June 1, 1998, a minimum of one toilet and one lavatory will be available for each eight individuals, and one bathtub or shower will be available for each ten individuals.

(b) In programs, or portions of programs, initially licensed on or after June 1, 1998, a minimum of one toilet and one lavatory will be available for each six individuals, and a minimum of one bathtub or shower will be available for each ten individuals, where these fixtures are not available in units. At least one centralized bathroom along an accessible route will be designed for disabled access in accordance with Chapter 11 of the Oregon Structural Specialty Code.

(9) Common Use Rooms. The setting must include lounge and activity area(s) for social and recreational use, exclusively by individuals, program staff and invited guests, totaling no less than 15 square feet per individual.

(10) Laundry and Related Space. Laundry facilities must be separate from food preparation and other individual use areas. When residential laundry equipment is installed, the laundry facilities may be located to allow for both individual and staff use. In programs initially licensed on or after June 1, 1998, separate residential laundry facilities will be provided when the primary laundry facilities are located in another building, are of commercial type, or are otherwise not suitable for individual use. The following will be included in the primary laundry facilities:

(a) Countertops or spaces for folding table(s) sufficient to handle laundry needs for the facility;

(b) Locked storage for chemicals and equipment;

(c) Outlets, venting and water hook-ups according to state building code requirements. Washers will have a minimum rinse temperature of 155 degrees Fahrenheit (160 degrees Fahrenheit recommended) unless a chemical disinfectant will be used; and

(d) Sufficient storage and handling space to ensure that clean laundry is not contaminated by soiled laundry.

(11) Kitchen. Kitchen facilities and equipment in a setting may be of residential type except as required by the state building code and Fire Code or local agencies having jurisdiction. The setting's kitchen must have:

(a) Dry storage space, not subject to freezing, in cabinets or a separate pantry for a minimum of one week's supply of staple foods;

(b) Sufficient refrigeration space maintained at 45 degrees Fahrenheit or less and freezer space for a minimum of two days' supply of perishable foods;

(c) A dishwasher will be provided (may be approved residential type) with a minimum final rinse temperature of 155 degrees Fahrenheit (160 degrees recommended), unless chemical disinfectant is used.

(d) A separate food preparation sink and hand washing sink will;

(e) Smooth, nonabsorbent and cleanable counters for food preparation and serving;

(f) Appropriate storage for dishes and cooking utensils designed to be free from potential contamination;

(g) Stove and oven equipment for cooking and baking needs; and

(h) Storage for a mop and other cleaning tools and supplies used for food preparation, dining and adjacent areas. Such cleaning tools will be maintained separately from those used to clean other parts of the setting.

(12) Dining Area. The setting must have a separate dining room or area where meals are served will be provided for the exclusive use of individuals, employees, and invited guests.

(a) In programs licensed prior to June 1, 1998, the setting's dining area must seat at least half of the individuals at one time with a minimum area of 15 square feet per individual.

(b) In programs, or portions of programs, initially licensed on or after June 1, 1998, the setting's dining space must seat all residents with a minimum area of 15 square feet per individual, exclusive of serving facilities and required exit pathways.

(13) Details and Finishes. All details and finishes will meet the finish requirements of applicable sections of the Building Code and the Fire Code.

(a) Surfaces. Surfaces of all walls, ceilings, windows and equipment will be nonabsorbent and readily cleanable.

(b) Flooring. The setting's, flooring, thresholds and floor junctures must be designed and installed to prevent a tripping hazard and to minimize resistance for passage of wheelchairs and other ambulation aids. In addition, hard surface floors and base must be free from cracks and breaks, and bathing areas will have non-slip surfaces.

(c) Doors. In programs, or portions of programs, initially licensed on or after June 1, 1998:

(A) All doors to units, bathrooms and common use areas must provide a minimum clear opening of 32 inches.



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(B) Lever type door hardware must be provided on all doors used by individuals.

(C) Locking door levers. Locks used on doors to individual units must be interactive to release with operation of the inside door handle and comply with the requirements established by OAR 309-035-0125(7)(c)(A), (B), (C), and (D);

(D) Exit doors must not include locks which prevent evacuation except in accordance with Building Code and Fire Code requirements and with written approval of the Division;

(E) An exterior door alarm or other acceptable system may be provided for security purposes and to alert staff when individuals(s) or others enter or exit the setting.

(d) Handrails. Handrails must be provided on all stairways as specified in the Building Code.

(14) Heating and Ventilating. All areas of the setting must be adequately ventilated and temperature controlled in accordance with the Mechanical and Building Code requirements.

(a) Temperature Control. Each setting must have and maintain heating equipment capable of maintaining a minimum temperature of 68 degrees Fahrenheit at a point three inches above the floor. During times of extreme summer heat, fans will be made available when air conditioning is not provided.

(b) Exhaust Systems. All toilet and shower rooms must be adequately ventilated with a mechanical exhaust fan or central exhaust system which discharges to the outside.

(c) Fireplaces, Furnaces, Wood Stoves and Boilers. Where used, design and installation will meet standards of the Oregon Mechanical Specialty Code and the Boiler Specialty Code, as applicable.

(d) Water Temperature. In individual-use areas, hot water temperatures must be maintained within a range of 110 to 120 degrees Fahrenheit. Hot water temperatures in laundry and kitchen areas will be at least 155 degrees Fahrenheit.

(15) Electrical. All wiring systems and electrical circuits must meet the standards of Oregon Electrical Specialty Code in effect on the date of installation, and all electrical devices will be properly wired and in good repair. The provider must ensure the following:

(a) When not fully grounded, circuits in individual use areas must be protected by GFCI type receptacles or circuit breakers as an acceptable alternative.

(b) A sufficient supply of electrical outlets will be provided to meet individual and staff needs.

(c) N more than one power strip may be utilized for each electrical outlet;

(d) Connecting power strips to one another or use of other outlet expansion devices is prohibited;

(e) Extension cord use in units and common use rooms is prohibited;

(f) Lighting fixtures will be provided in each individual unit and bathroom, switchable near the entry door, and in other areas as required to meet task illumination.

(g) Lighting fixtures that illuminate evacuation pathways must be operable within 10 seconds during a failure of the normal power supply and provide illumination for a period of at least two hours.

(16) Plumbing. All plumbing must meet the Oregon Plumbing Specialty Code in effect on the date of installation, and all plumbing fixtures must be properly installed and in good repair.

(17) Telephones. The program must provide adequate access to telephones for private use by individuals. The program must not limit the hours of availability for phone use. A program may establish guidelines for fair and equal use of a shared telephone. Each individual, or individual's representative, (as applicable) will be responsible for payment of long distance phone bills where the calls were initiated by the individual, unless other mutually agreed arrangements have been made.

(18) Smoking. All licensed programs must comply with the Division's Tobacco Freedom Policy, state and local regulations concerning proximity of smoking to program. Smoking is not allowed within the setting, including within buildings or on the grounds.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef.; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0130 Safety

(1) Training on Safety Procedures. The provider must train all program staff will be trained in staff safety procedures prior to beginning their

first regular shift. Every individual will be trained in individual safety procedures as soon as possible within the first 72 hours of residency.

(2) Emergency Procedure and Disaster Plan. The program must develop and implement a written procedure and disaster plan will be authorized by the State Fire Marshal or authorized representative. The plan must cover such emergencies and disasters as fires, explosions, missing persons, accidents, earthquakes and floods. The program must post the plan will be posted by the phone and be immediately available to the program administrator and program staff. The plan must include diagrams of evacuation routes, and these will be posted. The plan must specify where staff and individuals will reside if the setting becomes uninhabitable. The program must update the plan and will include:

(a) Emergency instructions for employees;

(b) The telephone numbers of the local fire department, police department, the poison control center, the administrator, the administrator's designee, and other persons to be contacted in emergencies; and

(c) Instructions for the evacuation of individuals and employees.

(3) Combustible and Hazardous Materials. Noncombustible and non-hazardous materials will be used whenever possible. When necessary to the operation of the facility, flammable and combustible liquids and other hazardous materials will be safely and properly stored in clearly labeled, original containers in areas inaccessible to individuals in accordance with the Fire Code. Any quantities of combustible and hazardous materials maintained will be the minimum necessary.

(4) Poisonous and Other Toxic Materials. Non-toxic cleaning supplies will be used whenever available. Poisonous and other toxic materials will be properly labeled and stored in locked areas distinct and apart from all food and medications.

(5) Evacuation Capability. Evacuation capability categories are based upon the ability of the individuals and program staff as a group to evacuate the building or relocate from a point of occupancy to a point of safety. Buildings will be constructed and equipped according to a designated evacuation capability for occupants. Categories of evacuation capability include "Impractical" (SR- 2) or "Slow" (SR- 1). The evacuation capability designated for the facility will be documented and maintained in accordance with NFPA 101A.

(a) Only individuals assessed to be capable of evacuating in accordance with the designated facility evacuation capability will be admitted to the program.

(b) Individuals experiencing difficulty with evacuating in a timely manner will be provided assistance from staff and offered environmental and other accommodations, as practical. Under such circumstances, the program must consider increasing staff levels, changing staff assignments, offering to change the individuals room assignment, arranging for special equipment, and taking other actions that may assist the individual. The program must assist individuals who still cannot evacuate the building safely in the allowable period of time will be assisted with transferring to another facility with an evacuation capability designation consistent with the individual's documented evacuation capability.

(6) Evacuation Drills. The program must ensure that every individual will participate in an unannounced evacuation drill each month. (See Section 408.12.5 of the fire code.)

(a) At least once every three months, the program must conduct a drill will be conducted during individual sleeping hours.

(b) Drills will be scheduled at different times of the day and on different days of the week with different locations designated as the origin of the fire for drill purposes.

(c) Any individual failing to evacuate within the established time limits will be provided with special assistance and a notation made in the individual service record.

(d) Written evacuation records will be maintained for at least three years. They will include documentation, made at the time of the drill, specifying the date and time of the drill, the location designated as the origin of the fire for drill purposes, the names of all individuals and staff present, the amount of time required to evacuate, notes of any difficulties experienced, and the signature of the staff person conducting the drill.

(7) Unobstructed Egress. All stairways, halls, doorways, passageways, and exits from rooms and from the building will be unobstructed.

(8) Fire Extinguishers. The program must provide and maintain one or more 2A10BC fire extinguishers on each floor in accordance with the Fire Code.

(9) Fire Alarms and Smoke Detectors. Approved fire alarms and smoke detectors will be installed according to Building Code and Fire Code requirements. These alarms will be set off during each evacuation drill. The program must provide appropriate signal devices for persons with disabili-

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ties who do not respond to the standard auditory alarms. All of these devices will be inspected and maintained in accordance with the requirements of the State Fire Marshal or local agency having jurisdiction.

(10) Sprinkler Systems. The program must install and maintain sprinkler systems compliant with the Building Code and maintained in accordance with rules adopted by the State Fire Marshal. The program must maintain an automated sprinkler system as follows:

(a) RTFs must have and maintain a sprinkler system regardless of the initial date of licensure;

(b) The Division recommends that RTHs, licensed prior to July 1, 2017 install and maintain sprinkler systems.

(c) A program licensed after July 1, 2017 must have and maintain a sprinkler system.

(11) First Aid Supplies. First aid supplies will be readily accessible to staff. All supplies will be properly labeled.

(12) Portable Heaters. Portable heaters are a recognized safety hazard and must not be used.

(13) Safety Program. The provider must develop and implement a safety program will be developed and implemented to identify and prevent the occurrence of hazards at the facility. Such hazards may include, but are not limited to, dangerous substances, sharp objects, unprotected electrical outlets, use of extension cords or other special plug-in adapters, slippery floors or stairs, exposed heating devices, broken glass, inadequate water temperatures, overstuffed furniture in smoking areas, unsafe ashtrays and ash disposal, and other potential fire hazards.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032443.400 - 443.455 & 443.991(2)

Hist.: MHD 9-1984 (Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0135

### Sanitation

(1) Water Supply. The water supply in the facility will meet the requirements of the current rules of Health Services governing domestic water supplies.

(a) A municipal water supply will be utilized if available.

(b) When the facility is not served by an approved municipal water system, and the facility qualifies as a public water system according to OAR 333-061-0020(127), Oregon Health Services rules for public water systems, then the provider must comply with the OAR Chapter 333 rules of the Oregon Health Services pertaining to public water systems. These include requirements that the drinking water be tested for total coliform bacteria at least quarterly, and nitrate at least annually, and reported to Health Services. For adverse test results, these rules require that repeat samples and corrective action be taken to assure compliance with water quality standards, that public notice be given whenever a violation of the water quality standards occurs, and that records of water testing be retained according to the Oregon Health Services requirements.

(2) Surfaces. All floors, walls, ceilings, windows, furniture, and equipment will be kept in good repair, clean, sanitary, neat and orderly.

(3) Plumbing Fixtures. Each bathtub, shower, lavatory, and toilet will be kept clean, in good repair and regularly sanitized.

(4) Disposal of Cleaning Waste Water. No kitchen sink, lavatory, bathtub, or shower will be used for the disposal of cleaning waste water.

(5) Soiled Laundry. Soiled linens and clothing will be stored in an area or container separate from kitchens, dining areas, clean linens, clothing, and food.

(6) Pest Control. All necessary measures will be taken to prevent rodents and insects from entering the setting. The provider must take appropriate action to eliminate rodents or insects.

(7) Grounds Maintenance. The grounds of the setting must be kept orderly and reasonably free of litter, unused articles, and refuse.

(8) Garbage Storage and Removal. Garbage and refuse receptacles will be clean, durable, watertight, insect and rodent proof, and will be kept covered with tight-fitting lids. All garbage and solid waste must be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality.

(9) Sewage Disposal. All sewage and liquid wastes will be disposed of in a municipal sewage system where such facilities are available. If a municipal sewage system is not available, sewage and liquid wastes will be collected, treated, and disposed of in compliance with the current rules of the Department of Environmental Quality. Sewage lines, and septic tanks or other non-municipal sewage disposal systems where applicable, will be maintained in good working order.

(10) Biohazardous Waste. Biohazardous waste will be disposed of in compliance with the rules of the Department of Environmental Quality.

(11) Infection Control. Precautions will be taken to prevent the spread of infectious and/or communicable diseases as defined by the Centers for Disease Control and to minimize or eliminate exposure to known health hazards. In accordance with OAR 437, Division 2, Subdivision Z, Section 1910.1030 of the Oregon Occupational Safety and Health Code, staff will employ universal precautions whereby all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV and other blood borne pathogens.

(12) Infection Control for Pets and Other Household Animals. If pets or other household animals reside at a setting, sanitation practices will be implemented to prevent health hazards.

(a) Such animals must be vaccinated in accordance with the recommendations of a licensed veterinarian. Documentation of such vaccinations must be maintained on the premises.

(b) Animals not confined in enclosures will be under control and maintained in a manner that does not adversely impact individuals or others.

(c) No live animal will be kept or allowed in any portion of the setting where food is stored or prepared, except that aquariums and aviaries will be allowed if enclosed so as not to create a public health problem.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0140

### Individual Furnishings

(1) Bedroom/Unit Furniture. The program must permit an individual to use the individual's own furniture within space limitations of the individual's unit. Otherwise, furniture will be provided or arranged for each individual, maintained in good repair and include:

(a) A bed, including a frame and a clean mattress and pillow;

(b) A private dresser or similar storage area for personal belongings which is readily accessible to the individual; and

(c) Locked storage for the individual's small, personal belongings. For programs initially licensed before June 1, 1998, this locked storage may be provided in a place other than the Individual's unit. The provider must provide the individual with a key or other method to gain access to his/her locked storage space.

(2) Linens. The program must provide linens will be provided for each individual and must include:

(a) Sheets, pillowcase, other bedding appropriate to the season and individual individual's comfort;

(b) Availability of a waterproof mattress or waterproof mattress cover; and

(c) Towels and washcloths.

(3) Personal Hygiene Items. The provider must assist each individual in obtaining personal hygiene items in accordance with individual needs. These must be stored in a clean and sanitary manner, and may be purchased with the individual's personal allowance. Personal hygiene items include, but are not limited to, a comb and/or hairbrush, a toothbrush, toothpaste, and menstrual supplies (if needed).

(4) Supplies Provided by Provider. Sufficient supplies of soap, shampoo and toilet paper for all individuals must be provided.

(5) Common Area Furniture. An adequate supply of furniture for individual use in living room, dining room and other common areas must be maintained in good condition.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0145

### Admission to Program

(1) Provider Responsibility for Admission Process.

(a) The provider must specify in its admission policy and procedures will the program staff responsible for each component of the admission information-gathering and decision-making process. The program must allocate responsibilities to promote effective processing of referrals and admissions.

(b) The provider must develop and implement admission policies and procedures that support a prospective individual's right to pick and choose from available service settings.

(c) The provider must support the individual's right to select a program by assisting the person-centered service plan coordinator in identify-

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ing and documenting program options in the person-centered service plan including providing information regarding program services and rates.

(d) The provider may close admissions to the program when accepting an additional prospective individual would cause the program to exceed its reasonable waitlist. When admissions are closed, the provider is not required to accept referrals, conduct screenings, or evaluate admissions criteria as directed by these rules.

(2) Referrals. Unless limited by contractual agreement with the Division or other Division-approved party, the program may accept referrals from a variety of sources. Individuals whose services will be funded by the Division must be approved for placement by the CMHP or other local entity given responsibility for this function by contract with the Division, and/or approval of the Division.

(3) Release of Information. In accordance with ORS 179.505 and the 42 CFR, Part 2, the program must obtain an authorization for the release of information for disclosure for any confidential information concerning a prospective individual.

(4) Non-Discrimination. The program must consider an individual will be considered for admission without regard to race, color, sex or sexual orientation (except as may be limited by room arrangement), religion, creed, national origin, age (except under 18 years), familial status, marital status, source of income, or disability in addition to the mental or emotional disorder.

(5) Screening. Prior to accepting an individual for admission to the program, the program administrator must determine that the individual meets admission criteria.

(a) Opportunity for Screening. The provider must offer each individual referred for placement at the program an opportunity to participate in a screening interview prior to being accepted or denied placement at a program. The screening is intended to provide information about the program and the services available as well as to obtain information from the prospective individual, a relative and/or agencies currently providing services to the individual sufficient to determine eligibility for admission and service needs.

(b) Screening Information. The provider will receive screening packets for each individual referred for placement. At minimum, screening packets will include:

(A) Written documentation that the prospective individual has, or is suspected of having, a mental or emotional disorder;

(B) Background information including a mental health assessment, description of previous living arrangements, service history, behavioral issues and service needs;

(C) Medical information including a brief history of any health conditions, documentation from a Licensed Medical Professional or other qualified health care professional of the individual's current physical condition, and a written record of any current or recommended medications, treatments, dietary specifications, and aids to physical functioning;

(D) Copies of documents, or other documentation, relating to guardianship, conservatorship, commitment status, advance directives, or any other legal restrictions (as applicable);

(E) A copy of the prospective individual's most recent mental health treatment plan, or in the case of an emergency or crisis-respite admission, a summary of current mental health treatment involvement; and

(F) Documentation of the prospective individual's ability to evacuate the building consistent with the facility's designated evacuation capability and other concerns about potential safety risks.

(b) Requirements for Screenings. The provider must ensure that screenings comply with the following:

(A) The screening must be conducted at the prospective program setting unless;

(i) Travel arrangements cannot be made due to inclement weather; or

(ii) The individual, or the individual's representative, requests a phone screening or screening at the individual's current location.

(b) The provider must make contact with the referring agency for the purpose of scheduling a screening appointment within 48 hours of receipt of the referral packet;

(c) The provider must coordinate with the referring agency to schedule a screening appointment to occur within 14 calendar days from the date of receipt of the referral packet;

(d) The provider must provide the following to each individual referred for placement:

(i) Materials explaining conditions of residency;

(ii) Services available to individuals residing in the program; and

(iii) An opportunity to meet with a prospective roommate if the program uses a shared room model.

(e) The screening meeting must include the program administrator, the prospective individual and the individual's representative (as applicable). With the prospective individual's consent, the meeting may also include family member(s), other representative(s) as appropriate, representative(s) of relevant service-providing agencies, and others with an interest in the individual's admission.

(6) Crisis-Respite. In the case of an individual referred for emergency or crisis-respite admission, the information obtained may be less comprehensive than for regular admissions but must be sufficient to determine that the individual meets admission criteria and that the setting and program is appropriate considering the individual's needs. The program must document the reasons for incomplete information.

(7) Admission Criteria. Prior to admission, the provider must evaluate and determine whether a prospective individual is eligible for admission based on the following criteria:

(a) The individual must be assessed to have a mental or emotional disorder, or a suspected mental or emotional disorder;

(b) The individual must be at least 18 years of age;

(d) The individual must not require continuous nursing care, unless a reasonable plan to provide such care exists, the need for residential treatment supersedes the need for nursing care, and the Division approves the placement;

(e) The individual must have evacuation capability consistent with the setting's SR Occupancy classification; and

(f) The individual must meet additional criteria required or approved by the Division through contractual agreement or condition of licensing.

(7) Criteria for Denial of Admission. The provider may deny an individual admission to its program for the following reasons:

(a) Failure to meet admission criteria established by these rules;

(b) Inability to pay for services due to lack of presumed Medicaid eligibility or other funds;

(c) Documented instances of behaviors within the last 14 calendar days that would pose a reasonable and significant risk to the health, safety and wellbeing of another individual or another person should the individual be admitted;

(d) Lack of availability of necessary services required to maintain the health and safety of the individual (no nursing etc.) or lack of an opening at the setting; or

(e) Individual declines the offer for screening;

(8) Improper Denial of Admission. The program may not deny an individual admission to its program as follows:

(a) Prior to offering a face to face screening or other screening process as allowed by these rules; or

(b) Due to county of origin, responsibility or residency.

(9) Procedure for Admission Decisions. The provider's admission decision must be made as follows:

(a) The program's decision must be based on review of screening materials, information gathered during the face to face screening meeting, evaluation of the admission criteria;

(b) The program must inform the prospective individual and the individual's representative (as applicable) of the admission decisions within 72 hours of the screening meeting;

(c) When the program denies admission, the program must inform the prospective applicant, the individual's representative (as applicable), and the referring entity in writing of the basis for the decision and the individual's right to appeal the decision in accordance with OAR 309-035-0157;

(d) When the program approves admission, the program must inform the prospective applicant, the individual's representative (as applicable), and the referring entity through an acceptance notification that includes:

(A) When not waitlisted or 1st on the waitlist, an estimated date of admission;

(B) When waitlisted, the number on the waitlist.

(10) Management of waitlists.

(a) The program must establish admissions waitlists of reasonable length;

(b) The program must document actions taken in the management of their waitlist;

(b) The program must contact waitlisted individuals the individual's representative and the referring entity monthly to determine if the individual has been placed elsewhere;

(c) The program must prioritize admissions on a waitlist as follows:

(A) First Priority: The program must give first priority to those individuals under current civil commitment or under the jurisdiction of the Psychiatric Security Review Board seeking to transition from the Oregon State Hospital or other hospital level of care into the community;

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(B) Second Priority. The program must give second priority for admission to individuals seeking admission to programs as an alternative or to prevent civil commitment or placement at the Oregon State Hospital;

(c) The program must determine priority for admission based on the priorities described above and on a first-come first-served model. The program may not take into account the individual's county of origin, responsibility or residency;

(d) Within 72 hours of a provider learning of a pending opening, the program must notify the first individual on the waitlist, the individual's representative, and the referring entity of the expected opening. The individual must respond within three business days of the provider's notification. If any of the following occurs, the program may offer the opening to the next individual on the wait list: (1) the program receives no response from the individual, the individual's representative, or the referring entity with three business days; (2) the individual will not be ready to transition into the program within one week; or (3) the individual no longer desires placement at the program.

(11) Informed Consent for Services. The program must obtain informed consent for services from the individual or the individual's legal representative (as applicable), prior to admission to the program, unless the individual's ability to consent is legally restricted.

(12) Orientation. Upon admission, the program administrator must provide and document an orientation to each new individual that includes, but is not limited to:

- (a) A complete tour of the setting;
- (b) Introductions to other individuals and program staff;
- (c) Discussion of house rules;
- (d) Explanation of the laundry and food service schedule and policies;
- (e) Review of individuals rights;
- (f) Review of grievance procedures;
- (g) Completion of a residency agreement congruent with this rule;
- (h) Discussion of the conditions under which residency would be terminated;

- (i) General description of available services and activities;
- (j) Review of advance directives will be explained. If the individual does not already have any advance directive(s), the program must provide an opportunity to complete advanced directive(s);

(k) Emergency procedures in accordance with OAR 309-035-0130(2).

- (l) Review of the person centered planning process;
- (m) Review of the process for imposing individually based limitations on certain program obligations to the individual.

Stat. Auth.: ORS 413.042 & 443.450  
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)  
Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0146

### Residency Agreement

This rule becomes effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(1) The provider must enter into a written residency agreement with each individual or the individual's representative, admitted to the program consistent with the following procedures:

(a) The written residency agreement must be signed by the program administrator and the individual, or the individual's representative, prior to or at the time of admission;

(b) The provider must provide a copy of the signed agreement to the individual, or the individual's representative, and the provider must retain the original signed agreement within the individual's service record;

(c) The provider must give written notice to an individual, or the individual's representative (as applicable), at least 30 calendar days prior to any general rate increases, additions, or other modifications of the rates; and

(d) Updates to Residency Agreements: The provider must update residency agreements at least annually and also when social security rates change or an individual's finances change such that the amount paid for room and board changes.

(2) The residency agreement must include, but is not be limited to, the following terms:

(a) Room and Board. The residency agreement must include the room and board agreement including the room and board rate describing the estimated public and private pay portions of the rate.

(A) Where an individual's social security or other funding is not active at the time of admission to the program, the program must prepare the room and board agreement based upon the estimated benefit to be received by the individual; and

(B) If, when funding is later activated, actual income of the individual varies from the estimated income noted on the residency agreement, the agreement must be updated and resigned by all the applicable parties.

(b) Services and supports to be provided in exchange for payment of the room and board rate;

(c) Conditions under which the program may change the rates;

(d) The provider's refund policy in instances of an individual's hospitalization, death, transfer to a nursing facility or other care facility, and voluntary or involuntary move from the program;

(e) A statement indicating that the individual is not liable for damages considered normal wear and tear;

(f) The program's policies on voluntary moves and whether written notification of a non-Medicaid individual's intent to not return is required;

(g) The potential reasons for involuntary termination of residency in compliance with this rule and individual's rights regarding the eviction and appeal process as described in OAR 309-035-0150(3);

(h) Any policies the program may have on the presence and use of alcohol, cannabis, and illegal drugs of abuse;

(i) Policy regarding tobacco smoking in compliance with the Tobacco Freedom Policy established by the Division;

(j) Policy addressing pet and service animals. The program may not restrict animals that provide assistance or perform tasks for the benefit of a person with a disability. Such animals are often referred to as services animals, assistance animals, support animals, therapy animals, companion animals, or emotional support animals.

(k) Policy regarding the presence and use of legal medical and recreational marijuana at the setting;

(l) Schedule of meal times. The provider may not schedule meals with more than a fourteen (14)-hour span between the evening meal and the following morning's meal (OAR 411-050-0645);

(m) Policy regarding refunds for residents eligible for Medicaid services, including pro-rating partial months and if the room and board payment is refundable;

(n) Any house rules or social covenants required by the program which may be included in the document or as an addendum;

(o) Statement informing the individual of the freedoms authorized by 42 CFR 441.301(c)(2)(xiii) & 42 CFR 441.530(a)(1)(vi)(F), which must not be limited without the informed, written consent of the individual or the individual's legal representative, and include the right to:

(A) Live under a legally enforceable agreement with protections substantially equivalent to landlord/tenant laws;

(B) The freedom and support to access food at any time;

(C) To have visitors of the individual's choosing at any time;

(D) Have a lockable door in the individual's unit, which may be locked by the individual;

(E) Choose a roommate when sharing a unit;

(F) Furnish and decorate the individual's unit according to the Residency Agreement;

(G) The freedom and support to control the individual's schedule and activities; and

(H) Privacy in the individual's unit.

(3) The provider may not propose or enter into a residency agreement that:

(a) Charges or ask for application fees, refundable deposits, or non-refundable deposits;

(b) Includes any illegal or unenforceable provisions or ask or require an individual to waive any of the individual's rights or agree to waive the program's liability for negligence; or

(C) Conflicts with individual rights or these rules.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0150

### Termination of Residency

(1) Responsibility for Termination Process. Each program's termination policy and procedures must designate the program staff responsible for each step of the process for terminating residency. The provider must designate responsibilities will be organized and assigned to promote a fair and efficient termination process. Unless otherwise designated as a condition of licensing or in contract language approved by the Division, the program administrator will be responsible for initiating and coordinating termination proceedings. The provider must make reasonable efforts will be made to prevent unnecessary terminations by making reasonable accommodations within the program and setting.

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(2) Voluntary Termination of Residency. A resident or guardian (as applicable) may terminate residency in a facility upon providing at least 30 days' notice. Upon mutual agreement between the administrator and the resident or guardian (as applicable), less than 30 days notice may be provided.

(3) Emergency Termination of Residency. If an individual's behavior poses a serious and immediate threat to the health or safety of others in or near the program or setting, the program administrator, after providing 24 hours written notice specifying the causes to the individual or an individual's representative (as applicable), may immediately terminate the residency. The notice will specify the individual's right to appeal the emergency termination decision in accordance with OAR 309-035-0157.

(4) Other Terminations of Residency. When other circumstances arise providing grounds for termination of residency, the under this subsection, the program administrator must discuss these grounds with the individual, the individual's representative (as applicable), and with the individual's permission, other persons with an interest in the individual's circumstances. If a decision is made to terminate residency, the program administrator must provide at least 30 days' written notice specifying the causes to the individual or the individual's legal or designated representative as applicable. This notice will also specify the individual's right to appeal the termination decision in accordance with OAR 309-035-0157. Upon mutual agreement between the program administrator and the individual's representative (as applicable), termination may occur with less than 30 days notice may be provided. The program must make reasonable efforts will be made to establish a reasonable termination date in consideration of both the program's needs and the individual's need to find alternative living arrangements. Grounds for termination include:

(a) Individual no longer needs or desires services provided by the program and/or expresses a desire to move to an alternative setting;

(b) Individual is assessed by a Licensed Medical Professional or other qualified health professional to require services, such as continuous nursing care or extended hospitalization, that are not available, or cannot be reasonably arranged, at the facility;

(c) Individual's behavior is continuously and significantly disruptive or poses a threat to the health or safety of self or others and these behavioral concerns cannot be adequately addressed with services available at the setting or services that can be arranged outside of the program or setting;

(d) The individual cannot safely evacuate the setting in accordance with the setting's SR Occupancy Classification after efforts described in OAR 309-035-0130(5)(b) have been taken;

(e) Nonpayment of fees in accordance with program's fee policy; and

(f) The individual continuously and knowingly violates house rules resulting in significant disturbance to others.

(5) Pre-termination Meeting. Except in the case of an emergency terminations or a crisis-respite individual, a pre-termination meeting will be held with the individual, the individual's representative (as applicable), and with the individual's permission, others interested in the individual's circumstances. The purpose of the meeting is to plan any arrangements necessitated by the termination decision. The meeting will be scheduled to occur at least two weeks prior to the termination date. In the event a pre-termination meeting is not held, the reason will be documented in the individual service record.

(6) Documentation. Documentation of discussions and meetings held concerning termination of residency and copies of notices will be maintained in the individual service record.

(7) Disposition of Personal Property. At the time of termination of residency, the individual will be given a statement of account, any balance of funds held by the program and all property held in trust or custody by the program.

(a) In the event of pending charges (such as long distance phone charges or damage assessments), the program may hold back the amount of funds anticipated to cover the pending charges. Within 30 days after residency is terminated or as soon as pending charges are confirmed, the program must provide the individual with a final financial statement along with any funds due to the individual.

(b) In the case of an individual's property left at the setting for longer than seven days after termination of residency, the program will make a reasonable attempt to contact the individual, or the individual's representative (as applicable). The program must allow the individual, or the individual's representative (as applicable) at least 15 days to make arrangements concerning the property. If the program determines that the individual has abandoned the property, the program may then dispose of the property. If the property is sold, proceeds of the sale, minus the amount of any expenses incurred and any amounts owed the program by or on behalf of the indi-

vidual, will be forwarded to the individual or the individual's representative (as applicable).

(8) Crisis-respite Services. Because crisis-respite services are time-limited, the planned end of services will not be considered a termination of residency and subject to requirements in OAR 309-035-0150(2), (4) and (5). Upon admission to crisis-respite services, the individual or the individual's representative (as applicable) will be informed of the planned date for discontinuation of services. This date may be extended through mutual agreement between the program administrator and the individual or individual's representative (as applicable). A program providing crisis-respite services must implement policies and procedures that specify reasonable time frames and the grounds for discontinuing crisis-respite services earlier than the date planned.

(9) Absences without Notice. If an individual moves out of the setting without providing notice, or is absent without notice for more than seven consecutive days, the provider may terminate residency in the manner provided in ORS 105.105 to 105.168 after seven consecutive days of the individual's absence. The provider must make an attempt to contact the individual, or the individual's representative (as applicable) and/or other person interested in the individual's circumstances to confirm the individual's intent to discontinue residency.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0155

### Individual Rights

(1) Statutory and Constitutional Rights. Each individual must be assured the same civil and human rights accorded to other citizens. These rights must be assured unless expressly limited by a court in the case of an individual who has been adjudicated incompetent and not restored to legal capacity. The rights described in paragraphs (2) and (3) of this section are in addition to, and do not limit, all other statutory and constitutional rights which are afforded to all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose property, enter into contracts and execute documents.

(2) A provider must actively work to support and ensure each individual's rights described in this rule are not limited or infringed upon by the provider except where expressly allowed under these rules.

(3) Rights of Individuals. In accordance with ORS 430.210, an individual had the right to:

(a) Choose from available services those which are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection, and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person and that provide for the greatest degree of independence;

(b) An individualized written service plan, services based upon that plan and periodic review and reassessment of service needs;

(c) Ongoing participation in planning services in a manner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations;

(d) Not receive services without informed consent except in a medical emergency or as otherwise permitted by law;

(e) Not participate in experimentation without informed voluntary written consent;

(f) Receive medication only for the individual's clinical needs;

(g) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure;

(h) A humane service environment that affords reasonable protection from harm and affords reasonable privacy;

(i) Be free from abuse or neglect and to report any incident of abuse without being subject to retaliation;

(j) Religious freedom;

(k) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation;

(l) Visit with family members, friends, advocates and legal and medical professionals;

(m) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Division;

(n) Be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedure for reporting abuse, and to have these rights and procedures prominently posted in a location

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readily accessible to the individual and made available to the individual's guardian and any representative designated by the individual;

(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure;

(p) Have access to and communicate privately with any public or private rights protection program or rights advocate; and

(q) Exercise all rights described in this section without any form of reprisal or punishment.

(4) Additional Rights. An individual also has a right to:

(a) Adequate food, shelter and clothing, consistent with OAR 309-035-0159;

(b) A reasonable accommodation if, due to their disability, the housing and services are not sufficiently accessible;

(c) Confidential communication, including receiving and opening personal mail, private visits with family members and other guests, and access to a telephone with privacy for making and receiving telephone calls;

(d) Express sexuality in a socially appropriate and consensual manner;

(e) Access to community resources including recreation, religious services, agency services, employment and day programs, unless such access is legally restricted;

(f) Be free from seclusion and restraint, except as outlined in OAR 309-035-0167.

(g) To review the program's policies and procedures; and

(h) Not participate in research without informed voluntary written consent.

(5) HCBS Rights. An individual also has the following rights:

(a) Live under a legally enforceable residency agreement in compliance with protections substantially equivalent to landlord/tenant laws as described in this rule;

(b) Have visitors of the individual's choosing at any time and the freedom to visit with guests within the common areas of the setting and the individual's unit;

(c) The freedom and support to control the individual's own schedule and activities including but not limited to: Accessing the community without restriction;

(d) Have a lockable door in the individual's unit, which may be locked by the individual and only appropriate program staff have a key to access the unit;

(e) A choice of roommates when sharing a unit;

(f) Furnish and decorate the individual's unit according to the Residency Agreement; and

(g) The freedom and support to have access to food at any time;

(h) Privacy in the individual's unit.

(i) Section (5) of these rules and its subsections are effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(6) An SRTF is not required to maintain the qualities or obligations identified in subsections (b), (c), (d), (e), (h) of section 5 of this rule. The provider is not required to seek an individually based limitation to comply with these rules.

(7) A provider is not required to comply with section (5)(a) of this rule when providing an individual with crisis respite services. The provider is not required to seek an individually based limitation for such an individual to comply with these rules.

(8) The Individual's Right to Fresh Air. For the purpose of this rule, these terms have the following meanings:

(a) "Fresh air" means the inflow of air from outside the facility where the individual is receiving services. "Fresh air" may be accessed through an open window or similar method as well as through access to the outdoors.

(b) "Outdoors" means an area with fresh air that is not completely enclosed overhead. "Outdoors" may include a courtyard or similar area.

(c) If an individual requests access to fresh air and the outdoors or the individual's treating health care provider determines that fresh air or the outdoors would be beneficial to the individual, the program in which the individual is receiving services shall provide daily access to fresh air and the outdoors unless this access would create a significant risk of harm to the individual or others.

(d) The determination whether a significant risk of harm to the individual or others exists shall be made by the individual's treating health care provider. The treating health care provider may find that a significant risk of harm to the individual or others exists if:

(A) The individual's individual circumstances and condition indicate an unreasonable risk of harm to the individual or others which cannot be

reasonably accommodated within existing programming should the individual be allowed access to fresh air and the outdoors; or

(B) The program's existing physical setting or existing staffing prevent the provision of access to fresh air and the outdoors in a manner that maintains the safety of the individual or others.

(e) If a provider determines that its existing physical setting prevents the provision of access to fresh air and the outdoors in a safe manner, the provider shall make a good faith effort at the time of any significant renovation to the physical setting that involves renovation of the unit or relocation of where individual are treated to include changes to the physical setting or location that allow access to fresh air and the outdoors, so long as such changes do not add an unreasonable amount to the cost of the renovation.

(5) Program Requirements. The program must have and implement written policies and procedures which protect individuals' rights, and encourage and assist individuals to understand and exercise their rights. The program must post a listing of individual rights under these rules in a place readily accessible to all individuals and visitors.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 5-2009, f. & cert. ef. 12-17-09; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0157

### Individual Grievances and Appeals

(1) Procedures. The provider must develop and implement a written policy and procedures concerning the individual grievance and appeal process. A copy of the grievance and appeal process will be posted in a place readily accessible to individuals. A copy of the grievance and appeal process will be provided to each individual and guardian (as applicable) at the time of admission to the program.

(2) Grievances. A provider's process for grievances must, at a minimum, include the following:

(a) Individuals will be encouraged to informally resolve complaints through discussion with program staff.

(b) If the individual is not satisfied with the informal process or does not wish to use it, the individual may proceed as follows:

(A) The individual may submit a complaint in writing to the Program Administrator. The individual may receive assistance in submitting the complaint from any person whom the individual chooses. If requested by the individual, program staff will be available to assist the individual.

(B) The written complaint will go directly to the program administrator without being read by other program staff, unless the individual requests or permits other program staff to read the complaint.

(C) The complaint will include the reasons for the grievance and the proposed resolutions. No complaint will be disregarded because it is incomplete.

(D) Within five days of receipt of the complaint, the individual, the program administrator must meet with the individual to discuss the complaint. The individual may have an advocate or other person of his/her choosing present for this discussion.

(E) Within five days of meeting with the individual, the program administrator must provide a written decision to the individual. As part of the written decision, the program administrator will provide information about the appeal process.

(F) In circumstances where the matter of the complaint is likely to cause irreparable harm to a substantial right of the individual before the grievance procedures outlined in OAR 309-035-0157(2)(b)(D) and (E) are completed, the individual may request an expedited review. The program administrator will review and respond in writing to the grievance within 48 hours. The written decision will include information about the appeal process.

(3) Appeals. An individual, an individual's legal representative (as applicable) and a prospective individual (as applicable) will have the right to appeal admission, termination and grievance decisions as follows:

(a) If the individual is not satisfied with the decision, the individual may file an appeal in writing within ten days of the date of the program administrator's decision to the complaint or notification of admission denial or termination (as applicable).

(b) If program services are delivered by a person or entity other than the Division, the appeal will be submitted to the CMHP Director or designee in the county where the program is located.

(A) The individual may receive assistance in submitting the appeal. If requested by the individual, program staff will be available to assist the individual.

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(B) The CMHP Director or designee will provide a written decision within ten days of receiving the appeal.

(C) If the individual is not satisfied with the CMHP Director's decision, the individual may file a second appeal in writing within ten days of the date of the CMHP Director's written decision to the Deputy Director of the Division or designee. The decision of the Deputy Director of the Division will be final.

(c) If program services are delivered by the Division, the appeal will be submitted to the Deputy Assistant Director or designee.

(A) The individual may receive assistance in submitting the appeal. If requested by the individual, program staff will be available to assist the individual.

(B) The Deputy Director or designee will review and approve or deny the appeal.

(C) The Division will notify the individual of the decision in writing within 10 days after receipt of the appeal.

(D) If the individual is not satisfied with the Deputy Assistant Director's or designee's decision, the individual may submit a second appeal in writing within ten days of the date of the written decision to the Assistant Director of the Division. The decision of the Assistant Director of the Division will be final.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0159

### Individual Assessment and Residential Service Plan

(1) Assessment. The program must complete an assessment for each individual within 14 days after admission to the program, unless admitted to the program for crisis-respite services.

(a) The assessment must be based upon an interview with the individual to identify strengths, preferences and service needs; observation of the individual's capabilities within the residential setting; a review of information in the individual service record; and contact with representatives of other involved agencies, family members and others, as appropriate. All contacts with others will be made with proper authorization for the release of information.

(b) Assessment findings must be summarized in writing and included in the individual service record. Assessment findings must include, but not be limited to, diagnostic and demographic data; identification of the individual's medical, physical, emotional, behavioral and social strengths, preferences and needs related to independent living and community functioning; and recommendations for residential service plan goals.

(c) The provider must provide assessment findings to the person centered service plan coordinator to assist in the development of the person centered service plan.

(2) Person centered service plan assessment. Within 30 days of the date of admission the person centered service plan coordinator, under contract with the Division, and assigned to the individual or program site will schedule and conduct an assessment of the individual for the purpose of developing a Person Centered Service Plan. The provider must support the person centered service plan coordinator efforts to develop the plan and provide information as necessary.

(3) Residential Service Plan. The provider must develop and implement an individualized plan, for the purpose of implementing and documenting the provision of services as well as any individualized limitations contained within the Person Centered Service Plan, identifying the goals to be accomplished through the services provided, will be prepared for each individual, unless admitted to the facility for crisis-respite services, within 30 days after admission.

(a) The residential service plan must be based upon the findings of the individual assessment, be developed with participation of individual and the individual's representative (as applicable), and be developed through collaboration with the individual's primary mental health treatment provider. With consent of the individual or the individual's representative (as applicable), family members, representatives from involved agencies, and others with an interest in the individual's circumstances must be invited to participate. All contacts with others will be made with proper, prior authorization from the individual.

(b) The residential service plan must include the following:

(A) Set out necessary steps and actions of the provider for the implementation and provision of services consistent and as required by the Person Centered Service Plan;

(B) Identify the individual's service needs, desired outcomes and service strategies to address the following: physical and medical needs,

medication regimen, self-care, social-emotional adjustment, behavioral concerns, independent living capability and community navigation, all areas identified in the Person Centered Service Plan, and any other areas.

(c) The residential service plan must be signed by the individual, the individual's representative (as applicable), the program administrator or other designated program staff person, and others, as appropriate, to indicate mutual agreement with the course of services outlined in the plan.

(d) The provider must attach the Residential Service Plan to the Person Centered Service Plan as an addendum.

(4) Crisis-respite Assessment and Residential Service Plan Requirements. For an individual admitted to a program for 30 days or less for the purpose of receiving crisis-respite services, an assessment and residential service plan must be developed within 48 hours of admission which identifies service needs, desired outcomes and the service strategies to be implemented to resolve the crisis or address other needs of the individual that resulted in the short term service arrangement.

(5) Progress Notes. The provider must maintain progress notes within each individual's service record and documenting significant information relating to all aspects of the individual's functioning and progress toward desired outcomes identified in the residential service plan. The provider must enter a progress note will be entered in the individual's record at least once each month.

(6) Re-assessments and Revisions to the Residential Service Plan. The provider must review and update the assessment and residential service plan will be reviewed and updated at least annually. On an ongoing basis, the provider must update the residential service plan will be ongoing, as necessary, based upon changing circumstances or upon the individual's request for reconsideration.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

Hist.: MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0160

### Person-Centered Service Plan

This rule becomes effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(1) PERSON-CENTERED SERVICE PLANNING PROCESS. When developed as described in subsections (2) and (3), a Person-Centered Service Plan must be developed through a person-centered service planning process. The person-centered service planning process:

(a) Is driven by the individual;

(b) Includes people chosen by the individual;

(c) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflects the cultural considerations of the individual;

(f) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and, as applicable, the individual's representative;

(g) Includes strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants, such as:

(A) Discussing the concerns of the individual and determining acceptable solutions;

(B) Supporting the individual in arranging and conducting a person-centered service planning meeting;

(C) Utilizing any available greater community conflict resolution resources;

(D) Referring concerns to the Office of the Long-Term Care Ombudsman; or

(E) For Medicaid recipients, following existing, program-specific grievance processes.

(h) Offers choices to the individual regarding the services and supports the individual receives, and from whom, and records the alternative HCB settings considered by the individual;

(i) Provides a method for the individual or, as applicable, the individual's representative, to request updates to the person-centered service plan, as needed;

(j) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

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- (l) Includes any services that are self-directed, if applicable;
- (m) Includes, but is not limited to, individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;
- (n) Includes risk factors and plans to minimize any identified risk factors; and
- (o) Results in a Person-Centered Service Plan documented by the Person-Centered Services Plan Coordinator, signed by the individual or, as applicable, the individual's representative, participants in the person-centered service planning process, and all persons responsible for the implementation of the person-centered service plan. The person-centered service plan is distributed to the individual, and, as applicable, the individual's representative, and other people involved in the person-centered service plan.

## (2) PERSON-CENTERED SERVICE PLANS.

(a) To avoid conflict of interest, the person-centered service plan may not be developed by the provider for individuals receiving Medicaid. The Division may grant an exception where it has determined that the provider is the only willing and qualified entity to provide case management and develop the person-centered service plan.

(b) Where the provider is responsible for developing the person-centered service plan, the provider must ensure that the plan includes the following:

(A) HCBS and setting options based on the needs and preferences of the individual, and for residential settings, the available resources of the individual for room and board;

(B) The HCBS and settings are chosen by the individual and are integrated in, and support full access to, the greater community;

(C) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work. If the individual wishes to pursue employment, a non-disability specific setting option must be presented and documented in the person-centered service plan;

(D) Opportunities to engage in greater community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving HCBS;

(E) The strengths and preferences of the individual;

(F) The service and support needs of the individual;

(G) The goals and desired outcomes of the individual;

(H) The providers of services and supports, including unpaid supports provided voluntarily;

(I) Risk factors and measures in place to minimize risk;

(J) Individualized backup plans and strategies, when needed;

(K) People who are important in supporting the individual;

(L) The person responsible for monitoring the person-centered service plan;

(M) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and, as applicable, the individual's representative;

(N) The written informed consent of the individual or, as applicable, the individual's representative;

(O) Signatures of the individual or, as applicable, the individual's representative, participants in the person-centered service planning process, and all persons and entities responsible for the implementation of the person-centered service plan as described below in subsection (2)(f) of this section;

(P) Self-directed supports; and

(Q) Provisions to prevent unnecessary or inappropriate services and supports.

(c) Where the provider is not responsible for the developing the person-centered service plan but provides or will provide services to the individual, the provider must provide relevant information and provide necessary support for the person-centered service plan coordinator or other person developing the plan to fulfill the characteristics described in part (b) of this subsection.

(d) The individual or, as applicable, the individual's representative, decides on the level of information in the person-centered service plan that is shared with providers. To effectively provide services, providers must have access to the portion of the person-centered service plan that the provider is responsible for implementing.

(e) The person-centered service plan is distributed to the individual and, as applicable, the individual's representative, and other people involved in the person-centered service plan as described below in subsection (2)(f) of this section.

(f) The person-centered service plan must justify and document any individually-based limitation to be applied as described in 309-035-0161

when conditions under 309-035-0161(2) may not be met due to threats to the health and safety of the individual or others.

(g) The person-centered service plan must be reviewed and revised:

(A) At the request of the individual or, as applicable, the individual's representative;

(B) When the circumstances or needs of the individual change; or

(C) Upon reassessment of functional needs as required every 12 months.

(3) Crisis Respite Individuals. Because it may not be possible to assemble complete records and develop a person-centered service plan during the crisis-respite individual's short stay, the provider is not required to develop a person-centered service plan under these rules, but must, at a minimum, develop an assessment and residential service plan as required by OAR 309-035-0159(4) to identify service needs, desired outcomes, and service strategies to resolve the crisis or address the individual's other needs that caused the need for crisis-respite services. In addition, the provider must provide relevant information and provide necessary support for the person-centered service plan coordinator as described in section (2)(b) of this rule.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

Hist.: MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0161

### Individually-Based Limitations

This rule becomes effective on July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(1) When the program qualities described below create a threat to the health and safety of an individual or others, a provider may seek to apply an individually-based limitation through the process described in this rule. The program qualities subject to a potential individually-based limitation include the individual's right to:

(a) The freedom and support to access food at any time;

(b) Have visitors of the individual's choosing at any time;

(c) Have a unit entrance door that is lockable by the individual with only appropriate staff having access;

(d) Choose a roommate when sharing a unit;

(e) Furnish and decorate the individual's unit as agreed to in the Residency Agreement;

(f) The freedom and support to control the individual's schedule and activities; and

(g) Privacy in the individual's unit.

(2) Minimum Requirements for Applying Individually-Based Limitation: A provider may only apply an individually-based limitation if:

(a) The program quality threatens the health or safety of the individual or others;

(b) The individually-based limitation is supported by a specific assessed need;

(d) The individual or the individual's legal representative consents;

(e) The limitation is directly proportionate to the specific assessed need and

(f) The individually-based limitation will not cause harm to the individual.

(3) The provider must demonstrate and document that the individually-based limitation meets the requirements of subsection (2) of this rule and the measures described below in the person centered service plan. The provider must submit and sign a program-created form that includes the following:

(a) The specific and individualized assessed need justifying the individually-based limitation;

(b) The positive interventions and supports used prior to consideration of any individually-based limitation;

(c) Documentation that the provider or other entities have tried other less intrusive methods but did not work;

(d) A clear description of the limitation that is directly proportionate to the specific assessed need;

(e) Regular collection and review of data to measure the ongoing effectiveness of the individually-based limitation;

(f) Established time limits for periodic reviews of the individually-based limitation to determine if the limitation should be terminated or remains necessary;

(g) The informed consent of the individual or, as applicable, the individual's legal representative, including any discrepancy between the wishes of the individual and the consent of the legal representative; and

(h) An assurance that the interventions and support do not cause harm to the individual.



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(4) The provider must:

(a) Maintain a copy of the completed and signed form documenting the consent to the individually-based limitation described in subsection (3) of this rule. The form must be signed by the individual, or, if applicable, the individual's legal representative;

(b) Regularly collect and review the ongoing effectiveness of and the continued need for the individually-based limitation; and

(c) Request review of the individually-based limitation by the Person-Centered Service Plan Coordinator when a new individually-based limitation is indicated, or change or removal of an individually-based limitation is needed, but no less than annually.

(5) The qualities described in sections (1)(b)-(g) do not apply to an individual receiving services at a SRTF, including but not limited to, an individual receiving crisis-respite services in a secure residential setting. A provider need not seek an individually based limitation to comply with these rules.

(6) The qualities described in sections (1)(d) and (g) do not apply to an individual receiving crisis-respite services and a provider need not seek an individually based limitation to comply with these rules.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

Hist.: MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0165

### Individual Services and Activities

(1) General Requirements. The provider must make services and activities available at the program will include care and treatment consistent with ORS 443.400 and those services individually specified for the individual in the residential service plan developed as outlined in OAR 309-035-0159 and 309-035-0160. The provider must encourage individuals to care for their own needs to the extent possible. The provider will provide all services and activities will be provided in a manner that respects residents' rights, promotes recovery and affords personal dignity.

(2) Services and Activities to Be Available. Services and activities to be available will include but not be limited to:

(a) Provision of adequate shelter consistent with OAR 309-035-0125 through 309-035-0140;

(b) At least three meals per day, seven days per week, provided in accordance with OAR 309-035-0170;

(c) Assistance and support, as necessary, to enable individuals to meet personal hygiene and clothing needs;

(d) Laundry services, which may include access to washer(s) and dryer(s) so individuals can do their own personal laundry;

(e) Housekeeping essential to the health and comfort of individuals;

(f) Activities and opportunities for socialization and recreation both within the setting and in the larger community;

(g) Health-related services provided in accordance with OAR 309-035-0175;

(h) Assistance with community navigation and transportation arrangements;

(i) Assistance with money management, where requested by an individual, to include accurate documentation of all funds deposited and withdrawn when funds are held in trust for the individual;

(j) Assistance with acquiring skills to live as independently as possible;

(k) Assistance with accessing other additional services, as needed; and

(l) Any additional services required under contract the Division.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0167

### Use of Seclusion or Restraints

(1) General Prohibition. The use of seclusion or restraints is prohibited, except in SRTFs with the Division's approval.

(2) Approval of Use in Secure Residential Treatment Facilities. A SRTF provider or applicant may submit an application to the Division for approval to use seclusion or restraints pursuant to OAR 309-033-0700 through 309-033-0740. Approval by the Division will be based upon the following:

(a) A determination that the individuals served, or proposed to be served, have a history of behavioral concerns involving threats to the safety and well-being of themselves or others;

(b) The applicant demonstrates that the availability of seclusion or restraints is necessary to safely accommodate individuals who would otherwise be unable to experience a community residential program; and

(c) The applicant demonstrates an ability to comply with OAR 309-033-0700 through 309-033-0740 and 309-033-0500 through 309-033-0560. These rules include special requirements for staffing, training, reporting, policies and procedures, and the setting's physical environment.

(3) Conditions of Use. Seclusion or restraints may only be used in an approved SRTF when an emergency occurs in accordance with OAR 309-033-0700 through 309-033-0740 and 309-033-0500 through 309-033-0560. In such emergency situations, seclusion and restraint will be used as a last resort behavior management option after less restrictive behavior management interventions have failed, or in the case of an unanticipated behavioral outburst, to ensure safety within the program. An approved SRTF must implement policies and procedures approved by the Division outlining the circumstances under which seclusion or restraints may be used and the preventive measures to be taken before such use. All incidents involving the use of seclusion or restraints will be reported to the Division. To use seclusion or restraints with an individual who is not in state custody under a civil commitment proceedings, the individual must be placed on a hold.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0170

### Food Services

(1) Well-balanced Diet. The provider must plan and serve meals in accordance with the recommended dietary allowances found in the United States Department of Agriculture Food Guide Pyramid.

(2) Modified or Special Diets. The provider must obtain an order from a LMP will be obtained for each individual who, for health reasons, is on a modified or special diet. The provider must plan such diets in consultation with the individual.

(3) The provider must support the individual's right to access food at any time. The provider may only apply an individually-based limitation where the circumstances meet, and the provider complies with, the standards and requirements of OAR 309-035-0161. This subsection is effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(4) If an individual misses a meal at a scheduled time, the provider must make an alternative meal available.

(5) Menus. The provider must prepare menus at least one week in advance and will provide a sufficient variety of foods served in adequate amounts for each individual at each meal and adjusted for seasonal changes. The provider must file and maintain records of menus, as served, will be filed and maintained in the facility for at least 30 days. The provider must consider individual preferences and requests will be considered in menu planning. The provider must reasonably accommodate religious and vegetarian preferences will be reasonably accommodated.

(6) Supply of Food. The provider must maintain adequate supplies of staple foods for a minimum of one week and perishable foods for a minimum of two days will be maintained at the setting.

(7) Sanitation. The provider must store, prepare and serve food will in accordance with Health Services Food Sanitation Rules.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0175

### Health Services

(1) General. The program administrator must ensure that all individuals are offered medical attention when needed. The provider must arrange for health services will be made with the informed consent of the individual or the individual's representative (as applicable). The program must arrange for physicians or other qualified health care professionals to be available in the event the individual's regular physician or other health care professional is unavailable. The provider must identify a hospital emergency room that may be used in case of emergency.

(2) Initial Health Screening. The provider must ensure that each individual admitted to the program will be screened by a LMP or other qualified health care professional to identify health problems and to screen for communicable disease. The provider must maintain documentation of the initial health screening will be placed in the individual service record.

(a) The health screening must include a brief history of health conditions, current physical condition and a written record of current or recom-

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mended medications, treatments, dietary specifications and aids to physical functioning.

(b) For regular admissions, the health screening will be obtained prior to the individual's admission and include the results of testing for tuberculosis and Hepatitis B.

(c) For emergency admissions, including crisis-respite admissions, the health screening will be obtained as follows:

(A) For individuals experiencing psychiatric or medical distress, a health screening will be completed by a LMP or other qualified health care professional prior to the individual's admission or within 24 hours of the emergency placement. The health screening will confirm that the individual does not have health conditions requiring continuous nursing care, a hospital level of care, or immediate medical assistance. For each crisis-respite individual who continues in the program for more than seven consecutive days, a complete health examination will be arranged if any symptoms of a health concern exist.

(B) For other individuals who are admitted on an urgent basis due to a lack of alternative supportive housing, the health screening will be obtained within 72 hours after the individual's admission.

(C) The health screening criteria may be waived for individuals admitted for crisis-respite services who are under the active care of an LMP or other qualified health care professional if it is the opinion of the attending health care professional that the crisis-respite placement presents no health risk to the individual or other individuals in the program. Such a waiver must be provided in writing and be signed and dated by the attending health care professional within 24 hours of the individual's admission.

(3) Regular Health Examinations. Except for crisis-respite individuals, the program will ensure that each individual has a primary physician or other qualified health care professional who is responsible for monitoring his/her health care. Regular health examinations will be done in accordance with the recommendations of this primary health care professional, but not less than once every three years. Newly admitted individuals will have a health examination completed within one year prior to admission or within three months after admission. Documentation of findings from each examination will be placed in the individual's service record.

(4) Written Orders for Special Needs. A written order, signed by a physician or other qualified health care professional, is required for any medical treatment, special diet for health reasons, aid to physical functioning or limitation of activity.

(5) Medications. A written order signed by a physician or other qualified health care professional is required for all medications administered or supervised by program staff. This written order is required before any medication is provided to an individual. Medication will not be used for the convenience of staff or as a substitute for programming. Medications will not be withheld or used as reinforcement or punishment, or in quantities that are excessive in relation to the amount needed to attain the client's best possible functioning.

(a) Medications will be self-administered by the individual if the individual demonstrates the ability to self-administer medications in a safe and reliable manner. In the case of self-administration, both the written orders of the prescriber and the residential service plan will document that medications will be self-administered. The self-administration of medications may be supervised by program staff who may prompt the individual to administer the medication and observe the fact of administration and dosage taken. When supervision occurs, program staff will enter information in the individual's record consistent with section (5)(h) below.

(b) Program staff who assist with administration of medication will be trained by a Licensed Medical Professional on the use and effects of commonly used medications.

(c) Medications prescribed for one individual will not be administered to, or self-administered by, another individual.

(d) The program may not maintain stock supplies of prescription medications. The facility may maintain a stock supply of non-prescription medications.

(e) The program must develop and implement a policy and procedure which assures that all orders for prescription drugs are reviewed by a qualified health care professional, as specified by a physician or other qualified health care professional but not less often than every six months. Where this review identifies a contra-indication or other concern, the individual's primary physician, LMP or other primary health care professional will be immediately notified. Each individual receiving psychotropic medications will be evaluated at least every three months by the LMP prescribing the medication, who must note, for the individual's record, the results of the evaluation and any changes in the type and dosage of medication, the condition for which it is prescribed, when and how the medication is to be

administered, common side effects (including any signs of tardive dyskinesia, contraindications or possible allergic reactions), and what to do in case of a missed dose or other dosing error.

(f) The provider must dispose of all unused, discontinued, outdated or recalled medications, and any medication containers with worn, illegible or missing labels. The provider must dispose medications in a safe method, consistent with any applicable federal statutes, and designed to prevent diversion of these substances to persons for whom they were not prescribed. The provider must maintain a written record of all disposals will be maintained and specifying the date of disposal, a description of the medication, its dosage potency, amount disposed, the name of the individual for whom the medication was prescribed, the reason for disposal, the method of disposal, and the signature of the program staff person disposing the medication. For any medication classified as a controlled substance in schedules 1 through 5 of the Federal Controlled Substance Act, the disposal must be witnessed by a second staff person who documents her or his observation by signing the disposal record.

(g) The provider must properly and securely store all medications in a locked space for medications only in accordance with the instructions provided by the prescriber or pharmacy. Medications for all individuals must be labeled. Medications requiring refrigeration must be stored in an enclosed locked container within the refrigerator. The provider must ensure that individuals have access to a locked, secure storage space for their self-administered medications. The program will note in its written policy and procedures which persons have access to this locked storage and under what conditions.

(h) For all individuals taking prescribed medication, the provider must record in the medical record each type, date, time and dose of medication provided. All effects, adverse reactions and medication errors will be documented in the individual's service record. All errors, adverse reactions or refusals of medication will be reported to the prescribing professional within 48 hours.

(i) P.r.n. medications and treatments will only be administered in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

(6) Delegation of Nursing Tasks. Nursing tasks may be delegated by a Registered Nurse to direct care staff within the limitations of their classification and only in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0185

### Civil Penalties

(1) Applicability of Long Term Care Statute. For purposes of imposing civil penalties, programs licensed under ORS 443.400 to 443.455 and subsection (2) of ORS 443.991 are considered to be long-term care facilities subject to ORS 441.705 to 441.745.

(2) Sections of Rule Subject to Civil Penalties. Violations of any requirement within any part of the following sections of the rule may result in a civil penalty:

- (a) 309-035-0110;
- (b) 309-035-0113;
- (c) 309-035-0115;
- (d) 309-035-0117;
- (e) 309-035-0120;
- (f) 309-035-0125;
- (g) 309-035-0130;
- (h) 309-035-0135;
- (i) 309-035-0140;
- (j) 309-035-0145;
- (k) 309-035-0150;
- (l) 309-035-0155;
- (m) 309-035-0157;
- (n) 309-035-0159;
- (o) 309-035-0165;
- (p) 309-035-0167;
- (q) 309-035-0170; and
- (r) 309-035-0175.

(3) Assessment of Civil Penalties. Civil penalties will be assessed in accordance with the following guidelines:

(a) Civil penalties, not to exceed \$250 per violation to a maximum of \$1,000, may be assessed for general violations of these rules.

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(b) A mandatory penalty up to \$500 will be assessed for falsifying individual service records or program records or causing another to do so;

(c) A mandatory penalty of \$250 per occurrence will be imposed for failure to have direct care staff on duty 24 hours per day;

(d) Civil penalties up to \$1,000 per occurrence may be assessed for substantiated abuse;

(e) In addition to any other liability or penalty provided by the law, the Division may impose a penalty for any of the following:

(A) Operating the program without a license;

(B) Operating with more individuals than the licensed capacity; and

(C) Retaliating or discriminating against an individual, family member, employee, or other person for making a complaint against the program.

(f) In imposing a civil penalty, the following factors will be taken into consideration:

(A) The past history of the provider incurring the penalty in taking all feasible steps or procedures to correct the violation;

(B) Any prior violations of statutes, rules or orders pertaining to the program;

(C) The economic and financial conditions of the provider incurring the penalty;

(D) The immediacy and extent to which the violation threatens or threatened the health, safety or welfare of one or more residents; and

(E) The degree of harm caused to individuals.

(4) Notification. Any civil penalty imposed under this section will become due and payable ten days after notice is received, unless a request for a hearing is filed. The notice will be delivered in person, or sent by registered or certified mail and will include a reference to the particular section of the statute or rule involved, a brief summary of the violation, the amount of the penalty or penalties imposed, and a statement of the right to request a hearing.

(5) Request for Hearing. The person to whom the notice is addressed will have 20 days from the date of receipt of the notice to request a hearing. This request must be in writing and submitted to the Assistant Director of the Division. If the written request for a hearing is not received on time, the Division may issue a final order by default.

(6) Hearings. All hearings will be conducted pursuant to the applicable provisions of ORS 183.310 and 183.411 to 183.502 and 183.745.

(7) Judgment. Unless the penalty is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the person. The Division may also take action to revoke the license upon failure to comply with a final order.

(8) Judicial Review. Civil penalties are subject to judicial review under ORS 183.480, except that the court may, at its discretion, reduce the amount of the penalty.

(9) Disposition of Funds. All penalties recovered under ORS 443.790 to 443.815 will be paid into the State Treasury and credited to the General Fund.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0190

### Criminal Penalties

(1) Specification of Criminal Penalty. Violation of any provision of ORS 443.400 through 443.455 is a Class B misdemeanor.

(2) Grounds for Law Suit. In addition, the Division may commence an action to enjoin operation of a program:

(a) When a program is operated without a valid license; or

(b) When a program continues to operate after notice of revocation has been given and a reasonable time has been allowed for placement of individuals in other program.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0250

### Purpose, Scope and Statutory Authority

(1) Purpose. These rules prescribe standards by which the Addictions and Mental Health Division of the Oregon Health Authority approves residential treatment homes for adults with mental or emotional disorders. The standards promote the well-being, health and recovery of adults with mental or emotional disorders through the availability of a wide range of residential service options. They prescribe how services will be provided in

safe, secure and homelike environments that recognize the dignity, individuality and right to self-determination of each resident.

(2) Scope. These rules apply to residential treatment homes for five or fewer residents.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; MHS 10-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 5-2012, f. 5-3-12, cert. ef. 5-4-12; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0260

### Definitions

As used in these rules the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual. (2) "Administrator" means the person designated by the licensee as responsible for the daily operation and maintenance of the Residential Treatment Home (RTH).

(3) "Adult" means an individual 18 years of age or older.

(4) "Aid to Physical Functioning" means any special equipment ordered for a resident by a Licensed Medical Professional or other qualified health care professional which maintains or enhances the resident's physical functioning.

(5) "Applicant" means the person(s) or entity that owns the business and is applying for the license.

(6) "Approved" means authorized or allowed by the Department.

(7) "Authority" means the Oregon Health Authority.

(8) "Building Code" means the state building code as defined in ORS 455.010 and includes the Oregon Structural Specialty Code, One and Two Family Dwelling Code and other specialty codes adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(9) "Care" means services such as supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming, or eating; management of money; transportation; recreation; and the providing of room and board.

(10) "Caregiver" means an employee, program staff, provider or volunteer of a licensed Residential Treatment Facility (RTF), Residential Treatment Home (RTH) or Adult Foster Home (AFH).

(11) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for persons with mental or emotional disorders, and operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(12) "Contract" means a formal written agreement between the community mental health program, Mental Health Organization or the Addictions and Mental Health Division and a Residential Treatment Home (RTH) owner.

(13) "Crisis-Respite Services" means the provision of services to individuals for up to 30 days. Individuals receiving crisis-respite services are RTH residents.

(14) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)" published by the American Psychiatric Association.

(15) "Direct Care Staff Person" means an employee responsible for providing services to residents.

(16) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(17) "Electrical Code" means the Uniform Building and Fire Codes adopted on October 1, 2004 by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(18) "Emergency Admission" means an admission to an RTH made on an urgent basis due to the pressing service needs of the individual.

## ADMINISTRATIVE RULES

(19) "Employee" means a person who is employed by a licensed Residential Treatment Home (RTH) who receives wages, a salary, or is otherwise paid by the RTH for providing the service. The term also includes employees of other providers delivering direct services to clients of RTHs.

(20) "Evacuation Capability" means the ability of occupants, including residents and staff as a group, to either evacuate the building or relocate from a point of occupancy to a point of safety as defined in the Oregon Structural Specialty Code. The category of evacuation capability is determined by documented evacuation drill times or scores on National Fire Protective Association (NFPA) 101A 2000 edition worksheets. There are three categories of evacuation capability:

(a) Impractical (SR- 2): A group, even with staff assistance, that cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes.

(b) Slow (SR- 1) for more than 16 residents) and (SR-4 for 6 to 16 residents): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes. SR-3 occupancies are those homes with five or fewer occupants having evacuation capabilities of impractical or slow with assistance.

(c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. The Division shall determine evacuation capability for RTH's in accordance with the National Fire Protection Association (NFPA) 101A 2000 edition. Facilities that are determined to be "Prompt" may be used in Group R occupancies classified by the building official, in accordance with the building code.

(21) "Fire Code" means the Oregon Fire Code as adopted by the Office of State Fire Marshal and as amended by local jurisdictions.

(22) "Home" means the building and grounds where the Residential Treatment Home program is operated.

(23) "Individual" means any person being considered for or receiving residential and other services regulated by these rules.

(24) "Licensed Medical Professional (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licensures:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse Practitioner licensed to practice in the State of Oregon; or

(C) Physician's Assistant licensed to practice in the State of Oregon;

and

(b) Whose training, experience, and competence demonstrate the ability to conduct a Comprehensive Mental Health Assessment and provide medication management.

(25) "Licensee" means the person or entity legally responsible for the operation of the RTH to which the Division has issued a license.

(26) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a CMHP or MHO; or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a public or private corporation which contracts with the Division to operate a CMHP or MHO for that county.

(27) "Mechanical Code" means the Oregon Mechanical Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(28) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(29) "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder that limits an individual's ability to perform activities of daily living.

(30) "Mental Health Assessment" means a determination by a Qualified Mental Health Professional of the client's need for mental health services. It involves collection and assessment of data pertinent to the client's mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services, or a written statement that the person is not in need of community mental health services.

(31) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs may be fully capi-

tated health plans, community mental health programs, private mental health organizations or combinations thereof.

(32) "Mistreatment" means the following behaviors, displayed by an employee, program staff, provider or volunteer of an RTH when directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm.

(b) "Financial exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual.

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual.

(D) Failing to use the income or assets of an individual effectively for the support and maintenance of the individual. "Effectively" means use of income or assets for the benefit of the individual.

(c) "Involuntary Restriction" means the involuntary restriction of an individual for the convenience of a caregiver or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence or program, unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short term basis when an individual's presence would pose a risk to health or safety to the individual or others.

(d) "Neglect" means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the individual.

(e) "Verbal Mistreatment" means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an individual.

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance or sight, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

(f) "Wrongful Restraint" means:

(A) A wrongful use of a physical or chemical restraint excluding an act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730.

(B) Wrongful restraint does not include physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(33) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to a person other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon Board of Nursing in OAR chapter 851.

(34) "Owner" means the person or entity including the Division that is legally responsible for the operation of the facility.

(35) "Plumbing Code" means the Oregon Plumbing Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(36) "P.R. Nn. (pro re nata) Medications and Treatments" means those medications and treatments that have been ordered to be given as needed.

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(37) "Program" means the Residential Treatment Home and may refer to the owner, staff, or services as applicable to the context.

(38) "Program staff" means an employee or person who, by contract with an RTH, provides a service and who has the applicable competencies, qualifications, and certification, required by the Integrated Services and Supports Rule (ISSR) (OAR 309-032-1500 to 309-032-1565) to provide the service.

(39) "Progress Notes" means the notations in the resident record documenting significant information concerning the resident and summarizing progress made relevant to the objectives outlined in the residential service plan.

(40) "Protection" means the necessary actions taken by the program to prevent abuse, mistreatment, or exploitation of the residents, to prevent self-destructive acts, and to safeguard residents, property, and funds.

(41) "Provider" means a qualified individual or an organizational entity operated by or contractually affiliated with a community mental health program, or contracted directly with the Division for the direct delivery of mental health services and supports to adults receiving residential and supportive services in an RTH.

(42) "Qualified Health Care Professional" means a health care professional licensed to practice in the state of Oregon who is approved to perform certain health care tasks referenced in the relevant section of these rules consistent with the scope of practice specified by the licensing board for the profession. In accordance with the referenced health care task, the qualified health care professional may include a physician, a physician's assistant, a nurse practitioner, a registered nurse, or a pharmacist.

(43) "Qualified Mental Health Professional (QMHP)" means a Licensed Medical Practitioner (LMP) or any other person meeting the following minimum qualifications as documented by the LMHA or designee:

- (a) Graduate degree in psychology;
- (b) Bachelor's degree in nursing and licensed by the State of Oregon;
- (c) Graduate degree in social work;
- (d) Graduate degree in behavioral science field;
- (e) Graduate degree in recreational, art, or music therapy; or
- (f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(g) Whose education and experience demonstrates the competencies to identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services and criminal justice contacts; assess family, social and work relationships; conduct a mental status examination; document a multiaxial DSM diagnosis; write and supervise a Treatment Plan; conduct a Comprehensive Mental Health Assessment; and provide individual, family, and group therapy within the scope of his or her practice.

(44) "Resident" means any adult residing in the RTH who receives services on a 24-hour basis, except as excluded under ORS 443.400(3).

(45) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to a resident in or through the RTH based upon an individual assessment of care and treatment needs. The residential service plan may be a section or subcomponent of the individual's overall mental health treatment plan when the RTH is operated by a mental health service agency that provides other services to the resident.

(46) "Residential Treatment Home (RTH)" means a home that is operated to provide services on a 24-hour basis for five or fewer residents.

(47) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of a resident.

(48) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(49) "Secure Residential Treatment Facility" means any residential treatment facility, or portion thereof, that restricts a resident's exit from the facility or its grounds through the use of approved locking devices on resident exit doors, gates or other closures.

(50) "Services" means the care and treatment provided to residents as part of the RTH program.

(51) "Supervision" means the daily observation, and monitoring of residents by direct care staff or oversight of staff by the administrator or administrator's designee, as applicable to the context.

(52) "Termination of Residency" means the time at which the resident ceases to live in the RTH and includes the transfer of the resident to another facility, but does not include absences from the RTH for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(53) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities consistent with ORS 443.400(12).

(54) "Volunteer" means a person who provides a service or who takes part in a service provided to individuals receiving supportive services in an RTH or other provider, and who is not a paid employee of the RTH or other provider. The services must be non-clinical unless the person has the required credentials to provide a clinical service.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.455, 443.875, 443.991

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07; MHS 13-2007, f. & cert. ef. 8-31-07; MHS 10-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 5-2012, f. 5-3-12, cert. ef. 5-4-12; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0270

### Licensing

(1) License Required. The Division will license any home that meets the definition of a residential treatment home and serves adults with a mental or emotional disorder. In the case of a home serving another category of residents in addition to adults with a mental or emotional disorder, the Division responsible for licensure will be determined by the Director of the Oregon Health Authority. No person or governmental unit acting individually or jointly with any other person or governmental unit will establish, maintain, manage, or operate a residential treatment home without a license issued by the Division.

(2) Initial Application. An application for a license will be accompanied by the required fee and submitted to the Division using the forms or format required by the Division. The following information will be required in the application:

(a) Full and complete information as to the identity and financial interest of each person, including stockholders, having a direct or indirect ownership interest of five percent or more in the RTH and all officers and directors in the case of RTHs operated or owned by a corporation.

(b) Location (street address) of the home and mailing address;

(c) Maximum number of residents to be served at any one time, their age range and evacuation capability;

(d) Proposed annual budget identifying sources of revenue and expenses;

(e) Signed criminal record authorizations for all persons involved in the operation of the RTH who will have contact with the residents;

(f) A complete set of policies and procedures;

(g) Facility plans and specifications; and

(h) Such other information as the Division may reasonably require.

(3) Plans and Design Approval. A complete set of plans and specifications will be submitted to the Division at the time of initial application, whenever a new structure or addition to an existing structure is proposed, or when significant alterations to an existing facility are proposed. Plans will meet the following criteria:

(a) Plans will be prepared in accordance with the Building Code and requirements of OAR 309-035-0320;

(b) Plans will be to scale and sufficiently complete to allow full review for compliance with these rules; and

(c) Plans will be to scale and carry the stamp of an Oregon licensed architect or engineer when required by the Building Code and ORS Chapters 671 and 672 (laws relating to the practice of architecture and engineering).

(4) Necessary Approvals. Prior to approval of a license for a new or renovated home, the applicant will submit the following to the Division:

(a) One copy of written approval to occupy the home issued by the city, county or state building codes authority having jurisdiction;

(b) One copy of the fire inspection report from the State Fire Marshal or local jurisdiction indicating that the home complies with the Fire Code;

(c) When the home is not served by an approved municipal water system, one copy of the documentation indicating that the state or county health agency having jurisdiction has approved the water supply in accordance with OAR chapter 333, Public Health Division rules for public water systems.

(d) When the home is not connected to an approved municipal sewer system, one copy of the sewer or septic system approval from the Department of Environmental Quality or local jurisdiction.

(5) Required Fees. The fee for each residential treatment home license application is \$30. No fee is required in the case of a governmentally operated residential treatment home.

(6) Renewal Application. A license is renewable upon submission of a renewal application in the form or format required by the Division and a non-refundable fee of \$30, except that no fee will be required of a govern-

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mentally operated RTH. Filing of an application for renewal before the date of expiration extends the effective date of the current license until the Division takes action upon the renewal application.

(7) Review Process. Upon receipt of an application and fee, the Division will conduct an application review. Initial action by the Division on the application will begin within 30 days of receipt of all application materials. The review will:

(a) Include a complete review of application materials;

(b) Determine whether the applicant meets the qualifications outlined in ORS 443.420 including:

(A) Demonstrates an understanding and acceptance of these rules;

(B) Is mentally and physically capable of providing services for residents;

(C) Employs or utilizes only individuals whose presence does not jeopardize the health, safety, or welfare of residents; and

(D) Provides evidence satisfactory to the Division of financial ability to comply with these rules.

(c) Include a site inspection; and

(d) Conclude with a report stating findings and a decision on licensing of the RTH.

(8) Findings of Noncompliance. The Division will require an owner to submit and complete a plan of correction for each finding of noncompliance with these rules.

(a) If the finding(s) of noncompliance substantially impacts the welfare, health and/or safety of residents, the plan of correction will be submitted and completed prior to issuance of a license. In the case of a currently operating RTH, such findings may result in suspension or revocation of a license.

(b) If it is determined that the finding(s) of noncompliance do not threaten the welfare, health or safety of residents and the facility meets other requirements of licensing, a license may be issued or renewed, and the plan of correction will be submitted and completed as a condition of licensing.

(c) The Division will specify required documentation and set the time lines for the submission and completion of plans of correction in accordance with the severity of the finding(s).

(d) The Division will review and approve each plan of correction. If the plan of correction does not adequately remedy the finding of noncompliance, the Division may require a revised plan of correction.

(e) The RTH owner may appeal the finding of noncompliance or the disapproval of a plan of correction by submitting a request for reconsideration in writing to the Administrator of the Division. The Administrator of the Division or designee will make a decision on the appeal within 30 days of receipt of the appeal.

(9) Variance. The Authority may grant a variance to these rules based upon a demonstration by the applicant that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health or safety of residents.

(a) Variance Application. The RTH owner requesting a variance will submit, in writing, an application to the Division which identifies the section of the rules from which the variance is sought, the reason for the proposed variance, the proposed alternative method or different approach, and signed documentation from the CMHP indicating approval of the proposed variance.

(b) Addictions and Health Division Review. The Assistant Administrator for the Division's Office of Mental Health Division, or designee, will review and approve or deny the request for a variance.

(c) Notification of Decision. The Division will notify the RTH owner of the decision in writing within 30 days after receipt of the application. A variance may be implemented only after receipt of written approval from the Division.

(d) Appeal of Decision. The RTH owner may appeal the denial of a variance request by submitting a request for reconsideration in writing to the Administrator of the Division. The Administrator of the Division will make a decision on the appeal within 30 days of receipt of the appeal. The decision of the Administrator of the Division will be final.

(e) Duration of the Variance. A variance will be reviewed by the Division at least every two years and may be revoked or suspended based upon a finding that the variance adversely impacts the welfare, health or safety of the RTH residents.

(10) Issuance of License. Upon finding that the applicant is in substantial compliance with these rules, the Division will issue a license.

(a) The license issued will state the name of the owner of the RTH, the name of the administrator, the address of the home to which the license applies, the maximum number of residents to be served at any one time and

their evacuation capability, the type of home, and such other information as the Division deems necessary.

(b) A residential treatment home license will be effective for two years from the date issued unless sooner revoked or suspended.

(c) The residential treatment home license is not transferable or applicable to any location, facility, or management other than that indicated on the application and license.

(11) Conditions of License. The license will be valid under the following conditions:

(a) The residential treatment home will not be operated or maintained in combination with a nursing facility, hospital, retirement facility, or other occupancy unless licensed, maintained, and operated as a separate and distinct part. Each residential treatment home will have sleeping, dining and living areas for use only by its own residents, employees and invited guests.

(b) The license will be retained in the home and available for inspection at all times.

(c) Each license will be considered void immediately upon suspension or revocation of the license by the Division, or if the operation is discontinued by voluntary action of the licensee, or if there is a change of ownership.

(12) Site Inspections. Division staff will visit and inspect every residential treatment home at least, but not limited to, once every two years to determine whether it is maintained and operated in accordance with these rules. The RTH owner/applicant will allow Division staff entry and access to the home and residents for the purpose of conducting the inspections.

(a) Division staff will review methods of resident care and treatment, records, the condition of the facility and equipment, and other areas of operation.

(b) All records, unless specifically excluded by law, will be available to the Division for review.

(c) The State Fire Marshal or authorized representative(s) will, upon request, be permitted access to the home, fire safety equipment within the home, safety policies and procedures, maintenance records of fire protection equipment and systems, and records demonstrating the evacuation capability of RTH occupants.

(13) Investigation of Complaints and Alleged Abuse. Incidents of alleged abuse covered by ORS 430.731 through 430.768 will be reported and investigated in accordance with OAR 407-045. Division staff will investigate complaints and other alleged abuse made regarding residential treatment homes, will cause a report to be filed, and will take appropriate action under these rules. The Division may delegate the investigation to a CMHP or other appropriate entity.

(14) Denial, Suspension or Revocation of License. The Division will deny, suspend or revoke a license when it finds there has been substantial failure to comply with these rules; or when the State Fire Marshal or authorized representative certifies that there is a failure to comply with the Fire Code or Building Code.

(a) The Division may immediately suspend a license where there exists an imminent danger to the health or safety of residents.

(A) The Division will provide written notice of the suspension to the licensee citing the violation and stating the corrective action necessary in order for the license to be re-instated.

(B) The licensee may request a review of the decision to immediately suspend a license by submitting a request, in writing, within 10 days of the suspension notice. Within 10 days of receipt of the licensee's request for a review, the Division administrator or designee will review all material relating to the suspension and determine whether to sustain the decision. If the administrator does not sustain the decision, the suspension will be rescinded immediately. The decision of the administrator can be appealed within 90 days as a contested case under ORS 183.310 and 183.400 to 183.502.

(b) The Division will take action to deny or revoke a license in accordance with the following procedures:

(A) The Division will provide written notice of the denial or revocation citing the violation(s), and specifying the effective date (in the case of a currently operating RTH).

(B) The licensee will be entitled to a contested case hearing under ORS 183.310 and 183.400 to 183.502 prior to the effective date of revocation or denial if the licensee requests a hearing in writing, within 21 days after receipt of the written notice. If no such request is received, the decision will be sustained.

(C) A license subject to revocation or denial based upon review of a renewal application, will remain valid during an administrative hearings process, unless suspended, even if the hearing and final order are not issued until after the expiration date of the license.

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(D) If an initial license is denied, the applicant will be entitled to a contested case hearing under ORS 183.310 and 183.400 to 183.502 if the applicant requests a hearing in writing within 60 days of receipt of the denial notice. If no such request is received, the decision to deny the license application will be sustained.

(i) In cases where there exists an imminent danger to the health or safety of residents, a license may be suspended immediately.

(ii) Such revocation, suspension, or denial will be done in accordance with rules of the Division under ORS Chapter 183.

(15) Reporting Changes. Each licensee will report promptly to the Division any significant changes to information supplied in the application or subsequent correspondence. Such changes include, but are not limited to, changes in the RTH name, owner entity, administrator, telephone number and mailing address. Such changes also include, but are not limited to, changes in the RTHs physical plant, policies and procedures or staffing pattern when such changes are significant or impact the health, safety or well-being of residents.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0280

### Contracts and Rates

(1) Contracts. Residential treatment home operators providing services funded by the Division will enter into a contract with the local community mental health program, the Division or other Division-approved entity. The contract does not guarantee that any number of persons eligible for Division funded services will be referred to or maintained in the home.

(2) Rates. Rates for all services and the procedures for collecting payments from residents and/or payees will be specified in a fee policy and procedures. The fee policy and procedures will describe the schedule of rates, conditions under which rates may be changed, acceptable methods of payment, and the policy on refunds at the time of termination of residency.

(a) For residents whose services are funded by the Division, reimbursement for services will be made according to the rate schedule outlined in the contract. Room and board payments for residents receiving Social Security benefits or public assistance will be in accordance with and not more than rates determined by the Division.

(b) For private paying residents, the program will enter into a signed agreement with the resident, and/or if applicable, resident's guardian, payee or conservator. This agreement will include but not be limited to a description of the services to be provided; the schedule of rates; conditions under which the rates may be changed; and policy on refunds at the time of termination of residency.

(c) Before an RTH increases rates or modifies payment procedures, the program will provide 30 days advance notice of the change to all residents, and their payees, guardians or conservators, as applicable.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.455 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0290

### Administrative Management

(1) Licensee. The licensee will be responsible for insuring that the RTH is operated in compliance with these rules and all other applicable federal, state and local laws and regulations.

(2) Administrator. The licensee will employ an administrator who:

(a) Has background including special training, experience, and other demonstrated ability in providing care and treatment appropriate to the residents served in the facility;

(b) Has a documented criminal record clearance and no history of abusive behavior;

(c) Will ensure that the RTH operates in accordance with the standards outlined in these rules;

(d) Will oversee the daily operation and maintenance of the RTH and will be available to perform administrative duties at the RTH at least 20 hours per week at the RTH or provide an administrative plan which documents an equivalent level of available supervision.

(e) Will develop and administer written policies and procedures to direct the operation of the RTH and the provision of services to residents;

(f) Will ensure that qualified staff are available, in accordance with the staffing requirements specified in these rules;

(g) Will supervise or provide for the supervision of staff and others involved in the operation of the program;

(h) Will maintain program, personnel and resident records;

(i) Will report regularly to the licensee on the operation of the RTH; and

(j) Will delegate authority and responsibility for the operation and maintenance of the facility to a responsible staff person whenever the Administrator is absent from the RTH. This authority and responsibility will not be delegated to a resident.

(3) Policies and Procedures. Policies and procedures will be developed, updated as necessary, maintained in a location easily accessible for staff reference, and made available to others upon reasonable request. They will be consistent with requirements of these rules, and address, but not be limited to:

(a) Personnel practices and staff training;

(b) Resident selection, admission and termination;

(c) Fire drills, emergency procedures, resident safety and abuse reporting;

(d) Health and sanitation;

(e) Records;

(f) Residential service plan, services and activities;

(g) Behavior management, including prohibition of the use of seclusion or restraints;

(h) Food Service;

(i) Medication administration and storage;

(j) Resident belongings, storage and funds;

(k) Resident rights and advance directives;

(l) Complaints and grievances;

(m) Facility maintenance;

(n) Evacuation capability determination; and

(o) Fees and money management.

(4) House Rules. The RTH will develop reasonable house rules outlining operating protocols concerning, but not limited to, meal times, nighttime quiet hours, guest policies, smoking and phone use. The house rules will be consistent with resident rights as delineated in OAR 309-035-0380 and are subject to approval by the Division. House rules will be posted in an area readily accessible to residents. House rules will be reviewed and updated, as necessary. Residents will be provided an opportunity to review and provide input into any proposed changes to house rules before the revisions become effective.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0300

### Records

(1) General Requirements. Records will be maintained to document the legal operation of the program, personnel practices and resident services. All records will be properly obtained, accurately prepared, safely stored and readily available within the RTH. All entries in records required by these rules will be in ink, indelible pencil, or approved electronic equivalent and prepared at the time, or immediately following, the occurrence of the event being recorded; be legible; and be dated and signed by the person making the entry. In the case of electronic records, signatures may be replaced by an approved, uniquely identifiable electronic equivalent.

(2) Program Records. Records documenting the legal operation of the RTH will include, but not be limited to:

(a) Written approval for occupancy of the building by the county or city having jurisdiction, any building inspection reports, zoning verifications, fire inspection reports or other documentation pertaining to the safe and sanitary operation of the RTH;

(b) Application for license, related correspondence and site inspection reports;

(c) Program operating budget and related financial records;

(d) Payroll records, employee schedules and time sheets;

(e) Materials Safety and Data Sheets;

(f) Fire drill documentation;

(g) Fire alarm and sprinkler system maintenance and testing records;

(h) Incident reports; and

(i) Policy and procedure manual.

(3) Personnel Records. Records documenting personnel actions will include:

(a) Job descriptions for all positions; and

(b) Individual employee records including, but not limited to, written documentation of employee identifying information and qualifications, criminal record clearance, tuberculosis test results, Hepatitis B vaccinations in accordance with the Oregon Occupational Safety and Health Code, per-

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formance appraisals, and documentation of pre-service orientation and other training.

(4) Resident Records. Except as indicated in OAR 309-035-0300, an individual resident record will be maintained for each resident and include:

(a) An easily accessible summary sheet which includes, but is not limited to the resident's name, previous address, date of admission to the facility, sex, date of birth, marital status, legal status, religious preference, Social Security number, health provider information, evacuation capability, diagnosis(es), major health concerns, medication allergies, information indicating whether advance mental health and health directives and/or burial plan have been executed, and the name of person(s) to contact in case of emergency;

(b) The names, addresses and telephone numbers of the resident's legal guardian or conservator, parent(s), next of kin, or other significant person(s); physician(s) or other medical practitioner(s); dentist; CMHP case manager or therapist; day program, school or employer; and any governmental or other agency representative(s) providing services to the resident;

(c) A mental health assessment and background information identifying the resident's residential service needs;

(d) Advance mental health and health directives, burial plans or location of these (as available);

(e) Residential service plan and copy(ies) of plan(s) from other relevant service provider(s).

(f) Documentation of the resident's progress and any other significant information including, but not limited to, progress notes, progress summaries, any use of seclusion or restraints, and correspondence concerning the resident;

(g) Health-related information and up-to-date information on medications in accordance with OAR 309-035-0440;

(h) Any authorizations obtained for the release of confidential information.

(5) Records for Crisis-respite Residents. For residents receiving crisis-respite services, an individual resident record will be maintained for each resident and include:

(a) A referral form or forms which include the resident's name; previous address; date of admission; sex; date of birth; marital status; social security number; health care provider names and phone numbers (including primary care physician, psychiatrist, prescriber (if different), and any other known health care providers); health insurance information; entitlements and/or eligibility; source and amount of income; diagnosis(es); major health concerns; current medications; medication or other allergies; name(s) of person(s) to contact in case of emergency; name, address and phone number of guardian or conservator (as applicable); and other information pertinent to the resident's crisis-respite stay;

(b) A mental health assessment and plan which include the reason for placement in crisis-respite care, the nature of crisis necessitating placement, an evaluation of risk for harm to self or others, the residential treatment plan for the crisis-respite stay, the expected duration of the crisis-respite placement, and the discharge plan;

(c) Current written orders by a qualified health care professional for all medications and a plan for obtaining any prescribed medications which are not in the resident's possession in original labeled containers;

(d) A signed resident agreement indicating informed consent for treatment; and

(e) Any authorizations obtained for the release of confidential information.

(6) Storage. All resident records will be stored in a weatherproof and secure location. Access to records will be limited to the Administrator and direct care staff unless otherwise allowed in these rules.

(7) Confidentiality. All resident records will be kept confidential. A signed release of information will be obtained for any disclosure from resident records in accordance with all applicable laws and rules.

(8) Resident Access to His/Her Record. A resident, or guardian (as applicable), will be allowed to review and obtain a copy of his/her resident record as allowed in ORS 179.505.

(9) Transfer of Records. Pertinent information from records of residents who are being transferred to another program will be transferred with the resident. A signed release of information will be obtained in accordance with applicable laws and rules.

(10) Maintenance of Records. The RTH will keep all records, except those transferred with a resident, for a period of three years.

(11) Administrative Changes. If an RTH changes ownership or Administrator, all resident and personnel records will remain in the home. Prior to the dissolution of any RTH, the Administrator will notify the

Division in writing as to the location and storage of resident records or those records will be transferred with the residents.

(12) Resident Contributions to Record. If a resident or guardian (as applicable) disagrees with the content of the resident record, or otherwise desires to provide documentation for the record, the resident or guardian (as applicable) may provide material in writing that then will become part of the resident record.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05;

Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0310

### Staffing

(1) Staff Qualifications. A job description will be available for each staff position and specify qualifications and job duties.

(a) Any staff person hired to provide direct care to residents will be at least 18 years of age, be capable of implementing the RTHs emergency procedures and disaster plan, and be capable of performing other duties of the job as described in the job description.

(b) In accordance with OAR 943-007-0001 through 943-007-0501, all RTH staff who will have contact with residents will provide evidence of a criminal record clearance prior to starting employment.

(c) In accordance with OAR 333-071-0057 and 437-002-0368 through 437-002-2226, all RTH staff who will have contact with residents will be tested for tuberculosis and Hepatitis B within two weeks of first employment; additional testing will take place as deemed necessary; and the employment of staff who test positive for tuberculosis will be restricted if necessary.

(d) In accordance with the Oregon Occupational Safety and Health Code, chapter 437-002-0368 through 437-002-2226, Hepatitis B vaccinations will be offered within ten working days of initial employment to RTH staff who will have contact with residents. Training about bloodborne pathogens and related safety practices will be completed prior to offering the vaccination.

(e) All staff will meet other qualifications when required by a contract or financing arrangement approved by the Division.

(2) Personnel Policies. Personnel policies will be made available to all staff and will describe hiring, leave, promotion and disciplinary practices.

(3) Staff Training. The administrator will provide or arrange a minimum of 16 hours pre-service orientation and eight hours in-service training annually for each employee.

(a) Pre-service training for direct care staff will include, but not be limited to, a comprehensive tour of the home; a review of emergency procedures developed in accordance with OAR 309-035-0330; a review of RTH house rules, policies and procedures; background on mental and emotional disorders; an overview of resident rights; assessment of resident risk factors; medication management procedures; food service arrangements; a summary of each resident's assessment and residential service plan; and other information relevant to the job description and scheduled shift(s).

(b) In-service training will be provided on topics relevant to improving the care and treatment of residents in the RTH and meeting the requirements in these administrative rules. In-service training topics include, but are not limited to, implementing the residential service plan, behavior management, daily living skills development, nutrition, first aid, understanding mental illness, sanitary food handling, resident rights, identifying health care needs, and psychotropic medications.

(4) General Staffing Requirements. The licensee and administrator are responsible for assuring that an adequate number of staff are available at all times to meet the treatment, health and safety needs of residents. Regardless of the minimum staffing requirements, staff will be scheduled to ensure safety and to correspond to the changing needs of residents. At a minimum, there will be at least one direct care staff person on duty at all times.

(a) In the case of a specialized RTH, staffing requirements outlined in the contractual agreement for specialized services will be implemented.

(b) Direct care staff on night duty will be awake and dressed at all times. In homes where residents are housed in two or more detached buildings, direct care staff will monitor each building at least once an hour during the night shift. An approved method for alerting staff to problems will be in place. This method must be accessible to and usable by the residents.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05;

Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17



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## 309-035-0320

### Physical Environment Requirements

(1) Compliance with Building and Fire Codes. Each residential treatment home established on or after December 1, 1999, will meet the requirements for approved Group SR occupancies in the Building Code and the Fire Code in effect at the time of licensure. RTHs licensed as adult foster homes by the Division before the effective date of these rules will demonstrate that the home was in compliance with the Building Code and Fire Code in effect at the time of the original Division licensure. When renovation or a change in the home's use results in a new building occupancy classification, the home will meet the requirements for approved Group SR occupancies in the Building Code in effect at the time of such change.

(2) Accessibility for Persons with Disabilities. RTHs will be accessible as follows:

(a) Those homes that are licensed, constructed or renovated after January 26, 1992, and that are covered multi-family dwellings or public accommodations, will meet the physical accessibility requirements in Chapter 11 of the Oregon Structural Specialty Code. This code specifies requirements for public accommodations as defined in the Americans with Disabilities Act under Title III and for buildings qualifying as multi-family dwellings as defined in the Fair Housing Act, as amended in 1988.

(b) In order to ensure program accessibility under Title II of the Americans with Disabilities Act, the Division may require additional accessibility improvements.

(c) Any accessibility improvements made to accommodate an identified resident will be in accordance with the specific needs of the resident and will comply with the Building Code.

(3) Outdoor Areas. An accessible outdoor area is required and will be made available to all residents. For RTHs licensed on or after December 1, 1999, a portion of the accessible outdoor area will be covered and have an all weather surface, such as a patio or deck.

(4) General Storage. The home will include sufficient and safe storage areas. These will include but not be limited to:

(a) Storage for a reasonable amount of resident belongings beyond that available in resident sleeping rooms will be provided. For homes licensed on or after December 1, 1999, this storage will include 24 cubic feet per resident.

(b) All maintenance equipment stored on site, including yard maintenance tools, will be maintained in adequate storage space. Equipment and tools which pose a danger to RTH residents will be kept in locked storage.

(c) Storage areas necessary to ensure a functional, safe and sanitary environment consistent with OAR 309-035-0320, 309-035-0330, 309-035-0340, 309-035-0350, 309-035-0430, and 309-035-0440.

(5) Hallways. For RTHs initially licensed on or after December 1, 1999, all resident use areas and resident units will be accessible through temperature controlled common areas or hallways with a minimum width of 36 inches.

(6) Administrative Areas. Sufficient space will be provided for confidential storage of both resident and business records, for staff use in completing record-keeping tasks, and for a telephone. Other equipment including fire alarm panels and other annunciators will be installed in an area readily accessible to staff in accordance with the Fire Code.

(7) Resident Sleeping Rooms. Resident sleeping quarters will be provided in rooms separated from other areas of the facility by an operable door with an approved latching device.

(a) For homes licensed prior to December 1, 1999, resident sleeping rooms will include a minimum of 60 square feet per resident and allow for a minimum of three feet between beds.

(b) For homes initially licensed on or after December 1, 1999, each resident sleeping room will be limited to one or two residents. At least ten per cent, but no less than one, of the resident sleeping rooms will be accessible for persons with mobility disabilities. All resident sleeping rooms will include a minimum of 70 square feet per resident exclusive of closets, vestibules and bathroom facilities and allow a minimum of three feet between beds.

(c) A clothes closet, with adequate clothes hanging rods will be accessible within each sleeping room for storage of each resident's clothing and personal belongings. For homes initially licensed on or after December 1, 1999, built-in closet space will be provided totaling a minimum of 64 cubic feet for each resident. In accessible sleeping rooms, the clothes hanging rod height will be adjustable or no more than 54 inches in height to ensure accessibility for persons in wheelchairs.

(d) Each resident sleeping room will have exterior window(s) with a combined area at least one-tenth of the floor area of the room. Sleeping room windows will be equipped with curtains or blinds for privacy and

control of light. For homes initially licensed on or after December 1, 1999, an operable, opening window for emergency egress will be provided consistent with Building Code requirements.

(e) When locking devices are used on resident sleeping room doors, they will meet the requirements of the Building Code.

(8) Bathrooms.

(a) Bathing and toilet facilities will be conveniently located for resident use, provide permanently wired light fixtures that illuminate all parts of the room, provide individual privacy for residents, provide a securely affixed mirror at eye level, be adequately ventilated by a mechanical exhaust system or operable windows, and include sufficient facilities specially equipped for use by persons with a physical disability in buildings serving such persons.

(b) A minimum of one toilet, one lavatory and one bathtub or shower will be available for residents.

(9) Common Use Rooms. The home will include lounge and activity area(s), such as a living room or parlor, as required in the Building Code or totaling 25 square feet per resident, whichever is greater, for social and recreational use exclusively by residents, staff and invited guests.

(10) Laundry and Related Space. Laundry facilities will be separate from food preparation and other resident use areas. When residential laundry equipment is installed, the laundry facilities may be located to allow for both resident and staff use. The following will be included in the laundry facilities:

(a) Countertops or folding table(s) sufficient to handle laundry needs for the facility;

(b) Locked storage for chemicals and equipment;

(c) Outlets, venting and water hook-ups according to state building code requirements. Washers will have a minimum rinse temperature of 140 degrees Fahrenheit; and

(d) Sufficient, separate storage and handling space to ensure that clean laundry is not contaminated by soiled laundry.

(11) Kitchen. Kitchen facilities and equipment will be of residential type except as otherwise approved by the Division. For all kitchens, the following will be included:

(a) Dry storage space, not subject to freezing, in cabinets or a separate pantry for a minimum of one week's supply of staple foods;

(b) Sufficient refrigeration space maintained at 45 degrees Fahrenheit or less and freezer space for a minimum of two days' supply of perishable foods;

(c) A dishwasher (may be approved residential type) with a minimum final rinse temperature of 140 degrees Fahrenheit;

(d) Smooth, nonabsorbent and cleanable counters for food preparation and serving;

(e) Appropriate storage for dishes and cooking utensils designed to be free from potential contamination;

(f) Stove and oven equipment for cooking and baking needs; and

(g) Storage for a mop and other cleaning tools and supplies used for food preparation, dining and adjacent areas. Such cleaning tools will be maintained separately from those used to clean other parts of the facility.

(12) Dining Area.

(a) A separate dining room or area where meals are served will be provided for the exclusive use of residents, employees, and invited guests.

(b) Dining space will be provided to seat all residents with a minimum area of 20 square feet per resident, exclusive of serving facilities and required exit pathways.

(13) Details and Finishes. All details and finishes will meet the finish requirements of applicable sections of the Building Code and the Fire Code.

(a) Surfaces. Surfaces of all walls, ceilings, windows and equipment will be readily cleanable. The walls, floors and ceilings in the kitchen, laundry and bathing areas will be nonabsorbent, and readily cleanable.

(b) Flooring. In homes initially licensed on or after December 1, 1999, flooring, thresholds and floor junctures will be designed and installed to prevent a tripping hazard. In addition, hard surface floors and base will be free from cracks and breaks, and bathing areas will have non-slip surfaces.

(c) Doors. In homes initially licensed on or after December 1, 1999, all doors to accessible resident sleeping rooms, bathrooms and common use areas will provide a minimum clear opening of 32 inches. Lever type door hardware will be provided on all doors used by residents in accessible areas. If locks are used on doors to resident sleeping rooms, they will be interactive to release with operation of the inside door handle and be master-keyed from the corridor side. Exit doors will not include locks which prevent evacuation. An exterior door alarm or other acceptable system may

# ADMINISTRATIVE RULES

be provided for security purposes and to alert staff when resident(s) or others enter or exit the home.

(d) Handrails. Handrails will be provided on all stairways as specified in the Building Code.

(14) Heating and Ventilating. All areas of the home will be adequately ventilated and temperature controlled consistent with Mechanical and Building Code requirements in effect at the time of installation.

(a) Temperature Control. All habitable rooms will include heating equipment capable of maintaining a minimum temperature of 68 degrees Fahrenheit at a point three feet above the floor. During times of extreme summer heat, fans will be made available when air conditioning is not provided.

(b) Exhaust Systems. All toilet and shower rooms will be ventilated by a mechanical exhaust system or operable windows.

(c) Fireplaces, Furnaces, Wood Stoves and Boilers. Where used, design and installation will meet standards of the Mechanical Code and the Boiler and Pressure Vessel Law in effect at the time of their installation, as applicable.

(d) Water Temperature. In resident areas, hot water temperatures will be maintained within a range of 110 to 120 degrees Fahrenheit. Hot water temperatures for washing machines and dishwashers will be at least 140 degrees Fahrenheit.

(15) Electrical. All electrical systems will meet the standards of the Electrical Code in effect on the date of installation, and all electrical devices will be properly wired and in good repair.

(a) When not fully grounded, circuits in resident areas may be protected by GFCI type receptacles or circuit breakers as an acceptable alternative.

(b) All electrical circuits will be protected by circuit breakers or non-interchangeable circuit-breaker-type fuses in fuse boxes.

(c) A sufficient supply of electrical outlets will be provided to meet resident and staff needs without the use of extension cords or outlet expander devices. (See Office of State Fire Marshal and Department of Health Services policy for extension cords.)

(d) Lighting fixtures will be provided in each resident bedroom and bathroom, switchable near the entry door, and in other areas as required to meet task illumination needs.

(16) Plumbing. All plumbing will meet the Plumbing Code in effect on the date of installation, and all plumbing fixtures will be properly installed and in good repair.

(17) Telephones. The home will provide adequate access to telephones for private use by residents. In homes initially licensed on or after December 1, 1999, a phone for resident use will be provided in addition to the phone used by staff. The RTH may establish reasonable house rules governing phone use to ensure equal access by all residents. Each resident or guardian (as applicable) will be responsible for payment of long distance phone bills where the calls were initiated by the resident, unless other mutually agreed arrangements have been made.

(18) Smoking. Smoking is not allowed in sleeping areas. If there is a designated smoking area, it will be separated from other common areas. Indoor smoking areas will be equipped with a mechanical exhaust fan or central exhaust system which discharges to the outside. Furniture used in designated smoking areas will be non-flammable and without crevasses. In homes initially licensed on or after December 1, 1999, indoor smoking areas will be separated from other parts of the home by a self-closing door, contain sprinkler protection or heat detectors, and contain only non-combustible furnishings and materials.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05;

Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0330

### Safety

(1) Training on Safety Procedures. All staff will be trained in staff safety procedures prior to beginning their first regular shift. All residents will be trained in resident safety procedures as soon as possible during their first 72 hours of residency.

(2) Emergency Procedure and Disaster Plan. A written procedure and disaster plan will be developed to cover such emergencies and disasters as fires, explosions, missing persons, accidents, earthquakes and floods. The plan will be posted by the phone and immediately available to the administrator and employees. The plan will specify where staff and residents will go if the home becomes uninhabitable. The plan will be kept up to date and will include:

(a) Emergency instructions for employees;

(b) The telephone numbers of the local fire department, police department, the poison control center, the administrator, the administrator's designee, and other persons to be contacted in emergencies; and

(c) Instructions for the evacuation of residents and employees.

(3) Combustible and Hazardous Materials. Noncombustible and non-hazardous materials will be used whenever possible. When necessary to the operation of the home, flammable and combustible liquids and other hazardous materials will be safely and properly stored in clearly labeled, original containers in areas inaccessible to residents in accordance with the Fire Code. Any quantities of combustible and hazardous materials maintained will be the minimum necessary.

(4) Poisonous and Other Toxic Materials. Non-toxic cleaning supplies will be used whenever available. Poisonous and other toxic materials will be properly labeled and stored in locked areas distinct and apart from all food and medications.

(5) Evacuation Capability. Evacuation capability categories are based upon the ability of the residents and staff as a group to evacuate the home or relocate from a point of occupancy to a point of safety. Homes will be constructed and equipped according to the Building Code occupancy classification for the designated evacuation capability for occupants. Occupancy classification categories of evacuation capability include "Impractical" and "Slow" (SR-3). "Prompt" homes are regulated by the building and fire codes as R-3 occupancies. The evacuation capability designated for the facility will be documented and maintained in accordance with requirements for Group SR Occupancies in the Building Code.

(a) Only persons assessed to be capable of evacuating in accordance with the designated facility evacuation capability will be admitted to the RTH.

(b) Persons experiencing difficulty with evacuating in a timely manner will be provided assistance from staff and offered environmental and other accommodations, as practical. Under such circumstances, the RTH will consider increasing staff levels, changing staff assignments, offering to change the resident's room assignment, arranging for special equipment, and taking other actions that may assist the resident. Residents who still cannot evacuate the home safely in the allowable period of time will be assisted with transferring to another program with an evacuation capability designation consistent with the individual's documented evacuation capability.

(6) Evacuation Drills. Every resident will participate in an unannounced evacuation drill each month. (See Section 408.12.5 of the Fire Code.)

(a) At least once every three months, the drill will be conducted during resident sleeping hours.

(b) Drills will be scheduled at different times of the day and on different days of the week with different locations designated as the origin of the fire for drill purposes.

(c) Any resident failing to evacuate within the established time limits will be provided with special assistance and a notation made in the resident record.

(d) Written evacuation records will be retained for at least three years. They will include documentation, made at the time of the drill, specifying the date and time of the drill, the location designated as the origin of the fire for drill purposes, the names of all individuals and staff present, the amount of time required to evacuate, notes of any difficulties experienced, and the signature of the staff person conducting the drill.

(7) Unobstructed Egress. All stairways, halls, doorways, passageways, and exits from rooms and from the home will be unobstructed.

(8) Fire Extinguishers. The program will install and maintain one or more 2A:10B:C fire extinguishers on each floor in accordance with the Fire Code.

(9) Fire and Smoke Alarms and Detectors. Approved fire and smoke alarms and detectors will be installed according to Building Code and Fire Code requirements. These alarms will be tested during each evacuation drill. The RTH will provide appropriate signal devices for persons with disabilities who do not respond to the standard auditory alarms. All of these devices will be inspected and maintained in accordance with the requirements of the State Fire Marshal or local agency having jurisdiction.

(10) Sprinkler Systems. Sprinkler systems, if used, will be installed in compliance with the Building Code and maintained in accordance with rules adopted by the State Fire Marshal.

(11) First Aid Supplies. First aid supplies will be readily accessible to staff. All supplies will be properly labeled.

(12) Portable Heaters. Portable heaters are a recognized safety hazard and will not be used, except as approved by the State Fire Marshal or authorized representative.

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(13) Safety Program. A safety program will be developed and implemented to identify and prevent the occurrence of hazards. Such hazards may include, but are not limited to, dangerous substances, sharp objects, unprotected electrical outlets, use of extension cords or other special plug-in adapters, slippery floors or stairs, exposed heating devices, broken glass, inadequate water temperatures, overstuffed furniture in smoking areas, unsafe ashtrays and ash disposal, and other potential fire hazards.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0340

### Sanitation

(1) Water Supply. The water supply in the home will meet the requirements of the current rules of the Health Division governing domestic water supplies.

(a) A municipal water supply will be utilized if available.

(b) When the home is not served by an approved municipal water system, and the home qualifies as a public water system according to OAR 333-061-0020(127), Public Health Division rules for public water systems, then the home will comply with the OAR chapter 333 rules of the Public Health Division pertaining to public water systems. These include requirements that the drinking water be tested for total coliform bacteria at least quarterly, and nitrate at least annually, and reported to Public Health Division. For adverse test results, these rules require that repeat samples and corrective action be taken to assure compliance with water quality standards, that public notice be given whenever a violation of the water quality standards occurs, and that records of water testing be retained according to the Public Health Division requirements.

(2) Surfaces. All floors, walls, ceilings, windows, furniture, and equipment will be kept in good repair, clean, neat and orderly.

(3) Plumbing Fixtures. Each bathtub, shower, lavatory, and toilet will be kept clean, in good repair and regularly sanitized.

(4) Disposal of Cleaning Waste Water. No kitchen sink, lavatory, bathtub, or shower will be used for the disposal of cleaning waste water.

(5) Soiled Laundry. Soiled linens and clothing will be stored in an area or container separate from kitchens, dining areas, clean linens, clothing, and food.

(6) Pest Control. All necessary measures will be taken to prevent rodents and insects from entering the home. Should pests be found in the home, appropriate action will be taken to eliminate them.

(7) Grounds Maintenance. The grounds of the home will be kept orderly and reasonably free of litter, unused articles, and refuse.

(8) Garbage Storage and Removal. Garbage and refuse receptacles will be clean, durable, watertight, insect and rodent proof, and will be kept covered with tight-fitting lids. All garbage and solid waste will be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality.

(9) Sewage Disposal. All sewage and liquid wastes will be disposed of in accordance with the Plumbing Code to a municipal sewage system where such facilities are available. If a municipal sewage system is not available, sewage and liquid wastes will be collected, treated, and disposed of in compliance with the current rules of the Department of Environmental Quality. Sewage lines, and septic tanks or other non-municipal sewage disposal systems where applicable, will be maintained in good working order.

(10) Biohazardous Waste. Biohazardous waste will be disposed of in compliance with the rules of the Department of Environmental Quality.

(11) Infection Control. Precautions will be taken to prevent the spread of infectious and/or communicable diseases as defined by the Centers for Disease Control and to minimize or eliminate exposure to known health hazards.

(a) In accordance with OAR 437-002-0368 through 437-002-2226 of the Oregon Occupational Safety and Health Code, staff will employ universal precautions whereby all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV and other blood borne pathogens.

(b) Bathroom facilities will be equipped with an adequate supply of toilet paper, soap and towels.

(12) Infection Control for Pets and Other Household Animals. If pets or other household animals exist at the home, sanitation practices will be implemented to prevent health hazards.

(a) Such animals will be vaccinated in accordance with the recommendations of a licensed veterinarian. Proof of such vaccinations will be maintained on the premises.

(b) Animals not confined in enclosures will be under control and maintained in a manner that does not adversely impact residents or others.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0350

### Resident Furnishings

(1) Bedroom Furniture. Residents will be allowed to use their own furniture within space limitations of the resident sleeping room. Otherwise, furniture will be provided or arranged for each resident, maintained in good repair and include:

(a) A bed, including a frame and a clean mattress and pillow;

(b) A private dresser or similar storage area for personal belongings which is readily accessible to the resident; and

(c) Locked storage for the resident's small, personal belongings. In homes initially licensed before December 1, 1999, this locked storage may be provided in a place other than the resident's bedroom. The resident will be provided with a key or other method to gain access to his/her locked storage space.

(2) Linens. Linens will be provided for each resident and will include:

(a) Sheets, pillowcase, other bedding appropriate to the season and individual resident's comfort;

(b) Availability of a waterproof mattress or waterproof mattress cover; and

(c) Towels and wash cloths.

(3) Personal Hygiene Items. Each resident will be assisted in obtaining personal hygiene items in accordance with individual needs. These will be stored in a clean and sanitary manner, and may be purchased with the resident's personal allowance. Personal hygiene items include, but are not limited to, a comb and/or hairbrush, a toothbrush, toothpaste, and menstrual supplies (if needed).

(4) Supplies Provided by RTH. Sufficient supplies of soap, shampoo and toilet paper for all residents will be provided.

(5) Common Area Furniture. An adequate supply of furniture for resident use in living room, dining room and other common areas will be maintained in good condition.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0360

### Admission to Home

(1) Responsibility for Admission Process. Each RTH's admission policy and procedures will specify who is responsible for each component of the admission information-gathering and decision-making process. Responsibilities will be organized and assigned to promote effective processing of referrals and admissions.

(2) Referrals. Unless limited by contractual agreement with the Division or other Division-approved party, referrals may be accepted from a variety of sources. Residents whose services will be funded by the Division must be approved for placement by the CMHP or other local entity given responsibility for this function by contract with the Division.

(3) Release of Information. In accordance with ORS 179.505 and the 45 Code of Federal Registry, Part 164, an authorization for the release of information will be obtained for any confidential information concerning a prospective resident.

(4) Nondiscrimination. Persons will be considered for admission without regard to race, color, sex or sexual orientation (except as may be limited by room arrangement), religion, creed, national origin, age (except under 18 years), familial status, marital status, source of income, or disability in addition to the mental or emotional disorder.

(5) Screening. Prior to accepting a resident for admission to the RTH, the administrator or his/her designee will determine that the resident meets admission criteria. The prospective resident will receive an explanation of the program, be given a copy of materials explaining conditions of residency, and be offered the opportunity to visit the home. Sufficient information will be obtained from the prospective resident, a relative and/or agencies providing services to determine eligibility for admission and service needs. In the case of individuals referred for emergency or crisis-respite admission, the information obtained may be less extensive than for regular admissions but must be sufficient to determine that the resident meets admission criteria and that the RTH is appropriate considering the individual's needs. Screening information will include, but not be limited to, the following:

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(a) Written documentation that the prospective resident has, or is suspected of having, a mental or emotional disorder;

(b) Background information including a mental health assessment and describing previous living arrangements, service history, behavioral issues and service needs;

(c) Medical information including a brief history of any health conditions, documentation from a Licensed Medical Professional or other qualified health care professional of the individual's current physical condition, and a written record of any current or recommended medications, treatments, dietary specifications, and aids to physical functioning;

(d) Copies of documents, or other documentation, relating to guardianship, conservatorship, commitment status, advance directives, or any other legal restrictions (as applicable);

(e) A copy of the prospective resident's most recent mental health treatment plan, or in the case of an emergency or crisis-respite admission, a summary of current mental health treatment involvement; and

(f) Documentation of the prospective resident's ability to evacuate the building consistent with the RTHs designated evacuation capability and other concerns about potential safety risks.

(6) Admission Criteria. Persons considered for admission will:

(a) Be assessed to have a mental or emotional disorder, or a suspected mental or emotional disorder;

(b) Be in need of care, treatment and supervision;

(c) Be at least 18 years of age;

(d) Not require continuous nursing care, unless a reasonable plan to provide such care exists, the need for residential treatment supersedes the need for nursing care, and the Division approves the placement;

(e) Have an evacuation capability consistent with the RTHs SR Occupancy classification; and

(f) Meet additional criteria required or approved by the Division through contractual agreement or condition of licensing.

(7) Admission Decisions. A decision to admit a resident to the RTH will be made as follows:

(a) For regular admissions, the decision will be made based upon a review of screening materials at a pre-admission meeting and a determination that the resident meets the admission criteria. A pre-admission meeting will be scheduled to include the RTH administrator or designee, the potential resident and his/her legal guardian (as applicable). With the prospective resident's consent, the pre-admission meeting may also include family member(s) or other representative(s) as appropriate, representative(s) of relevant service providing agency(ies), and others with an interest in the resident's admission. The potential resident, legal guardian (as applicable) and authorized representative will be informed of the admission decision within 72 hours. If a decision is deferred or postponed, the potential resident, legal guardian (as applicable) and authorized representative will be informed of the potential resident's application status within one week of the pre-admission meeting, and weekly thereafter (as necessary). When admission is denied, the prospective resident, their legal guardian (as applicable) and authorized representative will be informed in writing of the basis for the decision and their right to appeal the decision in accordance with OAR 309-035-0390.

(b) For crisis-respite admissions, the decision will be made based upon a review of the referral materials by the RTH administrator or designee and a determination that the resident meets the admission criteria. Due to the urgent nature of crisis-respite admissions, decisions will be made on an immediate basis. The prospective resident, their legal guardian (as applicable) and authorized representative will be directly informed of the decision and their right to appeal in accordance with OAR 309-035-0390.

(8) Informed Consent for Services. The RTH will obtain informed consent for services upon admission to the RTH from each resident, or his/her guardian (as applicable), unless the resident's ability to do so is legally restricted. If such consent is not obtained, the reason will be documented and further attempts to obtain informed consent will be made as appropriate.

(9) Orientation. Upon admission, the administrator or his/her designee will provide an orientation to each new resident that includes, but is not limited to, a complete tour of the home, introductions to other residents and staff, discussion of house rules, explanation of the laundry and food service schedule and policies, review of resident rights and grievance procedures, explanation of the fee policy, discussion of the conditions under which residency would be terminated, and a general description of available services and activities. During the orientation, advance directives will be explained. If the resident does not already have any advance directive(s), she/he will be given an opportunity to complete them. Orientation

will also include a description of the RTHs emergency procedures in accordance with OAR 309-035-0330.

(10) Record Preparation. A resident record will be established concurrent with the resident's admission. Prior to a regular admission, within five days after an emergency admission, or within 24 hours of a crisis-respite admission, the program will determine with whom communication needs to occur and will attempt to obtain the needed authorizations for release of information. The record established upon admission will include the materials reviewed in screening the resident, the summary sheet and any other available information. Every effort will be made to complete the resident record consistent with OAR 309-035-0300 in a timely manner. The assessment and residential service plan will be completed in accordance with 309-035-0400. Records on prescribed medications and health needs will be completed as specified in 309-035-0440.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0370

### Termination of Residency

(1) Responsibility for Termination Process. Each RTHs termination policy and procedures will specify who is responsible for each step of the process for terminating residency. Responsibilities will be organized and assigned to promote a fair and efficient termination process. Unless otherwise designated as a condition of licensing or in contract language approved by the Division, the Administrator will be responsible for initiating and coordinating termination proceedings. An effort will be made to prevent unnecessary terminations by making reasonable accommodations within the RTH.

(2) Crisis-respite Services. Because crisis-respite services are time-limited, the planned end of services will not be considered a termination of residency and will not be subject to requirements in OAR 309-035-0370. Upon admission to crisis-respite services, the resident or guardian (as applicable) will be informed of the planned date for discontinuation of services. This date may be extended through mutual agreement between the administrator and the resident or guardian (as applicable). RTHs providing crisis-respite services will implement policies and procedures that specify reasonable time frames and the grounds for discontinuing crisis-respite services earlier than the date planned.

(3) Voluntary Termination of Residency. A resident or guardian (as applicable) may terminate residency in the RTH upon providing at least 30 days notice. Upon mutual agreement between the administrator and the resident or guardian (as applicable), less than 30 days notice may be provided.

(4) Emergency Termination of Residency. If a resident's behavior poses a serious and immediate threat to the health or safety of others in or near the RTH, the administrator, after providing 24 hours written notice specifying the causes to the resident or guardian (as applicable), may immediately terminate the residency. The notice will specify the resident's right to appeal the emergency termination decision in accordance with OAR 309-035-0390.

(5) Other Terminations of Residency. When other circumstances arise providing grounds for termination of residency, the administrator will discuss these grounds with the resident, the resident's guardian (as applicable), and with the resident's permission, other persons with an interest in the resident's circumstances. If a decision is made to terminate residency, the administrator will provide at least 30 days written notice specifying the causes to the resident or guardian (as applicable). This notice will also specify the resident's right to appeal the termination decision in accordance with OAR 309-035-0390. Upon mutual agreement between the administrator and the resident or guardian (as applicable), less than 30 days notice may be provided. An effort will be made to establish a reasonable termination date in consideration of both program needs and the needs of the terminated resident to find alternative living arrangements. Criteria establishing grounds for termination include:

(a) Resident no longer needs or desires services provided at the RTH and/or expresses a desire to move to an alternative setting;

(b) Resident is assessed by a Licensed Medical Professional or other qualified health professional to require services, such as continuous nursing care or extended hospitalization, that are not available, or can not be reasonably arranged, at the RTH;

(c) Resident's behavior is continuously and significantly disruptive or poses a threat to the health or safety of self or others and these behavioral concerns cannot be adequately addressed with services available at the RTH or services that can be arranged outside of the RTH;

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(d) Resident cannot safely evacuate the home in accordance with the RTHs SR Occupancy Classification after efforts described in OAR 309-035-0330 have been taken;

(e) Nonpayment of fees in accordance with program's fee policy; and

(f) Resident continuously and knowingly violates house rules resulting in significant disturbance to others.

(6) Pre-termination Meeting. Except in the case of emergency terminations or crisis-respite services, a pre-termination meeting will be held with the resident, guardian (as applicable), and with the resident's permission, others interested in the resident's circumstances. The purpose of the meeting is to plan any arrangements necessitated by the termination decision. The meeting will be scheduled to occur at least two weeks prior to the termination date. In the event a pre-termination meeting is not held, the reason will be documented in the resident's record.

(7) Documentation. Documentation of discussions and meetings held concerning termination of residency and copies of notices will be maintained in the resident's record.

(8) Disposition of Personal Property. At the time of termination of residency, the resident will be given a statement of account, any balance of funds held by the RTH and all property held in trust or custody by the RTH.

(a) In the event of pending charges (such as long distance phone charges or damage assessments), the program may hold back the amount of funds anticipated to cover the pending charges. Within 30 days after residency is terminated or as soon as pending charges are confirmed, the resident will be provided a final financial statement along with any funds due to the resident.

(b) In the case of resident belongings left at the RTH for longer than seven days after termination of residency, the RTH will make a reasonable attempt to contact the resident, guardian (as applicable) and/or other representative of the resident. The RTH must allow the resident, guardian (as applicable) or other representative at least 15 days to make arrangements concerning the property. If it is determined that the resident has abandoned the property, the RTH may then dispose of the property. If the property is sold, proceeds of the sale, minus the amount of any expenses incurred and any amounts owed the program by or on behalf of the resident, will be forwarded to the resident or guardian (as applicable).

(9) Absences without Notice. If a resident moves out of the RTH without providing notice, or is absent without notice for more than seven consecutive days, the administrator may terminate residency in the manner provided in ORS 105.105 to 105.168 after seven consecutive days of the resident's absence. An attempt will be made to contact the resident, guardian (as applicable) and/or other person interested in the resident's circumstances to confirm the resident's intent to discontinue residency.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05;

Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0380

### Resident Rights

(1) Statutory and Constitutional Rights. Each resident will be assured the same civil and human rights accorded to other citizens. These rights will be assured unless expressly limited by a court in the case of a resident who has been adjudicated incompetent and not restored to legal capacity. The rights described in paragraphs (2) and (3) of this section are in addition to, and do not limit, all other statutory and constitutional rights which are afforded to all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose property, enter into contracts and execute documents.

(2) Rights of Service Recipients. In accordance with ORS 430.210, residents will have the right to:

(a) Choose from available services those which are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection, and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person and that provide for the greatest degree of independence;

(b) An individualized written service plan, services based upon that plan and periodic review and reassessment of service needs;

(c) Ongoing participation in planning services in a manner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations;

(d) Not receive services without informed consent except in a medical emergency or as otherwise permitted by law;

(e) Not participate in experimentation without informed voluntary written consent;

(f) Receive medication only for the person's individual clinical needs;

(g) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure;

(h) A humane service environment that affords reasonable protection from harm and affords reasonable privacy;

(i) Be free from abuse or neglect and to report any incident of abuse without being subject to retaliation;

(j) Religious freedom;

(k) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation;

(l) Visit with family members, friends, advocates and legal and medical professionals;

(m) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Division;

(n) Be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedure for reporting abuse, and to have these rights and procedures prominently posted in a location readily accessible to the person and made available to the person's guardian and any representative designated by the person;

(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure;

(p) Have access to and communicate privately with any public or private rights protection program or rights advocate; and

(q) Exercise all rights described in this section without any form of reprisal or punishment.

(3) Additional Rights in RTHs. Residents will also have a right to:

(a) Adequate food, shelter and clothing, consistent with OAR 309-035-0410;

(b) A reasonable accommodation if, due to their disability, the housing and services are not sufficiently accessible;

(c) Confidential communication, including receiving and opening personal mail, private visits with family members and other guests, and access to a telephone with privacy for making and receiving telephone calls;

(d) Express sexuality in a socially appropriate and consensual manner;

(e) Access to community resources including recreation, religious services, agency services, employment and day programs, unless such access is legally restricted;

(f) Be free from seclusion and restraint;

(g) To review the RTHs policies and procedures; and

(h) Not participate in research without informed voluntary written consent.

(4) The Resident's Right to Fresh Air. For the purpose of this rule, these terms have the following meanings:

(a) "Fresh air" means the inflow of air from outside the facility where the resident is receiving services. "Fresh air" may be accessed through an open window or similar method as well as through access to the outdoors.

(b) "Outdoors" means an area with fresh air that is not completely enclosed overhead. "Outdoors" may include a courtyard or similar area.

(c) If a resident requests access to fresh air and the outdoors or the resident's treating health care provider determines that fresh air and the outdoors would be beneficial to the resident, the facility in which the resident is receiving services shall provide daily access to fresh air or the outdoors unless this access would create a significant risk of harm to the resident or others.

(d) The determination whether a significant risk of harm to the resident or others exists shall be made by the resident's treating health care provider. The treating health care provider may find that a significant risk of harm to the resident or others exists if:

(A) The resident's individual circumstances and condition indicate an unreasonable risk of harm to the resident or others which cannot be reasonably accommodated within existing programming should the resident be allowed access to fresh air and the outdoors; or

(B) The facility's existing physical plant or existing staffing prevent the provision of access to fresh air and the outdoors in a manner that maintains the safety of the resident or others.

(e) If a facility determines that its existing physical plant prevents the provision of access to fresh air or the outdoors in a safe manner, the facility shall make a good faith effort at the time of any significant renovation to the physical plant that involves renovation of the unit or relocation of where

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residents are treated to include changes to the physical plan or location that allow access to fresh air and the outdoors, so long as such changes do not add an unreasonable amount to the cost of the renovation.

(5) Program Requirements. The program will have and implement written policies and procedures which protect residents' rights, and encourage and assist residents to understand and exercise their rights. The program will post a listing of resident rights under these rules in a place readily accessible to all residents and visitors.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; MHS 5-2009, f. & cert. ef. 12-17-09; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0390

### Grievances and Appeals

(1) Procedures. The RTH will have a written policy and procedures concerning the resident grievance and appeal process. A copy of the grievance and appeal process will be posted in a place readily accessible to residents. A copy of the grievance and appeal process will be provided to each resident and guardian (as applicable) at the time of admission to the RTH.

(2) Grievances. A RTHs process for grievances must, at a minimum, include the following:

(a) Residents will be encouraged to informally resolve complaints through discussion with RTH staff.

(b) If the resident is not satisfied with the informal process or does not wish to use it, the resident may proceed as follows:

(A) The resident may submit a complaint in writing to the RTH administrator. The resident may receive assistance in submitting the complaint from any person whom the resident chooses. If requested by the resident, RTH staff will be available to assist the resident.

(B) The written complaint will go directly to the RTH administrator without being read by other staff, unless the resident requests or permits other staff to read the complaint.

(C) The complaint will include the reasons for the grievance and the proposed resolutions. No complaint will be disregarded because it is incomplete.

(D) Within five days of receipt of the complaint, the RTH administrator will meet with the resident to discuss the complaint. The resident may have an advocate or other person of his/her choosing present for this discussion.

(E) Within five days of meeting with the resident, the RTH administrator will provide a written response to the resident. As part of the written response, the Administrator will provide information about the appeal process.

(F) In circumstances where the matter of the complaint is likely to cause irreparable harm to a substantial right of the resident before the grievance procedures outlined in OAR 309-035-0390 are completed, the resident may request an expedited review. The RTH administrator will review and respond in writing to the grievance within 48 hours. The written response will include information about the appeal process.

(3) Appeals. Residents, their legal guardians (as applicable) and prospective residents (as applicable) will have the right to appeal admission, termination and grievance decisions as follows:

(a) If the resident is not satisfied with the decision, the resident may file an appeal in writing within ten days of the date of the RTH administrator's response to the complaint or notification of admission denial or termination (as applicable). The appeal will be submitted to the CMHP director or designee in the county where the RTH is located.

(b) The resident may receive assistance in submitting the appeal. If requested by the resident, RTH staff will be available to assist the resident.

(c) The CMHP director or designee will provide a written response within ten days of receiving the appeal.

(d) If the resident is not satisfied with the CMHP director's decision, the resident may file a second appeal in writing within ten days of the date of the CMHP director's written response to the Administrator of the Division or designee. The decision of the Administrator of the Division will be final.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0400

### Resident Assessment and Residential Service Plan

(1) Assessment. An assessment will be completed for each resident within 30 days after admission to the RTH, unless admitted to the RTH for crisis-respite services.

(a) The assessment will be based upon an interview with the resident to identify strengths, preferences and service needs; observation of the resident's capabilities within the residential setting; a review of information in the resident record; and contact with representatives of other involved agencies, family members and others, as appropriate. All contacts with others will be made with proper authorization for the release of information.

(b) Assessment findings will be summarized in writing and included in the resident's record. Assessment findings will include, but not be limited to, diagnostic and demographic data; identification of the resident's medical, physical, emotional, behavioral and social strengths, preferences and needs related to independent living and community functioning; and recommendations for residential service plan goals.

(2) Residential Service Plan. An individualized plan, identifying the goals to be accomplished through the services provided, will be prepared for each resident, unless admitted to the RTH for crisis-respite services, within 30 days after admission.

(a) The residential service plan will be based upon the findings of the resident assessment, be developed with participation of the resident and his/her guardian (as applicable), and be developed through collaboration with the resident's primary mental health treatment provider. With consent of the resident or guardian (as applicable), family members, representatives from involved agencies, and others with an interest in the resident's circumstances will be invited to participate. All contacts with others will be made with proper, prior authorization from the resident.

(b) The residential service plan will identify service needs, desired outcomes and service strategies to address, but not be limited to, the following areas: physical and medical needs, medication regimen, self-care, social-emotional adjustment, behavioral concerns, independent living capability and community navigation.

(c) The residential service plan will be signed by the resident, the administrator or other designated RTH staff person, and others, as appropriate, to indicate mutual agreement with the course of services outlined in the plan.

(3) Crisis-respite Requirements. For residents admitted to RTHs for 30 days or less, an assessment and residential service plan must be developed within 48 hours of admission which identifies service needs, desired outcomes and the service strategies to be implemented to resolve the crisis or address other needs of the individual that resulted in the short term service arrangement.

(4) Progress Notes. Progress notes will be maintained within each resident's record and document significant information relating to all aspects of the resident's functioning and progress toward desired outcomes identified in the residential service plan. A progress note will be entered in the resident's record at least once each month for regular residents and at least daily for crisis-respite residents.

(5) Re-assessments and Revisions to the Residential Service Plan. The assessment and residential service plan will be reviewed and updated at least annually. On an ongoing basis, the residential service plan will be updated, as necessary, based upon changing circumstances or upon the resident's request for reconsideration.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0410

### Resident Services and Activities

(1) General Requirements. The services and activities available at the RTH will include care and treatment consistent with ORS 443.400 and those services individually specified for the resident in the residential service plan developed as outlined in OAR 309-035-0400. Residents will be encouraged to care for their own needs to the extent possible. All services and activities will be provided in a manner that respects residents' rights, promotes recovery and affords personal dignity.

(2) Services and Activities to Be Available. Services and activities to be available will include but not be limited to:

(a) Provision of adequate shelter consistent with OAR 309-035-0320 through 309-035-0350;

(b) At least three meals per day, seven days per week, provided in accordance with OAR 309-035-0430;

(c) Assistance and support, as necessary, to enable residents to meet personal hygiene and clothing needs;

(d) Laundry services, which may include access to washer(s) and dryer(s) so residents can do their own personal laundry;

(e) Housekeeping essential to the health and comfort of residents;

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(f) Activities and opportunities for socialization and recreation both within the facility and in the larger community;

(g) Health-related services provided in accordance with OAR 309-035-0440;

(h) Assistance with community navigation and transportation arrangements;

(i) Assistance with money management, where requested by a resident, to include accurate documentation of all funds deposited and withdrawn when funds are held in trust for the resident;

(j) Assistance with acquiring skills to live as independently as possible;

(k) Assistance with accessing other additional services, as needed; and

(l) Any additional services required under contract with the Division.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05;

Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0420

### Prohibition of Seclusion and Restraints

General Prohibition. The use of seclusion or restraints is prohibited in Residential Treatment Homes. Only Secure Residential Treatment Facilities approved by the Division in accordance with OAR 309-035-0100 through 309-035-0190 will be allowed to use seclusion and restraints.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05;

Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0430

### Food Services

(1) Well-balanced Diet. Meals will be planned and served in accordance with the recommended dietary allowances found in the United States Department of Agriculture Food Guide Pyramid.

(2) Modified or Special Diets. An order from a Licensed Medical Professional will be obtained for each resident who, for health reasons, is on a modified or special diet. Such diets will be planned in consultation with the resident.

(3) Menus. Menus will be prepared at least one week in advance and will provide a sufficient variety of foods served in adequate amounts for each resident at each meal and adjusted for seasonal changes. Records of menus, as served, will be filed and maintained in the RTH for at least 30 days. Resident preferences and requests will be considered in menu planning. Religious and vegetarian preferences will be reasonably accommodated.

(4) Supply of Food. Adequate supplies of staple foods for a minimum of one week and perishable foods for a minimum of two days will be maintained on the premises.

(5) Sanitation. Food will be stored, prepared and served in accordance with the Public Health Division's Food Sanitation Rules.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05;

Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0440

### Health Services

(1) General. The administrator will be responsible for assuring that all residents are offered medical attention when needed. Arrangements for health services will be made with the informed consent of the resident and/or guardian (as applicable). The RTH will arrange for physicians or other qualified health care professionals to be available in the event the resident's regular physician or other health care professional is unavailable. A hospital emergency room will be identified and may be used in case of emergency.

(2) Initial Health Screening. Each resident admitted to the RTH will be screened by a qualified health care professional to identify health problems and to screen for communicable disease. Documentation of the initial health screening will be placed in the resident record.

(a) The health screening will include a brief history of health conditions, current physical condition and a written record of current or recommended medications, treatments, dietary specifications, and aids to physical functioning.

(b) For regular admissions, the health screening will be obtained prior to the resident's admission and include the results of testing for tuberculosis and Hepatitis B.

(c) For emergency admissions, including crisis-respite admissions, the health screening will be obtained as follows:

(A) For individuals experiencing psychiatric or medical distress, a health screening will be completed by a qualified health care professional prior to the resident's admission or within 24 hours of the emergency placement. The health screening will confirm that the individual does not have health conditions requiring continuous nursing care, a hospital level of care, or immediate medical assistance. For each crisis-respite resident who continues in the RTH for more than seven consecutive days, a complete health examination will be arranged if any symptoms of a health concern exist.

(B) For other individuals who are admitted on an urgent basis due to a lack of alternative supportive housing, the health screening will be obtained within 72 hours after the resident's admission.

(C) The health screening criteria may be waived for individuals admitted for crisis-respite services who are under the active care of an LMP or other qualified health care professional if it is the opinion of the attending health care professional that the crisis-respite placement presents no health risk to the individual or other residents in the RTH. Such a waiver must be provided in writing and be signed and dated by the attending health care professional within 24 hours of the resident's admission.

(3) Regular Health Examinations. Except for crisis-respite residents, the program will ensure that each resident has a primary physician or other qualified health care professional who is responsible for monitoring his/her health care. Regular health examinations will be done in accordance with the recommendations of this primary health care professional, but not less than once every three years. New residents will have a health examination completed within one year prior to admission or within three months after admission. Documentation of findings from each examination will be placed in the resident's record.

(4) Written Orders for Special Needs. A written order, signed by a physician or other qualified health care professional, is required for any medical treatment, special diet for health reasons, aid to physical functioning or limitation of activity.

(5) Medications. A written order signed by a physician or other qualified health care professional is required for all medications administered or supervised by RTH staff. This written order is required before any medication is provided to a resident. All medication maintained in the RTH will be provided to residents in accordance with the applicable written orders.

(a) Medications will be self-administered by the resident if the resident demonstrates the ability to self-administer medications in a safe and reliable manner. In the case of self-administration, both the written orders of the prescriber and the residential service plan will document that medications will be self-administered. The self-administration of medications may be supervised by RTH staff who may prompt the resident to administer the medication and observe the fact of administration and dosage taken. When supervision occurs, staff will enter information in the resident's record consistent with section OAR 309-035-0440 below.

(b) Staff who assist with administration of medication will be trained by a Licensed Medical Professional or other qualified health care professional on the use and effects of commonly used medications.

(c) Medications prescribed for one resident will not be administered to, or self-administered by, another resident. Medication will not be used for the convenience of staff or as a substitute for programming. Medications will not be withheld or used as reinforcement or punishment.

(d) Stock supplies of prescription medications will not be maintained. The RTH may maintain a stock supply of non-prescription medications.

(e) The RTH will provide and implement a policy and procedure which assures that all orders for prescription drugs are reviewed by a qualified health care professional, as specified by a physician or other qualified health care professional, but not less often than every six months. Where this review identifies a contra-indication or other concern, the resident's primary physician, LMP or other primary health care professional will be immediately notified.

(f) Each resident receiving psychotropic medications will be evaluated at least every three months by the LMP prescribing the medication. The RTH will obtain from the LMP the results of this evaluation and any changes in the type and dosage of medication, the condition for which it is prescribed, when and how the medication is to be administered, common side effects (including any signs of tardive dyskinesia, contra-indications or possible allergic reactions), and what to do in case of a missed dose or other dosing error.

(g) All unused, discontinued, outdated or recalled medications, and any medication containers with worn, illegible or missing labels will be disposed. The method of disposal will be safe, consistent with any applicable federal statutes, and designed to prevent diversion of these substances to

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persons for whom they were not prescribed. A written record of all disposals will be maintained and specify the date of disposal, a description of the medication, its dosage potency, amount disposed, the name of the individual for whom the medication was prescribed, the reason for disposal, the method of disposal, and the signature of the staff person disposing the medication. For any medication classified as a controlled substance in schedules 1 through 5 of the Federal Controlled Substance Act, the disposal must be witnessed by a second staff person who documents their observation by signing the disposal record.

(h) All medications will be properly and securely stored in a locked space for medications only in accordance with the instructions provided by the prescriber or pharmacy. Medications for all residents will be labeled. Medications requiring refrigeration must be stored in an enclosed locked container within the refrigerator. The RTH will assure that residents have access to a locked, secure storage space for their self-administered medications. The RTH will note in its written policy and procedures which persons have access to this locked storage and under what conditions.

(i) For all residents taking prescribed medication, staff will record in the medical record each type, date, time and dose of medication provided. All side effects, adverse reactions and medication errors will be documented in the resident's record. All serious adverse reactions or errors will be reported immediately to the prescribing health care professional. All other errors, adverse reactions or refusals of medication will be reported to the prescribing professional within 48 hours.

(j) P.r.n. medications and treatments will only be administered in accordance with the parameters specified by the prescribing health care professional, or in cases where a nurse assigns or delegates p.r.n. medication or treatment administration, in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

(6) Delegation of Nursing Tasks. Where a nurse is involved in the care of an RTH resident, nursing tasks may be assigned or delegated by a Registered Nurse to direct care staff in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0450

### Civil Penalties

(1) Applicability of Long Term Care Statute. For purposes of imposing civil penalties, RTHs licensed under ORS 443.400 to 443.465 and 443.991 are considered to be long-term care facilities subject to 441.705 to 441.745.

(2) Sections of Rule Subject to Civil Penalties. Violations of any requirement within any part of the following sections of the rule may result in a civil penalty:

- (a) 309-035-0270 Licensing;
- (b) 309-035-0280 Contracts and Rates;
- (c) 309-035-0290 Administrative Management;
- (d) 309-035-0300 Records;
- (e) 309-035-0310 Staffing;
- (f) 309-035-0320 Physical Environment Requirements;
- (g) 309-035-0330 Safety;
- (h) 309-035-0340 Sanitation;
- (i) 309-035-0350 Resident Furnishings;
- (j) 309-035-0360 Admission to Home;
- (k) 309-035-0370 Termination of Residency;
- (l) 309-035-0380 Resident Rights;
- (m) 309-035-0390 Grievances and Appeals;
- (n) 309-035-0400 Resident Assessment and Residential Service Plan;
- (o) 309-035-0410 Resident Services and Activities;
- (p) 309-035-0420 Prohibition of Seclusion or Restraints;
- (q) 309-035-0430 Food Services; and
- (r) 309-035-0440 Health Services.

(3) Assessment of Civil Penalties. Civil penalties will be assessed in accordance with the following guidelines:

(a) Civil penalties, not to exceed \$250 per violation to a maximum of \$1,000, may be assessed for general violations of these rules. Such penalties will be assessed after the procedures outlined in OAR 309-035-0270(8) have been implemented;

(b) A mandatory penalty up to \$500 will be assessed for falsifying resident or facility records or causing another to do so;

(c) A mandatory penalty of \$250 per occurrence will be imposed for failure to have direct care staff on duty 24 hours per day;

(d) Civil penalties up to \$1,000 per occurrence may be assessed for substantiated abuse;

(e) In addition to any other liability or penalty provided by the law, the Division may impose a penalty for any of the following:

(A) Operating the RTH without a license;

(B) Operating with more residents than the licensed capacity; and

(C) Retaliating or discriminating against a resident, family member, employee, or other person for making a complaint against the program.

(f) In imposing a civil penalty, the following factors will be taken into consideration:

(A) The past history of the person incurring the penalty in taking all feasible steps or procedures to correct the violation;

(B) Any prior violations of statutes, rules or orders pertaining to the RTH;

(C) The economic and financial conditions of the person incurring the penalty;

(D) The immediacy and extent to which the violation threatens or threatened the health, safety or welfare of one or more residents; and

(E) The degree of harm caused to residents.

(4) Notification. Any civil penalty imposed under this section will become due and payable ten days after notice is received, unless a request for a hearing is filed. The notice will be delivered in person, or sent by registered or certified mail and will include a reference to the particular section of the statute or rule involved, a brief summary of the violation, the amount of the penalty or penalties imposed, and a statement of the right to request a hearing.

(5) Request for Hearing. The person to whom the notice is addressed will have ten days from the date of receipt of the notice to request a hearing. This request must be in writing and submitted to the Administrator of the Division. If the written request for a hearing is not received on time, the Division will issue a final order by default.

(6) Hearings. All hearings will be conducted pursuant to the applicable provisions of ORS 183.310 to 183.550, Administrative Procedure and Rules for Civil Penalties.

(7) Judgment. Unless the penalty is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the person. The Division may also take action to revoke the license upon failure to comply with a final order.

(8) Judicial Review. Civil penalties are subject to judicial review under ORS 183.480, except that the court may, at its discretion, reduce the amount of the penalty.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0460

### Criminal Penalties

(1) Specification of Criminal Penalty. Violation of any provision of ORS 443.400 through 443.465 is a Class B misdemeanor.

(2) Grounds for Law Suit. In addition, the Division may commence an action to enjoin operation of a RTH:

(a) When a RTH is operated without a valid license; or

(b) When a RTH continues to operate after notice of revocation has been given and a reasonable time has been allowed for placement of residents in other programs.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0500

### Residential Facilities

(1) Effective September 1, 1988, and except as otherwise provided in this rule, the capacity of all **Residential Facilities** or home for adults, including foster care homes, group care facilities or residential treatment, training or care facilities, located throughout the state shall not exceed a target based on the number of beds available in 1979, updated at the rate of ten percent per year, as distributed on the basis of the Oregon population by county. The distribution shall be determined by the Oregon Health Authority annually.

(2) Where a county possesses less than one percentile of the State population, then the county with the lowest percentile within an Authority's



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region shall be grouped until such time as the group reaches one percentile of the State population in determining the distribution target.

(3) Nothing in this rule is intended to prevent placement of a person who was not initially a resident of the county in a domiciliary care facility in the county. The targeted number of beds shall not require reduction in any domiciliary care facility capacity existing on October 4, 1977. No domiciliary care facility will be required to suspend operations, nor will the Authority support be denied such facilities on the basis of the facility being located in a county or county grouping which exceeds the distribution target.

(4) Adult Foster Care Homes as described in section (1) of this rule does not include Adult Foster Care Homes in which the clients of these homes are directly related by blood or marriage to the operator of the homes.

(5) In cases for which the distribution target for residential facilities, except Adult Foster Care Homes, allows for additional capacity in a county or county grouping and such additional capacity is less than ten beds, then one additional facility of the same type of ten-bed capacity may be authorized.

(6) This rule applies only to those residential care facilities as described in sections (1) and (4) of this rule which are established by, contracted for, or operated by the Oregon Health Authority or any of its divisions.

(7) Nothing in this rule will exempt any residential facility from the regulations of funding limitations of the Oregon Health Authority or any of its divisions.

(8) Subject to the appropriate licensing requirements, the governing body of a county may authorize a residential facility located in the county to exceed the capacity limit upon:

(a) Request of an individual or organization operating or proposing to operate a residential facility;

(b) Consultation with an advisory committee appointed by the governing body and consisting of persons who are particularly interested in the type of residential facility contemplated; and

(c) Finding of good cause following notice and public hearing.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: HR 1-1978, f. & ef. 2-16-78; HR 17-1979, f. & ef. 11-19-79; HR 5-1988, f. & cert. ef. 9-1-88; Renumbered from 410-004-0001, MHS 7-2007, f. & cert. ef. 5-25-07; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0550

### Purpose

(1) OAR 309-035-0550 through 309-035-0600 establish a long-range goal wherein ultimately residential care and adult foster home clients of the Oregon Health Authority, whose primary service needs are associated with mental retardation or other developmental disabilities, or mental or emotional disturbance, or alcohol or drug abuse or dependence, will reside in Adult Residential Care Facilities and Adult Foster Homes under the jurisdiction of the Division serving only such category of residents. Those clients not having such primary service needs will reside in facilities under the jurisdiction of the Aging and People with Disabilities Division, serving only such category of residents.

(2) The goal is realized by assigning certain facilities to the jurisdiction of the Division with interim procedures for case management of mixed clients and by prescribing those facilities to which new placements will be made.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0080, MHS 7-2007, f. & cert. ef. 5-25-07; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0560

### Definitions

As used in OAR 309-035-0550 through 309-035-0600:

(1) "Mental Retardation" means:

(a) A person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons of borderline intelligence may be considered mentally retarded if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the **Manual on Terminology and Classification in Mental Retardation** of the American Association on Mental Deficiency, **1977 Revision**, by this reference made a part hereof. Mental retardation is synonymous with mental deficiency;

(b) For community case management and program purposes, mental retardation includes those persons of borderline intelligence who have a history of residency in a state training center.

(2) "Developmental Disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or other neurological handicapping conditions which require training similar to that required by mentally retarded individuals, and the disability:

(a) Originates before the individual attains age 22 except that in the case of mental retardation the condition must be manifested before the age of 18;

(b) Has continued, or can be expected to continue, indefinitely; and

(c) Constitutes a substantial handicap to the individual's ability to function in society.

(3) "Mental or Emotional Disturbance" means a disorder of emotional reactions, thought processes, behavior, or relationships (excluding mental retardation, alcoholism and drug abuse or dependency) which results in substantial subjective distress, impaired perceptions of reality, or impaired ability to control or appreciate the consequences of one's behavior, and which constitutes a substantial impairment of personal, interpersonal, work, educational or civic functioning. If a medical diagnosis is made, classification shall be consistent with the current **Diagnostic and Statistical Manual of Mental Disorders** of the American Psychiatric Association 1980, by this reference made a part hereof.

(4) "Alcohol or Drug Abuse" or "Dependence" means a person who has lost the ability to control the use of alcohol or controlled substances or other substances with abuse potential, or who uses alcohol or such substances to the extent that the person's health or that of others is substantially impaired or endangered or the person's social or economic functions are substantially disrupted. An alcohol or drug dependent person may be physically dependent, a condition in which the body requires a continuing supply of alcohol, a drug, or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcohol, a drug, or a controlled substance.

(5) "Residents" mean persons who are clients of the Oregon Health Authority who reside in Adult Residential Care Facilities and Adult Foster Homes.

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0085, MHS 7-2007, f. & cert. ef. 5-25-07; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0570

### Jurisdiction Over Homes and Centers

(1) The Division shall have jurisdiction over and shall license all Adult Residential Care Homes and Centers and certify Adult Foster Homes having residents 60 percent or more of which have primary service needs associated with mental retardation or other developmental disabilities, or mental or emotional disturbance or alcohol or drug abuse dependence.

(2) Adult Residential Care Homes and Centers and Adult Foster Homes not within the criteria in section (1) of this rule shall be under the jurisdiction of and be licensed or certified by Aging and People with Disabilities Division.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0090, MHS 7-2007, f. & cert. ef. 5-25-07; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0580

### Case Management

(1) Those residents in homes and centers under the jurisdiction of Addictions and Mental Health Division, whose primary service needs are not associated with mental retardation or other developmental disabilities, or mental or emotional disturbances or alcohol or drug abuse or dependence shall be Aging and People with Disabilities Division clients and shall receive case management from such Division. All other residents in such facilities shall be Addictions and Mental Health Division clients and shall receive case management from such Division.

(2) Those residents in Adult Residential Care Homes and Centers and Adult Foster Homes under the jurisdiction of Aging and People with Disabilities Division whose primary service needs are associated with mental retardation or other developmental disabilities, or mental or emotional disturbance or alcohol or drug abuse or dependence, shall be Division clients and shall receive case management from such Division. All other

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residents in such facilities shall be Aging and People with Disabilities Division clients and receive case management from such Division.

Stat. Auth.: ORS 413.042  
Stats. Implemented: ORS 413.042  
Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0095, MHS 7-2007, f. & cert. ef. 5-25-07; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0590

### Placement

(1) Residential Care and Adult Foster Home clients shall be newly placed on the basis of primary service needs — Those having such needs as those described in OAR 309-035-0100 to 309-035-0190 will be placed in the facilities described in that paragraph and those not having such needs shall be placed in those facilities described in OAR 309-035-0250 to 309-035-0460.

(2) Exceptions may be made only when a client cannot be placed because of the unavailability of an appropriate facility and the facility in which the client is placed is capable of serving the needs of the client. Exceptions will be granted by the Division responsible for the receiving facility.

Stat. Auth.: ORS 413.042  
Stats. Implemented: ORS 413.042  
Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0100, MHS 7-2007, f. & cert. ef. 5-25-07; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-035-0600

### Effective Date

OAR 309-035-0550 through 309-035-0590 are prospective as well as retroactive to July 1, 1982. Such prospective and retroactive effect is each severable of the other.

Stat. Auth.: ORS 413.042  
Stats. Implemented: ORS 413.042  
Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0105, MHS 7-2007, f. & cert. ef. 5-25-07; Suspended by MHS 13-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

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**Rule Caption:** Temporary amendments to OAR 309-040 related to the licensing of Foster Homes for adults.

**Adm. Order No.:** MHS 14-2016(Temp)

**Filed with Sec. of State:** 9-6-2016

**Certified to be Effective:** 9-7-16 thru 3-3-17

**Notice Publication Date:**

**Rules Adopted:** 309-040-0301, 309-040-0391, 309-040-0392

**Rules Amended:** 309-040-0300, 309-040-0305, 309-040-0310, 309-040-0315, 309-040-0320, 309-040-0325, 309-040-0330, 309-040-0335, 309-040-0340, 309-040-0345, 309-040-0350, 309-040-0355, 309-040-0360, 309-040-0365, 309-040-0370, 309-040-0375, 309-040-0380, 309-040-0385, 309-040-0390, 309-040-0395, 309-040-0400, 309-040-0405, 309-040-0410, 309-040-0415, 309-040-0420, 309-040-0425, 309-040-0430, 309-040-0435, 309-040-0440, 309-040-0445, 309-040-0450, 309-040-0455

**Subject:** These rules prescribe standards by which the Health Systems Division (HSD) of the Oregon Health Authority (OHA) licenses community based Adult Foster Homes (AFHs) for adults with mental or emotional disorders. The care and services standards are designed to promote the individual's right to independence, choice, and decision making while providing a safe, secure, homelike environment. The provider must address the individual's needs in a manner that enables the individual to function at the highest level of independence possible.

**Rules Coordinator:** Nola Russell—(503) 945-7652

## 309-040-0300

### Purpose and Scope

(1) Purpose. These rules prescribe standards by which the Health Systems Division (HSD) of the Oregon Health Authority (OHA) licenses community based Adult Foster Homes (AFHs) for adults with mental or emotional disorders. The care and services standards are designed to promote the individual's right to independence, choice, and decision making while providing a safe, secure, homelike environment. The provider must address the individual's needs in a manner that enables the individual to function at the highest level of independence possible.

(a) These rules incorporate and implement the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services for home and community based services authorized under section 1915(i) of the Social Security Act.

(b) These rules establish requirements to ensure individuals receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving such services consistent with the standards set out in OAR chapter 411, Division 4.

(2) Scope. These rules apply to adult foster homes providing services to five or fewer adults with mental or emotional disorders, regardless of whether the provider receives public funds.

Stat. Auth.: ORS 413.042, 413.032, 413.085  
Stats. Implemented: ORS 443.705 - 443.825  
Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0000, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 11-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 4-2012, f. 5-3-12, cert. ef. 5-4-12; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0301

### Required Home-like Qualities

This rule becomes effective July 1, 2016 and is enforceable as described in OAR 309-040-0315(7).

(1) Each AFH must have all of the following qualities:

(a) The home is integrated in and supports the same degree of access to the greater community as people not receiving HCBS, including opportunities for an individual to:

(A) Seek employment and work in competitive integrated employment settings;

(B) Engage in greater community life;

(C) Control personal resources; and

(D) Receive services in the greater community.

(b) The AFH is selected by the individual or, as applicable, the individual's representative, from among available setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options must be:

(A) Identified and documented in the individual's person-centered service plan;

(B) Based on the needs and preferences of the individual; and

(C) Based on the individual's available resources for room and board.

(c) The AFH ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint.

(d) The AFH 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.

(e) The AFH facilitates individual choice regarding services and supports, and who provides the services and supports.

(2) Additional Home-like Requirements. The provider must maintain the following qualities at the AFH:

(a) The home must be physically accessible to each individual;

(b) The provider must provide the individual with a unit of specific physical place that the individual may own, rent, or occupy under a legally enforceable residency agreement.

(c) The provider must provide and include in the residency agreement that the individual has, at a minimum, the same responsibilities and protections from an eviction that a tenant has under the landlord-tenant law of the state of Oregon and other applicable laws or rules of the county, city, or other designated entity. For a setting in which landlord-tenant laws do not apply, the residency agreement must provide substantially equivalent protections for the individual and address eviction and appeal processes. The eviction and appeal processes must be substantially equivalent to the processes provided under landlord-tenant laws.

(d) The provider must ensure that each individual has privacy in his or her own unit.

(e) The provider must maintain units with entrance doors lockable by the individual. The provider must ensure that only the individual, the individual's roommate (where applicable), and only appropriate staff, as described in the individual's person-centered service plan, have keys to access the unit.

(f) The provider must ensure that individuals sharing units have a choice of roommates.

(g) The provider must provide and include in the residency agreement that individuals have the freedom to decorate and furnish his or her own unit as agreed to within the Residency Agreement.

(h) The provider must permit each individual to have visitors of his or her choosing at any time.

(i) The provider must ensure each individual has the freedom and support to control his or her own schedule and activities.

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(j) The provider must ensure each individual has the freedom and support to have access to food at any time.

(3) The provider must take reasonable steps to ensure that the program maintains the qualities identified in this rule. Failure to take reasonable steps may include, but is not limited to:

(a) Failure to maintain a copy of the person-centered service plan at the home;

(b) Failure to cooperate or provide necessary information to the person centered planning coordinator; or

(c) Failure to attend or schedule a person centered planning meeting where necessary.

(4) When a provider is unable to ensure a quality described under sections (2)(d) to (2)(j) of this rule due to threats to the health and safety of the individual or others, the provider may seek an individually-based limitation with the consent of the individual or, as applicable, the individual's legal representative, through the process described in OAR 411-004-0040 and incorporated by OAR 309-040-0391. The provider may not apply an individually based limitation until the limitation is approved and documented as required by OAR 309-040-0391.

Stat. Auth.: ORS 413.042, 413.032, 413.085

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0305

### Definitions

As used in these rules the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of an AFH or community program, or provider, or other caregiver and the individual. For situations other than those involving an employee, provider, or other caregiver and an individual, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the individual;

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual.

(2) "Abuse Investigation and Protective Services" means an investigation and any subsequent services or supports necessary to prevent further abuse as required by ORS 430.745 to 430.765 and OAR 943-045-0000, or any other rules established by the Division applicable to allegations of abuse of individuals residing at an AFH licensed by the Division.

(3) "Activities of Daily Living (ADL)" are those individual skills necessary for an individual's continued well-being including eating and nutrition, dressing, individual hygiene, mobility, and toileting.

(4) "Administration of Medication" means administration of medicine or a medical treatment to an individual as prescribed by a Licensed Medical Practitioner.

(5) "Adult Foster Home (AFH)" means any home licensed by the Health Systems Division of the OHA in which residential care is provided to five or fewer individuals who are not related to the provider by blood or marriage as described in ORS 443.705 through 443.825. For the purpose of these rules, if an adult family member of the provider receives care, he or she must be included as one of the individuals within the total license capacity of the AFH. An AFH or person that advertises, including word-of-mouth advertising, to provide room, board, and care and services for adults, is deemed to be an AFH. For the purpose of these rules, an AFH does not include facilities referenced in ORS 443.715(1)(2)(3)(4).

(6) "Aid to Physical Functioning" means any special equipment ordered for an individual by a Licensed Medical Professional (LMP) or other qualified health care professional which maintains or enhances the individual's physical functioning.

(7) "Applicant" means any person or entity that makes an application for a license that is also the owner of the business.

(8) "Assessment" means an evaluation of an individual and the individual's level of functioning completed by a qualified provider and provides the basis for the development of the individual's Personal Care Plan and Person Centered Service Plan.

(9) "Authority" means the Oregon Health Authority or its designee.

(10) "Division Staff" means an employee of the Division, the Division's designee, or the designee of the local Community Mental Health Program.

(11) "Behavioral Interventions" means those interventions that will modify the individual's behavior or the individual's environment.

(12) "Bill of Rights" means civil, legal or human rights afforded to those individuals residing in an AFH, which are in accord with those rights afforded to all other U.S. citizens, including but not limited to those rights delineated in the AFH Bill of Rights as described in OAR 309-040-0410.

(13) "Board of Nursing Rules" means the standards for Registered Nurse Teaching and Delegation and assignments to Unlicensed Persons according to the statutes and rule of the Oregon State Board of Nursing, chapter 851, division 47, ORS 678.010 to 678.445.

(14) "Care" means the provision of but is not limited to services of room, board, services and assistance with ADLs, such as assistance with bathing, dressing, grooming, eating, money management, recreational activities, and medication management. Care also means services that promote maximum individual independence and enhance quality of life.

(15) "Caregiver" includes the provider, resident managers, or substitute caregivers who provide services to an individual.

(16) "Case Manager" means a person employed by a local, regional, or state allied agency approved by the Division to provide case management services

(17) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

(18) "Community Mental Health Program (CMHP)" means the organization of all services for persons with mental or emotional disturbances, drug abuse problems, and alcoholism and alcohol abuse problems, operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(19) "Compensation" means payments made by or on behalf of an individual to a provider in exchange for room and board, care and services, including services described in the individual's Personal Care Plan and Person Centered Service Plan (20) "Complaint Investigation" means an investigation of any allegation that a provider has taken action, or inaction, which is perceived as contrary to law, rule, or policy but does not meet the criteria for an abuse investigation.

(21) "Condition" means a provision attached to a new or existing license, which limits or restricts the scope of the license or imposes additional requirements on the licensee.

(22) "Contested Case Hearing" means a hearing resulting in a directed or recommended action. The hearing is held at the request of the provider or the Division in response to an action, sanction, or notice of finding issued by the Division that would result in the loss of license of the provider or other sanctions that would adversely affect the license of the provider. The hearing group is composed of:

(a) The provider and if the provider chooses, the provider's attorney;

(b) The Division as represented by the Attorney General's Office; and

(c) The Office of Administration Hearings Administrative Law Judge.

(23) "Contract" means a written agreement between a provider and the Division to provide room and board, care and services for compensation for individuals of a licensed AFH.

(24) "Controlled Substance" means any drug classified as schedules one through five under the Federal Controlled Substance Act.

(25) "Criminal History Check (CHC)" means the Oregon Criminal History Check and when required, a National Criminal History check and or a State-Specific Criminal History check, and the processes and procedures required by the rules OAR 943-007-0000 through 943-007-0500 Criminal History Check.

(26) "Day Care" means care and services in an AFH for a person who is not an individual of the AFH. Children under the age of five living in the AFH are included in the licensed capacity of the home.

(27) "Declaration for Mental Health Treatment" means a document that states the individual's preferences or instructions regarding mental health treatment as defined by ORS 127.700 through 127.737.

(28) "Designated Representative" means:

(a) Any adult who is not the individual's paid provider, who:

(A) The individual has authorized to serve as his or her representative;

or

(B) The individual's legal representative has authorized to serve as the individual's representative.

(b) The power to act as a designated representative is valid until the individual or the individual's legal representative modifies the authorization and notifies the Division of the modification, the individual or the indi-

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vidual's representative notifies the provider that the designated representative is no longer authorized to act the individual's behalf, or there is a change in the legal authority upon which the designation was based. Notice must include the individual's or the representative's signature as appropriate.

(c) An individual, or the individual's legal representative, is not required to appoint a designated representative.

(29) "Director" means the Director of the Oregon Health Authority or that person's designee.

(30) "Discharge Summary" means a document that describes the conclusion of the planned course of services described in the individual's individualized personal care plan and person centered service plan, regardless of outcome or attainment of goals described in the individual's individualized personal care plan. In addition, the discharge summary addresses individual's monies, financial assets and monies, medication and personal belongings at time of discharge.

(31) "Division" means the Health Systems Division of the Oregon Health Authority or its designee.

(32) "Employee" means a person who is employed by a licensed AFH (AFH), who receives wages, a salary, or is otherwise paid by the AFH for providing the service. The term also includes employees of other providers delivering direct services to an individual.

(33) "Exempt Area" means a county agency that provides similar programs for licensing and inspection of AFHs which the Director finds equal to or superior to the requirements of ORS 443.705 to 443.825 and which has entered into an agreement with the Division to license, inspect, and collect fees according to the provisions of 443.705 to 443.825.

(34) "Family Member" for the purposes of these rules, means a husband or wife, natural parent, child, sibling, adopted child, domestic partner, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(35) "HCB" Means: Home and Community Based.

(36) "Home" means the Adult Foster Home (AFH) and as indicated by the context of its use, may refer to the one or more buildings and adjacent grounds on contiguous properties used in the operation of the AFH.

(37) "Home and Community-Based Services" or "HCBS" means Home and Community-Based Services as defined in OAR chapter 411, division 4. HCBS are services provided in the home or community of an individual.

(38) "Home-like" means an environment that promotes the dignity, security, and comfort of individuals through the provision of personalized care and services, and encourages independence, choice, and decision-making by the individuals

(39) "House Rules" means those written standards governing house activities developed by the provider and approved by the Division. These standards must not conflict with the AFH Bill of Rights or other individual rights set out by these rules.

(40) "Incident Report" means a written description and account of any occurrence including but not limited to, any injury, accident, acts of physical aggression, use of physical restraints, medication error, any unusual incident involving an individual or the home and/or providers.

(41) "Individual" means any person being considered for placement or currently residing in a licensed home receiving residential, HCBS and other services regulated by these rules on a 24-hour basis except as excluded under ORS 443.400.

(42) "Individually-Based Limitation" means a limitation to a quality listed in OAR 411-004-0020(2)(c) to (2)(g) and as incorporated by OAR 309-040-0410(3) applied in accordance with the required process described in OAR 309-040-0391 An individually-based limitation is based on specific assessed need and only implemented with the informed consent of the individual or the individual's legal representative, as described in OAR 411-004-0040 and these rules. These qualities include the individual's right to:

- (a) Live under a legally enforceable agreement with protections substantially equivalent to landlord-tenant laws;
- (b) The freedom and support to access food at any time;
- (c) Have visitors of the individual's choosing at any time;
- (d) Have a lockable door in the individual's unit, which may be locked by the individual;
- (e) Choose a roommate when sharing a unit;
- (f) Furnish and decorate the individual's unit according to the Residency Agreement;
- (g) The freedom and support to control the individual's schedule and activities; and

(h) Privacy in the individual's unit.

(43) "Informed Consent" means:

(a) Options, risks, and benefits of the services outlined in these rules have been explained to an individual and, as applicable, the individual's legal representative in a manner that the individual and, as applicable, the legal representative comprehends; and

(b) The individual and, as applicable, the individual's legal representative consents to a person-centered service plan of action, including any individually-based limitations to the rules, prior to implementation of the initial or updated person-centered service plan or any individually-based limitation.

(44) "Initial Personal Care Plan (IPCP)" means a written document developed for an individual within 24 hours of admission to the home. The document must address the care and services to be provided for the individual during the first 30 days or less until the Personal Care Plan can be developed. At a minimum the IPCP must contain goals that address the following: Immediate health care support needs, medication management issues, safety and supervision needs, activities of daily living that the individual needs assistance with completing as well as any pertinent information as required by the case manager or their designee at the time of the admission. The provider must develop an Initial Personal Care Plan (IPCP) within 24 hours of admission to the AFH.

(45) "Legal Representative" means a person who has the legal authority to act for an individual and only within the scope and limits to his or her authority as designated by the court or other agreement. A legal representative may include:

(a) For an individual under the age of 18, the parent, unless a court appoints another person or agency to act as the guardian; or

(b) For an individual 18 years of age or older, a guardian appointed by a court order or an agent legally designated as the health care representative.

(46) "Level One AFH" means an AFH licensed by the Division to provide care and services to individuals with severe and persistent mental illness, who may also have limited medical conditions.

(47) "License" means a document issued by the Division to applicants who are determined by the Division to be in substantial compliance with these rules.

(48) "Licensed Medical Practitioner (LMP)" means any person who meets the following minimum qualifications as documented by the CMHP or designee and holds at least one of the following educational degrees and a valid license:

(a) Physician licensed to practice in the State of Oregon; or

(b) Nurse practitioner licensed to practice in the State of Oregon.

(49) "Licensee" means the person or entity to whom a license is issued and whose name(s) is on the license.

(50) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a community mental health program, or in the case of a Native American reservation, the tribal council, or if the county declines to operate or contract for all or part of a community mental health program, the board of directors of a public or private corporation which directly contracts with the Division to operate a CMHP for that county.

(51) "Mandatory Reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that the adult has suffered abuse, or that any person with whom the official contact while acting in an official capacity, has abused the adult. Pursuant to ORS 430.765(2) psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under 40.225 to 40.295.

(52) "Medication" means any drug, chemical, compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any individual.

(53) "Mental or Emotional Disturbances (MED)" means a disorder of emotional reactions, thought processes, or behavior that results in substantial subjective distress or impaired perceptions of reality or impaired ability to control or appreciate the consequences of the person's behavior and constitutes a substantial impairment of the person's social, educational, or economic functioning. Medical diagnosis and classification must be consistent with the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM-V). As used in these rules, this term is functionally equivalent to "serious and persistent mental illness."

(54) "Mistreatment" means the following behaviors, displayed by an employee, program staff, caregiver, provider or volunteer of an AFH when directed toward an individual:

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(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm.

(b) "Financial Exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual.

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual.

(D) Failing to use the income or assets of an individual effectively for the support and maintenance of the individual. "Effectively" means use of income or assets for the benefit of the individual.

(c) "Involuntary Restriction" means the involuntary restriction of an individual for the convenience of a caregiver or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence or program, unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short term basis when an individual's presence would pose a risk to health or safety to the individual or others.

(d) "Neglect" means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the individual.

(e) "Verbal Mistreatment" means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an individual.

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance or sight, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

(f) "Wrongful Restraint" means any use of a physical or chemical restraint except for:

(A) An act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730; or

(B) A physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(55) "National Criminal History Check" means obtaining and reviewing criminal history outside Oregon's borders. This information may be obtained from the Federal Bureau of Investigation through the use of fingerprint cards and from other criminal information resources in accordance with OAR 943-007-0000 through 943-007-0500 Criminal History Check Rules.

(56) "Neglect" means an action or inaction that leads to physical harm through withholding of services necessary to maintain health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the state or a community program to provide services due to a lack of funding available to provide the services.

(57) "Nurse Practitioner" means a registered nurse who has been certified by the board as qualified to practice in an expanded specialty role within the practice of nursing.

(58) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are delegated under specified conditions by a registered nurse to persons other than licensed nursing personnel, which is governed by ORS

chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

(59) "Nursing Delegation" means that a registered nurse authorizes an unlicensed person to perform special tasks of individual/nursing care in selected situations and indicates that authorization in writing. The delegation process includes nursing assessment of a individual in a specific situation, evaluation of the ability of the unlicensed person, teaching the task and ensuring supervision.

(60) "Person-Centered Service Plan" means written documentation that includes the details of the supports, desired outcomes, activities, and resources required for an individual to achieve and maintain personal goals, health, and safety as described in OAR 411-004-0030.

(61) "Person-Centered Service Plan Coordinator" means the person, which may be a case manager, service coordinator, personal agent, and other person designated by the Division to provide case management services or person-centered service planning for and with individuals.

(62) "Personal Care Plan (PCP)" means a written plan outlining the care and services to be provided to an individual. The PCP is based upon the review of current assessment, referral, observations, individual preference, and input from members of the Personal Care Plan Team. The plan identifies the care, services, activities, and opportunities to be provided by the caregiver to promote the individual's recovery and independence.

(63) "Personal Care Plan Team (PCP Team)" means a group composed of the individual, the case manager or other designated representative CMHP representative, the provider, resident manager, and others needed including the individual's legal guardian, representatives of all current service providers, advocates or others determined appropriate by the individual receiving services. If the individual is unable or does not express a preference, other appropriate team membership must be determined by the PCP team members.

(64) "Personal Care Services" means services prescribed by a physician or other designated person in accordance with the individual's plan of treatment. The services are provided by a caregiver that is qualified to provide the service and is not a member of the individual's immediate family. For those AFH individuals who are Medicaid eligible, Personal Care services are funded under Medicaid.

(65) "Practice of Registered Nursing" means the application of knowledge drawn from broad in-depth education in the social and physical sciences in assessing, planning, ordering, giving, delegating, teaching and supervising care which promotes the person's optimum health and independence.

(66) "Program Staff" includes an employee or person who, by contract with an AFH provides a service to an individual.

(67) "Provider" means a qualified person or an organizational entity operated by or contractually affiliated with a community mental health program, or contracted directly with the Division for the direct delivery of mental health services and supports to adults receiving residential and supportive services in an AFH.

(68) "Psychiatric Security Review Board (PSRB)" means the Board consisting of five members appointed by the Governor and subject to confirmation by the Senate under Section Four, Article 111 of the Oregon Constitution and described in ORS 161.295 through 161.400 and OAR 309-032-1540.

(69) "Registered Nurse" means a person licensed and registered to practice nursing by the State of Oregon Board of Nursing in accordance with ORS Chapter 678 and OAR Chapter 851.

(70) "Related" includes the following relationships: spouse, domestic partner, natural parent, child sibling, adopted child, adopted parent, step-parent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

(71) "Relative" means any person identified as a family member.

(72) "Representative" refers to both "Designated Representative" and "Legal Representative" as defined in these rules unless otherwise stated.

(73) "Residency Agreement" means the written, legally enforceable agreement between a provider and an individual or the individual's representative when the individual receives services from the provider. The Residency Agreement identifies the rights and responsibilities of the individual and the provider. The Residency Agreement must provide the individual protection from eviction substantially equivalent to landlord-tenant laws.

(74) "Resident Manager" means an employee of the provider who is approved by the Division to live in the AFH and is responsible for the care and services of individuals on a day-to-day basis.

# ADMINISTRATIVE RULES

(75) "Residential Care" means the provision of room, board, and services that assist the individual in activities of daily living, such as assistance with bathing, dressing, grooming, eating, medication management, money management or recreation. Residential care includes 24 hour supervision; being aware of the individual's general whereabouts; monitoring the activities of the individual while on the premises of the AFH to ensure the individual's health, safety, and welfare; providing social and recreational activities; and assistance with money management as requested.

(76) "Residents' Bill of Rights" means residents of the AFH have the following rights as defined in ORS 443.739. Each individual has a right to:

- (a) Be treated as an adult, with respect and dignity;
- (b) Be informed of all individual rights and all house rules;
- (c) Be encouraged and assisted to exercise legal rights, including the right to vote;
- (d) Be informed of the individual's medical condition and the right to consent to or refuse treatment;
- (e) Receive appropriate care and services, and prompt medical care as needed;
- (f) A safe and secure environment;
- (g) Be free from mental and physical abuse;
- (h) Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner;
- (i) Complete privacy when receiving treatment or personal care;
- (j) Associate and communicate privately with any person the individual chooses;
- (k) Send and receive personal mail unopened;
- (l) Participate in activities of social, religious and community groups;
- (m) Have medical and personal information kept confidential;
- (n) Keep and use a reasonable amount of personal clothing and belongings, and to have a reasonable amount of private, secure storage space;

(o) Manage the individual's own money and financial affairs unless legally restricted;

(p) Be free from financial exploitation. The provider must not charge or ask for application fees or nonrefundable deposits and must not solicit, accept or receive money or property from an individual other than the amount agreed to for services;

(q) A written agreement regarding the services to be provided and the rate schedule to be charged. The provider must give 30 days' written notice before any change in the rates or the ownership of the home;

(r) Not to be transferred or moved out of the AFH without 30 days' advance written notice and an opportunity for a hearing. A provider may transfer or discharge an individual only for medical reasons including a medical emergency described in ORS 443.738(11)(a), or for the welfare of the individual or other individuals, or for nonpayment;

(s) Be free of discrimination in regard to race, color, national origin, sexual orientation, disability, sex or religion;

(t) Make suggestions and complaints without fear of retaliation.

(77) "Respite Care" means the provision of room, board, care, and services in an AFH for a period of up to 14 days. Respite care individuals will be counted in the total licensed capacity of the home. Respite care is not crisis respite care.

(78) "Restraints" means any physical hold, device, or chemical substance, which restricts, or is meant to restrict, the movement or normal functioning of an individual.

(79) "Room and Board" means the provision of meals, a place to sleep, laundry and housekeeping.

(80) "Seclusion" means the involuntary confinement of an individual to a room or area where the individual is physically prevented from leaving.

(81) "Self-Administration of Medication" means the act of an individual placing a medication in or on the individual's own body. The individual identifies the medication and the times and manners of administration, and placed the medication internally or externally on the individual's own body without assistance.

(82) "Self Preservation" in relation to fire and life safety means the ability of individuals to respond to an alarm without additional cues and be able to reach a point of safety without assistance.

(83) "Services" means those activities which are intended to help the individuals develop appropriate skills to increase or maintain their level of functioning and independence. Services include coordination and consultation with other service providers or entities to assure residents access to necessary medical care, treatment, and/or services identified in the individual's personal care plan.

(84) "Substitute Caregiver" means any person meeting the qualifications of a caregiver who provides care and services in an AFH under the jurisdiction of the Division in the absence of the provider or resident manager. An individual may not be a substitute caregiver.

(85) "Unit" means the personal space and bedroom of an individual, as agreed to in the Residency Agreement.

(86) "Unusual Incident" means those incidents involving acts of physical aggression, serious illnesses or accidents, any injury or illness of an individual requiring a non-routine visit to a health care practitioner, suicide attempts, death of an individual, a fire requiring the services of a fire Department, or any incident requiring an abuse investigation.

(87) "Variance" means an exception from a regulation or provision of these rules, granted in writing by the Division, upon written application from the provider.

(88) "Volunteer" means a person who provides a service or who takes part in a service provided to individuals receiving services in an AFH or other provider, and who is not a paid employee of the AFH or other provider. The services must be non-clinical unless the person has the required credentials to provide a clinical service.

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

Stat. Auth.: ORS 413.042; 413.032

Stats. Implemented: ORS 426.072 & 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0005, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07; MHS 13-2007, f. & cert. ef. 8-31-07; MHS 11-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 4-2012, f. 5-3-12, cert. ef. 5-4-12; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0310

### License Required

(1) License Required. In accordance with ORS 443.725, every provider of Adult Foster Care must be licensed by the Division before opening or operating an AFH.

(a) The provider must live in the home that is to be licensed or hire a resident manager to live in the home.

(b) There must be a provider, resident manager or substitute caregiver on duty 24 hours per day in an AFH under the jurisdiction of the Department.

(2) Placement. An AFH must not accept placement of an individual without first being licensed by the Division.

(3) Unlicensed AFH. No individual may be placed in an AFH that is not licensed.

(4) Criminal History Check Requirements. Providers, resident managers, substitute caregivers, volunteers and occupants over the age of 16, excluding individuals, must have documentation of an approved criminal history/background check in accordance with ORS 181.537, 443.735 and OAR 943-007.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0010, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0315

### License Application and Fees

(1) Application. A completed, written application will be submitted by the applicant on forms supplied by the Division. The application is not complete until all information requested by the Department and on the forms supplied by the Division is submitted to the Department. Incomplete applications are void 60 days after initial receipt of by the Division.

(2) Additional Homes. An applicant must submit a separate application for each location operated as an AFH.

(3) Contents of Application. The application must include:

(a) The maximum capacity requested and a written statement describing family members needing care, individuals who receive respite care, individuals who receive day care and/or individuals who receive room and board;

(b) A written statement from a Licensed Medical Practitioner regarding the mental and physical ability of the applicant to provide care to individuals and to operate the AFH. If the applicant will employ a resident manager, the applicant must provide a written statement from a physician or a LMP regarding the mental and physical ability of the resident manager to operate the AFH and to provide care to individuals;

(c) A completed financial information form provided by the Division. The applicant must demonstrate to the Division the applicant's financial ability and the resources necessary to operate the AFH. Financial ability will include but is not limited to, providing the Division with a list of unsat-

# ADMINISTRATIVE RULES

isfied judgments, pending litigation and unpaid taxes and notifying the Division regarding whether the applicant is in bankruptcy. If the applicant is unable to demonstrate the financial ability and resources required, the Division may require the applicant to furnish a financial guarantee as a condition of initial licensure in accordance with ORS 443.735(e) and 443.745;

(d) A completed Facility Provider Enrollment Application;

(e) A signed letter of support from the Local Mental Health Authority or designee for the applicant to be licensed to operate the AFH;

(f) A copy of the documentation of Criminal History Check approval in accordance with OAR943-007 for the provider(s), the resident manager, caregiver(s), volunteers and other occupants over the age of 16, excluding individuals, and other persons as defined in ORS 443.735(5)(a)(b), (6)(a)(b)(c);

(g) A floor plan of the AFH showing the location and size of rooms, exits, secondary emergency egress, smoke detectors and fire extinguishers and evidence of compliance with facility safety requirements as described in OAR 309-040-0370(1) through (13);

(h) A completed AFH Self-Inspection Guide; and

(i) Each application must be accompanied by a fee of \$20 per bed requested for license.

(4) Review of Application. The Division will determine compliance with these rules based on receipt of the completed application material and fees, a review of information submitted, an investigation of information submitted, an inspection of the AFH, and interviews with the provider determined by the Division and other persons as identified by the Division.

(5) Withdrawal of Application. The applicant may withdraw the application at any time during the application process by notifying the Division in writing.

(6) Revocation, Surrender, Non-Renewal, or Denial of Application. An applicant whose license has been revoked or voluntarily surrendered, following a receipt of Notice of Intent to Revoke or Notice of Intent of Non-Renewal from the Division, or whose application has been denied by the Division for reasons relating to but not limited to, criminal convictions, civil proceedings against the applicant, or substantiated allegations of abuse by the applicant will not be permitted to submit an application for one year from the date that the revocation, surrender or denial is made final. A longer period may be specified in the order revoking or denying the license.

(7) Enforcement of Home and Community Based Required Qualities.

(a) An AFH licensed on or after July 1, 2016 must be in full compliance with all regulatory requirements under these rules at the time of initial licensure;

(b) An AFH licensed prior to July 1, 2016 must come into compliance with applicable rules as follows:

(A) All AFHs must be in full compliance with all applicable rules no later than January 1, 2017.

(B) For those rules designated by the Division to become effective July 1, 2016, the provider must make measurable progress towards compliance with those rules. The Division will not issue sanctions or penalties for failure to meet those rules effective July 1, 2016 or those obligations imposed by OAR Chapter 411, Division 4, until January 1, 2017 if the provider demonstrates measurable progress towards compliance.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0015, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0320

### Classification of AFHs

The Division licenses Level 1 AFHs. Level 1 AFHs provide care and services to individuals with severe and persistent mental illness, who may also have limited medical conditions.

(1) Level One. A Level 1 AFH license may be issued by the Division based upon a determination that an AFH is in substantial compliance with these rules and a review of the qualifications of the provider and the resident manager, if there is one, and compliance with the following requirements.

(2) Requirement for Issuance of License. A Level 1 AFH license will be issued by the Division if the applicant or resident manager completes the training requirements outlined in OAR 309-040-0335, and the home and provider are in compliance with 309-040-0300 through 309-040-0455.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0011, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0325

### Capacity

(1) Number of Individuals. The Division will determine the number of individuals permitted to reside in an AFH based on the ability of the caregiver to meet the care needs of the individuals, the fire safety standards, and compliance with the physical structure standards of these rules. Determination of maximum licensed capacity will include consideration of total household composition including children.

(a) Sleeping arrangements for children in care must be safe and appropriate, based on the child's age, gender, special needs, behavior, and history of abuse and neglect.

(b) Each child in care must have a safe and adequate bed in which to sleep.

(2) Limiting Capacity. The following limits apply:

(a) The number of individuals is limited to five;

(b) Respite care individuals are included in the licensed capacity of five;

(c) Day care individuals are included in the licensed capacity of five;

(d) Adult family members of the provider or resident manager who need care are included in the licensed capacity of five; and,

(e) Child family members of the provider or resident manager who need care may be included in the licensed capacity of five.

(3) Ability to Provide Care. If the number of individuals who receive care exceeds the ability of the provider to meet the care, health, life, and safety needs of the individuals, the Division may reduce the licensed capacity of the AFH.

(4) Conditions on Capacity. The Division may place conditions, restrictions, or limitations on the AFH license as necessary to maintain the health, life, and safety of the individual.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0012, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0330

### Zoning for Adult Foster Homes

An AFH is a residential use of property for zoning purposes. Under ORS 197.665, an AFH is a permitted use in any residential zone, including a residential zone, which allows a single family dwelling, and in any commercial zone which allows a single family dwelling. No city or county may impose any zoning requirement on the establishment and maintenance of an AFH in these zones that is more restrictive than that imposed on a single-family dwelling in the same zone.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0100, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0335

### Training Requirements for Providers, Resident Managers, and Substitute Caregivers

(1) Training Requirements and Compliance. All providers, resident managers, and substitute caregivers must satisfactorily meet all educational requirements established by the Division. No person may provide care to any individual prior to acquiring education or supervised training designed to impart the basic knowledge and skills necessary to maintain the health, safety and welfare of the individual. Required course work and necessary skills may include, but are not limited to: physical caregiving; screening for care and service needs; appropriate behavior towards individuals with physical, cognitive and emotional disabilities; emergency procedures; medication management; personal care products; food preparation; home environment and safety procedures; residents' rights; issues related to architectural accessibility; and, mandatory abuse reporting.

(2) Ability to Communicate. The provider, resident manager, and substitute caregivers must be able to understand and communicate in oral and written English in accordance with ORS 443.730.

(3) Testing Requirements. Training for all providers, resident managers and substitute caregivers must be in compliance with ORS 443.738. The provider must satisfactorily pass any testing requirements established by the Division before being licensed or becoming a resident manager or substitute caregiver. The test must be completed by the caregiver without the help of any other person. The provider, resident manager and substitute caregiver must have the ability to, but not limited to, understand and responding appropriately to emergency situations, changes in medical con-

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ditions, physicians' orders and professional instructions, nutritional needs, individuals' preferences and conflicts.

(4) Exceptions to Training Requirements. The Division may make exceptions to the training requirements for persons who are appropriately licensed medical care professional in Oregon or who possess sufficient education, training, or experience to warrant an exception. The Division will not make any exceptions to the testing requirements.

(5) Unexpected and Urgent Staffing Need. In accordance with ORS 443.738, the Division may permit a person who has not completed the training or passed the required test to act as a resident manager until the training and testing are completed, or for 60 days, whichever is shorter, if the Division determines that an unexpected and urgent staffing need exists. The provider must notify the Division of the situation and demonstrate that the provider is unable to find a qualified resident manager, that the person has met the requirements for a substitute caregiver for the AFH, and that the provider will provide adequate supervision.

(6) Documentation of Current Training and Testing. The provider or resident manager must maintain current documentation of the training and testing of substitute caregivers including but not limited to:

(a) Documentation of criminal history check in compliance with OAR 410-007-0200 through 410-007-0380.

(b) Documentation that substitute caregiver has successfully completed the training required by the Division.

(c) Documentation that provider has trained the caregiver to meet the routine and emergency needs of the individuals.

(d) Documentation that provider has oriented the caregiver to the individuals in the AFH, their care needs and skills training, personal care plan, and the physical characteristics of the AFH.

(7) Annual Training Hours. The Division will require a minimum of twelve hours of training annually directly related to the care and services for individuals with mental illness. The provider, resident manager, and substitute caregiver of an AFH must complete required training and document in the provider, resident manager, and substitute caregiver's training records. Such training is in addition to any orientation, which is attended by applicants prior to licensing and must include, but is not limited to:

(a) Understanding and Recognizing Severe and Persistent Mental Illness

(b) Mandatory Abuse Reporting

(c) Medication Management, Dispensing, and Documentation

(d) Incident Report Writing

(e) Individual Rights

(f) AFH Emergency Planning

(g) Fire Safety

(h) Complaints and Grievances

(i) Cardiopulmonary Resuscitation (CPR) and First Aid

(8) Additional Training Requirements. The Division may require the provider, resident manager or substitute caregiver to obtain additional training, whether or not the twelve hour annual training requirement has already been met as specified by the Division.

(9) Training for Delegated and/or Assigned Nursing Care Services. Providers, resident managers or substitute caregivers who perform delegated and/or assigned nursing care services as part of the Personal Care Plan must receive training and appropriate monitoring from a registered nurse on performance and delivery of those services.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0030, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0340

### Issuance of a License

(1) Issuance of a License. Applicants must be in substantial compliance with these Administrative Rules and Oregon Revised Statutes (ORS) 443.705 through 443.825 before a license is issued. If cited deficiencies are not corrected within time frames specified by the Division, the application will be denied. The Division will issue a license to an applicant that is found to be in substantial compliance with these rules. The license must include, but is not limited to, the name of the applicant, name of the AFH, address of the home to which the license applies, the maximum number of individuals, resident manager (if applicable), conditions (if applicable), license number, payment received, effective date and expiration date, and the signature of the Assistant Administrator of the Division. The license must be visibly posted in the AFH and available for inspection at all times.

(2) Conditions on a License. The Division may attach conditions to the license, which limit, restrict, or specify other criteria for operation of the

AFH. Conditions to a license may include, but are not limited to, care of a specifically identified individual. The conditions must be posted with the license in the AFH and be available for inspection at all times.

(3) Reporting Changes. Each provider must report promptly to the Division any significant changes to information supplied in the application or subsequent correspondence. Such changes include, but are not limited to, changes in the AFH name, owner entity, resident manager, telephone number, and/or mailing address. Such changes include, but are not limited to, changes in staffing when such changes are significant or impact the health, safety, or well-being of individuals.

(4) Change of Ownership of an AFH. When an AFH is sold, the prospective new owner must apply for a license in accordance with OAR 309-040-0315 if the new owner intends to operate an AFH.

(5) Transfer of License. An AFH license is not transferable or applicable to any location or persons other than those specified on the license.

(6) Effective Date of a License. A license is valid for one year from the effective date on the license unless sooner revoked or suspended.

(7) Substantial Compliance Requirements. Applicants must be in substantial compliance with these Administrative Rules before a license is issued. If cited deficiencies are not corrected within the time frames specified by the Division, the license will be denied.

(8) Issuing a License in Compliance. The Division may not issue an initial license unless:

(a) The applicant and the AFH are in compliance with ORS 443.705 to 443.825 and the rules of the Division;

(b) The Division has completed an inspection of the AFH. If cited deficiencies are not corrected within the time frames specified by the Division, the application will be denied;

(c) The Division has received an approved criminal history records check on the applicant, resident manager, substitute caregiver, and any occupant (other than an individual), 16 years of age or older or is identified in ORS 443.735(5)(a)(b), (6)(a)(b)(c) and who will be residing in or employed by the AFH, as identified in OAR 943-007, and any other rules established by the Division.

(9) Financial Ability and Resources. The applicant must demonstrate to the Division the financial ability and resources necessary to operate the AFH. The demonstration of financial ability must include, but need not be limited to, providing the Division with a list of any unsatisfied judgments, pending litigation and unpaid taxes and notifying the Division regarding whether the applicant is in bankruptcy. If the applicant is unable to demonstrate the financial ability and resources required by this paragraph, the Division may require the applicant to furnish a financial guarantee as a condition of initial licensure.

(10) Resident Manager Changes. If a resident manager changes during the period of the license, the provider must notify the Division immediately and identify a plan for providing care to the individuals. The provider must submit a completed resident manager application on forms supplied by the Division that include, a copy of the documentation of criminal history background check and approval in accordance with OAR 943-007, a physician statement and payment of a \$10.00 fee. If the resident manager is to change during the license renewal process the \$10.00 is not applicable.

(11) Revised License. Upon receipt of the completed resident manager application and approval by the Division a revised license will be issued by the Division in accordance with ORS 443.738(1) through (4).

(12) 60-Day Provisional License. Notwithstanding any other provision of ORS 443.735 or 443.725 or 443.738, the Division may issue a 60-day provisional license to a qualified person if the Division determines that an emergency situation exists after being notified that the licensed provider of an AFH is no longer overseeing operation of the AFH.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0020, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0345

### Renewal

(1) Renewal Application and Fee. The provider must submit a completed the Division renewal application and the required fee at least 165 days prior to the expiration date of the license. If the renewal application is not received from the Division within the time period described, the provider must request the application from the Division or the County Mental Health partner. If the completed renewal application and fee are not submitted prior to the expiration date, the AFH will be treated as an unlicensed home, subject to civil penalties.



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(2) Exceptions for Renewal Application. The renewal application must include the same information and fee as required for a new application, except that a physician's statement and financial information form are not required if the Division can reasonably assume this information has not changed.

(3) Additional Requirements for Renewal Application. The Division may require the applicant to submit a current (within six months) physician's statement and a current (within six months) criminal history check if investigation by the Division for license renewal indicates that it is necessary.

(4) Information Investigation and Site Inspection. The Division will investigate any information in the renewal application and must conduct an inspection of the AFH.

(5) Inspection Report. The provider will be given a formal written report from the inspection citing any deficiencies and a time frame for correction that does not exceed 30 days from the date of the inspection report unless otherwise noted in the inspection report.

(6) Correction of Deficiencies. The AFH provider must correct cited deficiencies prior to issuing a renewed license. If cited deficiencies are not corrected within the time frame specified by the Division, the renewal application will be denied and administrative sanctions may be imposed.

(7) Requirements for License Renewal. The Division may not renew a license unless:

(a) The applicant and the AFH are in compliance with ORS 443.705 to 443.825 and the rules of the Division;

(b) The Division has completed an inspection of the AFH;

(c) The Division has completed a criminal records check as required by ORS 181.536 through 181.537, 443.735 and OAR 943-007 on the applicant and any occupant, other than an individual, 16 years of age or older or is identified in ORS 443.735(5)(a)(b), (6)(a)(b)(c) and who will be residing in or employed by or otherwise acting as a provider, resident manager, substitute caregiver or volunteer for the AFH provider.

(8) National Criminal Record Check. The provider, resident manager, substitute caregiver or volunteer or person residing in the AFH may continue to work or reside in the home pending the national criminal records check provided that the Oregon criminal record check was clear and no convictions were self-disclosed in accordance with OAR 943-007.

(9) Criminal Record Check. A criminal records check must be completed for the applicant and any occupant, other than an individual, 16 years of age or older who will be residing in or employed by or otherwise acting as a provider, resident manager, substitute caregiver or volunteer for the AFH provider if the Division believes there is reason to justify a new criminal history check in accordance with OAR 943-007 Criminal History Check Required.

(10) Burden of Proof — Less than 24 Months. An AFH provider seeking initial licensing or in operation for less than 24 months, carries the burden of proof to establish compliance with ORS 443.705 to 443.825 and the Division rules.

(11) Burden of Proof — More than 24 Months. The burden of proof will be upon the Division to establish compliance with ORS 443.705 to 443.825 and the Division rules if an AFH provider is seeking renewal of a license and has been in continuous operation for more than 24 months.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0025, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0350

### Variance

(1) A provider or applicant may apply to the Division for a variance from a provision of these rules. The provider must justify to the Division that such a variance does not jeopardize the health, life, or safety of the individuals, and the variance would not violate or compromise applicable ORS.

(2) The Division may not grant a variance from a regulation or provision of these rules pertaining to the license capacity of the AFH, inspections of the AFH, civil, legal and human rights, and inspection of the public files. No variance related to fire and life safety will be granted by the Division without prior consultation with the local fire authority or its designee.

(3) A provider or applicant may apply to the Division for a variance specific to each individual under ORS 443.725, subject to the following requirements:

(a) The variance is effective only for the specific individual who has been assessed and meets the safety requirements prescribed by the Division. This assessment shall become part of the individual's PCP;

(b) A variance allowing a specific individual to be in the AFH alone shall not exceed 4 hours in a 24 hour period;

(c) No variance allows a provider to leave an individual alone in the AFH between the hours of 11:00 pm to 6:00 am; and

(d) 24 hour per day care shall continue for any individual that does not qualify to be in the AFH alone.

(4) Variances must be granted or denied in writing. All variances granted must be reviewed with each license renewal under OAR 309-040-0345. A variance granted to one AFH provider, or a variance granted regarding a specific individual, does not constitute a precedent for any other AFH, provider, applicant, or individual.

(5) The AFH provider or applicant may appeal the denial of a variance request by submitting a request for reconsideration in writing to the Division. The Division will make a decision on the appeal within 30 days of receipt of the appeal. The decision of the Division will be final.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0035, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 2-2007(Temp), f. & cert. ef. 5-4-07 thru 10-31-07; MHS 12-2007, f. & cert. ef. 8-31-07; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0355

### Contracts

(1) Public Assistance Individuals. Providers who care for public assistance individuals must enter into a contract with the Division and comply with Division rules governing reimbursement for services and refunds.

(2) Private Pay Individuals. Providers who care for private paying individuals must enter into a signed contract with the individual or person paying for care. This contract must include, but is not limited to, a PCP, a schedule of rates, conditions under which the rates can be changed, and the AFH's policy on refunds at the time of hospitalization, death, discharge, or voluntary move.

(3) Notification of Increases, Additions, and Other Modifications of Rates. The provider must provide 30 days' prior written notification to private individuals or persons paying for care of increases, additions, and other modifications of the rates to be charged unless the change is due to a medical emergency resulting in a greater level of care, in which case the provider must give notice within ten days of the change.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0040, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0360

### Qualifications for Adult Foster Home Providers, Resident Managers and Other Caregivers

(1) Qualifications for a Provider. An AFH provider must meet the following qualifications:

(a) Be at least 21 years of age;

(b) Live in the AFH to be licensed, unless an approved resident manager lives in the AFH;

(c) Provide evidence satisfactory to the Division regarding experience, training, knowledge, interest, and concern in providing care to persons with severe and persistent mental illness. Such evidence may include, but is not limited to:

(A) Certified nurse's aide training;

(B) Nursing home, hospital or institutional work experience;

(C) Licensed practical nurse or registered nurse training and experience;

(D) Training approved by the Division;

(E) Experience in caring for individuals with severe and persistent mental illness at home; and

(F) Home management skills.

(d) Possess the physical health and mental health determined necessary by the Division to provide 24-hour care for adults who are mentally ill. Applicants must have a statement from a physician, on a form provided by the Division, that they are physically and mentally capable of providing care;

(e) Undergo a criminal history check in accordance with OAR 943-007 and be deemed eligible for licensure by the Division. The Division will evaluate and verify information regarding criminal history;

(f) Provide evidence of sufficient financial resources to operate an AFH for at least two months, unless the application is for renewal of an AFH that is already in operation. A credit reference check may be required;

# ADMINISTRATIVE RULES

(g) Be literate and capable of understanding written and oral orders and communicating with individuals, physician, case manager, and appropriate others; and be able to respond appropriately to emergency situations at all times;

(h) If transporting individuals by motorized conveyance, must have a current driver's license in compliance with the Department of Motor Vehicles laws and vehicle insurance as required by the State of Oregon.

(2) Qualifications for a Resident Manager. The resident manager must meet the provider qualifications listed in subsection (1)(a) through (h) of this rule. A resident manager applicant may work in the home pending outcome of the national criminal history check, if the Oregon criminal history check was clear and no convictions were self-disclosed on the criminal record authorization.

(3) Qualifications for a Substitute Caregiver. Substitute caregivers left in charge of an individual for any period of time must have access to individual records and meet the following qualifications:

(a) Be at least 18 years of age;

(b) Be subject to a criminal history check. A substitute caregiver may work in the home pending outcome of the national criminal history check providing the Oregon criminal history check was clear and no convictions were self-disclosed on the criminal record authorization;

(c) Be able to communicate orally and in writing with individuals, physicians, case managers, and appropriate others;

(d) Know fire safety and emergency procedures;

(e) Have a clear understanding of job responsibilities, have knowledge of PCPs and be able to provide the care specified for each individual's needs;

(f) Be able to meet the requirements of a resident manager when left in charge of an AFH for 30 days or longer;

(g) Not be an individual; and

(h) If transporting individual(s) by motorized conveyance, must have a current driver's license in compliance with Department of Motor Vehicles laws and vehicle insurance as required by the State of Oregon.

(4) Providers Responsibility for Standards. The provider must not hire or continue to employ a resident manager or substitute caregiver who does not meet the standards stated in this rule.

(5) Providers Responsibility for Supervision and Training. A provider is responsible for the supervision and training of resident managers and substitute caregivers and their general conduct when acting within the scope of their employment and/or duties.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0045, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0365

### Facility Standards

In order to qualify for or maintain a license, an AFH must meet the following provisions.

(1) Compliance with Building and Fire Code. Demonstrate compliance with Oregon Structural Specialty Code (OSSC) and Oregon Fire Code: and

(a) Each AFH must maintain up-to-date documentation verifying they meet applicable local business license, zoning, and building and housing codes, and state and local fire and safety regulations. It is the duty of the provider to check with local government to be sure all applicable local codes have been met;

(b) Each AFH established on or after October 1, 2004 must meet all applicable State building, mechanical, and housing codes for fire and life safety. The AFH must be inspected for fire safety by an inspector designated by the Division using the recommended standards established by the State Fire Marshal for facilities housing one to five persons. Refer to Appendix I of the Oregon Fire Code, the Oregon Residential Specialty Code, and the Oregon Structural Specialty Code. When deemed necessary by the Division, a request for fire inspection must be made to the State Fire Marshal.

(c) The building and furnishings must be clean and in good repair and grounds must be maintained. Walls, ceilings, and floors must be of such character to permit frequent washing, cleaning, or painting. There must be no accumulation of garbage, debris, rubbish or offensive odors;

(d) Stairways must be provided with handrails. A functioning light must be provided in each room, stairway, and exit way; incandescent light bulbs must be protected with appropriate covers. Yard and exterior steps must be accessible to individuals;

(e) The heating system must be in working order. Areas of the AFH used by individuals must be maintained at no less than 68 degrees Fahrenheit during the day and 60 degrees Fahrenheit during sleeping hours. During times of extreme summer heat, the provider must make a reasonable effort to make the individuals comfortable using available ventilation or fans;

(f) There must be at least 150 square feet of common space, and sufficient comfortable furniture in the AFH to accommodate the recreational and socialization needs of the occupants at one time. Common space must not be located in the basement or garages unless such space was constructed for that purpose or has otherwise been legalized under permit. Additional space is required if wheelchairs are to be accommodated;

(g) Pools and hot tubs must be equipped with sufficient safety barriers or devices to prevent accidental injury in accordance with Section R116 of the Oregon Residential Specialty Code.

(2) Accessibility for Persons with Disabilities. Any accessibility improvements made to accommodate an identified individual must be in accordance with the specific needs of the individual and comply with Chapter 11 of the building code.

(3) Outdoor Areas. An accessible outdoor area is required and must be made available to individuals. A portion of the outdoor area must be covered and have an all-weather surface, such as a patio or deck.

(4) Storage Areas. Storage for a reasonable amount of individual individual belongings beyond that of the individual's unit must be made available.

(a) All yard maintenance equipment must be maintained in a locked storage if such equipment poses a safety threat.

(b) A locked storage area for individual medications separate from food, laundry and toxic or hazardous materials must be made accessible to all caregivers. For individuals who are self-medicating, the provider must make a secured locked box available to assure the safety of all occupants of the home.

(c) A locked storage area separate from food and medications must be designated when there are toxic or hazardous materials on the premises.

(5) Bathrooms. All equipment must be clean and in good repair and provide individual privacy and have: a finished interior; a mirror; an operable window or other means of ventilation; and a window covering.

(a) Must have tubs or showers, toilets and sinks, and hot and cold water. A sink must be located near each toilet. A toilet and sink must be provided on each floor where rooms of non-ambulatory individuals or individuals with limited mobility are located. There must be at least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and family;

(b) Must have hot and cold water in sufficient supply to meet the needs of individuals for personal hygiene. Hot water temperature sources for bathing areas must not exceed 120 degrees Fahrenheit;

(c) Must have shower enclosures with nonporous surfaces; glass shower doors will be tempered safety glass. Shower curtains must be clean and in good condition. Non-slip floor surfaces will be provided in tubs and showers;

(d) Must have grab bars for toilets, tubs, and/or showers for individual's safety as required by individual's disabilities;

(e) The home must not be designed such that an individual or employee must walk through another individual's bedroom to get to a bathroom. Individuals must have barrier-free access to toilet and bathing facilities with appropriate fixtures.

(f) If there are non-ambulatory individual; alternative arrangements for non-ambulatory individuals must be appropriate to individual needs for maintaining good personal hygiene.

(g) Individuals must have appropriate racks or hooks for drying bath linens.

(6) Units. All furniture and furnishings must be clean and in good repair. Units for all household occupants must have been constructed as a bedroom when the home was built or remodeled under permit; be finished, with walls or partitions of standard construction which go from floor to ceiling, and a door which opens directly to a hallway or common use room without passage through another unit or common bathroom; be adequately ventilated, heated and lighted with at least one operable window which meets fire egress regulations. (See Section R310 Emergency Escape and Rescue Openings in the Oregon Residential Specialty Code.) All units must include a minimum of 70 square feet of usable floor space for each individual or 120 square feet for two individuals and have no more than two persons per room and allow for a minimum of three feet between beds. In addition, the provider must ensure the following:

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(a) Each unit has a lockable entrance door for the individual's privacy, as follows:

(A) The locking device must release with a single-action lever on the inside of the unit, open to a hall or common-use room;

(B) The provider must provide each individual with a personalized key that operates only the door to his or her unit door from the corridor side.

(D) The provider must maintain a master key to access all of the units that is quickly available to the provider or resident manager as appropriate and documented in the individual's person-centered service plan;

(E) The provider must not disable or remove a lock to a unit without first obtaining consent from the individual or the individual's legal representative through the individually based limitations process described in OAR 411-004-0040(2) and as incorporated by OAR 309-040-0391; and

(F) Section (6)(a) of these rules and its subsections are effective July 1, 2016 and enforceable as described in OAR 309-040-315(7).

(b) Providers, resident managers or their family members must not sleep in areas designated as living areas, nor share units with individuals;

(c) In determining maximum capacity, consideration must be given to whether children over the age of five have a bedroom separate from their parents.

(d) Units must be on ground level for individuals who are non-ambulatory or have impaired mobility;

(e) Individual units must be in close enough proximity to alert the provider or resident manager to night time needs or emergencies, or be equipped with a call bell or intercom.

(7) Housing Codes. Each AFH established on or after October 1, 2004 must meet all applicable State building, residential, fire, mechanical, and housing codes for fire and life safety. The AFH must be inspected for fire safety by an inspector designated by the Division using the recommended standards established by the State Fire Marshal for facilities housing one to five individuals. Refer to Appendix I of the Oregon Fire Code, the Oregon Residential Specialty Code, and the Oregon Structural Specialty Code. When deemed necessary by the Department, a request for fire inspection must be made to the State Fire Marshal.

(8) Special hazards.

(a) Flammable and combustible liquids and hazardous materials must be safely and properly stored in original, properly labeled containers, or safety containers, and secured to prevent tampering by individuals or others. Firearms on the premises of an AFH must be stored in a locked cabinet. The firearms cabinet must be located in an area of the home that is not readily accessible to individuals and all ammunition must be stored in a separate, locked location;

(b) Smoking regulations will be adopted to allow smoking only in designated areas. Smoking will be prohibited in sleeping rooms and upon upholstered crevasse furniture. Ashtrays of noncombustible material and safe design will be provided in areas where smoking is permitted;

(c) Cleaning supplies, poisons and insecticides must be properly stored in original, properly labeled containers in a safe area away from food, preparation and storage, dining areas, and medications.

(9) Common Use Rooms. All furniture and furnishings must be clean and in good repair. There must be at least 150 square feet of common space, and sufficient comfortable furniture in the AFH to accommodate the recreational and socialization needs of the occupants at one time. Common space must not be located in the basement or garages unless such space was constructed for that purpose or has otherwise been legalized under permit. Additional space will be required if wheelchairs are to be accommodated;

(10) Laundry and Related Space. All equipment must be clean and in good repair. Laundry facilities must be separate from food preparation and other individual use areas. The provider must maintain the following:

(a) Locked storage area for chemicals that pose a safety threat to individuals or family members;

(b) Sufficient, separate storage and handling space to ensure that clean laundry is not contaminated by soiled laundry;

(c) Outlets, venting and water hookups according to State Building Code requirements; and

(d) Washers must have a minimum rinse temperature of 140 degrees Fahrenheit.

(11) Kitchen. All equipment must be clean and in good repair. The provider must maintain an area for dry storage, not subject to freezing, in cabinets or a separate pantry with a minimum of one week's supply of staple foods. The provider must maintain the following:

(a) Sufficient refrigeration space maintained at 45 degrees Fahrenheit or less and freezer space for a minimum of two days' supply of perishable foods;

(b) A dishwasher with a minimum final rinse of 140 degrees Fahrenheit;

(c) Smooth, nonabsorbent and cleanable counters for food preparation and serving;

(d) Appropriate storage for dishes and cooking utensils designed to be free from potential contamination;

(e) Stove and oven equipment for cooking and baking needs;

(f) Storage for a mop and other cleaning tools and supplies used for food preparation, dining and adjacent areas. Such cleaning tools must be maintained separately from those used to clean other parts of the home; and

(g) Dining Space where meals are served must be provided to seat all individuals at the same seating.

(12) Details and Finishes:

(a) The building and furnishings must be clean and in good repair and grounds will be maintained. Walls, ceilings, and floors will be of such character to permit frequent washing, cleaning, or painting

(b) Doors. Locks used on doors to individuals' units must be in good repair with an interactive lock to release with operation of the inside door handle and be master keyed from the corridor side and comply with the requirements established by OAR 309-040-0365(6)(a) and its subsections. Exit doors must not have locks that prevent evacuation except as permitted by Section 1008.1.8 of the building code. An exterior door alarm or other acceptable system may be provided for security purposes and alert the provider when individual(s) or others enter or exit the home.

(c) Handrails. Handrails must be secured on all stairways.

(13) Heating and Ventilation. The heating system must be in working order:

(a) Temperature Control. Areas of the AFH used by individuals must be maintained at no less than 68 degrees Fahrenheit during daytime hours and no less than 60 degrees Fahrenheit during sleeping hours. During times of extreme summer heat, the provider must make reasonable effort to make the residents comfortable using available ventilation or fans;

(b) Exhaust Systems. All toilets and shower rooms must be ventilated by a mechanical exhaust system or operable window.

(c) Fireplaces, Furnaces, Wood Stoves. Design and installation must meet standards of the Oregon Mechanical and Residential Specialty Code and have annual inspections to assure no safety hazard exists.

(d) Water Temperature in individual areas, hot water temperatures must be maintained within a range of 110¼ to 120 degrees Fahrenheit. Hot water temperatures for washing machines and dishwashers must be at least 140 degrees Fahrenheit.

(14) Electrical. All electrical systems must meet the standards of the Oregon Electrical Specialty Code in effect on the date of installation, and all electrical devices must be properly wired and in good repair:

(a) When not fully grounded, GFI-type receptacles or circuit breakers as an acceptable alternative may protect circuits in individual areas.

(b) Circuit breakers or non-interchangeable circuit-breaker-type fuses in fuse boxes must be used to protect all electrical circuits.

(c) A sufficient supply of electrical outlets must be provided to meet individual and staff needs without the use of extension cords or outlet expander devices.

(d) A functioning light must be provided in each room, stairway, and exit way. Lighting Fixtures will be provided in each individual bedroom and bathroom, with a light switch near the entry door, and in other areas as required to meet task illumination needs.

(e) Incandescent light bulbs must be protected with appropriate covers.

(15) Plumbing. All plumbing must meet the Oregon Plumbing Specialty Code in effect on the date of installation, and all plumbing fixtures must be properly installed and in good repair.

(16) Pool, Hot Tubs and Ponds. Pools, hot tubs, and ponds must be equipped with sufficient safety barriers or devices to prevent accidental injury in accordance with Section R116 of the Oregon Residential Specialty Code.

(17) Telephones:

(a) A telephone must be available and accessible 24 hours a day for individuals' use for incoming and outgoing calls in the AFH;

(b) Emergency telephone numbers for the local CMHP, Police, Fire, Medical, Poison Control, provider and other emergencies must be posted by the individuals' telephone. The posting must include the name, address and telephone number of the AFH, telephone numbers for making complaints or a report of alleged abuse to the local CMHP, the Division, the Office of Investigations and Training, and the Oregon Advocacy Center.

(d) AFH telephone numbers must be listed in the local telephone directory.

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(e) The provider may establish reasonable rules governing telephone use to ensure equal access by all individuals. Each individual or guardian (as applicable) will be responsible for payment of long distance phone bills where calls were initiated by the individual, unless otherwise mutually agreed arrangements have been made.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92), Sections (8)-(10) renumbered to 309-040-0052; MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0050, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0370

### Safety

(1) Training on Safety Procedures. The provider must train all program staff in staff safety procedures prior to beginning their first regular shift. All individuals must be trained in individual safety procedures as soon as possible during their first 72 hours of residency.

(2) Emergency Procedure.

(a) An emergency evacuation procedure must be developed, posted, and rehearsed with occupants. A record must be maintained of evacuation drills. Drills must be scheduled at different times of the day and on different days of the week with different locations designated as the origin of the fire for drill purposes.

(A) Drills must be held at least once every 30 days.

(B) One drill practice must be held at least once every 90 days during individual's nighttime sleeping hours. Fire drill records must be maintained for three years and will include date, time for full evacuation, safety equipment checked (to include fire extinguishers, smoke detectors, secondary egress points, flashlights, and furnace filters), comments on the drill results, and names of individuals requiring assistance for evacuation;

(b) The Personal Care Plan must document that, within 24 hours of arrival, each new individual has received an orientation to basic safety and has been shown how to respond to a fire alarm, and how to exit from the AFH in an emergency;

(c) The provider must demonstrate the ability to evacuate all individuals from the facility within three minutes. If there are problems in demonstrating this evacuation time, the Division may apply conditions to the license which include, but may not be limited to, reduction of individuals under care, additional staffing, increased fire protection, or revocation of the license;

(d) The provider must provide to the Division, maintain as current, and post a floor plan on each floor containing room sizes, location of each individual's bed, fire exits, resident manager or provider's sleeping room, smoke detectors, fire extinguishers and escape routes. A copy of this drawing must be submitted with the application and updated to reflect any change;

(e) There will be at least one plug-in rechargeable flashlight available for emergency lighting in a readily accessible area on each floor including basement.

(3) Disaster Plan. A written disaster plan must be developed to cover such emergencies and disasters as fires, explosions, missing persons, accidents, earthquakes and floods. The plan will be posted by the phone and immediately available to the employees. The plan will specify temporary and long-range habitable shelter where staff and individuals will reside if the facility becomes uninhabitable.

(4) Poisonous and Other Toxic Materials. Non-toxic cleaning supplies must be used whenever available. Poisonous and other toxic materials must be properly labeled and stored in locked areas distinct and apart from all food and medications.

(5) Evacuation Capability. Evacuation capability categories are based upon the ability of the individuals and staff as a group to evacuate the facility or relocate from a point of occupancy to a point of safety.

(a) Documentation of an individual's ability to safely evacuate from the facility must be maintained in the individual's personal care plan.

(b) Individuals experiencing difficulty with evacuating in a timely manner must be provided assistance from staff and offered environmental and other accommodations, as practical. Under such circumstances, the provider must consider increasing staff levels, changing staff assignments, offering to change the individual's room assignment, arranging for special equipment, and taking other actions that may assist the individual.

(c) Individuals who still cannot evacuate the home safely in the allowable period of time (3 minutes) must be assisted with transferring to another program with an evacuation capability designation consistent with the individual's documented evacuation capability.

(d) Written evacuation records must be retained for at least three years. Records must include documentation, made at the time of the drill,

specifying the date and time of the drill, the location designated as the origin of the fire for drill purposes, the names of all individuals and staff present, the amount of time required to evacuate, notes of any difficulties experienced, and the signature of the staff person conducting the drill.

(6) Unobstructed Egress. All stairways, halls, doorways, passageways, and exits from rooms and from the home must be unobstructed.

(7) Portable Firefighting Equipment. At least one 2A-10BC rated fire extinguisher must be in a visible and readily accessible location on each floor, including basements, and must be inspected at least once a year by a qualified worker that is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose;

(8) Smoke Alarms. Approved smoke detector systems or smoke alarms must be installed according to Oregon Residential Specialty Code and Oregon Fire Code requirements. These alarms will be tested during each evacuation drill. The provider must provide approved signal devices for persons with disabilities who do not respond to the standard auditory alarms. All of these devices must be inspected and maintained in accordance with the requirements of the State Fire Marshal or local agency having jurisdiction. Ceiling placement of smoke alarms or detectors is recommended. Alarms must be equipped with a device that warns of low battery when battery operated. All smoke detectors and alarms must be maintained in functional condition;

(9) Special hazards:

(a) Flammable and combustible liquids and hazardous materials must be safely and properly stored in original, properly labeled containers or safety containers, and secured to prevent tampering by individuals and vandals. Firearms on the premises of an AFH must be stored in a locked cabinet. The firearms cabinet must be located in an area of the home that is not readily accessible to clients and all ammunition must be stored in a separate, locked location;

(b) Smoking regulations must be adopted to allow smoking only in designated areas. Smoking must be prohibited in sleeping rooms and upon upholstered crevasse furniture. Ashtrays of noncombustible material and safe design must be provided in areas where smoking is permitted;

(c) Cleaning supplies, poisons and insecticides must be properly stored in original, properly labeled containers in a safe area away from food, preparation and storage, dining areas, and medications.

(10) Sprinkler Systems. Sprinkler systems, if used, must be installed in compliance with the Oregon Structural Specialty Code and Oregon Fire Code and maintained in accordance with rules adopted by the State Fire Marshal.

(11) First Aid Supplies. First aid supplies must be readily accessible to staff. All supplies will be properly labeled.

(12) Portable Heaters. Portable heaters are a recognized safety hazard and will not be used, except as approved by the State Fire Marshal, or authorized representative.

(13) Safety Program. A safety plan must be developed and implemented to identify and prevent the occurrence of hazards. Hazards may include, but are not limited to, dangerous substances, sharp objects, unprotected electrical outlets, use of extension cords or other special plug-in adapters, slippery floors or stairs, exposed heating devices, broken glass, inadequate water temperatures, overstuffed furniture in smoking areas, unsafe ashtrays and ash disposal, and other potential fire hazards.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0375

### Sanitation

(1) Water Supply. The water supply in the home must meet the requirements of the current rules of the Authority governing domestic water supplies.

(a) A municipal water supply must be utilized if available.

(b) When the home is not served by an approved municipal water system, and the home qualifies as a public water system according to OAR 333-061-0020(94), Authority rules for public water systems, then the provider must comply with the OAR chapter 333 rules of the Authority pertaining to public water systems. These include requirements that the drinking water be tested for total coliform bacteria at least quarterly, and nitrate at least annually, and reported to the Division. For adverse test results, these rules require that repeat samples and corrective action be taken to assure compliance with water quality standards, that public notice be given whenever a violation of the water quality standards occurs, and that records of water testing be retained according to the Division requirements.

# ADMINISTRATIVE RULES

(2) Surfaces. All floors, walls, ceilings, windows, furniture, and equipment must be kept in good repair, clean, neat, and orderly.

(3) Plumbing Fixtures. Each bathtub, shower, lavatory, and toilet must be kept clean, in good repair and regularly sanitized.

(4) Disposal of Cleaning Waste Water. No kitchen sink will be used for the disposal of cleaning wastewater.

(5) Soiled Laundry. Soiled linens and clothing must be stored in an area or container separate from kitchens, dining areas, clean linens, clothing, and food.

(6) Pest Control. All necessary measures must be taken to prevent rodents and insects from entering the home. Should pests be found in the home, appropriate action must be taken to eliminate them.

(7) Grounds Maintenance. The grounds of the facility must be kept orderly and reasonably free of litter, unused articles, and refuse.

(8) Garbage Storage and Removal. Garbage and refuse receptacles must be clean, durable, watertight, insect and rodent proof, and will be kept covered with tight-fitting lids. All garbage and solid waste must be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality.

(9) Sewage Disposal. All sewage and liquid wastes must be disposed of in accordance with the Plumbing Code to a municipal sewage system where such facilities are available. If a municipal sewage system is not available, sewage and liquid wastes must be collected, treated, and disposed of in compliance with the current rules of the Department of Environmental Quality. Sewage lines, and septic tanks or other non-municipal sewage disposal systems where applicable, must be maintained in good working order.

(10) Biohazard Waste. Biohazard waste must be disposed of in compliance with the rules of the Department of Environmental Quality.

(11) Infection Control. Precautions must be taken to prevent the spread of infectious and/or communicable diseases as defined by the Centers for Disease Control and to minimize or eliminate exposure to known health hazards.

(a) In accordance with OAR 437, division 2, subdivision Z, section 1910.1030 of the Oregon Occupational Safety and Health Code, program staff must employ universal precautions whereby all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV and other blood borne pathogens.

(b) Bathroom facilities must be equipped with an adequate supply of toilet paper, soap, and towels.

(12) Infection Control for Pets and Other Household Animals. If pets or other household animals exist at the home, sanitation practices must be implemented to prevent health hazards.

(a) Such animals must be vaccinated in accordance with the recommendations of a licensed veterinarian. Proof of such vaccinations must be maintained on the premises.

(b) Animals not confined in enclosures must be under control and maintained in a manner that does not adversely impact individuals or others.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0380

### Resident Furnishings

(1) Bedrooms/Units:

(a) Bedrooms for all household occupants and units for individuals must have been constructed as a bedroom when the home was built or remodeled under permit; be finished, with walls or partitions of standard construction which go from floor to ceiling, and a door which opens directly to a hallway or common use room without passage through another bedroom/unit or common bathroom; be adequately ventilated, heated and lighted with at least one operable window which meets the requirements of Section R310 of the Oregon Residential Specialty Code; have at least 70 square feet of usable floor space for each individual or 120 square feet for two individuals and have no more than two individuals per room;

(b) Providers, resident managers, or their family members must not sleep in areas designated as living areas, nor share bedrooms/units with individuals;

(c) There must be an individual bed for each individual consisting of a mattress in good condition and springs at least 36 inches wide. Cots, roll-away, bunks, trundles, couches, and folding beds may not be used for individuals. Each bed must have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Sheets and pillowcases must be laundered at least

weekly, and more often if necessary. Waterproof mattress covers must be used for incontinent individuals. Day care individuals may not use individual beds;

(d) Each unit must have sufficient separate, private dresser and closet space for each individual's clothing and personal effects, including hygiene and grooming supplies. Individuals must be allowed to keep and use reasonable amounts of personal belongings, and to have private, secure storage space. Drapes or shades for windows must be in good condition and provide privacy for individuals;

(e) Units must be on ground level for individuals who are non-ambulatory or have impaired mobility;

(f) Units must be in close enough proximity to provider to alert provider to night time needs or emergencies, or be equipped with a call bell or intercom.

(2) Personal Hygiene Items. Each individual must be assisted in obtaining personal hygiene items in accordance with individual needs. Items must be stored in a clean and sanitary manner, and may be purchased with the individual's personal allowance. Personal hygiene items include, but are not limited to, a comb and/or hairbrush, a toothbrush, toothpaste, menstrual supplies (if needed), towels and washcloths.

(3) Supplies Provided by AFH. Sufficient supplies of soap, shampoo and toilet paper for all individuals must be provided.

(4) Common Area Furniture. An adequate supply of furniture for individual use in living room, dining room, and other common areas must be maintained in good condition.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0385

### Food Services

(1) Well-balanced Diet. Three nutritious meals must be served daily at times consistent with those in the community. Meals must be planned and served in accordance with the recommended dietary allowances found in the United States Department of Agriculture Food Guide Pyramid or as directed by a prescriber. Consideration must be given to cultural and ethnic backgrounds of individuals in food preparation.

(2) Modified or Special Diets. An order from a Licensed Medical Professional must be obtained for each individual who, for health reasons, is on a modified or special diet. Such diets must be planned in consultation with the individual.

(3) Menus. Menus must be prepared at least one week in advance and provide a sufficient variety of foods served in adequate amounts for each individual at each meal and adjusted for seasonal changes. Records of menus, as served, must be filed and maintained in the AFH for three years. Individual preferences and requests must be considered in menu planning. Religious and vegetarian preferences must be reasonably accommodated.

(4) Meal Preparation. Meals must be prepared and served in the facility where the individuals live. Payment for meals eaten away from the facility for the convenience of the provider (e.g. restaurants, senior meal sites) is the responsibility of the provider. Meals and snacks as part of an individual recreational outing are the responsibility of the individual. Food preparation areas must be clean, free of obnoxious odors and in good repair.

(5) Supply of Food. Adequate supplies of staple foods, for a minimum of one week, and perishable foods, for a minimum of two days, must be maintained on the premises.

(6) Adequate Storage. Food must be stored, prepared, and served in accordance with the Authority Food Sanitation Rules.

(a) All working refrigerators and freezers must have a thermometer in working order.

(b) Food storage areas and equipment must be such that food is protected from dirt and contamination and maintained at proper temperatures to prevent spoilage.

(7) Food Service Equipment. Equipment must be maintained in a safe and sanitary manner. Utensils, dishes and glassware must be maintained in a sufficient number to accommodate the licensed capacity of the AFHs. Utensils, dishes, and glassware must be washed in hot soapy water, rinsed, and stored to prevent contamination. A dishwasher with sanicycle is recommended.

(8) The provider must support the individual's right to access food at any time. The provider may only apply an individually based limitation where the circumstances meet, and the provider complies with, the standards and requirements of OAR 411-050-0655 as incorporated by OAR 309-040-0391. This subsection is effective July 1, 2016 and enforceable as described in OAR 309-040-0315(7).

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(9) If an individual misses a meal at a scheduled time, an alternative meal must be made available.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0390

### Standards and Practices for Care and Services

(1) Caregiver Requirements. There must be a provider, resident manager or substitute caregiver on duty 24 hours per day in an AFH in accordance with ORS 443.725(3).

(2) Medications and Prescriber's Orders:

(a) There must be a copy of a medication, treatment, or therapy order signed by a physician, nurse practitioner or other licensed prescriber in the individual's file for the use of any medications, including over the counter medications, treatments, and other therapies.

(b) A provider, resident manager or substitute caregiver must dispense medications, treatments, and therapies as prescribed by a physician, nurse practitioner or other licensed prescriber. Changes to orders for the dispensing and administration of medication or treatment must not be made without a written order from a physician, nurse practitioner or other licensed prescriber. A copy of the medication, treatment, or therapy order must be maintained in the individual's record. The provider, resident manager or substitute caregiver must promptly notify the individual's case manager of any request for a change in individual's orders for medications, treatments, or therapies.

(c) Each individual's medication must be clearly labeled with the pharmacist's label or the manufacturer's originally labeled container and kept in a locked location. The provider and/or provider's family medication must be stored in a separate locked location. All medication for pets or other animals must be stored in a separate locked location. Unused, outdated, or recalled medications must not be kept in the AFH and must be disposed in a manner to prevent diversion into the possession of people other than for whom it was prescribed. The provider must document disposal of all unused, outdated and or recalled medication on individuals' individual drug disposal forms.

(d) Medications must not be mixed together in another container prior to administration except as packaged by the pharmacy or by physician order;

(e) A written medication administration record (MAR) for each individual must be kept of all medications administered by the program staff to that individual, including over the counter medications. The MAR must indicate name of medication, dosage and frequency of administration, route or method, dates and times given, and will be immediately initialed by the caregiver dispensing using only blue or black indelible ink. Treatments, therapies and special diets must be immediately documented on the medication administration record including times given, type of treatment or therapy, and initials of the caregiver giving it using only blue or black indelible ink. The medication administration record must have a legible signature for each set of initials using only blue or black indelible ink;

(f) The MAR must include documentation of any known allergy or adverse reactions to a medication, and documentation and an explanation of why a PRN medication was administered and the results of such administration;

(g) Self-administration of medication. For any individual who is self-administering medication the individual's individual record must include the following:

(A) Documentation that the individual has been trained for self-administering of prescribed medication or treatment or that the prescriber has provided documentation that training for the individual is unnecessary;

(B) Documentation that the individual is able to manage his or her own medication regimen and the provider must keep medications stored in an area that is inaccessible to others and locked;

(C) Documentation of retraining when there is a change in dosage, medication and time of delivery;

(D) Documentation of review of self-administration of medication as part of the Personal Care Plan process; and

(E) Documentation of a current prescriber order for self-administration of medication.

(h) Injections may be self-administered by the individual, or administered by a relative of the individual, a currently licensed registered nurse, a licensed practical nurse under registered nurse supervision, or providers who have been trained and are monitored by a physician or delegated by a registered nurse in accordance with administrative rules of the Board of

Nursing chapter 851, division 047. Documentation regarding the training or delegation must be maintained in the individual's record;

(5) Delegation of Nursing Care Tasks. Nursing tasks may be delegated by a registered nurse to providers and other caregivers only in accordance with administrative rules of the Board of Nursing chapter 851, division 47. This includes but is not limited to the following conditions:

(a) The registered nurse has assessed the individual's condition to determine there is not a significant risk to the individual if the provider or other caregiver performs the task;

(b) The registered nurse has determined the provider or other caregiver is capable of performing the task;

(c) The registered nurse has taught the provider or caregiver how to do the task;

(d) The provider or caregiver has satisfactorily demonstrated to the registered nurse the ability to perform the task safely and accurately;

(e) The registered nurse provides written instructions for the provider or caregiver to use as a reference;

(f) The provider or caregiver has been instructed that the task is delegated for this specific person only and is not transferable to other individuals or taught to other care providers;

(g) The registered nurse has determined the frequency for monitoring the provider or caregiver's delivery of the delegated task; and

(h) The registered nurse has documented a Personal Care Plan for the individual including delegated procedures, frequency of registered nurse follow-up visits, and signature and license number of the registered nurse doing the delegating.

(6) Initial Personal Care Plan. The Initial Personal Care Plan must be developed within 24 hours of admission to the AFH.

(7) Personal Care Plan.

This section and its parts remain in effect until July 1, 2016. On that date, new rules governing PCPs and rules concerning person centered planning per OAR 309-040-0315(7) become effective and enforceable.

(a) In accordance with Standards for Adult Mental Health Services, OAR 309-032-0535 Definitions (3) Case management (22) Personal Care Plan and 309-032-0545 Adult Mental Health Services (1)(2) the provider will develop the PCP in collaboration with the individual and others as appropriate, including the individual's case manager, and guardian as applicable. The Personal Care Plan for an individual will be reviewed and updated by the personal care plan team every 180 days or more frequently as necessary in accordance with 309-032-0545 Adult Mental Health Services (2)(g);

(b) The individual's case manager or other designated person will review and update the individual's personal care services prescription and status as needed;

(c) If the team agrees that interim changes in the Personal Care Plan are required, the case manager will make the changes.

(8) Personal Care Plan.

This subsection and its subparts are effective July 1, 2016 and enforceable as described in OAR 309-040-0315(7).

(a) Timing Requirements. During the initial 30 calendar days following the individual's admission to the AFH, the provider must continue to assess and document the individual's preferences and care needs. The provider must complete and document the assessment and care plan in a PCP within 30 days after admission unless the individual is admitted to the AFH for crisis-respite services.

(b) Personal Care Plan Contents. A PCP is an individualized plan intended to implement and document the provider's delivery of services as well as any individualized limitations contained within the person centered service plan and identify the goals to be accomplished through those services. The PCP must describe the individual's needs, preferences, and capabilities, and what assistance the individual requires for various tasks.

(c) Development of Personal Care Plan. The provider must develop the PCP based upon the findings of the individual assessment, with participation of the individual and the individual's representative (as applicable), and through collaboration with the individual's primary mental health treatment provider and the person centered service plan coordinator. With consent of the individual or the individual's representative, family members, representatives from involved agencies, and others with an interest in the individual's circumstances may be invited to participate in the development of the PCP. The provider must have proper, prior authorization from the individual, or the individual's representative, prior to such contact.

(d) Addressing the Person-Centered Service Plan. The PCP must adequately consider and facilitate the implementation of the individual's Person-centered Service Plan by addressing the following:

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(A) Address the implementation and provision of services by the provider consistent with the obligations imposed by the person-centered service plan;

(B) Identify the individual's service needs, desired outcomes and service strategies to advance all areas identified in the person centered service plan, the individual's physical and medical needs, medication regimen, self-care, social-emotional adjustment, behavioral concerns, independent living capability and community navigation, as well as any other area of concern or the other goals set by the individual;

(c) The PCP must be signed by the individual, the provider or the provider's designee, and others, as appropriate, to indicate mutual agreement with the course of services outlined in the plan;

(d) The provider must review and update each individual's PCP every six months and when an individual's condition changes. The review must be documented in the individual's record at the time of the review and include the date of the review and the provider's signature. If a PCP contains many changes and becomes less legible, the provider must write a new care plan;

(e) The PCP must be attached to the person-centered service plan as an addendum.

(9) Person-Centered Service Plan. A person-centered service plan is required as follows:

(a) A person centered service plan coordinator, under contract with the Division will complete a Person-Centered Service Plan with each individual, pursuant to OAR 411-004-0030. The provider must make a good faith effort to implement and complete all elements the provider is responsible for implementing as identified in the Person-Centered Service Plan.

(b) The person-centered service plan coordinator documents the person-centered service plan on behalf of the individual and provides the necessary information and supports to ensure the individual directs the person-centered service planning process to the maximum extent possible.

(c) The person-centered service plan must be developed by the individual and, as applicable, the legal or designated representative of the individual, and the person-centered service plan coordinator. Others may be included only at the invitation of the individual and, as applicable, the individual's representative.

(d) To avoid conflict of interest, the person-centered service plan may not be developed by the provider for individuals receiving Medicaid. The Division may grant exceptions where it determines that the provider is the only willing and qualified entity to provide case management and develop the person-centered service plan in a specific geographic area.

(e) For private pay individuals, a person-centered service plan may be developed by the individual, or, as applicable, the legal or designated representative of the individual, and others chosen by the individual. Providers will assist private pay individuals in developing person-centered service plans when no alternative resources are available. Private pay individuals are not required to have a written person-centered service plan.

(10) Person-Centered Service Planning Process. A person-centered service plan must be developed through a person-centered service planning process. The person-centered service planning process:

(a) Is driven by the individual;

(b) Includes people chosen by the individual;

(c) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflects the cultural considerations of the individual;

(f) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and, as applicable, the individual's representative;

(g) Includes strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants, such as:

(A) Discussing the concerns of the individual and determining acceptable solutions;

(B) Supporting the individual in arranging and conducting a person-centered service planning meeting;

(C) Utilizing any available greater community conflict resolution resources;

(D) Referring concerns to the Office of the Long-Term Care Ombudsman; or

(E) For Medicaid recipients, following existing, program-specific grievance processes.

(h) Offers choices to the individual regarding the services and supports the individual receives, and from whom, and records the alternative HCB settings that were considered by the individual;

(i) Provides a method for the individual or, as applicable, the individual's representative, to request updates to the person-centered service plan for the individual, as needed;

(j) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

(l) Includes any services that are self-directed, if applicable;

(m) Includes, but is not limited to, individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;

(n) Includes risk factors and plans to minimize any identified risk factors; and

(o) Results in a person-centered service plan documented by the person-centered services plan coordinator, signed by the individual or, as applicable, the individual's representative, participants in the person-centered service planning process, and all persons responsible for the implementation of the person-centered service plan, including the provider, as described below in section (11)(a)(O) of this rule. The person-centered service plan is distributed to the individual, and, as applicable, the individual's representative, and other people involved in the person-centered service plan as described below in section (11)(d) of this rule.

(11) Required Contents of Person-Centered Service Plan:

(a) Where the provider is responsible for developing the person-centered service plan, the provider must ensure that the plan includes the following:

(A) HCBS and setting options based on the needs and preferences of the individual, and for residential settings, the available resources of the individual for room and board;

(B) The HCBS and settings are chosen by the individual and are integrated in, and support full access to, the greater community;

(C) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work. If the individual wishes to pursue employment, a non-disability specific setting option must be presented and documented in the person-centered service plan;

(D) Opportunities to engage in greater community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving HCBS;

(E) The strengths and preferences of the individual;

(F) The service and support needs of the individual;

(G) The goals and desired outcomes of the individual;

(H) The providers of services and supports, including unpaid supports provided voluntarily;

(I) Risk factors and measures in place to minimize risk;

(J) Individualized backup plans and strategies, when needed;

(K) People who are important in supporting the individual;

(L) The person responsible for monitoring the person-centered service plan;

(M) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and, as applicable, the individual's representative;

(N) The written informed consent of the individual or, as applicable, the individual's representative;

(O) Signatures of the individual or, as applicable, the legal or designated representative of the individual, participants in the person-centered service planning process, and all people and providers responsible for the implementation of the person-centered service plan as described below in subsection (c) of this section;

(P) Self-directed supports; and

(Q) Provisions to prevent unnecessary or inappropriate services and supports.

(b) Where the provider is not responsible for the developing the person-centered service plan but provides or will provide services to the individual, the provider must provide relevant information and provide necessary support for the person-centered service plan coordinator or other person developing the plan to fulfill the characteristics described in part (a) of this subsection.

(c) The individual or, as applicable, the individual's representative, decides on the level of information in the person-centered service plan that is shared with providers. To effectively provide services, providers must

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have access to the portion of the person-centered service plan that the provider is responsible for implementing.

(d) The person-centered service plan is distributed to the individual and, as applicable, the individual's representative, and other people involved in the person-centered service plan as described above in subsection 9(c) of this section.

(e) The person-centered service plan must justify and document any individually-based limitation to be applied as described in OAR 309-040-0391 when conditions under OAR 309-040-0410(2) may not be met due to threats to the health and safety of the individual or others.

(f) The person-centered service plan must be reviewed and revised:

(A) At the request of the individual or, as applicable, the individual's representative;

(B) When the circumstances or needs of the individual change; or

(C) Upon reassessment of functional needs as required every 12 months.

(12) Crisis Respite Individuals. Because it may not be possible to assemble complete records and develop a person-centered service plan during the crisis-respite individual's short stay, the provider is not required to develop a person-centered service plan under these rules, but must, at a minimum, develop an initial care plan as required by subsection (7) of these rules to identify service needs, desired outcomes, and service strategies to resolve the crisis or address the individual's other needs that caused the need for crisis-respite services. In addition, the provider must provide relevant information and provide necessary support for the person-centered service plan coordinator as described in section (11)(b) of this rule.

(13) Individual Records. The provider must develop an individual record for each individual. The provider must keep the individual record current and available on the premises for each individual admitted to the AFH. The provider must maintain an individual record consistent with the following requirements:

(a) General Information: The record must include:

(A) The individual's name, previous address, date of entry into AFH, date of birth, sex, marital status, religious preference, preferred hospital, Medicaid and/or Medicare numbers where applicable, guardianship status, and;

(B) The name, address, and telephone number of:

(i) The individual's legal representative, designated representative, family, advocate or other significant person;

(ii) The individual's preferred primary health provider designated back up health care provider and/or clinic;

(iii) The individual's preferred dentist;

(iv) The individual's day program or employer, if any;

(v) The individual's case manager; and

(vi) Other agency representatives providing services to the individual.

(C) Individual records must be available to the Authority conducting inspections or investigations, as well as to the individual, or the individual's representative;

(D) Record Retention. Original individual records must be kept for a period of three years after discharge when an individual no longer resides in the AFH.

(E) In all other matters pertaining to confidential records and release of information, providers must comply with ORS 179.505.

(b) Medical Information:

(A) History of physical, emotional and medical problems, accidents, illnesses or mental status that may be pertinent to current care;

(B) Current orders for medications, treatments, therapies, use of restraints, special diets and any known food or medication allergies;

(C) Completed medication administration records from the license review period;

(D) Name and claim number of medical insurance, and any pertinent medical information such as hospitalizations, accidents, immunization records including Hepatitis B status and previous TB tests, incidents or injuries affecting the health, safety or emotional well-being of any individual.

(c) Individual Account Record:

(A) Individual's Income Sources.

(B) Refer to individual's personal care plan with supporting documentation from the income sources to be maintained in the individual's individual record.

(C) Individual's room and board and service costs. Individual or the individual's representative will agree to specific costs for room and board and services within the pre-set limits of the state contract. A copy must be given to the individual, the individual's representative, and the original in the individual's individual record.

(D) Individual's record of discretionary funds.

(d) If an individual maintains custody and control of his or her discretionary funds then no accounting record is required.

(e) If a designee of the AFH maintains custody and control of an individual's discretionary fund, a signed and dated account and balance sheet must be maintained with supporting documentation for expenditures \$10 and greater. The AFH designee must have specific written permission to manage an individual's discretionary fund.

(f) House Rules: The provider must maintain a copy of the written house rules with documentation that the provider discussed the house rules with the individual.

(g) Unusual Incidents: A written incident report of any unusual incidents relating to the AFH including but not limited to individual care. The incident report must include how and when the incident occurred, who was involved, what action was taken by staff, and the outcome to the individual. In compliance with HIPAA rules, only the individual's name may be used in the incident report. Separate reports must be written for each individual involved in an incident. A copy of the incident report must be submitted to the CMHP within five working days of the incident. The original will be placed in the individual's individual record.

(h) General Information: Any other information or correspondence pertaining to the individual;

(i) Progress Notes. Progress notes must be maintained within each individual's record and document significant information relating to all aspects of the individual's functioning and progress toward desired outcomes as identified in the individual's personal care plan. A progress note must be entered in the individual's record at least once each month.

(14) Residents' Bill of Rights.

(a) The provider must guarantee the Residents' Bill of Rights as described in ORS 443.739. The provider must post a copy of the Individual's Bill of Rights in a location that is accessible to individuals, individuals' representatives, parents, guardians, and advocates. The provider must give a copy of the Residents' Bill of Rights to each individual, individual's representative, parent, guardian, and advocate along with a description of how to exercise these rights.

(b) The provider must explain and document in the individual's file that a copy of the Residents' Bill of Rights was given to each individual at admission, and is posted in a conspicuous place including the name and phone number of the office to call to report complaints.

(15) Physical Restraints. Physical Restraints are not allowed. Providers, resident managers, or substitute caregivers must not use physical restraints for individuals receiving personal care services authorized or funded through the Division.

(16) General Practices. The provider must:

(a) Conspicuously post the State license and Abuse and Complaint poster where it can be seen by individuals;

(b) Cooperate with Division personnel or designee in complaint investigation procedures, abuse investigations and protective services, planning for individual care, application procedures and other necessary activities, and allow access of Division personnel to the AFH, its individuals, and all records;

(c) Give care and services, as appropriate to the age and condition of the individual(s), and as identified on the PCP. The provider must ensure that physicians' orders and those of other medical professionals are followed, and that the individual's physicians and other medical professionals are informed of changes in health status and/or if the individual refuses care;

(d) House Rules.

(A) The provider must develop reasonable written house rules regarding hours, visitors, use of tobacco and alcohol, meal times, use of telephones and kitchen, monthly charges and services to be provided and policies on refunds in case of departure, hospitalization or death.

(B) The provider must discuss house rules with the individual and the individual's representative and families at the time of arrival and be posted in a conspicuous place in the facility. The provider must maintain written documentation in the individual record that the provider discussed the house rules with the individual along with a copy of the house rules.

(C) House rules are subject to review and approval by the Division and may not violate individual's rights as stated in ORS 430.210.

(D) House rules must not restrict or limit the home-like qualities identified in OAR 309-040-0410(2). This subsection is effective July 1, 2016 and enforceable according to 309-040-0315(7).

(e) In the provider's absence, the provider must have a resident manager or substitute caregiver on the premises to provide care and services to individuals. For absences greater than 72 consecutive hours, the CMHP



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must be notified of the name(s) of the substitute caregiver(s) for the provider or resident manager.

(f) A provider, resident manager, or substitute caregiver must be present in the home at all times.

(g) Allow and encourage individuals to exercise all civil and human rights accorded to other citizens;

(h) Not allow or tolerate physical, sexual, or emotional abuse or punishment, or exploitation, or neglect of individuals;

(i) Provide care and services as agreed to in the PCP;

(j) Keep information related to individual(s) confidential as required under ORS 179.050;

(k) Ensure that the number of individuals requiring nursing care does not exceed the provider's capability as determined by the CMHP and/or the Division;

(l) Not admit individuals who are clients of Aging and People with Disabilities without the express permission of the Division;

(m) Notify the Division prior to a closure and give individuals, the individuals' representative, families, and CMHP staff 30 days written notice of the planned change except in circumstances where undue delay might jeopardize the health, safety or well-being of individuals, providers or caregivers. If a provider has more than one AFH, individual cannot be shifted from one AFH to another without the same period of notice unless prior approval is given and agreement obtained from individuals, family members and CMHP;

(n) Exercise reasonable precautions against any conditions which could threaten the health, safety or welfare of individuals;

(o) Immediately notify the appropriate PCP Team members (in particular the CMHP representative and family/guardian) if: the individual has a significant change in medical status; the individual has an unexplained or unanticipated absence from the AFH; the provider becomes aware of alleged or actual abuse of the individual; the individual has a major behavioral incident, accident, illness, hospitalization; the individual contacts, or is contacted by, the police; or the individual dies and follow-up with an incident report.

(17) Incident Reports. The provider must write an incident report for any unusual incident and forward a copy of the incident report to the CMHP within five working days of the incident. Any incident that is the result of or suspect of abuse must be reported to the Office of Investigations and Training within 24 hours of occurrence.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92), Renumbered from 309-040-0050(8)-(10); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; MHD 7-2001(Temp) f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 4-2002, f. 2-26-02, cert. ef. 2-27-02; Renumbered from 309-040-0052, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0391

### Individually-Based Limitations

This rule becomes effective on July 1, 2016 and enforceable according to OAR 309-040-0315(7).

(1) When the home-like qualities described below create a threat to the health and safety of an individual or others, a provider may seek to apply individually-based limitation through the process described in this rule. A provider may not otherwise limit the following home-like qualities without a valid individually-based limitation:

(a) The freedom and support to access food at any time;

(b) Have visitors of the individual's choosing at any time;

(c) Have a unit entrance door that is lockable by the individual with only appropriate program staff having access;

(d) Choose a roommate when sharing a unit;

(e) Furnish and decorate the individual's unit as agreed to in the Residency Agreement;

(f) The freedom and support to control the individual's schedule and activities; and

(g) Privacy in the individual's unit.

(2) Minimum Requirements for Applying Individually-Based Limitation: A provider may only apply an individually-based limitation if:

(a) The quality threatens the health or safety of the individual or others;

(b) The individually-based limitation is supported by a specific assessed need;

(c) The individual or the individual's legal representative consents;

(e) The limitation is directly proportionate to the specific assessed need; and

(f) The individually-based limitation will not cause harm to the individual.

(3) The provider must demonstrate and document that the individually-based limitation meets the requirements of subsection (2) of this rule and that the conditions described below exist in the person-centered service plan. The provider must submit and sign a provider-created form that includes the following:

(a) The specific and individualized assessed need justifying the individually-based limitation;

(b) The positive interventions and supports used prior to consideration of any individually-based limitation;

(c) Documentation that the provider or other entities have tried other less intrusive methods but did not work;

(d) A clear description of the limitation that is directly proportionate to the specific assessed need;

(e) Regular collection and review of data to measure the ongoing effectiveness of the individually-based limitation;

(f) Established time limits for periodic reviews of the individually-based limitation to determine if the limitation should be terminated or remains necessary;

(g) The informed consent of the individual or, as applicable, the individual's legal representative, including any discrepancy between the wishes of the individual and the consent of the legal representative; and

(h) An assurance that the interventions and support do not cause harm to the individual.

(4) The provider must:

(a) Maintain a copy of the completed and signed form documenting the consent to the individually-based limitation described in subsection (3) of this rule. The form must be signed by the individual, or, if applicable, the individual's legal representative;

(b) Regularly collect and review the ongoing effectiveness of and the continued need for the individually-based limitation; and

(c) Request review of the individually-based limitation by the Person-Centered Service Plan Coordinator when a new individually-based limitation is indicated, or change or removal of an individually-based limitation is needed, but no less than annually.

(5) The qualities and obligations described in sections (1)(b)-(g) do not apply to an individual receiving crisis-respite services and a provider is not required to seek an individually based limitation for such an individual to comply with these rules.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0392

### Residency Agreement

This rule become effective July 1, 2016 and is enforceable as described in OAR 309-040-0315(7).

(1) The provider must enter into a written residency agreement with each individual or the individual's representative residing at the AFH consistent with the following:

(a) The written residency agreement must be signed by the provider and the individual, or the individual's representative, prior to or at the time of admission;

(b) The provider must provide a copy of the signed agreement to the individual or the individual's representative and must retain the original signed agreement within the individual's individual record;

(c) The provider must give written notice to an individual and the individual's representative at least 30 calendar days prior to any general rate increases, additions, or other modifications of the rates; and

(d) Updates to Residency Agreements: The provider must update residency agreements at least annually and also when social security rates change or an individual's finances change such that the amount paid for room and board changes.

(2) The residency agreement must include, but is not limited to, the following terms:

(a) Room and Board. The residency agreement must include the room and board agreement including the room and board rate describing the estimated public and private pay portions of the rate.

(A) Where an individual's social security or other funding is not active at the time of admission to the program, the program must prepare the room and board agreement based upon the estimated benefit to be received by the individual; and

(B) If, when funding is later activated, actual income of the individual varies from the estimated income noted on the residency agreement, the agreement must be updated and re-signed by all the applicable parties.

(b) Services and supports to be provided in exchange for payment of the room and board rate;

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- (c) Conditions under which the provider may change the rates;
- (d) The provider's refund policy in instances of an individual's hospitalization, death, transfer to a nursing facility or other care facility, and voluntary or involuntary move from the home;
- (e) A statement indicating that the individual is not liable for damages considered normal wear and tear;
- (f) The provider's policies on voluntary moves and whether or not the provider requires written notification of a non-Medicaid individual's intent to not return;
- (g) The potential reasons for involuntary termination of residency in compliance with this rule and individual's rights regarding the eviction and appeal process as described in OAR 309-040-0410;
- (h) Any policies the provider may have on the use of alcohol, cannabis, and illegal drugs of abuse;
- (i) Smoking policies in compliance with the Tobacco Freedom Policy established by the Division;
- (j) Policy addressing pet and service animals. The provider must not restrict animals that provide assistance or perform tasks for the benefit of a individual with a disability. Such animals are often referred to as services animals, assistance animals, support animals, therapy animals, companion animals, or emotional support animals.
- (k) Policy regarding the presence and use of legal medical and recreational marijuana at the home;
- (l) Schedule of meal times. The provider must not schedule meals with more than a fourteen (14)-hour span between the evening meal and the following morning's meal consistent OAR 411-050-0645);
- (m) Policy regarding refunds for individuals eligible for Medicaid services, including pro-rating partial months and if the room and board is refundable;
- (n) Any house rules or social covenants required by the provider which may be included in the agreement or as an addendum;
- (o) The provider must also include the following in the residency agreement:
  - (A) Statement informing the individual of the freedoms authorized by 42 CFR 441.301(c)(2)(xiii) & 42 CFR 441.530(a)(1)(vi)(F), which must not be limited without the informed, written consent of the individual or the individual's representative and include the right to:
    - (i) Live under a legally enforceable agreement with protections substantially equivalent to landlord/tenant laws;
    - (ii) The freedom and support to access food at any time;
    - (iii) To have visitors of the individual's choosing at any time;
    - (iv) Have a lockable door in the individual's unit, which may be locked by the individual;
    - (v) Choose a roommate when sharing a unit;
    - (vi) Furnish and decorate the individual's unit according to the Residency Agreement;
    - (vii) The freedom and support to control the individual's schedule and activities; and
    - (viii) Privacy in the individual's unit.

(3) The provider may not propose or enter into a residency agreement that:

- (a) Charges or asks for application fees, refundable deposits, or non-refundable deposits;
- (b) Includes any illegal or unenforceable provision or ask or require the individual to waive any of the individual's rights or licensee's liability for negligence; or
- (c) Conflict with individual rights or these rules.

Stat. Auth.: ORS 413.042  
Stats. Implemented: ORS 443.705 - 443.825  
Hist.: MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0395

### Standards for Admission, Transfers, Respite, Discharges, and Closures

- (1) Each individual referred for placement in an AFH has the right to pick and choose from available service settings.
- (2) Admission. A provider may only admit an individual with a referral from, or the prior written approval of the CMHP or the Division. At the time of the referral, a provider will be given complete information about the case history of the individual as it relates to behavior, skill level, medical status, or other relevant information. The provider retains the right to deny admission of any individual if the provider believes the individual cannot be managed effectively in the AFH, or for any other reason not specifically prohibited by this rule. AFHs may not be used as a site for foster care for children, adults from other agencies, or any type of shelter or day care without the written approval of the CMHP or the Division.

## (3) Transfers:

(a) An individual must not be transferred by a provider to another AFH or moved out of the AFH without 30 days advance written notice to the individual, the individual's representative, guardian or conservator, and the CMHP stating reasons for the transfer as provided in ORS 443.739(18) and OAR 411-088-0070, and the individual's right to a hearing as provided in ORS 443.738(11)(b), except where undue delay might jeopardize the health, safety or well-being of the individual or others, for a medical emergency, or to protect the welfare of the individual or other individuals. A provider may only transfer an individual for the following reasons:

- (A) Behavior that poses a significant danger to the individual or others;
- (B) Failure to make payment for care;
- (C) The AFH has had its license revoked, not renewed, or voluntarily surrendered; or
- (D) The individual's care needs exceed the ability of the provider.

(b) Individuals who object to the transfer will be given the opportunity for hearing as provided in ORS 443.738(11)(b) and OAR 411-088-0080. Participants may include the individual, and at the individual's request, the provider, a family member and CMHP staff member.

(4) Respite. Providers must not exceed the licensed capacity of the AFH. However, respite care of no longer than two weeks duration may be provided a individual if the addition of the respite individual does not cause the total number of residents to exceed five. Thus, a provider may exceed the licensed number of residents by one respite individual, for two weeks or less, if approved by the CMHP or the Division, and if the total number of residents does not exceed five.

## (5) Discharge:

(a) A provider may only discharge an individual for the reasons stated in paragraphs (3)(a)(A) through (D) of this rule. The provider must give at least 30 days written notice to an individual and the Division before termination of residency, except where undue delay might jeopardize the health, safety or well-being of the individual or others;

(b) The provider must promptly notify the CMHP or Division if an individual gives notice or plans to leave the AFH or if an individual abruptly leaves.

(6) Closing. Providers must notify the Division prior to a voluntary closure of an AFH, and give individuals, families, and the CMHP, 30 days' written notice, except in circumstances where undue delay might jeopardize the health, safety or well-being of an individual, provider or caregiver. If a provider has more than one AFH, an individual cannot be shifted from one house to another house without the same period of notice unless prior approval is given and agreement obtained from individuals, family members, and the CMHP.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Former sections (3)(a)-(c) renumbered to 309-040-0057; MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; MHD 7-2001(Temp) f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 4-2002, f. 2-26-02, cert. ef. 2-27-02; Renumbered from 309-040-0055, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0400

### Inspections

(1) Division or Designee Inspections. The Division will conduct an inspection of an AFH:

- (a) Prior to issuance of a license;
- (b) Upon receipt of an oral or written complaint of violations that threaten the health, safety, or welfare of individuals; or
- (c) Anytime the Division has probable cause to believe that an AFH has violated a regulation or provision of these rules or is operating without a license.

(2) Division Inspections. The Division may conduct inspections of an AFH:

- (a) Anytime such inspections are authorized by these rules and any other time the CMHP or Division considers it necessary to determine if an AFH is in compliance with these rules or with conditions placed upon the license;
- (b) To determine if cited deficiencies have been corrected; and
- (c) For the purpose of monitoring of the individuals' care.

(3) State or Local Fire Inspectors. State or local fire inspectors must be permitted access to enter and inspect the AFH regarding fire safety upon request of the CMHP or Division.

(4) Full Access by Division and/or CMHP. The Division and/or CMHP staff must have full access and division to examine, among other

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things, AFH and individual records and accounts, and the physical premises, including the buildings, grounds, equipment, and any vehicles.

(5) Interviews. The Division or CMHP staff must be permitted to interview the provider, resident manager, caregiver, and individuals. Interviews are confidential and conducted in private, and are confidential except as considered public record under ORS 430.763.

(6) Authorized Entrance to AFH. Providers must authorize resident managers and substitute caregivers to permit entrance by the Division or CMHP staff for the purpose of inspection and investigation.

(7) Division to Conduct Inspections With or Without Advance Notice. The Division and/or CMHP staff has authority to conduct inspections with or without advance notice to the provider, staff, or individual of the AFH. The Division and/or CMHP will not give advance notice of any inspection if notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these rules.

(8) Search Warrant. If the Division and/or CMHP staff is not permitted access or inspection, a search warrant may be obtained.

(9) Respect Private Possessions. The inspector will respect the private possessions and living area of individuals, providers, and caregiver while conducting an inspection.

(10) Confidential Information. Completed reports on inspections, except for confidential information, will be available to the public, upon written request to the Division and/or CMHP, during business hours.

(11) Investigate Allegations of Abuse. For individuals receiving services authorized and/or funded by HSD, the Division will investigate allegations of abuse as defined in ORS 430.735 to 430.765.

(12) Alleged Abuse. When abuse is alleged or death of an individual has occurred and a law enforcement agency, or the Division and/or its designee, has determined to initiate an investigation, the provider must not conduct an internal investigation without prior authorization from the Division. For the purposes of this section, an internal investigation is defined as conducting interviews of the alleged victim, witness, the alleged perpetrator or any other persons who may have knowledge of the facts of the abuse allegation or related circumstances; reviewing evidence relevant to the abuse allegation, other than the initial report; or any other actions beyond the initial actions of determining:

- (a) If there is reasonable cause to believe that abuse has occurred; or
- (b) If the alleged victim is in danger or in need of immediate protective services; or
- (c) If there is reason to believe that a crime has been committed; or
- (d) What, if any, immediate personnel actions will be taken.

(13) Completion of Abuse Investigation. The Division or its designee will complete an Abuse Investigation and Protective Services Report according to OAR 404-045-0300. The report will include the findings based upon the abuse investigation as defined in OAR 943-045-0260(12) Inconclusive, (16) Not Substantiated, (22) Substantiated.

(14) Provider Notified of Completion of Investigation. When the provider has been notified of the completion of the abuse investigation, a provider may conduct an investigation without Division approval to determine if any other personnel actions are necessary.

(15) Abuse Investigation and Protective Services Report. Upon completion of the investigation report according to OAR 943-045-0320, the sections of the report which are public records and not exempt from disclosure under the public records law will be provided to the appropriate provider. The provider must implement the actions necessary within the deadlines listed to prevent further abuse as stated in the report.

(16) Prohibition of Retaliation. A provider must not retaliate against any person who reports in good faith suspected abuse, or against the individual with respect to the report.

(17) Retaliatory Liability. In accordance with ORS 430.755 any provider who retaliates against any person because of a report of suspected abuse or neglect may be liable according to 430.755, in a private action to that person for actual damages and, in addition, a penalty in accordance with 443.775(10) not withstanding any other remedy provided by law. The authority of the Director to impose civil penalties and the factors to be considered will be in accordance with 443.790.

(18) Adverse Action Creates a Presumption of Retaliation. In accordance with OAR 943-045-0340 Adverse Action, any adverse action creates a presumption of retaliation if taken within 90 days of a report of abuse. For purposes of this subsection, "adverse action" means any action taken by a community facility, community program or person involved in a report against the person making the report or against the adult because of the report and includes but is not limited to:

- (a) Discharge or transfer from the AFH, except for clinical reasons;
- (b) Discharge from or termination of employment;

- (c) Demotion or reduction in remuneration for services; or
- (d) Restriction or prohibition of access to the community facility or its residents.

(19) Adverse Action Limits. Adverse action may also be evidence of retaliation after 90 days even though the presumption no longer applies.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0060, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0405

### Procedures for Correction of Violations

(1) Conference Request. At any time after receipt of a notice of violations or an inspection report, the licensee or the Division may request a conference, in writing. The conference will be scheduled within ten days of a request by either party. The purpose of the conference is to discuss the violations stated in the notice of violation and to provide information to the licensee to assist the licensee in complying with the requirements of the rules. The written request by a licensee or the Division for a conference will not extend any previously established time limit for correction.

(2) Notification of Correction. The licensee will notify the Division of correction of violations, in writing, no later than the date specified in the notice of violation.

(3) No Report of Compliance. If, after inspection of the AFH, the violations have not been corrected by the date specified in the notice of violation or if the Division has not received a report of compliance, the Division may institute one or more of the following actions:

(a) Imposition of an administrative sanction that may include revocation, suspension, placement of conditions on the license or non-renewal of a license as deemed appropriate by the Division.

(b) Filing of a criminal complaint.

(4) Serious and Immediate Danger. If an individual is in serious and immediate danger, the license may be immediately suspended or revoked and arrangements made to move the individuals.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0070, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0410

### Residents' Rights, Complaints, and Grievances

(1) Residents' Bill of Rights.

(a) The Provider must guarantee the Individuals' Bill of Rights as described in ORS 443.739. The provider must post them in a location that is accessible to individuals, individual's representatives, parents/guardian/advocates. A copy of the Residents' Bill of Rights must be given to each individual and representative/parent/guardian/advocate along with a description of how to exercise these rights.

(b) The provider must explain and document in the individual's file that a copy of the Individual's Bill of Rights is given to each individual at admission, and is posted in a conspicuous place including the name and phone number of the office to call in order to report complaints. The Bill of Rights states each individual has the right to:

(A) Be treated as an adult, with respect and dignity;

(B) Be encouraged and assisted to exercise constitutional and legal rights as a citizen including the right to vote and be informed of all house rules;

(C) Receive appropriate care and services and prompt medical care as needed. Be informed of the individual's medical condition and the right to consent to or refuse treatment;

(D) Adequate personal privacy and privacy to associate and communicate privately with any person of choice, such as family members, friends, advocates, and legal, social service and medical professionals, send and receive personal mail unopened, and engage in telephone conversations as explained in 309-040-0410; have medical and personal information kept confidential;

(E) Have access to and participate in activities of social, religious, and community groups;

(F) Be able to keep and use a reasonable amount of personal clothing and belongings and to have a reasonable amount of private, secure storage space.

(G) Be free of discrimination in regard to race, color, national origin, sex, religion, sexual orientation, or disability;

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(H) Manage his/her financial affairs unless legally restricted. Be free from financial exploitation. The provider will not charge or ask for application fees or nonrefundable deposits and will not solicit, accept or receive money or property from an individual other than the amount agreed to for services;

(I) A safe and secure environment;

(J) Written notices prior to rate increases and evictions;

(K) A written agreement regarding services to be provided and agreed upon rates;

(L) Voice suggestions, complaints, or grievances without fear of retaliation;

(M) Freedom from training, treatment, chemical or physical restraints except as agreed to, in writing, in an individual's PCP. Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner;

(N) Be allowed and encouraged to learn new skills, to act on their own behalf to their maximum ability, and to relate to residents in an age appropriate manner;

(O) An opportunity to exercise choices including such areas as food selection, personal spending, friends, personal schedule, leisure activities, and place of residence;

(P) Freedom from punishment. Behavior intervention programs must be approved in writing on the individual's PCP;

(Q) Freedom from abuse and neglect;

(R) The opportunity to contribute to the maintenance and normal activities of the household;

(S) Access and opportunity to interact with persons with/without disabilities;

(T) The right not to be transferred or moved out of the AFH without 30 days' advance written notice and an opportunity for a hearing as described in ORS 443.738(11)(b) and OAR 411-088-0080. A provider may transfer or discharge a individual only for medical reasons including a medical emergency described in ORS 443.738(11)(a), or for the welfare of the individual or other residents, or for nonpayment; and

(U) Utilize advance directives. Advance directives will be explained to each individual upon admission. If the individual does not already have any advance directive or directives, he or she will be given an opportunity to complete them. If any advance directives are completed by the individual the provider shall document these directives in the individual's record; if the individual declines to file any advance directives, this declination will be documented in the individual's record.

(i) As used in this section, the term "advance directive" has the meaning given under ORS 127.505, and includes the "Declaration for Mental Health Treatment" under ORS 127.700 through 127.737.

(2) Additional Rights for Individuals:

(a) Live under a legally enforceable residency agreement in compliance with protections substantially equivalent to landlord/tenant laws as described in this rule;

(b) Have visitors of the individual's choosing at any time and the freedom to visit with guests within the common areas of the program and the individual's sleeping room;

(c) The freedom and support to control one's own schedule and activities including but not limited to: Accessing the community without restriction;

(d) Access to community resources including recreation, religious services, agency services, employment and day programs, unless such access is legally restricted;

(e) Have a lockable door in the individual's bedroom, which may be locked by the individual;

(f) Choose a roommate when sharing a bedroom;

(g) Furnish and decorate the individual's bedroom according to the residency agreement;

(h) The freedom and support to control the individual's schedule and activities;

(i) Privacy in the individual's bedroom;

(j) Section (2) of these rules and its subsections are effective July 1, 2016 and enforceable as described in OAR 309-040-0315(7).

(3) The qualities and obligations described in section 2 (b), (c), (d), (e) and (h) of this rule do not apply to an individual receiving crisis-respite services and a provider need not seek an individually based limitation for such an individual to comply with these rules.

(4) The provider must actively work to support and ensure each individual's rights described in this rule are not limited or infringed upon by the provider or an AFH caregiver, except where expressly allowed under these rules.

(5) Complaints and Grievances. Any person who believes these rules have been violated may file a complaint with the Division and/or CMHP. The Division and/or CMHP will investigate any complaint or grievance regarding the AFH.

(6) Complaint and Grievance Notice. The Division and/or CMHP will furnish each AFH with a Complaint and Grievance Notice, which the provider must post in a conspicuous place stating the telephone number of the Division and the CMHP and the procedure for making complaints or grievances.

(7) Complaint and Grievance Actions. A copy of all AFH complaints or grievances will be maintained by the Division. All complaints or grievances and actions taken on the complaint or grievance, indexed by the name of the provider, will:

(a) Be placed into the public file at the Division. Information regarding the investigation of the complaint or grievance will not be filed in the public file until the investigation has been completed;

(b) Protect the privacy of the complainant or grievant and the individual; and

(c) Treat the names of the witnesses as confidential information.

(8) Substantiated Complaints or Grievances. Providers who acquire substantiated complaints or grievances pertaining to the health, safety or welfare of individuals may have their licenses suspended, revoked or not renewed, or may have conditions placed on the license.

(9) Retaliation Against an Individual. The AFH provider, resident manager, or caregiver must not retaliate in any way against any individual after a complaint or grievance has been filed with the Division. Retaliation may include, but is not limited to:

(a) Increasing charges or threatening to increase charges;

(b) Decreasing or threatening to decrease services, rights or privileges;

(c) Threatening to increase charges or decrease services, rights or privileges;

(d) Taking or threatening to take any action to coerce or compel the individual to leave the AFH; or

(e) Abusing, harassing, or threatening to abuse or harass an individual in any manner.

(10) Retaliation Against Others. A complainant, grievant, witness or caregiver of an AFH must not be subject to retaliation by a provider, or resident manager, or substitute caregiver for making a report or being interviewed about a complaint or being a witness. Retaliation may include, but is not limited to, caregiver dismissal or harassment, or restriction of access to either the AFH or an individual.

(11) Immunity. The complainant has immunity from any civil or criminal liability with respect to the making or content of a complaint or grievance made in good faith.

(12) Public Complaint Files. Any person has the right to inspect and receive a photocopy of the public complaint files, including protective services files, maintained by the Division upon written request subject to the Division's procedures, ORS 192.410 through 192.505, and photocopy charges for public record requests.

Stat. Auth.: ORS 443.735

Stats. Implemented: ORS 127.700 - 127.737 & 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0065, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 4-2009(Temp), f. & cert. ef. 8-6-09 thru 2-2-10; MHS 1-2010, f. & cert. ef. 1-29-10; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0415

### Administrative Sanctions and Conditions

(1) Administrative Sanctions. An administrative sanction may be imposed for non-compliance with these rules. An administrative sanction includes one or more of the following actions:

(a) Attachment of conditions to a license;

(b) Civil penalties;

(c) Denial, suspension, revocation, or non-renewal of license.

(2) Notice of Intent. If the Division imposes an administrative sanction, it will serve a Notice of Intent of the administrative sanction upon the licensee personally or by certified mail.

(3) Notice of Administrative Sanction. The notice of administrative sanction will state:

(a) Each sanction imposed;

(b) A short and plain statement of each condition or act that constitutes a violation;

(c) Each statute or rule allegedly violated;

(d) A statement of the licensee's right to a contested case hearing;

(e) A statement of the authority and jurisdiction under which the hearing is to be held;

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(f) A statement that the Division files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and

(g) A statement that the notice becomes a final order upon default if the licensee fails to request a hearing within the specified time.

(4) Hearing. If an administrative sanction is imposed for reason other than abuse, neglect, or exploitation, a hearing will precede it if the licensee requests the hearing in writing within 60 days after receipt of the notice per ORS Chapter 183.

(5) Failure to Request a Hearing. If a licensee fails to request in writing a hearing within 60 days, the Notice of Administrative Sanction will become a Final Order of the Division by default.

(6) Immediate Action. The Division may immediately suspend, revoke, or not renew a license for a substantiated finding of abuse, neglect, or exploitation of an individual. The licensee may submit a request, in writing, for a contested case hearing within 60 days of the notice of intent of suspension, revocation or non-renewal.

(7) Individual Removal. When a license is denied, suspended, revoked, or not renewed, the Division will work with the CMHP to arrange for individuals to move for their protection.

(8) Conditions on License. Conditions may be attached to a license upon a finding that:

(a) Information on the application or initial inspection requires a condition to protect the health and safety of individuals, pending further action by the Division;

(b) There exists a threat to the health, safety, and welfare of an individual, pending further action by the Division or Division designee;

(c) There is reliable evidence of abuse of an adult, pending further action by the Division;

(d) The AFH is not being operated in compliance with these rules, pending further action by the Division; or

(e) The provider is licensed to care for a specific individual only and further placements may not be made to the AFH.

(9) Conditions on Licensee. Conditions which may be imposed on a licensee include but are not limited to:

(a) Restricting the maximum capacity of the AFH;

(b) Restricting the number and impairment level of individuals allowed based upon the capacity of the caregivers to meet the health and safety needs of all residents;

(c) Requiring an additional caregiver or caregiver qualifications;

(d) Requiring additional training of caregivers;

(e) Requiring additional documentation as deemed necessary by the Division;

(f) Restricting a provider from opening an addition AFH; and/or

(g) Suspending admissions to the AFH.

(10) Notification of Conditions. The provider must be notified, in writing, of any conditions imposed, the reason for the conditions, and be given an opportunity to request a hearing under ORS Chapter 183.

(11) Review by the Division. In addition to, or in lieu of, a contested case hearing, a provider may request, in writing, a review by the Division administrator or designee of conditions imposed by the CMHP or Division. The review does not diminish the provider's right to a hearing or extend the time period to request a hearing.

(12) Length of Conditions. Conditions may be imposed for the extent of the license period (one year), extended to the next license period, or limited to some other shorter period of time as deemed necessary by the Division. If the conditions correspond to the licensing period, the reasons for the conditions will be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the conditions will be indicated on the attachment to the license.

(13) Hearing Rights. Hearing rights are in accordance with ORS 183.310 to 183.550.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0075, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0420

### Denial, Suspension, Revocation or Non-renewal of License

(1) Causative Action. The Division will deny, suspend, revoke, or refuse to renew a license where it finds:

(a) There has been substantial failure to comply with these rules or where there is substantial non-compliance with local codes and ordinances, or any other state or federal law or rule applicable to the health and safety of individuals in an AFH; or

(b) The applicant or provider has been convicted of one or more crimes described in the Criminal Record Check:

(A) The applicant or provider has had a certificate or license to operate a foster home or residential care facility denied, suspended, revoked or refused to be renewed in this or any other state/county within three years preceding the present action if the denial, suspension, revocation or refusal to renew was due in any part to abuse of an adult, creating a threat to the residents or failure to possess physical health, mental health or good personal character;

(B) If the denial, suspension, revocation or refusal to renew occurred more than three years from the present action, the applicant or provider is required to establish to the Division by clear and convincing evidence his/her ability and fitness to operate an AFH. If the applicant or provider does not meet this burden, then the Division will deny, suspend, revoke or refuse to renew the license;

(C) The applicant or provider is associated with a person whose license for a foster home or residential care facility was denied, suspended, revoked or refused to be renewed due to abuse of an adult, or failure to possess physical health, mental health or good personal character within three years preceding the present action, unless the applicant or provider can demonstrate to the Division by clear and convincing evidence that the person does not pose a threat to the individuals;

(D) For purposes of this subsection, an applicant or provider is "associated with" a person as described above, if the applicant or provider:

(i) Resides with the person;

(ii) Employs the person in the AFH;

(iii) Receives financial backing from the person for the benefit of the AFH;

(iv) Receives managerial assistance from the person for the benefit of the AFH; or

(v) Allows the person to have access to the AFH.

(E) For purposes of this section only, "present action" means the date of the notice of denial, suspension, revocation or refusal to renew.

(2) Causative Action by Provider. The Division may deny, suspend, revoke, or refuse to renew an AFH license if the applicant or provider:

(a) Submits fraudulent or untrue information to the Division;

(b) Has a history of, or demonstrates financial insolvency, such as filing for bankruptcy, foreclosure, eviction due to failure to pay rent, or termination of utility services due to failure to pay bill(s);

(c) Has a prior denial, suspension, revocation or refusal to renew a certificate or license to operate a foster home or residential care facility in this or any other state/county;

(d) Has threatened the health, safety, or welfare of any individual;

(e) Has a substantiated finding of abuse of an adult;

(f) Has a medical or psychiatric problem, which interferes with the ability to provide care;

(g) Refuses to allow access and inspection;

(h) Fails to comply with a final order of the Division to correct a violation of the rules for which an administrative sanction has been imposed; or

(i) Fails to comply with a final order of the Division imposing an administrative sanction.

(j) Fails to report knowledge of the illegal actions of or disclose the known criminal history of a provider, resident manager, substitute caregiver, or volunteer of the AFH.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0090, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0425

### Removal of Residents

(1) Order to Move. The Division may order the removal of individuals from an AFH to an alternative placement on the following grounds:

(a) When a violation of these rules is not corrected after time limit specified in notice;

(b) There is a violation of an individual's rights;

(c) The number of individuals currently in the AFH exceeds the maximum licensed capacity of the AFH;

(d) The AFH is operating without a license; or

(e) There is evidence of abuse of an adult that presents a serious and immediate danger to individuals.

(2) Individual Assistance. The CMHP must provide the individual assistance in locating and visiting alternative placements, if needed, and has

# ADMINISTRATIVE RULES

the right to contest the move as provided in ORS 443.738(11)(b) and OAR 411-088-0080.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92), Renumbered from 309-040-0085; MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; MHD 7-2001(Temp) f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 4-2002, f. 2-26-02, cert. ef. 2-27-02; Renumbered from 309-040-0092, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0430

### Conditions

(1) Attachment to License. Conditions may be attached to a license upon a finding that:

(a) Information on the application or initial inspection requires a condition to protect the health and safety of individuals;

(b) There exists a threat to the health, safety, and welfare of an individual;

(c) There is reliable evidence of abuse of an adult;

(d) The AFH is not being operated in compliance with these rules; or

(e) The provider is licensed to care for a specific individual(s) only and further placements may not be made to the AFH.

(2) Notification of Conditions. The provider must be notified, in writing, of any conditions imposed, the reason for the conditions, and be given an opportunity to request a hearing under ORS Chapter 183.

(3) Hearing Rights. In addition to, or in lieu of, a contested case hearing, a provider may request in writing a review by the Division administrator or designee of conditions imposed by the CMHP or the Division. The review does not diminish the provider's right to a hearing or extend the time period to request a hearing.

(4) Length of Conditions. Conditions will be imposed for the extent of the license period (one year), extended to the next license period or limited to some other shorter period of time as deemed necessary by the Division. If the conditions correspond to the licensing period, the reasons for the conditions will be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the conditions will be indicated on the attachment to the license.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0093, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0435

### Criminal Penalties

(1) Unlicensed. Operating an AFH without a license is punishable as a Class C misdemeanor.

(2) Refusal to Comply. Refusing to allow any of the following is punishable as a Class B misdemeanor:

(a) Division access to the AFH for inspection or investigation;

(b) Division access to individuals in order to interview individuals privately or to review records; or

(c) State and local fire inspector access to the AFH regarding fire safety.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0095, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0440

### Civil Penalties

(1) Penalties for Other than Abuse. Civil penalties, for other than substantiated allegations of abuse, will not exceed \$100 per violation with a maximum of \$250 may be assessed for violation of these rules, with the exception of substantiated abuse findings.

(2) Penalties for Abuse. Civil penalties of a maximum of \$1000 per occurrence may be assessed for each substantiated abuse finding.

(3) Other Penalties. In addition to any other liability or penalty, the Division may impose a penalty for any of the following:

(a) Operating an AFH without a license;

(b) Exceeding the number of residents identified on the license;

(c) The Provider fails to achieve satisfactory compliance with the requirements of these rules within the time specified, or fails to maintain such compliance;

(d) The AFH is unable to provide an adequate level of care to individuals;

(e) There is retaliation or discrimination against an individual, the individual's representative, family, employee, or any other person for making a complaint against the AFH;

(f) The provider fails to cooperate with the Division, physician, registered nurse, or other health care professional in carrying out an individual's care plan; or

(g) Other violations are found on two consecutive inspections of an AFH after a reasonable amount of time has been allowed for the elimination of the violations.

(4) Penalty Due. Any civil penalty imposed under this section will become due and payable when the provider incurring the penalty receives a notice in writing from the Division. The notice will be sent by registered or certified mail and will include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matter asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right to request a hearing.

(5) Application for Hearing. The provider to whom the notice is addressed will have 60 days from the date of the notice of intent in which to make written application for a hearing.

(6) Hearings. All hearings will be conducted according to the applicable provisions of ORS Chapter 183.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0097, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0445

### Public Information

(1) Current Information. The Division will maintain current information on all licensed AFHs and make that information available to prospective individuals, individuals' representatives, their families, and other interested members of the public.

(2) Current Information Content. The information will include:

(a) The location of the AFH;

(b) A brief description of the physical characteristics of the home;

(c) The name and mailing address of the provider;

(d) The license classification of the home and the date the provider was first licensed to operate that home;

(e) The date of the last inspection, the name and telephone number of the office that performed the inspection and a summary of the findings;

(f) Copies of all complaint investigations involving the home, together with the findings of and actions taken by the Division;

(g) Any license conditions, suspensions, denials, revocations, civil penalties, exceptions or other actions taken by the department involving the home; and

(h) Whether care is provided primarily by the licensed provider, a resident manager, or other arrangement.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0098, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

## 309-040-0450

### Adjustment, Suspension or Termination of Payment

(1) Causative Actions. The CMHP or Division may adjust, suspend, or terminate payment(s) to a provider when any of the following conditions occur:

(a) The provider's AFH license is revoked, suspended, or terminated;

(b) Upon a finding that the provider is failing to deliver any service as agreed to in the PCP; or

(c) When funding, laws, regulations, or the CMHP or Division priorities change such that funding is no longer available, redirected to other purposes, or reduced;

(d) The individual's service needs change;

(e) The individual is absent without providing notice to the provider for five or more consecutive days;

(f) The individual is determined to be ineligible for services;

(g) The individual moves, with or without notice, from the AFH; the provider will be paid only through the last day of the individual's occupancy.

(2) Division Obligation. The CMHP or Division is under no obligation to maintain the AFH at its licensed capacity or to provide payments to potential providers.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92), Renumbered from 309-040-0055(3)(a)-(c); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0057, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

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309-040-0455

## Enjoinder of Adult Foster Home (AFH) Operation

The Division may commence an action to enjoin (ban) the operation of an AFH pursuant to ORS 443.775(5):

- (1) Unlicensed. When an AFH is operated without a valid license; or
- (2) Unresolved Placement. After notice of revocation, non-renewal, or suspension has been given, a reasonable time for placement of individuals in other facilities has been allowed, and such placement has not been accomplished.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0099, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17

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

**Rule Caption:** PEBB rules are being permanently amended or adopted to comply with Affordable Care Act regulations.

**Adm. Order No.:** PEBB 2-2016

**Filed with Sec. of State:** 8-24-2016

**Certified to be Effective:** 8-24-16

**Notice Publication Date:** 8-1-2016

**Rules Adopted:** 101-020-0059

**Rules Amended:** 101-020-0012, 101-020-0015

**Subject:** PEBB rules are being permanently amended or adopted to comply with Affordable Care Act regulations.

**Rules Coordinator:** Cherie Taylor—(503) 378-6296

### 101-020-0012

#### Working in Two or More Positions or for Two or More PEBB Participating Organizations

(1) An individual working in two or more positions or for two or more PEBB participating organizations must work at least half-time or be in a current benefit eligible stability period to be eligible for PEBB-sponsored benefit plans. A benefit eligible employee in a job share position is not required to work at least half-time to meet benefit eligibility.

(2) An eligible employee cannot receive more benefits than what one full time employee is eligible for. An eligible employee working in two or more positions may enroll for benefits through only one position.

(3) The eligible employee's enrollment will be completed with the PEBB participating organization with the highest percentage of FTE position.

(a) When the employee's FTE percentages with more than one PEBB participating organization are equal, the employee enrolls through the organization with the earlier appointment date.

(b) When the employee has equal FTE percentages and simultaneous dates of employment with two or more PEBB participating organizations, the employee may choose the organization to enroll through.

Stat. Auth.: ORS 243.061-302

Stats. Implemented: ORS 243.061-302

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; Renumbered from 101-040-0015, PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 3-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15; PEBB 1-2015, f. & cert. ef. 5-12-15; PEBB 2-2016, f. & cert. ef. 8-24-16

### 101-020-0015

#### Opting Out of Medical Insurance Coverage

(1) A benefit eligible employee can Opt Out of medical coverage and receive cash in lieu of medical insurance coverage. PEBB determines the amount of cash paid to an employee who Opts Out of medical coverage. Opt Out cash is included in employee income and is subject to taxes.

(2) Opting Out of medical coverage is an enrollment choice, it is not an enrollment in a PEBB medical plan.

(3) PEBB can require eligible employees who enroll in Opt Out to also enroll in other core benefits, such as dental, vision, and employee basic life coverage. Opt out enrolled employees who enroll for a core benefit plan are responsible to pay any premium share required.

(4) Eligible employees choosing to enroll in medical Opt Out must have minimum essential medical coverage for themselves and all other individuals for whom the employee can reasonably expect to claim a personal tax exemption deduction for. The alternative medical coverage must be a group sponsored medical plan. The employee must attest to the coverage at enrollment and annually thereafter.

(5) The agency or PEBB will cancel an employee's Opt Out enrollment when the attestation is not completed during initial enrollment or annually during the open enrollment period. If the Opt Out election is cancelled:

(a) The agency will enroll a new benefit eligible employee in the Employee Only tier of a PEBB medical plan that provides statewide coverage. All other employee plan elections will take effect as enrolled.

(b) When the Opt Out enrollment is to replace an enrolled employee's PEBB medical plan, the employee and any eligible dependents will reinstate to the previous medical plan. All other employee plan elections will take effect as enrolled.

(6) An employee is not eligible for Opt Out if their alternative group medical coverage is one of the following Medicaid, Veterans' Administration Health Benefit Programs, Student Health Insurance, or individual market coverage.

(7) An employee enrolled in Opt Out will not receive money in lieu of a PEBB medical plan enrollment when he or she is in a leave without pay status, regardless if the leave is a protected leave; e.g., FMLA, CBIW, Military Duty, etc., or other administratively approved leave.

(8) Employees enrolled in Opt Out experiencing a federal HIPAA Special Enrollment Right event are eligible for a qualified midyear change medical plan enrollment, for example, a loss of group medical coverage, or a change in family status such as a birth, adoption, etc.

(9) A PEBB retiree enrolled in the PEBB retiree or COBRA plan receiving a premium subsidy, such as an early retirement premium subsidy, returning as an active benefit eligible employee, and choosing to continue coverage under the retiree or COBRA plan is not eligible to enroll for Opt Out as an active employee.

(10) Opt Out cash will not be paid if the agency or PEBB has knowledge or reason to know that the employee or any other member of the employee's expected tax family does not have or will not have the required alternative coverage.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 243.302

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; PEBB 3-2010, f. 9-23-10, cert. ef. 10-1-10; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 4-2014, f. & cert. ef. 12-31-14; PEBB 2-2016, f. & cert. ef. 8-24-16

### 101-020-0059

#### Commuter Accounts

(1) There are two individual account types within Commuter Accounts, Transportation and Parking. Each type allows enrolled employees to claim tax free reimbursement of certain employment related commuter expenses. The accounts are fringe benefits and federal Internal Revenue Service (IRS) regulations govern the accounts.

(2) Enrolled employees reduce their taxable income because they contribute to the account monthly through a pre-tax salary reduction. The employer does not contribute to the accounts.

(3) Employees can enroll, terminate, or make changes to an existing account throughout a plan year. A qualifying midyear change event is not required to make a change to the account.

(4) Enrollment in either account type requires a minimum monthly contribution. Each year the IRS sets an available maximum monthly contribution, the limit is subject to change. The Board reviews and approves PEBB changes to employee monthly minimum and maximum contributions. Only one contribution each month is permitted.

(5) Refunds of account funds without a claim and reimbursement submission process is not permitted. Fund transfers between the account types is not permitted.

(6) An employee's account funds will forfeit to PEBB when an account is inactive. An inactive account means, that for six consecutive months there has not been either an employee monthly contribution or a claim reimbursement processed.

(7) The Transportation Account provides reimbursement for employee only work-related commuting expenses for bus, ferry, rail, monorail streetcar, train, or vanpooling expenses.

(a) Transit Pass Expenses are expenses incurred for a pass, token, fare card, voucher, or similar item for transportation using Mass Transit Facilities. These include public or commercial facilities. Commercial facilities are those provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle with a seating capacity of at least six adults (excluding the driver).

(b) Commuter Highway Vehicle (Vanpool) expenses must be in connection with travel between the employee's residence and place of employ-

# ADMINISTRATIVE RULES

ment. A commuter highway vehicle is any highway vehicle with a seating capacity of at least six adults (not including the driver). At least 80% of the mileage must be for purposes of transporting employees in connection with travel between their residences and their places of employment. The number of employees transported for such purposes must be, on average, at least half of the adult seating capacity of the vehicle.

(8) The Parking Account provides a reimbursement for certain parking expenses incurred to work. The allowed expenses for parking are:

(a) At or near the business premise of the employer;

(b) At a location from which to commute to work by mass transit facilities or commuter highway vehicle (carpool).

(9) Employees submit reimbursement claims for incurred or paid for expenses during the current plan. All claims for the current plan year must be submitted by January 15 of the following plan year. Submission of previous year claims after that date will result in a claim denial. Previous year unused funds remain in the employee's account and can be used for current year expense reimbursement if the employee's eligibility and the account's eligibility remain as active.

(a) Expenses must be incurred or paid before a claim for reimbursement is submitted.

(b) Reimbursement cannot be made for more than the cash balance in the account.

(c) Reimbursement claimed for a month can be for no more than the maximum monthly amount in effect during the timeframe of the requested reimbursement.

(d) Reimbursement without a submission of a qualified claim for expenses incurred or paid are not permitted.

(10) Employees who remain employed but terminate the account can remain a participant if the account remains active. Inactive accounts forfeit to PEBB, see (6) of this rule.

(11) Employees terminating employment will not have an account contribution taken from their final pay. Former employees cannot participate in the Commuter Account. If funds remain in the account after termination, the employee may submit claims for incurred or paid for expenses that occurred before the employment termination for up to six months from termination. The account forfeits to PEBB after six months if funds remain in the account.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 243.302

Hist.: PEBB 2-2016, f. & cert. ef. 8-24-16

.....  
**Oregon Health Authority,**  
**Public Health Division**  
**Chapter 333**

**Rule Caption:** X-ray operator requirements, repeal of leaded apron, and corrections to rule references.

**Adm. Order No.:** PH 25-2016

**Filed with Sec. of State:** 8-26-2016

**Certified to be Effective:** 9-1-2016

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 333-101-0005, 333-102-0005, 333-102-0102, 333-102-0104, 333-102-0190, 333-103-0010, 333-106-0005, 333-106-0035, 333-106-0205, 333-106-0325, 333-106-0710, 333-116-0020, 333-116-0125, 333-116-0640, 333-116-0720, 333-116-0905, 333-116-0910, 333-116-1000, 333-125-0060, 333-125-0100, 333-125-0120, 333-125-0180

**Rules Repealed:** 333-116-0130, 333-116-1010

**Subject:** The Oregon Health Authority, Public Health Division, Center for Health Protection is permanently amending and repealing Oregon Administrative rules related to the X-ray and radioactive materials programs within the Radiation Protection Services (RPS) section.

The Radioactive Materials Licensing (RML) program is amending rules for compatibility with the Nuclear Regulatory Commission's regulations 10 CFR parts 20 through 71 within divisions 102 and 125 by correcting rule references within Oregon Administrative Rules pertaining to material safety and security.

In addition, the RML program is repealing rules related to the definition and reporting of misadministration. The RML program is also amending the administrative rules to require that a specific license

application be submitted with a non-refundable fee if the application is withdrawn after 10 calendar days from receipt by the Authority.

The X-ray program is amending rules in division 106 by adding language to the definition that will allow a physician to provide diagnostic use of X-rays by being eligible for the American Board of Radiology exam, and allowing an out of state licensed physician to practice the healing arts without being licensed in Oregon.

Within division 106, administrative rule is being amended to allow physician assistants who have obtained a fluoroscopy permit issued by the Oregon Board of Medical Imaging to activate the fluoroscopic tube. The X-ray program is also repealing rules that required the operator of an Authority approved hand-held X-ray device to wear a protective apron.

**Rules Coordinator:** Brittany Sande—(971) 673-1291

## 333-101-0005

### Application for Registration of Radiation Machines

No X-ray machine shall be operated unless the registration application has been submitted by the registrant to the Authority. Each person having a radiation machine must:

(1) Apply, in writing, for registration of such machines with the Authority prior to the operation of a radiation machine. All operable radiation machines must be registered and the appropriate fee, which is listed in division 103 of these rules, must be paid. Registration fees received by the Authority shall be refundable up to 10 calendar days if the application is withdrawn. Hospitals wishing to register any radiation machine must meet the additional requirements of OAR 333-101-0200. To avoid radiation machine registration and fees, the X-ray tube must be removed or the machine must be disassembled. Application for registration must be completed on forms furnished by the Authority and must contain the following information or such other information as may be required:

(a) Name of the owner or person having administrative control and responsibility for use. "Person" is defined in OAR 333-100-0005 to include "organization";

(b) Address and telephone number where the machine is located and used except that a central headquarters address may be given for a mobile machine used at various temporary field locations;

(c) A description of the type, model and control panel serial number of the radiation machine (state I.D. number if issued) and its rated capacity in peak kilovolts and maximum milliamperes;

(d) A description of the use (dental, medical, industrial, veterinary, research, etc.) of the machine;

(e) Date of application and signature of registrant;

(f) The individual and the signature of the individual designated under section (3) of this rule;

(g) If the facility is mobile, the geographic areas within the state to be covered; and

(h) Name of the radiation machine supplier, installer and service agent.

(2) The registrant must notify the Authority within 30 days of any change which increases the radiation output or rating of the radiation machine or of any other change which renders the information required in section (1) of this rule no longer accurate.

(3) When required by the Authority, the registrant must designate an individual who will be responsible for radiation protection for the machine. Such individual must:

(a) Be qualified by training and experience concerning all hazards and precautions involved in operating the machine for which he or she is responsible;

(b) Recommend a detailed program of radiation safety for effective compliance with the applicable requirements of these rules;

(c) Give instructions concerning hazards and safety practices to individuals who may be occupationally exposed to radiation from the machine; and

(d) Make surveys and carry out other procedures as required by these rules.

(4) When, in the opinion of the Authority, the individual designated to be responsible for radiation safety does not have qualifications sufficient to insure safe use of the machine for which he or she is responsible, the Authority may order the registrant to designate another individual who meets the requirements of this division.

(5) Each registrant must prohibit any person from furnishing radiation machine servicing or services as described in OAR 333-101-0020(4) to his radiation machine facility until such person provides evidence that he has



# ADMINISTRATIVE RULES

been licensed with the Authority as a provider of services in accordance with 333-101-0020.

Stat. Auth.: ORS 453.605 - 453.807  
Stats. Implemented: ORS 453.605 - ORS 453.807  
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-102-0005

### Unimportant Quantities of Source Material

(1) Any person is exempt from this division to the extent that such person receives, possesses, uses, owns or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution or alloy.

(2) Any person is exempt from this division to the extent that such person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person must not refine or process such ore.

(3) Any person is exempt from this division and divisions 111 and 120 to the extent that such person receives, possesses, uses or transfers:

(a) Any quantities of thorium contained in:

(A) Incandescent gas mantles;

(B) Vacuum tubes;

(C) Welding rods;

(D) Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;

(E) Germicidal lamps, sun lamps and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium;

(F) Rare earth metals and compounds, mixtures and products containing not more than 0.25 percent by weight thorium, uranium or any combination of these; or

(G) Personnel neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium.

(b) Source material contained in the following products:

(A) Glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent by weight source material;

(B) Piezoelectric ceramic containing not more than two percent by weight source material;

(C) Glassware containing more than two percent by weight source material or, for glassware manufactured before August 27, 2013, not more than ten percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction; or

(D) Glass enamel or glass enamel frit containing not more than ten percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983.

(c) Photographic film, negatives and prints containing uranium or thorium;

(d) Any finished product or part fabricated of, or containing tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four percent by weight and that this exemption must not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles or stored or handled in connection with installation or removal of such counterweights, provided that:

(A) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";

NOTE: The requirements specified in paragraphs (3)(e)(A) and (3)(e)(B) of this rule need not be met by counterweights manufactured prior to December 31, 1969 provided, that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and are impressed with the legend required by paragraph(3)(e)(B) of this rule in effect on June 30, 1969.

(B) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; and

(C) This exemption must not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.

(f) Natural or depleted uranium metal used as shielding constituting part of any shipping container, provided that:

(A) The shipping container is conspicuously and legibly impressed with the legend "CAUTION — RADIOACTIVE SHIELDING — URANIUM"; and

(B) The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of 1/8 inch (3.2 mm).

(g) Thorium or uranium contained in finished optical lenses and mirrors, provided that each lens does not contain more than 10 percent by weight of thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium; and that this exemption must not be deemed to authorize either:

(A) The shaping, grinding or polishing of such lens or mirrors or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror; or

(B) The receipt, possession, use or transfer of uranium or thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

(h) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(B) The thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(4) The exemptions in section (3) of this rule do not authorize the manufacture of any of the products described.

(5) No person may initially transfer for sale or distribution a product containing source material to persons exempt under this rule, U.S. Nuclear Regulatory Commission or equivalent regulations of an Agreement State, unless authorized by a license issued under OAR 333-102-0300 and 333-102-0305 to initially transfer such products for sale or distribution.

(a) Persons initially distributing source material in products covered by the exemptions in this rule before August 27, 2013, without specific authorization may continue such distribution for one year beyond this date. Initial distribution may also be continued until the Authority takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than one year beyond this date.

(b) Persons authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under OAR 333-102-0300 and 333-102-0305 for distribution only and are exempt from the requirements of divisions 111 and 120 of this chapter, and OAR 333-102-0200(2) and (3).

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-102-0102

### Requirements for License to Initially Transfer Source Material for Use Under the Small Quantities of Source Materials General License

An application for a specific license to initially transfer source material for use under OAR 333-102-0101, or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State shall be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200; and

(2) The applicant submits adequate information on, and the Authority approves the methods to be used for quality control, labeling, and providing safety instructions to recipients.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-102-0104

### Conditions of Licenses to Initially Transfer Source Material for Use Under the 'Small Quantities of Source Material' General License: Quality Control, Labeling, Safety Instructions, and Records and Reports

(1) Each person licensed under OAR 333-102-0102 shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words "radioactive material".

# ADMINISTRATIVE RULES

(2) Each person licensed under OAR 333-102-0102 shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.

(3) Each person licensed under OAR 333-102-0102 shall provide the information specified in this rule to each person to whom source material is transferred for use under OAR 333-102-0101, equivalent provisions in Agreement State or the U.S. Nuclear Regulatory Commission's regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

(a) A copy of OAR 333-102-0101 and OAR 333-102-0330, or relevant equivalent regulations of the Agreement State or the U.S. Nuclear Regulatory Commission; and

(b) Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

(4) Each person licensed under OAR 333-102-0102 shall report transfers as follows:

(a) File a report with the Authority. The report shall include the following information:

(A) The name, address, and license number of the person who transferred the source material;

(B) For each general licensee under OAR 333-102-0101:

(i) Equivalent Agreement State provisions or the Nuclear Regulatory Commission regulations to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter;

(ii) The name and address of the general licensee to whom source material is distributed;

(iii) A responsible agent, by name and position, and phone number, of the general licensee to whom the material was sent; and

(iv) The type, physical form, and quantity of source material transferred.

(C) The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.

(b) File a report with each responsible Agreement State or U.S. Nuclear Regulatory Commission agency that identifies all persons, operating under provisions equivalent to OAR 333-102-0101, to whom greater than 50 grams (0.11 lb) of source material has been transferred within a single calendar quarter. The report shall include the following information specific to those transfers made to the Agreement State being reported to:

(A) The name, address, and license number of the person who transferred the source material; and

(B) The name and address of the general licensee to whom source material was distributed; a responsible agent, by name or position and phone number of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred.

(C) The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients within the Agreement State or U.S. Nuclear Regulatory Commission's jurisdiction.

(c) Submit each report by January 31 of each year covering all transfers for the previous calendar year. If no transfers were made to persons generally licensed under OAR 333-102-0101 or equivalent Agreement State or U.S. Nuclear Regulatory Commission's provisions during the current period, a report shall be submitted to the Authority indicating so. If no transfers have been made to general licensees in a particular Agreement State or U.S. Nuclear Regulatory Commission's jurisdiction during the reporting period, this information shall be reported to the responsible Agreement State agency upon request of the agency

(5) Each person licensed under OAR 333-102-0102 shall maintain all information that supports the reports required by this rule concerning each transfer to a general licensee for a period of one year after the event is included in a report to the Authority, Agreement State agency, or the U.S. Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-102-0190

### Application for Specific Licenses

(1) Applications for specific licenses must be filed on a form prescribed by the Authority. Information contained in previous applications, statements or reports filed with the Authority, the US Nuclear Regulatory Commission, or an Agreement State or a Licensing State or the Atomic Energy Commission may be incorporated by reference, provided that the reference is clear and specific.

(2) The Authority may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Authority to determine whether the application shall be granted or denied or whether a license shall be modified or revoked.

(3) Each application must be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's or licensee's behalf.

(4) Each applicant for a specific license is required to have a permanent in-state office with a copy of all required records available for inspection by the Authority.

(5) An application for a license filed pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act, provided that the application specifies the additional activities for which licenses are requested and complies with rules of the Authority and the US Nuclear Regulatory Commission as to applications for such licenses.

(6) Each new application for a radioactive material license must be accompanied by the fee prescribed by OAR 333-103-0010. Fees received by the Authority shall be refundable up to 10 calendar days if the application is withdrawn. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in OAR 333-103-0010.

(7) An application for a license to receive and possess radioactive material for the conduct of any activity that the Authority has determined, pursuant to Subpart A of Part 51 of 10 CFR (Environmental Protection Regulations applicable to materials licensing), will significantly affect the quality of the environment, must be filed at least nine months prior to commencement of construction of the plant or facility in which the activity will be conducted and must be accompanied by any Environmental Report required pursuant to Subpart A of 10 CFR Part 51.

(8) An application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either:

(a) Identify the source or device by manufacturer and model number as registered with the US Nuclear Regulatory Commission under 10 CFR Part 32.210 or with an Agreement State; or for a source or a device containing radium-226 or accelerator-produced radioactive material with a state under provisions comparable to 10 CFR Parts 32.210; or

(b) Contain the information identified in 10 CFR Part 32.210(c); or

(c) For sources or devices manufactured prior to October 23, 2012 that are not registered with the Nuclear Regulatory Commission or an Agreement State which the applicant is unable to provide all categories of information specified in 10 CFR Part 32.210(c) the applicant must provide:

(A) All available information identified in 10 CFR Part 32.210(c) concerning the source and if applicable the device; and

(B) Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Information must include a description of the source or device, description of radiation safety features, intended use and associated operating experience and the results of a recent leak test:

(i) For sealed sources and devices allowed to be distributed without registration of safety information in accordance with 10 CFR Part 32.210(g)(1), the applicant may supply only the manufacturer, model number, and radionuclide and quantity; or

(ii) If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.

(9) As provided by OAR 333-102-0200, certain applications for specific licenses filed under this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning as follows:

(10)(a) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in 10 CFR 30.72, "Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release," must contain either:

(A) An evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials shall not exceed one rem effective dose equivalent or five rems to the thyroid; or

(B) An emergency plan for responding to a release of radioactive material.

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(b) One or more of the following factors may be used to support an evaluation submitted under paragraph (10)(a)(A) of this rule:

(A) The radioactive material is physically separated so that only a portion could be involved in an accident;

(B) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(C) The release fraction in the respirable size range shall be lower than the release fraction shown in 10 CFR Part 30.72 (Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) due to the chemical or physical form of the material;

(D) The solubility of the radioactive material shall reduce the dose received;

(E) Facility design or engineered safety features in the facility shall cause the release fraction to be lower than shown in 10 CFR Part 30.72;

(F) Operating restrictions or procedures shall prevent a release fraction as large as that shown in 10 CFR Part 30.72; or

(G) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under paragraph (10)(a)(B) of this rule must include the following information:

(A) Facility description. A brief description of the licensee's facility and area near the site.

(B) Types of accidents. An identification of each type of radio-active materials accident for which protective actions may be needed.

(C) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(D) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(E) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(F) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(G) Responsibilities. A brief description of the responsibilities of licensee personnel if an accident occurs, including identification of personnel responsible for promptly notifying offsite response organizations and the Authority; also responsibilities for developing, maintaining, and updating the plan.

(H) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee also must commit to notify the Authority immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.

**NOTE:** These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

(I) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the Authority.

(J) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee can offer to fire, police, medical and other emergency personnel. The training must familiarize personnel with site-specific emergency procedures. Also, the training must thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(K) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(L) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee must invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not

required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios must not be known to most exercise participants. The licensee must critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(M) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(N) An application from a medical facility, educational institution, or federal facility to produce Positron Emission Tomography (PET) radiopharmaceutical drugs for noncommercial transfer to licensees in its consortium authorized for medical use under 10 CFR Part 35 or division 116 of this chapter or equivalent Agreement State requirements shall include:

(i) A request for authorization for the production of PET radionuclides or evidence of an existing license issued under 10 CFR Part 30 or Agreement State requirements for a PET radionuclide production facility within its consortium from which it receives PET radionuclides.

(ii) Evidence that the applicant is qualified to produce radiopharmaceutical drugs for medical use by meeting one of the criteria in 10 CFR 32.72(a)(2).

(iii) Identification of individual(s) authorized to prepare the PET radiopharmaceutical drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in OAR 333-116-0880 and 333-116-0910.

(iv) Information identified in 10 CFR Part 32.72(a)(3) on the PET radiopharmaceutical to be non-commercially transferred to members of its consortium.

(v) Each applicant for a license for byproduct material shall protect Safeguards Information against unauthorized disclosure in accordance with the requirements in 10 CFR Parts 73.21, 73.22 and 73.23 as applicable.

(d) The licensee must allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to the Authority. The licensee must provide any comments received within the 60 days to the Authority with the emergency plan.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-103-0010

### Annual Fee for Specific Licenses

(1)(a) Each specific license listed in section (2) of this rule, as defined in OAR 333-102-0203, shall be licensed pursuant to sections (2), (3), (4), (5) and (6) of this rule by a specific license fee.

(b) Upon written request and approval by the Authority, fees for new licenses or additional sources may be prorated on a quarterly basis for the current fiscal year.

(2) Each specific license type appearing in the following fee schedule shall be licensed separately with a specific license fee as indicated:

(a) Analytical/Leak Test/Fixed X-ray Fluorescence, \$690(F);

(b) Basic License, \$1,220(F);

(c) Brachytherapy, \$2,755(F);

(d) Broad Scope A, \$3,000(F);

(e) Broad Scope B, \$2,755(F);

(f) Broad Scope C, \$1,370(F);

(g) Distribution, \$1,370(F);

(h) Fixed Gauge, \$345(S);

(i) High, medium and low dose-rate brachytherapy, \$3,000(S);

(j) Imaging and Localization, \$1,370(F);

(k) In Vitro Laboratory, \$455(F);

(l) Industrial Radiography:

(A) Fixed Facility, \$3,000(F);

(B) Field Use, \$3,000(F);

(m) Instrument Calibration, \$1,035(S);

(n) Investigational New Drug, \$2,065(F);

(o) Irradiator Self-Shielded, \$1,370(S);

(p) Manufacturing/Compounding, \$3,000(F);

(q) Mobile Nuclear Medicine, \$3,000(F);

(r) NORM (no processing), \$920(F);

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- (s) Nuclear Pharmacy, \$3,000(F);
- (t) Other Measuring Device, \$200(S). Six sources or more, for attenuation purposes, may apply for a basic license;
- (u) Portable Gauge:
  - (A) X-ray Fluorescence, \$690(S);
  - (B) All other portable gauges, \$920(S);
- (v) Radiopharmaceutical Therapy, \$2,065(F);
- (w) RAM/NOS Facility, \$3,000(F);
- (x) Research & Development, \$2,065(F);
- (y) Sealed Sources for Diagnosis, \$690(S);
- (z) Source Material, \$3,000(F);
- (aa) Special Nuclear Material (sealed), \$1,370(S);
- (bb) Special Nuclear Material (unsealed), \$3,000(F);
- (cc) Teletherapy (external beam), \$3,000(S);
- (dd) Unique, No Fee;
- (ee) Uptake and Dilution, \$920(F);
- (ff) Use of Xenon Gas, \$920(F);
- (gg) Waste Packaging, \$3,000(F);
- (hh) Well Logging, \$2,065(S);

NOTE: (F) means facility; (S) means source.

(3) Each specific license validation fee shall be due and payable:

- (a) Based on the following fee schedule:
  - (A) Validation fees for licenses expiring July through September are due by October 1 each year.
  - (B) Validation fees for licenses expiring October through December are due by January 1 each year.
  - (C) Validation fees for licenses expiring January through March are due by April 1 each year; and,
  - (D) Validation fees for licenses expiring April through June are due by July 1 each year.
- (b) For each specific license source of radiation listed in section (2) of this rule for which application pursuant to OAR 333-102-0190 for an Oregon Radioactive Materials License has been made;
- (c) For each additional specific license source of radiation in an amendment to an existing Oregon Radioactive Materials License pursuant to OAR 333-102-0320.

(4) A license for each specific license issued pursuant to section (3) of this rule shall be provided by the Authority. The certificate of validation for the current fiscal year shall be retained by the licensee and attached to the license pursuant to requirements in OAR 333-111-0005.

(5) The specific license fee that validates specific sealed sources also validates possession of one additional sealed source during source exchange (one new source and one spent source) for a period not to exceed 30 calendar days.

(6) Sealed sources manufactured and distributed as reference sources that do not exceed 100 times the quantity in 30.71 Schedule B of 10 CFR Part 30 are exempt from specific license fees and validation if used pursuant to a specific license listed in section (2) of this rule. The license validation fee for reference sources that exceed 100 times the quantity in 30.71 Schedule B of 10 CFR Part 30 or reference sources authorized alone without additional licensed radioactive material shall be \$1,220, pursuant to subsection (2)(b) of this rule.

Stat. Auth.: ORS 453.757  
Stats. Implemented: ORS 453.757  
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 24-2014, f. & cert. ef. 8-15-14; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-106-0005

### Definitions

As used in this division, the following definitions apply:

- (1) "Accessible Surface" means the external surface of the enclosure or housing provided by the manufacturer.
- (2) "Added Filtration" means any filtration that is in addition to the inherent filtration.
- (3) "Aluminum Equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question.

NOTE: The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

(4) "Applications Training" means a vendor or manufacturer providing training for specific X-ray equipment.

(5) "A.R.R.T." means the American Registry of Radiologic Technologists.

(6) "Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an X-ray system or subsystem. The term includes the owner of an X-ray system or his or her employee or agent who assembles components into an X-ray system that is subsequently used to provide professional or commercial services.

(7) "Attenuation Block" means a block or stack, having dimensions 20 centimeters (cm) by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(8) "Authority approved instructor" means an individual who has been evaluated and approved by the Authority to teach Radiation Safety.

(9) "Authority approved training course" means a course of training that has been evaluated and approved by the Authority.

(10) "Automatic Exposure Control (AEC)" means a device that automatically controls one or more technique factors in order to obtain at a pre-selected location(s) a required quantity of radiation. (See also "Photo timer".)

(11) "Barrier" (see "Protective Barrier").

(12) "Beam Axis" means a line from the source through the centers of the X-ray fields.

(13) "Beam-Limiting Device" means a device that provides a means to restrict the dimensions of the X-ray field.

(14) "Beam Monitoring System" means a system designed to detect and measure the radiation present in the useful beam.

(15) "C-arm X-ray system" means an X-ray system in which the image receptor and X-ray tube housing are connected by a common mechanical support system in order to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

(16) "Cephalometric Device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

(17) "Certified Components" means components of X-ray systems that are subject to the X-ray Equipment Performance Standards promulgated under Public Law 90-602, the Radiation Control Agency for Health and Safety Act of 1968.

(18) "Certified System" means any X-ray system that has one or more certified component(s).

(19) "Changeable Filters" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical or physical process.

(20) "Coefficient of Variation (C)" means the ratio of the standard deviation to the mean value of a set of observations.

(21) "Computed tomography (CT)" means the production of a tomogram by the acquisition and computer processing of X-ray transmission data.

(22) "Computed radiography (CR)" means creating an X-ray image using plates consisting of a photo stimulable phosphor (PSP) that when exposed to radiation and then processed by a scanner, provides the information to a computer for display and manipulation.

(23) "Contact Therapy System" means an X-ray system used for therapy with the tube port placed in contact with or within five centimeters of the surface being treated.

(24) "Control Panel" means that part of the X-ray control upon which are mounted the switches, knobs, pushbuttons and other hardware necessary for manually setting the technique factors.

(25) "Cooling Curve" means the graphical relationship between heat units stored and cooling time.

(26) "Dead-Man Switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

(27) "Detector" (see "Radiation detector").

(28) "Diagnostic X-ray imaging system" means an assemblage of components for the generation, emission, and reception of X-rays and the transformation, storage, and visual display of the resultant X-ray image.

(29) "Diagnostic Source Assembly" means the tube housing assembly with a beam-limiting device attached.

(30) "Diagnostic-Type Protective Tube Housing" means a tube housing so constructed that the leakage radiation measured at a distance of one meter from the source does not exceed 100 milliroentgens (mR) in one hour when the tube is operated at its leakage technique factors.

(31) "Diagnostic X-ray System" means an X-ray system designed for irradiation of any part of the human body or animal body for the purpose of diagnosis or visualization.

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(32) "Direct Digital Radiography (DR)" means creating an X-ray image by sending signals directly from a digital image receptor to a computer for display and manipulation.

(33) "Direct Scattered Radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam (see "Scattered radiation").

(34) "Entrance Exposure Rate" means the exposure free in air per unit of time.

(35) "Field Emission Equipment" means equipment which uses a tube in which electron emission from the cathode is due solely to the action of an electric field.

(36) "Filter" means material placed in the useful beam to absorb preferentially selected radiations.

(37) "Fluoroscopic Benchmark" means a standard based upon the average cumulative fluoroscopic on-time normally found to be used for a specific fluoroscopic procedure at the site.

(38) "Fluoroscopic Imaging Assembly" means a subsystem in which X-ray photons produce a visible image. It includes the image receptor(s) such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

(39) "Fluoroscopic X-ray equipment operator" means any individual who, adjusts technique factors, activates the exposure switch or button of a fluoroscopic X-ray machine or physically positions patients or animals. Human holders, used solely for immobilization purposes (example being veterinarian human holders) are excluded from this rule.

(40) "Focal Spot" means the area projected on the anode of the tube by the electrons accelerated from the cathode and from which the useful beam originates.

(41) "General Purpose Radiographic X-ray System" means any radiographic X-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(42) "Gonad Shield" means a protective barrier for the testes or ovaries.

(43) "Half-Value Layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(44) "Healing arts screening" means the testing of human beings using X-ray machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by an Oregon licensed practitioner of the healing arts legally authorized to prescribe such X-ray tests for the purpose of diagnosis or treatment.

(45) "Heat Unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes and seconds, example being  $kVp \times mA \times \text{second}$ .

(46) "HVL" (see "Half-value layer").

(47) "Image Intensifier" means a device, installed in its housing, which instantaneously converts an X-ray pattern into a corresponding light image of higher energy density.

(48) "Image Receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident photons either into a visible image or into another form which can be made into a visible image by further transformations.

(49) "Inherent Filtration" means the filtration of the useful beam provided by the permanently installed components of the tube housing assembly.

(50) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(51) "Irradiation" means the exposure of matter to ionizing radiation.

(52) "Kilovolt-Peak" (see "Peak tube potential").

(53) "kV" means kilovolts.

(54) "kVp" (see "Peak tube potential").

(55) "kWs" means kilowatt second.

(56) "Lead Equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(57) "Leakage Radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for:

(a) The useful beam; and

(b) Radiation produced when the exposure switch or timer is not activated.

(58) "Leakage Technique Factors" means the technique factors associated with the diagnostic or therapeutic source assembly which are used in measuring leakage radiation. They are defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, example being 10 milliamperes seconds (mAs), or the minimum obtainable from the unit, whichever is larger.

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of X-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(c) For all other diagnostic or therapeutic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

(59) "Light Field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

(60) "Line-Voltage Regulation" means the difference between the no-load and the load line potentials expressed as a percent of the load line potential.

(61) "mA" means milliamperes.

(62) "mAs" means milliamperes second.

(63) "Maximum Line Current" means the root-mean-square current in the supply line of an X-ray machine operating at its maximum rating.

(64) "Mobile Equipment" (see "X-ray Equipment").

(65) "Non-radiologist practitioner" means an individual who practices medicine as a medical doctor (M.D.), doctor of osteopathic medicine (D.O), doctor of chiropractic medicine (D.C.), doctor of podiatric medicine (D.P.M.) or doctor of veterinary medicine (D.V.M.); and

(a) Are not specifically certified in diagnostic or therapeutic use of X-rays; and

(b) Are currently licensed by their respective Oregon licensing board.

(66) "Operator" means an individual who, under the supervision of a practitioner of the healing arts, handles ionizing radiation equipment, physically positions patients or animals, determines exposure parameters or applies the radiation for the diagnostic or therapeutic purposes intended.

(67) "Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

(68) "Peak Tube Potential" means the maximum value of the potential difference across the X-ray tube during an exposure.

(69) "Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation. This requires that both the atomic number (Z) and the density of the material be similar to that of tissue.

(70) "Photo timer" means a method for controlling radiation exposures to image receptors by measuring the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is a part of an electronic circuit which controls the duration of time the tube is activated (see also "Automatic exposure control").

(71) "PID" (see "Position indicating device").

(72) "Portable Equipment" (see "X-ray Equipment").

(73) "Position Indicating Device" means a device on dental X-ray equipment used to indicate the beam position and to establish a definite source-surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(74) "Primary Dose Monitoring System" means a system which will monitor useful beam during irradiation and which will terminate irradiation when a pre-selected number of dose monitor units have been acquired.

(75) "Primary Protective Barrier" (see "Protective barrier").

(76) "Protective Apron" means an apron made of radiation absorbing materials used to reduce radiation exposure.

(77) "Protected Area" means an area shielded with primary or secondary protective barriers or an area removed from the radiation source such that the exposure rate within the area due to normal operating procedures and workload does not exceed any of the following limits:

(a) 2 milliroentgens (mR) in any one hour; or

(b) 100 mR in any one year.

(c) See OAR 333-120-0180 for additional information.

(78) "Protective Barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

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(a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam, for protection purposes, to reduce the radiation exposure;

(b) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

(79) "Protective Glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

(80) "Qualified Expert" means an individual, approved by the Authority, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual shall:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed one year of documented, full time training in the appropriate field and also one year of documented, full time work experience under the general supervision of a qualified expert in the appropriate field. To meet this requirement, the individual shall have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Authority for specific activities.

(81) "Quality Control Program" means a program directed at film processing and radiographic image quality whereby periodic monitoring of film processing is performed. Test films are compared against control film, either visually or by use of a densitometer, to determine if density or contrast have changed. Steps can then be taken to investigate such change and correct the problem. The X-ray machine itself can also be involved in the quality control program, as can other components of the imaging chain.

(82) "Radiation Detector" means a device which in the presence of radiation provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

(83) "Radiation Therapy Simulation System" means a radiographic or fluoroscopic system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

(84) "Radiograph" means an image receptor on which the image is created directly or indirectly by a pattern and results in a permanent record.

(85) "Radiographic Imaging System" means any system whereby a permanent or semipermanent image is recorded on an image receptor by the action of ionizing radiation.

(86) "Radiological Physicist" means an individual who:

(a) Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, or x- and gamma-ray physics; or

(b) Has a bachelor's degree in one of the physical sciences or engineering and three years full-time experience working in therapeutic radiological physics under the direction of a physicist certified by the American Board of Radiology. The work duties must include duties involving the calibration and spot checks of a medical accelerator or a sealed source teletherapy unit; or

(c) Has a master's or a doctor's degree in physics, biophysics, radiological physics, health physics, or engineering; has had one year's full-time training in therapeutic radiological physics; and has had one year's full-time work experience in a radiotherapy facility where the individual's duties involve calibration and spot checks of a medical accelerator or a sealed source teletherapy unit.

(87) "Radiologist" or "Oral Radiologist" means a physician or dentist trained in the diagnostic use of X-rays and who is;

(a) Currently licensed by their respective Oregon licensing board; and

(b) Board certified by the American Board of Radiology (ABR) or American Osteopathic Board of Radiology (AOBR) or American Chiropractic Board of Radiology (DACBR) or Royal College of Physicians and Surgeons of Canada (RCPSC) or the American Board of Oral and Maxillo-Facial Radiology (ABOMFR) and currently licensed to practice medicine or dentistry in Oregon; or

(c) ABR board eligible after successfully completing the Accreditation Council for Graduate Medical Education accredited diagnostic radiology residency program.

(88) "Radiology Physician's Assistant" (R.P.A.)/ "Registered Radiology Assistant" (R.R.A.).

(a) An R.P.A. means an American Registry of Radiologic Technologists (A.R.R.T.) technologist who has successfully completed an advanced training program and is certified by the Certification Board for Radiology Practitioner Assistants (CBRPA).

(b) An R.R.A. means an A.R.R.T. technologist who has successfully completed an advanced training program and is certified by A.R.R.T.

(89) "R.T." means a radiologic technologist certified in radiography and currently licensed by the Oregon Board of Medical Imaging.

(90) "Rating" means the operating limits as specified by the component manufacturer.

(91) "Recording" means producing a permanent form of an image resulting from X-ray photons.

(92) "Registrant," as used in this division, means any person who owns or possesses and administratively controls an X-ray system which is used to deliberately expose humans, animals or materials to the useful beam of the system and is required by the provisions contained in divisions 100 and 101 of this chapter to register with the Authority.

(93) "Response Time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero, sufficient to provide a steady state midscale reading.

(94) "Scattered Radiation" means radiation that, during passage through matter, has been deviated in direction (see "Direct Scattered Radiation").

(95) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(96) "Secondary Dose Monitoring System" means a system which will terminate irradiation in the event of failure of the primary system.

(97) "Secondary Protective Barrier" (see "Protective barrier").

(98) "Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

(99) "SID" (see "Source-image receptor distance").

(100) "Source" means the focal spot of the X-ray tube.

(101) "Source-Image Receptor Distance" means the distance from the source to the center of the input surface of the image receptor.

(102) "Spot Check" means a procedure which is performed to assure that a previous calibration continues to be valid.

(103) "Spot Film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(104) "Spot-Film Device" means a device intended to transport or position a radiographic image receptor between the X-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

(105) "SSD" means the distance between the source and the skin of the patient.

(106) "Stationary Equipment" (see "X-ray Equipment").

(107) "Stray Radiation" means the sum of leakage and scattered radiation.

(108) "Supervision" means the supervising individual routinely reviews and monitors the work being performed. There are three categories of supervision:

(a) "General Supervision" means that the supervisor is not required to be on-site, but must be available for direct communication, either in person, by telephone, or other electronic means.

(b) "Direct Supervision" means that the supervisor is physically present in the building and immediately available to furnish assistance as needed.

(c) "Personal Supervision" means that the supervisor is physically present in the room during the performance of the procedure at all times.

(109) "Technique Factors" means the conditions of operation. They are specified as follows:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of X-ray pulses;

(c) For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

(110) "Termination of Irradiation" means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

(111) "Traceable to a National Standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one or more intermediate steps and that all comparisons have been documented.

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(112) "Tube" means an X-ray tube, unless otherwise specified.

(113) "Tube Housing Assembly" means the tube housing with tube installed. It includes high-voltage and filament transformers and other appropriate elements when such are contained within the tube housing.

(114) "Tube Rating Chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(115) "Unprotected Area" means any area in which the exposure rate, due to the use of the radiation machine under normal operating procedures and workload, exceeds any of the following limits:

- (a) Two mR in any one hour;
- (b) 100 mR in any seven consecutive days; or
- (c) 500 mR in any one year.

(116) "Useful Beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting device when the exposure controls are in a mode to cause the system to produce radiation.

(117) "Variable-Aperture Beam-Limiting Device" means a beam-limiting device which has capacity for stepless adjustment of the X-ray field size at a given SID.

(118) "Visible Area" means that portion of the input surface of the image receptor over which the incident X-ray photons are producing a visible image.

(119) "Wedge Filter" means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

(120) "X-ray Control" means a device which controls input power to the X-ray high-voltage generator and the X-ray tube. It includes equipment such as exposure switches (control), timers, photo timers, automatic brightness stabilizers and similar devices, which control the technique factors of an X-ray exposure.

(121) "X-ray Equipment" means an X-ray system, subsystem, or component thereof. Types of equipment are as follows:

(a) "Mobile equipment" means X-ray equipment mounted on a permanent base with wheels and casters for moving while completely assembled and intended to be taken from one geographical location to another or from one room to another;

(b) "Portable equipment" means X-ray equipment designed to be hand-carried but not hand-held during operations.

(c) "Stationary equipment" means X-ray equipment which is installed in a fixed location; such as bolted to the floor or wall;

(d) "Transportable" means X-ray equipment installed in a vehicle or trailer;

(e) "Hand-held unit" means a self-contained X-ray machine designed so that it can be held in one or two hands to perform intra-oral radiography or other Authority approved radiography.

(122) "X-ray equipment operator" means any individual who handles, adjusts technique factors, activates the exposure switch/ or button of an X-ray machine, or physically positions patients or animals for a radiograph (see "Operator").

(123) "X-ray Field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(124) "X-ray High-Voltage Generator" means a device which transforms electrical energy from the potential supplied by the X-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the X-ray tube(s), high-voltage switches, electrical protective devices and other appropriate elements.

(125) "X-ray System" means an assemblage of components for the controlled production of X-rays. It includes minimally an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

(126) "X-ray Subsystem" means any combination of two or more components of an X-ray system for which there are requirements specified in this division.

(127) "X-ray Tube" means any electron tube which is designed to be used primarily for the production of X-rays.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 32-2014, f. 12-22-14, cert. ef. 1-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-106-0035

### Deliberate Exposures Restricted

Persons shall not be exposed to the useful beam except for healing art purposes until the patient has been evaluated, and a medical need for the X-ray/s is determined, and has been authorized by a physician or Dental Professional licensed to practice the healing arts. Any useful diagnostic information obtained from each exposure shall be reviewed by a practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(1) Exposure of an individual for training, demonstration or other purposes unless there are also healing arts requirements and proper prescription has been provided.

(2) Exposure of an individual for the purpose of healing arts screening:

(a) Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the Authority;

(b) When requesting such approval, that person shall submit the following information:

(A) Name and address of the applicant and, where applicable, the names and addresses of agents within this state;

(B) Diseases or conditions for which the X-ray examinations are to be used in diagnoses;

(C) A detailed description of the X-ray examinations proposed in the screening program to include the estimated total radiation dose received by the individual(s) participating in the screening program;

(D) Description of the population to be examined in the screening program, i.e., age, sex, physical conditions, and other appropriate information;

(E) An evaluation of any known alternate methods not involving ionizing radiation which could achieve the goals of the screening program and why these methods are not used instead of the X-ray examinations;

(F) An evaluation by a qualified expert of the X-ray system(s) to be used in the screening program. The evaluation by the qualified expert shall show that such system(s) do satisfy all requirements of these rules;

(G) A description of the diagnostic film quality control program;

(H) A copy of the technique chart for the X-ray examination procedures to be used;

(I) The qualifications of each individual who will be operating the X-ray system(s);

(J) The qualifications of the individual who will be supervising the operators of the X-ray system(s). The extent of supervision and the method of work performance evaluation shall be specified;

(K) The name and address of the individual who will interpret the radiograph(s);

(L) A description of the procedures to be used in advising the individuals screened and their private practitioners of the healing arts of the results of the screening procedure and any further medical needs indicated;

(M) A description of the procedures for the retention or disposition of the radiographs and other records pertaining to the X-ray examinations.

(3) If any information submitted to the Authority under subsection (2)(b) changes, the Authority shall be immediately notified.

(4) Mammography screening shall be exempt from the requirements of section (2) of this rule if the following conditions are met:

(a) The requirements set forth in OAR 333-106-0700 to 333-106-0750 of these rules are satisfied.

(b) All other applicable rules are met.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-106-0205

### Activation of the Fluoroscopic Tube

(1) X-ray production in the fluoroscopic mode shall be controlled by a device which requires continuous pressure by the fluoroscopist for the entire time of any exposure. When recording serial fluoroscopic images, the fluoroscopist shall be able to terminate the X-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.

(2) Proper training in the operation of fluoroscopic X-ray equipment is required for all operators and shall include but not be limited to the following:

(a) Principles and operation of the fluoroscopic X-ray machine:

(A) Generating X-rays;

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- (B) kVp and mA;
  - (C) Image intensification;
  - (D) High level control versus standard operating mode;
  - (E) Magnification (multi-field);
  - (F) Automatic Brightness Control (ABC);
  - (G) Pulsed versus continuous X-ray dose rates;
  - (H) Image recording modes;
  - (I) Imaging Systems (TV and Digital); and
  - (J) Contrast, noise and resolution.
  - (b) Radiation units:
    - (A) Traditional units;
    - (B) SI units; and
    - (C) Dose Area Product.
  - (c) Typical fluoroscopic outputs:
    - (A) Patient skin entrance dose;
    - (B) Standard Roentgen per minute (R/min) dose rates; and
    - (C) High level/Boost enable Roentgen per minute (R/min) dose rates.
  - (d) Dose reduction techniques for fluoroscopy:
    - (A) Collimation;
    - (B) X-ray tube and image intensifier placement;
    - (C) Patient size versus technique selection;
    - (D) Grid use;
    - (E) Last image hold;
    - (F) Additional beam filtration;
    - (G) Gantry angles;
    - (H) Use of spacer cone; and
    - (I) Pulsed fluoroscopy.
  - (e) Factors affecting personnel dose:
    - (A) Patient dose;
    - (B) Scatter radiation;
    - (C) Tube and image intensifier placement; and
    - (D) Time, distance and shielding.
  - (f) Protective devices:
    - (A) Lead aprons and gloves;
    - (B) Thyroid collars;
    - (C) Protective glasses;
    - (D) Leaded drapes;
    - (E) Bucky slot cover; and
    - (F) Protective shields/barriers.
  - (g) Radiation exposure monitoring:
    - (A) Personnel monitors;
    - (B) Placement of personnel monitors; and
    - (C) Occupational and non-occupational dose limits.
  - (h) Biological effects of X-ray radiation:
    - (A) X-rays and particulate matter;
    - (B) Absorption variables (field size, dose rate, as an example);
    - (C) Scatter radiation;
    - (D) Cell sensitivity;
    - (E) Acute effects; and
    - (F) Latent effects.
  - (i) Applicable regulations:
    - (A) Federal; and
    - (B) Oregon Administrative Rules for the Control of Radiation to include, but not limited to, chapter 333, divisions 101, 103, 106, 111 and 120.
- (3) The operation of fluoroscopic equipment shall be performed by a properly trained operator. The following categories of operators are considered to have met the training requirements in section (2) of this rule:
- (a) Radiologists currently licensed in Oregon;
  - (b) Non-Radiologist practitioners who have successfully completed a training program from an Authority approved resource or have been operating fluoroscopic equipment prior to April 11, 2005;
  - (c) Radiologic Technologists who have a permanent or temporary license from the Oregon Board of Medical Imaging (OBMI) to practice radiography;
  - (d) Physician assistants who have a fluoroscopy permit from the Oregon Board of Medical Imaging;
  - (e) R.P.A.s and R.R.A.s who are licensed by the OBMI; and
  - (f) Students currently enrolled in an approved school of Radiologic Technology as defined in ORS 688.405.
- (4) Supervision requirements for operators of fluoroscopic equipment. The operation of fluoroscopic equipment by properly trained operators must comply with the following supervisory requirements:
- (a) Radiologists may operate fluoroscopic equipment with no supervision.

(b) Non-radiologist practitioners who have had proper training in the use and operation of fluoroscopic X-ray equipment may operate fluoroscopic equipment without supervision provided that the registrant arranges to have a radiologist or medical or health physicist assist in:

(A) Developing fluoroscopic and radiation safety policies and procedures;

(B) Conducting an on-site practical evaluation of the Non-Radiologist practitioner's knowledge of radiation safety practices and ability to operate the fluoroscopic equipment; and

(C) At least annually, review the registrant's fluoroscopy program. The review includes an evaluation of the fluoroscopic on-times Quality Assurance reports, condition of fluoroscopic equipment and compliance with current rules. The registrant shall correct any deficiencies noted by the review.

(c) Radiologic Technologists who have a permanent or temporary license from the OBMI to practice radiography may operate fluoroscopic equipment under the personal or direct supervision of a radiologist or a non-radiologist practitioner who has had proper training in the use and operation of fluoroscopic X-ray equipment.

(d) Physician assistants with fluoroscopy permits may operate fluoroscopic equipment if:

(A) The supervising physician with whom the physician assistant has entered into a practice agreement is in the room where the fluoroscopic procedure is taking place at the time that the procedure is taking place; or

(B) The supervising physician with whom the physician assistant has entered into a practice agreement is in the building where the fluoroscopic procedure is taking place, and a radiographer with a license from the Oregon Board of Medical Imaging is in the room where the procedure is taking place, at the time that the procedure is taking place.

(e) R.R.A.s or R.P.A.s may operate fluoroscopic equipment under the direct supervision of a radiologist.

(f) Physician assistants licensed with the Oregon Medical Board while completing specific clinical experience pre-requisites to become eligible to take the OBMI fluoroscopy permit examination, may operate fluoroscopy equipment under personal supervision of the physician assistant's supervising physician, licensed radiologist, licensed radiographer or medical physicist.

(g) Students currently enrolled in an approved school of Radiologic Technology as defined in ORS 688.405, may operate fluoroscopic equipment under the personal supervision of a radiologist or an R.T. while in the clinical phase of training.

(5) The operation of fluoroscopic equipment is restricted to the healing arts exclusively for the purpose of localization and to assist physicians in obtaining images for diagnostic purposes.

(6) Overhead fluoroscopy is not to be used as a positioning tool for radiographic examinations except for those fluoroscopic examinations specified in the registrant's written policies/procedures for fluoroscopy.

(7) All images formed by the use of fluoroscopy shall be viewed, directly or indirectly, and interpreted by a radiologist, cardiologist, non-radiologist practitioner or other qualified specialist. R.R.A.s and R.P.A.s may issue a preliminary report; however, the final report must be issued by their supervising radiologist.

(8) Written procedures for fluoroscopic X-ray equipment operators shall be available at the worksite and include:

(a) A list of all individuals who are permitted to operate fluoroscopic X-ray equipment at the facility;

(b) A list of the fluoroscopic X-ray equipment that each operator is qualified to operate;

(c) Written procedures regarding the set up and operation of each fluoroscopic X-ray machine registered to the facility;

(d) Written radiation safety procedures pertaining to the use and operation of fluoroscopy; and

(e) The name and title of the individual who is responsible for overseeing the fluoroscopy program.

(9) Facilities shall determine, or cause to be determined, the typical patient entrance exposure rate for their most common fluoroscopic examinations. The determination shall be made using an attenuation block as described in OAR 333-106-0005(7) using measurement protocol in compliance with OAR 333-106-0210 and expressed in Roentgens per minute (R/min.) or milliRoentgens per minute (mR/min.). In addition, these entrance exposure rates shall be posted in the room where fluoroscopic examinations are conducted so that they are readily available to administrators, X-ray operators, patients and practitioners.

(10) Facilities that utilize fluoroscopy shall maintain a record of the cumulative fluoroscopic exposure time used for each examination. The



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record must indicate the patient's name, the type of examination, the date of the examination, the fluoroscopist's name, the fluoroscopic room in which the examination was done and the total cumulative fluoroscopic on-time for each fluoroscopic examination and:

(a) Established cumulative fluoroscopic on-time benchmarks for at least two (if applicable) of the most common types of fluoroscopic examinations performed at the facility's site in each of the following categories:

- (A) Routine procedures performed on adults;
- (B) Routine procedures performed on children;
- (C) Orthopedic procedures performed in surgery;
- (D) Urologic procedures performed in surgery;
- (E) Angiographic procedures performed; and
- (F) Interventional cardiac studies.

(b) Develop and perform periodic (not to exceed 12 month intervals) quality assurance studies to determine the status of each individual fluoroscopist's cumulative on-time in relation to the fluoroscopic benchmarks established for individual fluoroscopic examinations;

(c) Take appropriate action when the established benchmarks are consistently exceeded. The Radiation Safety Committee (RSC) must review the results of the cumulative fluoroscopic on-time Quality Assurance Study and take corrective action regarding those individuals who have exceeded the benchmarks established by the facility for a particular procedure more than 10 percent of the total times the individual performed the procedure during the study period. Documentation of the RSC review, as well as any corrective actions taken, must be available for Authority review. Corrective actions, at a minimum, include:

(A) Notification of the individual; and

(B) Recommendation that the individual undergo additional coaching and training in the safe use of fluoroscopic equipment in order to assist them in reducing their cumulative fluoroscopic on-times.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; PH 32-2014, f. 12-22-14, cert. ef. 1-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-106-0325

### Intraoral Dental Radiographic Systems

In addition to the provisions of OAR 333-106-0010 through 333-106-0101, the requirements of this rule apply to X-ray equipment and facilities where intraoral dental radiography is conducted. Requirements for extraoral dental radiographic systems are covered in OAR 333-106-0301 through 333-106-0320. Intraoral dental radiographic systems must meet the following requirements:

(1) Source-to-Skin Distance (SSD). X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance, to not less than 18cm.

(2) Beam Limitation. Radiographic systems designed for use with an intraoral image receptor shall be provided with means to limit the X-ray beam such that:

(a) If the minimum source-to-skin distance (SSD) is 18 centimeters or more, the X-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than seven centimeters; or

(b) If the minimum SSD is less than 18 centimeters, the X-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than six centimeters.

(3) Radiation Exposure Control (Timers). Means shall be provided to control the radiation exposure through the adjustment of exposure time in seconds, milliseconds (ms) or, number of pulses, or current/milliamps (mA), or the product of current and exposure time (mAs) or adjustment of kVp. In addition:

(a) Exposure Initiation. Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure shall not be initiated without such an action; and

(b) It shall not be possible to make an exposure when the timer is set to a "0" or "off" position if either position is provided;

(c) Exposure Indication. Means shall be provided for visual indication, observable at or from the operator's protected position, whenever X-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(d) Timer Reproducibility. With a timer setting of 0.5 second or less, the average exposure time (T) shall be greater than or equal to five times the minimum exposure time (Tmax) minus the minimum exposure time (Tmin) when four timer tests are performed:  $(T) > 5(T_{max} - T_{min})$ .

(A) Means shall be provided to terminate the exposure at a preset, time interval, mAs, number of pulses, or radiation to the image receptor.

(B) An X-ray exposure control shall be incorporated into each system such that an exposure can be terminated by the operator at any time, except for exposures of 0.5 second or less.

(C) Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "0".

(4) Radiation Exposure Control Location and Operator Protection. Each X-ray control must be located in such a way as to meet the following requirements:

(a) The exposure switch shall be able to be operated in a protected area, as defined in OAR 333-106-0005(77), and the operator shall remain in that protected area during the entire exposure; and

(b) The operator's protected area shall provide visual indication of the patient during the X-ray procedure.

(c) Mobile and portable X-ray systems which are:

(A) Used for greater than one week in the same location, such as a room or suite, shall meet the requirements of subsections (4)(a) and (4)(b) of this rule.

(B) Used for less than one week at the same location, such as a room or suite, shall be provided with:

(i) Either a protective barrier of at least 6.5 feet (2 meters) high for operator protection; or

(ii) A means to allow the operator to be at least nine feet (2.7 meters) from the tube housing assembly while making exposures; or

(iii) A full length protective apron, of not less than 0.25 millimeter lead equivalent for operator protection, when using a hand-held dental intraoral X-ray machine.

(5) Exposure Reproducibility. The coefficient of variation shall not exceed 0.05 when all technique factors are held constant. This requirement shall be deemed to have been met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (Emax) minus the minimum exposure (Emin):  $E > 5(E_{max} - E_{min})$

(6) Accuracy.

(a) Deviation of technique factors from the indicated values for kVp and exposure time (if time is independently selectable) shall not exceed the limits specified for that system by its manufacturer.

(b) kVp Limitations. Dental X-ray machines with a nominal fixed kVp of less than 55 kVp shall not be used to make diagnostic dental radiographs on humans.

(7) Administrative Controls.

(a) Patient and film holding devices shall be used when the techniques permit;

(b) The tube housing and the PID shall not be hand held during an exposure;

(c) The X-ray system shall be operated in such a manner that the useful beam at the patient's skin does not exceed the requirements of section (2) of this rule or its updated version;

(d) Dental fluoroscopy without image intensification shall not be used; and

(e) Pointed cones shall not be utilized unless specific authorization has been granted by the Authority.

(8) Hand-held X-ray systems.

(a) Registrants must provide for security and safe storage while not in use. A report must be filed with the Authority within 72 hours if the hand-held unit is lost or stolen.

(b) The image receptor used with hand-held dental X-ray systems must either be:

(A) A speed class of intra-oral film designated as "E/F", "F" or faster; or

(B) A digitally acquired image (CR or DR).

(c) The hand-held X-ray system must be equipped with a permanently attached backscatter shield of 0.25 mm Pb equivalent.

(d) The backscatter shield must be designed to appropriately protect the operator during an exposure. The manufacturer of the hand-held unit must provide documentation to the Authority of the design specifications of the backscatter shield's protection to the operator prior to sale and distribution in the State of Oregon.

(e) The hand-held unit must be capable of a minimum of 60 kVp and 2.0 mA.

(f) Hand-held units not meeting the requirements of subsections (8)(c), (8)(d) and (8)(e) of this rule may not be sold, distributed or used in the State of Oregon.

(9) Hand-held dental X-ray administrative controls.

(a) The hand-held unit shall not be used for patient examinations in hallways and waiting rooms.

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(b) The unit can only be operated in an enclosed room when possible. All individuals except the X-ray operator and the patient must leave the room and stand behind a protective barrier or be at least six feet from the X-ray source if a protective barrier is not available during radiographic exposures.

(c) Operators must complete machine specific applications training as described in OAR 333-106-0055(9) before using a hand-held unit. Training on the safe use of the unit shall be documented and include at a minimum:

(A) Proper positioning of the unit to ensure an adequate protected position;

(B) Limitations on the use of position indicating devices that require longer distances to the patient's face;

(C) Diagrams such as drawings, illustrations, or schematics of protected position and location in relationship to the unit;

(D) Diagrams such as drawings, illustrations, or schematics of the effect of improper distance or removal of shielding device; and

(E) Diagrams such as drawings, illustrations, schematics of common examples of improper positioning of the unit and or location of the operator.

(d) An appropriate receptor holder must be used during the X-ray exposure.

(e) A PID must be used during the X-ray exposure.

(f) A hand-held unit shall be held without any motion during a patient examination. A tube stand may be utilized to immobilize the hand-held unit during a patient examination.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13; PH 24-2014, f. & cert. ef. 8-15-14; PH 32-2014, f. 12-22-14, cert. ef. 1-1-15; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-106-0710

### Equipment Standards

Only x-ray systems meeting the design and performance standards required under Mammography Quality Standards Act (MQSA) shall be used, unless otherwise specified in the following rules.

(1) System design. The x-ray system shall be specifically designed for mammography.

(2) Image receptor.

(a) Image receptor systems shall be specifically designed, or appropriate for mammography.

(b) Systems using screen-film image receptors shall provide, at a minimum, image receptor sizes of 18 X 24 and 24 X 30 cm.

(c) An adequate number of image receptors shall be provided to accommodate the resting period recommended by the manufacturer.

(3) Target/filter. The x-ray system shall have the capability of providing kVp/target/filter combinations compatible with image receptor systems meeting the following requirements;

(a) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

(b) When more than one target is provided, the system shall indicate, prior to exposure, the preselected target material.

(c) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after exposure, the target material and/or focal spot actually used during the exposure.

(4) Beam quality: When used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam shall have a minimum half-value layer (HVL). The minimum HVL, for mammography equipment designed to operate below 50 kVp, is determined by dividing the actual kVp by 100, and is expressed in mm Al equivalent.

(5) Resolution: Until October 28, 2002, focal spot condition shall be evaluated either by determining system resolution or by measuring focal spot dimensions. After October 28, 2002, facilities shall evaluate focal spot condition only by determining system resolution.

(a) Each x-ray system used for mammography, in combination with the mammography screen-film combination used, shall provide a minimum resolution of 11 Cycles/mm (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.

(b) The bar pattern shall be placed 4.5 cm above the image receptor support surface, centered with respect to the chest wall edge of the image

receptor, and with the edge of the pattern within 1 cm of the chest wall edge of the image receptor.

(6) Compression.

(a) All mammography systems shall incorporate a compression device capable of compressing the breast with a force of at least 25 pounds.

(b) Effective October 28, 2002, the maximum compression force for the initial power drive shall be between 25 pounds and 45 pounds.

(c) All mammography systems shall be equipped with different sized compression paddles that match the sizes of all full field image receptors provided for the system. The compression paddle shall:

(A) Be flat and parallel to the image receptor support and shall not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied. If the compression paddle is not designed to be flat and parallel to the image receptor support during compression, it shall meet the manufacturer's design specifications and maintenance requirements;

(B) Have a chest wall edge that is straight and parallel to the edge of the image receptor support;

(C) Clearly indicate the size and available positions of the detector at the x-ray input surface of the compression paddle;

(D) Not extend beyond the chest wall edge of the image receptor support by more than 1 percent of the SID when tested with the compression paddle placed above the support surface at a distance equivalent to a standard breast thickness;

(E) Shall not be visible, at its vertical edge, on the image.

(d) When equipped with a compression paddle height digital display, the display shall accurately represent the actual height of the compression paddle to within +/- 0.5 cms. Testing shall be performed according to manufacturer's specifications.

(7) System capabilities. A mammographic x-ray system utilizing screen-film image receptors shall:

(a) Be equipped with moving grids matched to all image receptor sizes provided.

(b) Provide an AEC mode that is operable in all combinations of equipment configuration provided, e.g., grid, non-grid, magnification; and various target-filter combinations.

(A) The automatic exposure control shall be capable of maintaining film optical density (OD) within +0.30 of the mean optical density when thicknesses of a homogeneous material are varied over a range of 2 to 6 cms and the kVp is varied appropriately for such thicknesses over the kVp range used clinically. If this requirement cannot be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different thicknesses and compositions that must be used so that optical densities within + 0.30 of the average under photo-timed conditions can be produced.

(B) After October 28, 2002, the AEC shall be capable of maintaining film optical density (OD) to within + 0.15 of the mean optical density when thicknesses of a homogeneous material are varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically.

(8) Breast entrance kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.

(9) Collimation.

(a) All mammography systems shall have beam-limiting devices that allow the entire chest wall edge of the x-ray field to extend to the chest wall edge of the image receptor and provide means to assure that the X-ray field does not extend beyond any edge of the image receptor by more than 2 percent of the SID. Under no circumstances, shall the x-ray field extend beyond the non-chest wall edges of the image receptor support.

(b) The total misalignment of the edges of the visually defined light field with the respective edges of the X-ray field either along the length or width of the visually defined field shall not exceed 2 percent of the SID.

(10) Kilovoltage peak (kVp) accuracy and reproducibility;

(a) The kVp, shall be accurate within + 5 percent of the indicated or selected kVp at the lowest clinical kVp that can be measured by a kVp test device, and the most commonly used, and highest available clinical kVp; and

(b) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.

(11) Dose. The average glandular dose delivered during a single cranio-caudal view of an FDA accepted phantom simulating a standard breast, shall not exceed 250 millirad (mRad) (2.5 milliGy). The dose shall be determined with technique factors and conditions used, by the registrant,

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clinically for a standard breast. The testing protocol used shall be the same as used by MQSA.

(a) If the average glandular dose exceeds 250 mRad (2.5 milliGray) but is no greater than 275 mRad (2.75 milliGray), patient mammography may be continued until the cause of the problem is determined and corrected. Correction must be completed within 30 working days of when the registrant became aware of the problem. If correction has not been completed within 30 working days, and the registrant has not requested an extension in writing from the Authority, patient mammography must cease until correction of the dose problem has occurred.

(b) If the average glandular dose exceeds 275 mRad (2.5 milliGray), patient mammography must cease until the cause of the dose problem is determined and corrected.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-116-0020

### Definitions

As used in this division, the following definitions apply:

(1) "Address of use" means the building or buildings identified on the license as the location(s) where radioactive material may be received, used, or stored.

(2) "Area of use" means location(s) at the address of use set aside for the purpose of receiving, using or storing radioactive material.

(3) "Attestation" means required training, experience and appropriate board certification is validated using the Nuclear Regulatory Commission's form 313A.

(4) "Authorized Medical Physicist" means an individual who:

(a) Meets the requirements in OAR 333-116-0730, or 333-116-0905 and 333-116-0760; or

(b) Is identified as an authorized medical physicist or teletherapy physicist on:

(A) A specific medical use license issued by the Authority or an Agreement State or the US Nuclear Regulatory Commission;

(B) A medical use permit issued by a Commission master material licensee;

(C) A permit issued by a Commission or Agreement State broad scope medical use licensee; or

(D) A permit issued by a Commission master material license broad scope medical use permittee.

(5) "Authorized nuclear pharmacist" means a pharmacist who:

(a) Meets the requirements in OAR 333-116-0910 and 333-116-0915;

(b) Is identified as an authorized nuclear pharmacist on an Authority, Agreement State, or U.S. Nuclear Regulatory Commission license that authorizes the use of radioactive material in the practice of nuclear pharmacy;

(c) Is identified as an authorized nuclear pharmacist on a license issued by an Authority, Agreement State, or U.S. Nuclear Regulatory Commission specific licensee of broad scope that is authorized to permit the use of radioactive material in the practice of nuclear pharmacy; or

(d) Is approved as an authorized nuclear pharmacist by a nuclear pharmacy licensed (authorized) by the Authority, the U.S. Nuclear Regulatory Commission, or an Agreement State to approve authorized nuclear pharmacists.

(6) "Authorized user" means a physician, dentist or podiatrist who:

(a) Meets the requirements listed in OAR 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0690, 333-116-0700, 333-116-0710, 333-116-0720, and 333-116-0740;

(b) Is identified as an authorized user on an Authority, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(c) Is identified as an authorized user on a permit issued by an Authority, Agreement State, or U.S. Nuclear Regulatory Commission licensee of broad scope that is authorized to permit the medical use of radioactive material.

(7) "Black Box" means the radiopharmaceutical production purification system used in a PET facility.

(8) "Brachytherapy" means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal, or interstitial application.

(9) "Brachytherapy source" means an individual sealed source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose of radiation within a few centime-

ters, by surface, intracavitary, or interstitial application that is not designed to be disassembled by the user.

(10) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years. This source may also be used for other purposes.

(11) "Dental use" means the intentional external administration of the radiation from radioactive material to human beings in the practice of dentistry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(12) "Dentist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

(13) "Diagnostic clinical procedures manual" means a collection of written procedures that describes each method (and other instructions and precautions) by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

(14) "High dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate in excess of two gray (200 rad) per hour, to the point or surface where the dose is prescribed.

(15) "Human Research Subject" means a living person that an authorized user, conducting research, obtains data resulting from the intentional internal or external administration of radioactive material, or the radiation from radioactive material, to the individual. For the purpose of these rules, unless otherwise noted, the term patient applies to a human research subject.

(16) "Low dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate of less than two gray (200 rad) per hour, to the point or surface where the dose is prescribed.

(17) "Management" means the chief executive officer or that individual's designee.

(18) "Manual Brachytherapy", as used in this part, means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed on, or in close proximity, to the treatment site or inserted directly into the tissue volume.

(19) "Medical Event" means an event where a patient or human research subject: (a) Receives a dose that differs from the prescribed dose by:

(A) The total dose delivered differs from the prescribed dose by 20 percent or more; or

(B) The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or

(C) The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more; or

(D) A dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; or

(E) An administration of a wrong radiopharmaceutical drug containing radioactive material; or

(F) An administration of a radiopharmaceutical drug containing radioactive material by the wrong route of administration; or

(G) An administration of a dose or dosage to the wrong individual or human research subject; or

(H) An administration of a dose or dosage delivered by the wrong mode of treatment; or

(I) A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

(b) An event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician shall be considered as a medical event.

(c) A leaking sealed source shall be considered as a medical event.

(20) "Medical institution" means an organization in which more than one medical discipline is practiced.

(21) "Medical use" means the intentional internal or external administration of radioactive material, or the radiation from radioactive material to patients or human research subjects under the supervision of an authorized user.

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(22) “Ministerial change” means a change that is made, after ascertaining the applicable requirements, by persons in authority in conformance with the requirements and without making a discretionary judgment about whether those requirements should apply in the case at hand.

(23) “Mobile nuclear medicine service” means the transportation and medical use of radioactive material.

(24) “Nuclear Pharmacist” means an authorized nuclear pharmacist, as defined in OAR 333-116-0020, who has received additional training, pursuant to OAR 333-116-0910 and 333-116-0915 in the management and handling of radiopharmaceutical drugs and is authorized by license to receive, use, transfer, and dispose of such radiopharmaceutical drugs.

(25) “Output” means the exposure rate, dose rate or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

(26) “Patient Intervention” means actions taken by a patient or human research subject, whether intentional or unintentional, interrupt or terminate the administration of radioactive materials or radiation.

(27) “PET” means Positron Emission Tomography.

(28) “PET Isotope Nuclear Pharmacy” means a licensed facility that compounds radiopharmaceuticals using positron emitting isotopes for use at licensed medical facilities.

(29) “PET cyclotron facility” means a facility that manufactures short-lived radioisotopes for use in compounding radiopharmaceuticals at a PET Isotope Nuclear Pharmacy.

(30) “PET Medical Facility” means a clinical nuclear medicine facility that utilizes positron-emitting isotopes for diagnostic imaging.

(31) “Pharmacist” means an individual licensed by a state or territory of the United States, The District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(32) “Physician” means a medical doctor or doctor of osteopathy licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

(33) “Podiatric use” means the intentional external administration of the radiation from byproduct material to human beings in the practice of podiatry in accordance with a license issued by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(34) “Podiatrist” means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

(35) “Positron Emission Tomography (PET) facility” means a facility comprised of an accelerator that produces positron-emitting isotopes, a radiopharmacy that specializes in preparation of PET radiopharmaceuticals, and/or a clinic that uses PET isotopes for medical diagnostic purposes.

(36) “Preceptor” means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a Radiation Safety Officer. The preceptor must have previously met all of the applicable requirements and be so named on a radioactive materials license issued by the Authority, the Nuclear Regulatory Commission, an Agreement State or licensing state.

(37) “Prescribed dosage” means the specified activity or range of activity of a radiopharmaceutical or radioisotope as documented:

(a) In a written directive; or

(b) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

(38) “Prescribed dose” means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive;

(c) For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(d) For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

(39) “Pulsed dose-rate remote afterloader” means a special type of remote afterloading device that uses a single source capable of delivering dose rates in the “high dose rate” range, but is used to simulate the radiobiology of a low dose rate treatment by inserting the source for a given fraction of each hour.

(40) “Radiation Safety Officer” means an individual who:

(a) Meets the requirements in OAR 333-116-0640, 333-116-0650, 333-116-0740 and 333-116-0760; or

(b) Is identified as a Radiation Safety Officer on:

(A) A specific medical use license issued by the Nuclear Regulatory Commission or Agreement State; or

(B) A medical use permit issued by a Nuclear Regulatory Commission master material licensee.

(41) “Recordable Event” (See Medical Event).

(42) “Sealed source” means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(43) “Stereotactic Radiosurgery” means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose to a tissue volume.

(44) “Structured educational program” means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

(45) “Teletherapy” means therapeutic irradiation in which the source of radiation is at a distance from the body.

(46) “Teletherapy physicist” means the individual identified as the qualified teletherapy physicist on an Authority license.

(47) “Therapeutic Dosage” means a dosage of unsealed byproduct material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

(48) “Therapeutic Dose” means a radiation dose delivered from a source containing byproduct material to a patient or human research subject for palliative or curative treatment.

(49) “Treatment site” means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

(50) “Unit dosage” means a dosage intended for medical use in a single patient or human research subject that has been obtained from a manufacturer or preparer licensed by the Authority as a nuclear pharmacy.

(51) “Visiting authorized user” means an authorized user who is not identified on the license of the licensee being visited.

(52) “Written directive” means an order in writing for a specific patient, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in OAR 333-116-0125(1)(e), containing the following information:

(a) For any administration of quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131: the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;

(d) For teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;

(e) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: the radioisotope, number of sources, and source strengths; and

(B) After implantation but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-116-0125

### Quality Management Program

(1) Each applicant or licensee under this division, as applicable, must establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material will be administered as directed by the authorized user. The quality management program must include written policies and procedures to meet the following specific objectives:

(a) That, prior to administration, a written directive (see NOTE below) is prepared for:

(A) Any teletherapy radiation dose;

(B) Any gamma stereotactic radiosurgery radiation dose;

(C) Any brachytherapy radiation dose;

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(D) Any administration of quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131; or

(E) Any therapeutic administration of a radiopharmaceutical, other than sodium iodide I-125 or I-131;

(b) That, prior to each administration, the patient's identity is verified by more than one method as the individual named in the written directive;

(c) That final plans of treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery are in accordance with the respective written directives;

(d) That each administration is in accordance with the written directive; and

(e) That any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

NOTE: If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision. Also, a written revision to an existing written directive may be made for any diagnostic or therapeutic procedure provided that the revision is dated and signed by an authorized user prior to the administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next teletherapy fractional dose. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, provided that the information contained in the oral directive is documented immediately in the patient's record and a written directive is prepared within 24 hours of the oral directive.

(2) The licensee shall:

(a) Develop procedures for and conduct a review of the quality management program including, since the last review, an evaluation of:

(A) A representative sample of patient administrations,

(B) All recordable events, and

(C) All medical events to verify compliance with all aspects of the quality management program; these reviews shall be conducted at intervals no greater than 12 months;

(b) Evaluate each of these reviews to determine the effectiveness of the quality management program and, if required, make modifications to meet the objectives of subsection (2)(a) of this rule; and

(c) Retain records of each review, including the evaluations and findings of the review, in an auditable form for three years.

(3) The licensee shall evaluate and respond, within 30 days after discovery of the recordable event, to each recordable event by:

(a) Assembling the relevant facts including the cause;

(b) Identifying what, if any, corrective action is required to prevent recurrence; and

(c) Retaining a record, in an auditable form, for five years or until inspected by the Authority, of the relevant facts and what corrective action, if any, was taken.

(4) The licensee shall retain:

(a) Each written directive; and

(b) A record of each administered radiation dose or radiopharmaceutical dosage where a written directive is required in subsection (1)(a) of this rule, in an auditable form, for five years, or until inspected by the Authority, after the date of administration.

(5) The licensee may make modifications to the quality management program to increase the program's efficiency provided the program's effectiveness is not decreased. The licensee shall furnish the modification to the Authority within 30 days after the modification has been made.

(6) Each applicant for a new license, as applicable, shall submit to the Authority in accordance with OAR 333-102-0190 a quality management program as part of the application for a license and implement the program upon issuance of the license by the Authority.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-116-0640

### Radiation Safety Officer Training and Experience Requirements

Except as provided in OAR 333-116-0740, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in OAR 333-116-0090 to be an individual who:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in sections (4) and (5) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State are posted on the NRC's webpage.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a)(A) Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;

(B) Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and

(C) Pass an examination administered by diplomats of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or

(b)(A) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(B) Have two years of full-time practical training and supervised experience in medical physics:

(i) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(ii) In clinical nuclear medicine facilities providing diagnostic and therapeutic services under the direction of physicians who meet the requirements for authorized users in OAR 333-116-0670, 333-116-0680 or 333-116-0740;

(C) Pass an examination, administered by diplomats of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or

(2) Has completed a structured educational program consisting of 200 hours of classroom and laboratory training as follows:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology;

(e) Radiopharmaceutical chemistry;

(f) Radiation dosimetry; and

(g) One year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on an Authority, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes similar type(s) of medical use of radioactive material involving the following:

(A) Shipping, receiving, and performing related radiation surveys;

(B) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;

(C) Securing and controlling byproduct material;

(D) Using administrative controls to avoid mistakes in the administration of byproduct material;

(E) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;

(F) Using emergency procedures to control byproduct material; and

(G) Disposing of radioactive material; or

(3)(a) Is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State under OAR 333-116-0905(1) and has experience in radiation safety for similar types of use of byproduct material for which the licensee is seeking the approval of the individual as Radiation Safety Officer and who meets the requirements in sections (4) and (5) of this rule; or

(b) Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of byproduct material for which the individual has Radiation Safety Officer responsibilities; and

(4) Has obtained written attestation, signed by a preceptor Radiation Safety Officer, that the individual has satisfactorily completed the requirements in section (5) and in paragraphs (1)(a)(A) and (1)(b)(B) or paragraphs (1)(b)(A) and (1)(b)(B) or section (2), or subsections (3)(a) or (3)(b) of this rule, and has achieved a level of radiation safety knowledge suffi-

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cient to function independently as a Radiation Safety Officer for a medical use licensee; and

(5) Has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-116-0720

### Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

Except as provided in OAR 333-116-0740, the licensee must require the authorized user of a sealed source specified in OAR 333-116-0480 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission (NRC) or an Agreement State and who meets the requirements in subsection (2)(c) and section (3) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State are posted on the NRC's webpage.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomats of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders and external beam therapy; or

(2) Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit:

(a) Which includes the following:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology; and

(B) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0720, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements at a medical institution, involving:

(i) Reviewing full calibration measurements and periodic spot-checks;

(ii) Preparing treatment plans and calculating treatment doses and times;

(iii) Using administrative controls to prevent a medical event involving the use of byproduct material;

(iv) Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;

(v) Checking and using survey meters; and

(vi) Selecting the proper dose and how it is to be administered; and

(b) Has completed three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in OAR 333-116-0720, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (2)(a)(B) of this rule; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (1)(a) or (2)(a) and (2)(b), and section (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user

status. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0720, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

(3) Has received training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-116-0905

### Training for Authorized Medical Physicist

Except as provided in OAR 333-116-0740, the licensee shall require the authorized medical physicist to be an individual who:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in subsection (2)(b) and section (3) of this rule. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(b) Have two years of full-time practical training and supervised experience in medical physics:

(A) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(B) In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to one million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in OAR 333-116-0740, 333-116-0690 or 333-116-0720; and

(c) Pass an examination, administered by diplomats of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or

(2) Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization.

(a) This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to one million electron volts) and brachytherapy services and must include:

(A) Performing sealed source leak tests and inventories;

(B) Performing decay corrections;

(C) Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(D) Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(b) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (1)(a) and (1)(b) of this rule, or subsection (2)(a) and section (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this rule, OAR 333-116-0740, 333-116-0905, or equivalent Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

(3) Has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical

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use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 4-2013, f. & cert. ef. 1-29-13; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-116-0910

### Training for an Authorized Nuclear Pharmacist

Except as provided in OAR 333-116-0740, the licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in subsection (2)(b) of this rule. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Have graduated from a pharmacy program accredited by the American Council on Pharmaceutical Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

(b) Hold a current, active license to practice pharmacy;

(c) Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and

(d) Pass an examination in nuclear pharmacy administered by diplomats of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or

(2)(a) Has completed 700 hours in a structured educational program consisting of both:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use; and

(v) Radiation biology; and

(B) Supervised practical experience in a nuclear pharmacy involving:

(i) Shipping, receiving, and performing related radiation surveys;

(ii) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;

(iii) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(iv) Using administrative controls to avoid medical events in the administration of byproduct material; and

(v) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and

(b) Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsections (1)(a), (1)(b), and (1)(c) or (2)(a) of this rule and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-116-1000

### Report and Notification of a Medical Event

(1) A licensee must report any medical event as defined in OAR 333-116-0020(19), except for an event that results from patient intervention..

(2) The licensee must notify by telephone the Authority no later than the next calendar day after discovery of the medical event.

(3) The licensee must submit a written report to the Authority within 15 days after discovery of the medical event.

(a) The written report must include:

(A) The licensee's name;

(B) The name of the prescribing physician;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect, if any, on the individual(s) who received the administration;

(F) What actions, if any, have been taken or are planned to prevent recurrence; and

(G) Certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

(b) The report may not contain the individual's name or any other information that could lead to identification of the individual.

(4) The licensee must provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee must notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this rule, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee must inform the individual, or appropriate responsible relative or guardian that a written description of the event can be obtained from the licensee upon request. The licensee must provide such a written description if requested.

(5) Aside from the notification requirement, nothing in this section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-125-0060

### Initial Investigation

(1) Before allowing an individual unescorted access to materials and devices containing category 1 or category 2 radioactive materials, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation must encompass at least the seven years preceding the date of the background investigation or since the individual's 18th birthday, whichever is shorter.

(2) The background investigation must include at a minimum:

(a) Fingerprinting and an FBI identification and criminal history records check in accordance with OAR 333-125-0075 through 333-125-0080;

(b) Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to verify that the applicant is who he or she claims to be. A licensee shall review official identification documents such as driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth and compare the documents to personal information data provided by the individual to identify any discrepancy in the information.

(A) Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with OAR 333-125-0090; and

(B) Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection.

(c) Employment history verification. Licensees shall complete employment and military history verification. Licensees shall verify the individual's employment with each previous employer for the most recent seven years before the date of application.

(d) Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period.

(e) Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent

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household. Reference checks under this division must be limited to whether the individual has been and continues to be trustworthy and reliable.

(A) The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual such as seeking references not supplied by the individual; and

(B) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at the least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness or inability in the record of investigation; and attempt to obtain the information from an alternate source.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.635

Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-125-0100

### Security Program

(1) Applicability: Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements outlined in this rule through OAR 333-125-0155.

(a) An applicant for a new license and each licensee that becomes newly subject to the requirements of OAR 333-125-0100 through 333-125-0155 upon application for modification of its license shall implement the requirements of OAR 333-125-0100 through 333-125-0155 as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.

(b) Any licensee that has not previously implemented the Security Orders or been subject to the provisions OAR 333-125-0100 through 333-125-0155 shall provide written notification to the Authority at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

(2) General performance objective: Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.

(3) Program features: Each licensee's security program must include the program features, as appropriate, described in OAR 333-125-0105 through 333-125-0150.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.635

Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-125-0120

### Security Program, Protection of Information

(1) Except as provided in section (9) of this rule, licensees authorized to possess category 1 or category 2 quantities of radioactive material shall secure from public disclosure and limit access to their security and implementation plans, and the list of individuals that have been approved for unescorted access.

(2) Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of the security and implementation plans.

(3) Before granting an individual access to the security plan or implementation plans, the licensee shall:

(a) Evaluate an individual's need to know of the security or implementation plans; and

(b) If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in OAR 333-125-0060(2)(b) through (2)(e)(B).

(4) Licensees need not subject the following individuals to the background investigation elements for protection of information:

(a) The categories of individuals listed in OAR 333-125-0085(1)(a) through (m); or

(b) Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in OAR 333-125-0060(2)(b) through (2)(e)(B) has been provided by the security service provider.

(5) The licensee shall document the basis for concluding that an individual is trustworthy and reliable and allowed access to the security and implementation plans.

(6) Licensees shall maintain a list of persons currently approved for access to the security and implementation plans. When a licensee determines that a person no longer needs access to the security and implementation plans, or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementation procedures.

(7) When not in use, the licensee shall store its security and implementation plans in a manner to prevent unauthorized access. Information stored in non-removable electronic form must be password protected.

(8) The licensee shall retain as a record for three years after the document is no longer needed:

(a) A copy of the information protection procedures; and

(b) The list of individuals approved for access to the security plan or implementing procedures.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.635

Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

## 333-125-0180

### Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

(1) As specified in sections (1) and (2) of this rule, each licensee shall provide advance notification to the Authority and the Governor of a state, or the Governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the state, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

(a) Procedures for submitting advance notification. The notification must be made to the Authority and to the office of each appropriate Governor or Governor's designee. The contact information, including telephone and mailing addresses, of Governors and Governors' designees, is available on the NRC's website at <https://scp.nrc.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Material Safety, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.(b) A notification delivered by mail must be postmarked at least seven days before transport of the shipment commences at the shipping facility.

(c) A notification delivered by any means other than mail must reach NRC at least four days before the transport of the shipment commences and must reach the office of the Governor or the Governor's designee at least four days before transport of a shipment within or through the state.

(2) Information to be furnished in advance notification of shipment. Each advance notification of shipment of category 1 quantities of radioactive material must contain the following information, if available at the time of notification:

(a) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;

(b) The license numbers of the shipper and receiver;

(c) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;

(d) The point of origin of the shipment and the estimated time and date that shipment will commence;

(e) The estimated time and date that the shipment is expected to enter each state along the route;

(f) The estimated time and date of arrival of the shipment at the destination; and

(g) A point of contact, with a telephone number, for current shipment information.

(3)(a) Revision notice. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the Governor of the state or the Governor's designee and to the Authority.

(b) A licensee shall promptly notify the Governor of the state or the Governor's designee of any changes to the information provided in accordance with sections (2) and (3) of this rule. The licensee shall also immediately notify the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 of any such changes.



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(4) Cancellation notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the Governor of each state or to the Governor's designee previously notified and to the Authority. The licensee shall send the cancellation notice before the shipment has commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.

(5) Records. The licensee shall retain a copy of the advance notification, any revision and cancellation notices as a record for three years after the notification has been made.

(6) Protection of information. State officials, state employees, and other individuals, whether or not licensees of the U.S Nuclear Regulatory Commission or an Agreement State, who receive schedule information of the kind specified in section (2) of this rule shall protect that information against unauthorized disclosure.

Stat. Auth.: ORS 453.635  
Stats. Implemented: ORS 453.635  
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15; PH 25-2016, f. 8-26-16, cert. ef. 9-1-16

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**Rule Caption:** Operations of a registered dispensary and transfers to a registered dispensary

**Adm. Order No.:** PH 26-2016(Temp)

**Filed with Sec. of State:** 9-9-2016

**Certified to be Effective:** 9-9-16 thru 3-7-17

**Notice Publication Date:**

**Rules Amended:** 333-008-1200, 333-008-1230

**Subject:** The Oregon Health Authority, Public Health Division, Oregon Medical Marijuana Program is temporarily amending administrative rules in chapter 333, division 8. With the passage of HB 3400 (Oregon Laws 2015, chapter 614) in the 2015 legislative session, the Legislature directed the Oregon Health Authority to establish rules and a registration system for medical marijuana processors. The application process for processors opened on April 1, 2016. Processors were required to be fully registered by October 1, 2016. The Oregon Health Authority is temporarily amending Oregon Administrative Rules (OAR) 333-008-1200 and 333-008-1230 to move the required registration date to January 1, 2017 to allow more time for processors to become registered while not recreating a lack of products for medical marijuana patients to purchase from dispensaries. As a result, the date that dispensaries will be required to be licensed for food safety by the Oregon Department of Agriculture will be moved from October 1, 2016 to January 1, 2017.

**Rules Coordinator:** Brittany Sande—(971) 673-1291

## 333-008-1200

### Operation of Registered Dispensaries

(1) Policies and Procedures. In order to obtain a registration and to retain registration a dispensary registrant must have written detailed policies and procedures and training for employees on the policies and procedures that, at a minimum, cover the following:

- (a) Security;
- (b) Transfers of marijuana items to and from the dispensary;
- (c) Operation of a registered dispensary;
- (d) Required record keeping;
- (e) Testing requirements;
- (f) Packaging and labeling requirements;
- (g) Employee training;
- (h) Compliance with these rules, including but not limited to violations and enforcement; and

(i) Roles and responsibilities for employees and PRDs in assisting the Authority during inspections or investigations.

(2) Employees. A registered dispensary may employ an individual between the ages of 18 and 20 if the individual is a patient. Otherwise, dispensary employees must be 21 years of age or older.

(3) Standardized Scales. In order to obtain a registration and to retain registration a dispensary registrant must own, maintain on the premises and use a weighing device that is licensed by the Oregon Department of Agriculture. Licensed weighing devices must be used by a registered dispensary whenever marijuana items are:

- (a) Transferred to or from the dispensary and the transfer is by weight;
- (b) Packaged for transfer by weight; or
- (c) Weighed for purposes of documenting information required in

OAR 333-008-1230, 333-008-1245, 333-008-1247 and 333-008-1248.

(4) Inventory Tracking and Point of Sale System: In order to obtain a registration and to retain registration a registered dispensary must have an installed and fully operational integrated inventory tracking and point of sale system that can and does, at a minimum:

(a) Produce bar codes or similar unique identification numbers for each marijuana item lot transferred to a registered dispensary;

(b) Trace back or link each transfer of a marijuana item to a patient or caregiver to the marijuana item lot;

(c) Capture all information electronically that is required to be documented in OAR 333-008-1230 and 333-008-1245;

(d) Generate inventory, transaction, and transfer reports viewable in excel format; and

(e) Produce all the information required to be submitted to the Authority pursuant to OAR 333-0080-1248.

(5) Online Verification of Registration Status. A dispensary must verify an individual's registration status with the Authority when receiving or making the transfer of a marijuana item if the Authority has available an online system for such verification.

(6) Inventory On-Site. Marijuana items must be kept on-site at the dispensary. The Authority may take enforcement action against a dispensary registrant if during an inspection a dispensary registrant cannot account for its inventory or if the amount of usable marijuana at the registered dispensary is not within five percent of the documented inventory.

(7) Testing. On and after October 1, 2016, a dispensary registrant may not:

(a) Accept a transfer of a marijuana item that has not been tested in accordance with OAR 333-007-0300 to 333-007-0490.

(b) Transfer a marijuana item that has not been tested in accordance with OAR 333-007-0300 to 333-007-0490 unless it is labeled in accordance with OAR 333-007-0300.

(8) Packaging and Labeling. On and after October 1, 2016, a dispensary may not accept a transfer of a marijuana item or transfer a marijuana item that does not comply with the labeling requirements in OAR 333-007-0010 to 333-007-0100, or that does not comply with the packaging requirements in OAR 845-025-7000 to 845-025-7020 and 845-025-7060.

(9) Oregon Department of Agriculture Licensure. On and after January 1, 2017, a registered dispensary that sells or handles food, as that term is defined in ORS 616.695, or cannabinoid edibles, must be licensed by the Oregon Department of Agriculture under ORS 616.706.

Stat. Auth.: ORS 475B.450 & 475B.525  
Stats. Implemented: ORS 475B.450  
Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 9-2016, f. 2-26-16, cert. ef. 3-1-16; PH 21-2016, f. 6-24-16, cert. ef. 6-28-16; PH 26-2016(Temp), f. & cert. ef. 9-9-16 thru 3-7-17

## 333-008-1230

### Transfers to a Registered Dispensary

(1) Transfer of Usable Marijuana, Seeds and Immature Plants. A patient, caregiver, or PRMG may transfer usable marijuana, seeds and immature plants produced by a PRMG to a registered dispensary, subject to the requirements in this rule.

(a) A registered dispensary may only accept a transfer of usable marijuana, seeds or immature marijuana plants from a caregiver or PRMG if the individual transferring the usable marijuana, seeds or immature plants provides the original or a copy of a valid:

- (A) Authorization to Transfer form prescribed by the Authority; or
- (B) Personal agreement as that is defined in OAR 333-008-0010.

(b) Authorization to Transfer Forms. In order to be valid an

Authorization to Transfer form must include at least:

- (A) The patient's name, OMMMP card number or receipt number and expiration date and contact information;
- (B) The name and contact information of the individual who is authorized to transfer the usable marijuana, seeds or immature marijuana plants to the registered dispensary and that individual's OMMMP card number and expiration date;

(C) The name and address of the registered dispensary that is authorized to receive the usable marijuana, seeds or immature marijuana plants; and

(D) The date the authorization expires, if earlier than the expiration date of the patient's OMMMP card.

(c) Personal Agreements. In order to be valid a personal agreement must include at least:

- (A) The patient's name, OMMMP card number and expiration date and contact information;
- (B) The name and contact information of the PRMG to whom the patient's property rights have been assigned and the producer's OMMMP card number and expiration date, and the grow site address;

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(C) The portion of the patient's rights to possess seeds, immature plants and usable marijuana that is being assigned to the producer.

(2) Transfer of medical cannabinoid products, concentrates, and extracts.

(a) Beginning October 1, 2016, until January 1, 2017, a registered dispensary may accept the transfer of a cannabinoid product or concentrate from an applicant that has submitted a complete application for registration of a marijuana processing site.

(b) On and after January 1, 2017, a registered dispensary may only accept a transfer of a medical cannabinoid product, concentrate or extract from a registered medical marijuana processing site.

(c) Beginning October 1, 2016, until January 1, 2017, a registered dispensary may accept the transfer of a medical cannabinoid extract from an applicant that has submitted a complete application for registration of a marijuana processing site.

(3) A registered dispensary may only accept a transfer of cannabinoid products, concentrates or extracts from registered processing site if the individual transferring the products, concentrates or extracts provides the dispensary with a Processing Site Authorization to Transfer form prescribed by the Authority. In addition to retaining a copy of the Processing Site Authorization to Transfer form the dispensary must obtain a copy of the photo identification of the individual transferring the cannabinoid product, concentrate or extract as required in section (4)(b)(B) of this rule.

(4) Transfer Records. At the time a marijuana item is transferred to a dispensary the dispensary registrant must:

(a) Document, as applicable:

(A) The weight in metric units of all usable marijuana received by the registered dispensary;

(B) The number of seeds and immature plants received by the registered dispensary;

(C) The amount of a medical cannabinoid product, concentrate, or extract received by the registered dispensary, including, as applicable, the weight in metric units, or the number of units;

(D) The name of the marijuana item;

(E) The date the marijuana item was received; and

(F) The amount of reimbursement paid by the registered dispensary.

(b) Obtain and maintain a copy of, as applicable:

(A) Documents required in section (1) of this rule including the date it was received;

(B) The photo identification of the individual transferring the marijuana item to the dispensary, if such a copy is not already on file;

(C) The OMMP card of the individual transferring usable marijuana, seeds or immature plants;

(D) The medical marijuana processing site registration; and

(E) Test results for marijuana items transferred to the dispensary unless the dispensary plans to arrange for the testing of the marijuana item.

(5) Prior to October 1, 2016, if a dispensary accepts the transfer of a marijuana item that has not been tested in accordance with OAR 333-007-0300 to 333-007-0490 the dispensary must comply with OAR 333-008-1190(7).

(6) Once a marijuana item has been sampled in accordance with OAR 333-007-0360 the marijuana item must be labeled and stored in accordance with OAR 333-007-0380.

(7) Nothing in these rules requires a dispensary registrant to accept a transfer of a marijuana item.

(8) All documentation required in this rule must be maintained electronically in an integrated inventory tracking and point of sale system or the electronic data management system described in OAR 333-008-1247.

Stat. Auth.: ORS 475B.450 & 475B.525

Stats. Implemented: ORS 475B.450

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 9-2016, f. 2-26-16, cert. ef. 3-1-16; PH 21-2016, f. 6-24-16, cert. ef. 6-28-16; PH 26-2016(Temp), f. & cert. ef. 9-9-16 thru 3-7-17

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## Oregon Housing and Community Services Department Chapter 813

**Rule Caption:** Adopt rulemaking for the Local Innovation and Fast Track (LIFT) program

**Adm. Order No.:** OHCS 9-2016(Temp)

**Filed with Sec. of State:** 9-12-2016

**Certified to be Effective:** 9-12-16 thru 3-10-17

**Notice Publication Date:**

**Rules Adopted:** 813-135-0010, 813-135-0020, 813-135-0030, 813-135-0040, 813-135-0050, 813-136-0060

**Subject:** The rules implement the Local Innovation and Fast Track (LIFT) housing program. The program expands the state's supply of affordable housing for low income households and assists and encourages the development of affordable housing rental units for low-income households through the allocation of proceeds from Article XI-Q General Obligation Bonds.

**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

### 813-135-0010

#### Purpose

The rules of OAR chapter 813, division 135, are promulgated to carry out the provisions and enforce ORS 456.515 through 456.720, and specifically 456.559(1)(f). These rules implement the Local Innovation and Fast Track (LIFT) Housing Program. The program's objective is to expand the state's supply of affordable housing for low income households. The program will assist and encourage the development of affordable housing rental units for low-income households through the allocation of proceeds from Article XI-Q General Obligation bonds. Additional LIFT program policies and instructions are outlined in the Notice of Funding Availability, which may be accessed online on the department's website.

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

Stat. Auth.: ORS 456.515 – 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: OHCS 9-2016(Temp), f. & cert. ef. 9-12-16 thru 3-10-17

### 813-135-0020

#### Definitions

All words and terms used in OAR chapter 813, division 90 are as provided in 813-005-0005 and herein. As used in these rules:

(1) "Applicant" means a person or entity that applies for an allocation of LIFT Housing Program resources from the Department by completing an application provided by the Department.

(2) "Department" means Oregon Housing and Community Services.

(3) "Project" means a qualified low income housing project. A project may include one or more buildings and any associated common area and may be located on scattered sites.

(4) "NOFA" means Notice of Funding Availability.

(5) "Reservation and extended use agreement" is a contract between the department and the proposed project owner whereby the proposed project owner agrees, among other things, to provide and maintain the project and to guarantee its compliance with the requirements of the department by executing and recording the Declaration of Land Use Restrictive Covenants on the project in return for an allocation of proceeds from Article XI-Q bonds.

(6) "Low Income Households" means households of one or more individuals whose combined incomes are at or below 60 percent of the area median income.

(7) "Operate" means to have sufficient direct or indirect control of qualified property that reasonably enables the Housing and Community Services Department, in its determination, to ensure the qualified property's use for the purpose of providing affordable housing under the LIFT Housing Program.

(8) "Own" means to possess one or more interests in a qualified property that reasonably enables Housing and Community Services Department, in its determination, to ensure the qualified property's use for the purpose of providing affordable housing under the LIFT Housing Program.

(9) "Qualified property" means real or personal property, including infrastructure and indebtedness related to the real or personal property.

Stat. Auth.: ORS 456.515 – 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: OHCS 9-2016(Temp), f. & cert. ef. 9-12-16 thru 3-10-17

### 813-135-0030

#### Eligibility

(1) The department may use funds available pursuant to Article XI-Q of the Oregon Constitution for the LIFT Housing Program to acquire, construct, remodel, repair, equip, or furnish qualified property that is or will be owned or operated by the State of Oregon for the purpose of providing affordable housing in this state for low income households.

(2) Ownership interests in real property acquired by the department are limited to:

(a) A fee simple interest in land or improvements;

(b) A leased fee interest, meaning an ownership interest with the rights of use and occupancy conveyed by lease to others;

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(c) A tenancy in common for which the department's interest in the property is proportionate to the contribution of the department in the property's purchase price;

(d) A fee simple interest in a condominium; or

(e) An easement, right of way, license or similar interest functionally related to and necessary for the use of qualified property acquired by the department.

(3) Operational interests by the department are allowable as documented in an Operational Agreement approved by the Oregon Department of Justice.

Stat. Auth.: ORS 456.515 – 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: OHCS 9-2016(Temp), f. & cert. ef. 9-12-16 thru 3-10-17

## 813-135-0040

### Allocation of Bond Proceeds

(1) The department may, to the extent of its authority, allocate bond proceeds to projects selected for funding by the Housing Stability Council.

(2) The department shall allocate the funds in compliance with the requirements of the Oregon Constitution, Article XI-Q, ORS 456.559(1)(f) and the rules of this division. Applications will be solicited during specified periods within the department's Notice of Funding Availability (NOFA). The department may also select from a pool of qualified applicants, or such other process the department deems appropriate.

(3) The department may choose whether or not to allocate all funds available.

(4) The department may choose to forgive LIFT loans or return property purchased with LIFT funds at its discretion; in particular in cases where there is a corresponding increase to the term or type of affordability.

Stat. Auth.: ORS 456.515 – 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: OHCS 9-2016(Temp), f. & cert. ef. 9-12-16 thru 3-10-17

## 813-135-0050

### Application Requests and Charges

(1) The department may solicit applications for an allocation of LIFT Housing Program bond proceeds from interested parties when such resources are available.

(2) The department may require a non-refundable application charge from any applicant requesting an allocation of LIFT Housing Program bond proceeds.

(3) The department may charge the project owner reasonable charges for the department's costs of monitoring the project owner's compliance with restrictions established by the department.

(11) The department shall evaluate completed applications based on a ranking system established by the department and set forth in the department's Notice of Funding Availability.

Stat. Auth.: ORS 456.515 – 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: OHCS 9-2016(Temp), f. & cert. ef. 9-12-16 thru 3-10-17

## 813-135-0060

### Applications for LIFT Funds

(1) Applicants must submit an application form along with any applicable charges as given in Section 813-090-0031, to qualify for an allocation of LIFT Housing Program funds. The application required by the Department may request, among other information, the following:

(a) The amount of LIFT funds requested;

(b) Building location: state, county, town, street address and legal description;

(c) An initial statement based on waiting list information from the local public housing authority indicating whether or not there is a need for the proposed project;

(d) Complete financial information about the proposed Project showing all sources and uses of funds;

(e) Operating pro forma statement on a cash flow basis showing net operating income before debt service;

(f) Evidence of a commitment for financing, federal loan insurance, or other major source of funds;

(g) Other financial information regarding grants, subsidies, or tax-exempt financing for the proposed Project.

Stat. Auth.: ORS 456.515 – 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: OHCS 9-2016(Temp), f. & cert. ef. 9-12-16 thru 3-10-17

## Oregon Liquor Control Commission Chapter 845

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

**Adm. Order No.:** OLCC 10-2016

**Filed with Sec. of State:** 8-19-2016

**Certified to be Effective:** 8-19-16

**Notice Publication Date:** 6-1-2016

**Rules Amended:** 845-003-0210, 845-003-0220, 845-003-0270, 845-003-0331, 845-004-0015

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

**Rules Coordinator:** Bryant Haley — (503) 872-5136

## 845-003-0210

### Model Rules of Procedure

(1) The following Attorney General's "Model Rules of Procedure for Contested Cases Office of Administrative Hearings," effective May 1, 2014, are hereby adopted by reference as permanent rules of procedure for contested case hearings conducted on behalf of the Liquor Control Commission: OAR 137-001-0005, and OAR 137-003-0501 to 137-003-0700.

(2) The following Attorney General's Model Rules for "Miscellaneous, Orders in Other Than Contested Cases," effective May 1, 2014, are hereby adopted by reference as permanent rules of procedure for miscellaneous proceedings and orders in other than contested cases: OAR 137-004-0010 to 137-004-0092.

[ED. NOTE: The full text of the Attorney General's "Model Rules of Procedure for Contested Cases Office of Administrative Hearings" and "Miscellaneous, Orders in Other Than Contested Cases" is available from the Office of the Attorney General or the Oregon Liquor Control Commission.]

Stat. Auth.: ORS 183.341 (1) & (2) & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(1) & (2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12; OLCC 9-2014, f. 9-10-14, cert. ef. 10-1-14; OLCC 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-18-16; OLCC 10-2016, f. & cert. ef. 8-19-16

## 845-003-0220

### Definitions

As used in OAR Chapter 845, division 003, the following definitions apply:

(1) "Administrator" means the Executive Director of the Oregon Liquor Control Commission or the Executive Director's authorized delegates.

(2) "Charging Document" means a written notice that the Commission:

(a) Intends to grant or deny a new or renewed permit, license, certification, authorization, endorsement or approval;

(b) Will seek a sanction, civil penalty or withdraw an approval for a violation or failure to comply with ORS Chapter 471, ORS Chapter 473, ORS Chapter 475B, ORS 471.115, ORS 459A.700 to ORS 459A.740, and OAR Chapter 845; and

(c) Intends to modify, suspend or terminate a retail sales agent agreement, or modify, terminate or suspend a retail sales agent appointment.

(3) "Commission" means the Oregon Liquor Control Commission and any employee thereof, but for purposes of these rules does not refer to the Commissioners.

(4) "Commissioners" means a quorum of duly appointed Commissioners at a meeting called for the transaction of any business, the performance of any duty, or the exercise of any power of the Commission.

(5) "Good cause" means the factors set forth under OAR 137-003-0501(7). Good cause does not include failure to perform a required act due to the press of business or ignorance of the law, including ignorance of these rules.

(6) "Participant" means the person(s) named in the notice of a right to a contested case hearing and who requested a hearing, a person granted

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either party or limited party status in a contested case under OAR 137-003-0535, an agency participating in the contested case under OAR 137-003-0540, the party's attorney, the expert witnesses, the agency representative, one agency officer or agency employee, and any persons authorized by statute or administrative rule to attend the contested case hearing.

(7) "Party" means any person or entity named in the charging document or granted party status by statute or administrative rule.

Stat. Auth.: ORS 183.341(2), 471.730(5) & (6), 475B.025(2)(d)  
Stats. Implemented: ORS 183.310 & 183.341(2)  
Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 8-1999, f. 6-9-99, cert. ef. 7-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 18-2007, f. 9-27-07, cert. ef. 10-1-07; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12; OLCC 9-2014, f. 9-10-14, cert. ef. 10-1-14; OLCC 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-18-16; OLCC 10-2016, f. & cert. ef. 8-19-16

## 845-003-0270

### Request for a Contested Case Hearing and Response to Charging Document

(1) A party may contest a charging document or a tax imposed under ORS Chapter 473 by requesting a contested case hearing. The request for hearing must be in writing and timely filed. The time limit for filing a request is:

(a) 60 days after service of a charging document defined in OAR 845-003-0220(2)(a), with the following exceptions:

(i) 20 days after service of a charging document denying a renewal of a license under ORS 471.313(5);

(ii) 30 days after service of a charging document denying an application for a service permit; except that the time limit shall be 15 days for a denial that is based on failure to complete the alcohol server education course and examination; and

(iii) 30 days after service of a charging document denying an application for a marijuana handler permit; except that the time limit shall be 15 days for a denial that is based on a failure to complete the marijuana handler permit education course and examination.

(b) 30 days after service of a charging document defined in OAR 845-003-0220(2)(b), except that the time limit shall be 20 days if the violation is based on ORS 471.315(1)(c);

(c) 30 days after service of an audit issued by Financial Services Division of the Commission;

(d) Within the time period provided in the retail sales agent agreement between the Commission and the agent, if the agreement provides for a hearing;

(e) Within the time period provided in the charging document for all other matters not listed above.

(2) A written Answer to a charging document may be required. The Answer must be filed in writing and submitted to the Commission with the request for hearing. A party must file an Answer in response to:

(a) A charging document as defined in 845-003-0220(2)(a);

(b) A charging document as defined in 845-003-0220(2)(b), if the violation is a Category I or II violation; and

(c) A charging document as defined in 845-003-0220(2)(c).

(3) The Answer must specify:

(a) An admission or denial of each factual matter alleged in the charging document; and

(b) What defense or defenses the party will rely upon;

(c) A general denial is not sufficient to constitute an Answer.

(4) When an answer is required under section (2):

(a) Factual matters alleged in the charging document and not denied in the answer shall be presumed admitted;

(b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

(c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and

(d) Evidence shall not be taken at the contested case hearing on any issue not raised in the charging document or answer.

(5) When an answer is required under section (2), the party may amend the answer, except when doing so would be unduly prejudicial.

Stat. Auth.: ORS 183.341(2), 183.745 & 471.730(5) & (6), & 475B.025(2)(d)  
Stats. Implemented: ORS 183.341(2), 183.430(2), 183.435, 183.745, 471.331(1) & 471.380(2)  
Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 8-1999, f. 6-9-99, cert. ef. 7-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 18-2007, f. 9-27-07, cert. ef. 10-1-07; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12; OLCC 9-2014, f. 9-10-14, cert. ef. 10-1-14; OLCC 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-18-16; OLCC 10-2016, f. & cert. ef. 8-19-16

## 845-003-0331

### Employee Representation at Contested Case Hearings

(1) As authorized by the Attorney General pursuant to ORS 183.452, Commission employees may appear and participate on behalf of the Commission in the following types of contested case hearings:

(a) The grant or denial of a new or renewed license, permit, certification, endorsement, approval or other authorization applied for or requested under ORS Chapters 459A, 471, 473, 475B and OAR Chapter 845;

(b) A withdrawal, suspension, revocation, cancellation, civil penalty or other sanction pursuant to ORS Chapter 471, ORS Chapter 473, ORS Chapter 475B, 459A.700 to 459A.740, or OAR Chapter 845;

(c) A violation or dispute based on a retail sales agent agreement; but not a matter where the Commission has proposed to terminate or suspend performance on the agreement; and

(d) Privilege Tax disputes under ORS 473.060(4).

(2) The employee representative's responsibilities include, but are not limited to:

(a) Presenting evidence;

(b) Asking questions of all witnesses;

(c) Presenting information about the facts, and advocating for the Commission's position surrounding the facts;

(d) Presenting information on how the facts apply to the statutes or rules directly related to the issues in the contested case;

(e) Presenting information comparing Commission actions in similar situations;

(f) Presenting information about the literal meaning of the statutes or rules that apply to the issues in the contested case; and

(g) Presenting information about the admissibility of evidence or the correctness of procedures being followed.

(3) The employee representative may not make legal arguments. "Legal arguments" include, but are not limited to, arguments on:

(a) The jurisdiction of the Commission to hear the contested case;

(b) The constitutionality of a statute or rule or the application of a constitutional requirement to the Commission; and

(c) The application of court precedent to the facts of the particular contested case proceeding.

(4) When the Commission determines it is necessary to consult with the Attorney General's office, an administrative law judge will provide a reasonable period of time for an agency representative to consult with the Attorney General's office and to obtain either written or oral legal argument.

Stat. Auth.: ORS 183.341(2), 183.452 & 471.730(5) & (6), & 475B.025(2)(d)  
Stats. Implemented: ORS 183.341(2) & 183.452  
Hist.: OLCC 6-2002(Temp), f. 5-6-02, cert. ef. 5-7-02 thru 11-2-02; OLCC 13-2002, f. 10-25-02 cert. ef. 11-3-02; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12; OLCC 9-2014, f. 9-10-14, cert. ef. 10-1-14; OLCC 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-18-16; OLCC 10-2016, f. & cert. ef. 8-19-16

## 845-004-0015

### Signing of Orders

Unless the Commissioners specifically give other directions, the Administrator may sign the following:

(1) The written expression of any official action the Commissioners take at any public meeting. The Administrator's signature has the same force and effect as the signature of all the Commissioners; and

(2) A "charging document" as defined in OAR 845-003-0220(2).

Stat. Auth.: ORS 471.030, 471.040(2), 471.730(1) & 471.730(5)  
Stats. Implemented: ORS 471.720  
Hist.: LCC 12-1980, f. 3-28-80, ef. 4-1-80; Renumbered from 845-010-0375; OLCC 14-1991, f. 9-30-91, cert. ef. 1-1-92; OLCC 1-2016(Temp), f. & cert. ef. 2-23-16 thru 8-18-16; OLCC 10-2016, f. & cert. ef. 8-19-16

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**Rule Caption:** The rule amendments update advertising rules for retail sales agents.

**Adm. Order No.:** OLCC 11-2016

**Filed with Sec. of State:** 8-23-2016

**Certified to be Effective:** 8-23-16

**Notice Publication Date:** 4-1-2016

**Rules Amended:** 845-015-0177

**Subject:** The amendments to 845-015-0177 add clarifying definitions and processes for promotional activities and sweepstakes. This particular change corrects an error in who may have a sign in a liquor store.

**Rules Coordinator:** Bryant Haley—(503) 872-5136

# ADMINISTRATIVE RULES

## 845-015-0177

### Advertising in a Retail Liquor Store

(1) Definitions: As used in this rule:

(a) "Sweepstake" means a contest for prizes not prohibited by law and offered by a manufacturer or a person representing a distillery.

(b) "Premium" means an item, offered to promote a product, which a person may order from a manufacturer or person representing a distillery. Examples of a premium include t-shirts, watches, and personalized bottle labeling.

(c) "On-pack" means any item approved by the commission that is attached to or packaged with a distilled spirits product.

(2) The Commission allows product signs and displays that:

(a) Comply with this rule, ORS 471.750(4), OAR 845-015-0175(2) and Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations;

(b) Do not obstruct another distillery's products;

(c) Are not placed in a window;

(d) Advertise or display a manufacturer's, wholesaler's, distributor's, or the distillery's product in conjunction with the approved items described in OAR 845-015-0143; and

(e) Advertise a rebate (as allowed by OAR 845-015-0165), sweepstake or offer a premium or an on-pack for the consumer when the sign or display meets the requirements of (a), (b), (c) and (d).

(3) If a retail sales agent chooses to allow signs and displays in the retail liquor store, each manufacturer, wholesaler, distributor, or distillery must be given a reasonable opportunity to advertise.

(4) If the total value of the sign or display in section (3) is \$500 or more, then the item can only be loaned to the retail sales agent, must be clearly marked as the property of the manufacturer, wholesaler, distributor, or distillery representative, marked with the date the loan begins, and can only be loaned for a maximum of 90 days per calendar year. At no time can a loan period exceed more than 90 consecutive days. The manufacturer, wholesaler, distributor, or distillery representative can only have one such sign or display at any one time in any one liquor store. The value of a sign or display is the actual cost to the supplier who initially purchased it. Transportation and installation costs are excluded.

(5) Nothing in this rule requires a retail sales agent to order distilled spirits for use in a display, sweepstake or promotion. Empty case boxes may be used, if necessary.

(6) A retail sales agent may not request, accept, give away or remove on-packs or sweepstake, or premium items from the store at any time or otherwise use the items for personal or business gain. Displays and signs may be removed by the manufacturer, wholesaler, distributor, or a person representing a distillery. Retail sales agents may dispose of old and unused displays and signs, but retail sales agents must not use these items for personal or business gain.

(7) The Commission provides price tags which retail sales agents shall place in front of each brand and size of distilled liquor. If a brand is displayed in more than one area, the retail sales agent must provide tags comparable in quality and style as the price tags OLCC provides and that they be placed in front of each brand and size.

(8) A sweepstake or premium offer must not require the purchase of liquor in order to receive a prize, merchandise or other thing(s) of value, unless the manufacturer, wholesaler, distributor, or distillery representative donates the prize or merchandise to a charitable cause or community non-profit entity. A sweepstake participant may complete an entry blank at a retail liquor store, but a person representing a manufacturer, wholesaler, distributor, or distillery must draw the entry at the end of the promotion and contact the winner. Any sweepstake or premium must be delivered to the winner at a location other than a retail liquor store. Retail sales agents, liquor store personnel, commission staff or their immediate family living in the same household cannot participate in a sweepstake.

(9) When an on-pack is offered, the on-pack item must not be removed or sold separately from the original bottle unless directed by OLCC. Unless an exception is approved by Commission staff, on-packs of liquor must:

(a) Not exceed two 50 ml per original bottle;

(b) Not be a size that has a current listing; and

(c) Be attached only to original bottles 750 ml in size or larger.

(10) The Commission retains the right to remove signs and displays the Commission finds objectionable or are inappropriate for use in a retail liquor store.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5) & 471.750

Stats. Implemented: ORS 471.750(2)

Hist.: OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 5-1994, f. 10-31-94, cert. ef. 11-1-94; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0092; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03; OLCC 11-2008, f. 8-18-08, cert. ef. 9-1-08; OLCC 8-2016, f. 6-28-16, cert. ef. 6-29-16; OLCC 11-2016, f. & cert. ef. 8-23-16

**Rule Caption:** Requires all cannabinoid products containing more than 15 milligrams to be packaged in a childproof container.

**Adm. Order No.:** OLCC 12-2016(Temp)

**Filed with Sec. of State:** 8-23-2016

**Certified to be Effective:** 8-23-16 thru 12-26-16

**Notice Publication Date:**

**Rules Amended:** 845-025-7020

**Subject:** OLCC's rules on packaging require that certain types of marijuana items be placed in packaging that is both childproof and re-sealable if they contain more than one serving. Oregon Health Authority regulates the potency and serving for marijuana items. However, OHA's administrative rules do not specify serving sizes for all types of marijuana items. This misalignment in agency rules creates a potential loophole. The proposed temporary rule addresses this issue by requiring all cannabinoid products containing more than 15 milligrams of THC to be packaged in container or exit package that is both child resistant and re-sealable. Staff plans to incorporate this concept into the permanent rule making taking place later this year.

**Rules Coordinator:** Bryant Haley—(503) 872-5136

## 845-025-7020

### Packaging for Sale to Consumer

(1) The purpose of this rule is to set the minimum standards for the packaging of marijuana items that are sold to the consumer, applicable to:

(a) A licensee; or

(b) On and after October 1, 2016, a registrant who is not exempt from the labeling requirements.

(2) Containers or packaging for marijuana items must protect a marijuana item from contamination and must not impart any toxic or deleterious substance to the marijuana item.

(3) Marijuana items for ultimate sale to a consumer, except for immature plants and seeds, must:

(a) Be packaged in a container that is child-resistant as certified by a qualified third party child-resistant package testing firm or placed within an exit package that is certified by a qualified third party child-resistant package testing firm prior to final sale to consumer;

(b) If the marijuana item is a cannabinoid product that contains more than 15 mg of THC, or if the item is an extract or concentrate be packaged in a container or placed in an exit package that is capable of being resealed and made child resistant again after it has been opened, as certified by a qualified third party child-resistant package testing firm.

(c) Not be packaged or labeled in a manner that is attractive to minors; and

(d) Be labeled in accordance with OAR 333-007-0010 to 333-007-0100.

(4) Packaging may not contain any text that makes an untruthful or misleading statement.

(5) Nothing in this rule:

(a) Prevents the re-use of packaging that is capable of continuing to be child-resistant, as permitted by rules established by the Commission or the Authority; or

(b) Prohibits the Commission or the Authority from imposing additional packaging requirements in their respective rules governing licensees and registrants.

(6) A licensee or registrant must provide to the Commission or the Authority upon that agency's request, additional information about the testing that was performed by the qualified third party child-resistant package testing firm in accordance with 16 CFR 1700.

Stat. Auth.: ORS 475B.615

Stats. Implemented: ORS 475B.070, 475B.090, 475B.100, 475B.110, 475B.615 & 475B.620

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16; OLCC 2-2016(Temp), f. & cert. ef. 2-23-16 thru 8-18-16; OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16; OLCC 12-

2016(Temp), f. & cert. ef. 8-23-16 thru 12-26-16

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**Rule Caption:** The Commission will refund twenty-five dollars or less upon written request.

**Adm. Order No.:** OLCC 13-2016

**Filed with Sec. of State:** 8-23-2016

**Certified to be Effective:** 9-3-16

**Notice Publication Date:** 7-1-2016

**Rules Adopted:** 845-004-0031

**Subject:** ORS 293.445 enables State Agencies to establish a minimum sum that agencies will refund upon written request. The Com-

# ADMINISTRATIVE RULES

mission is proposing that refunds of twenty-five dollars or less require a written request. The Commission will refund the person who paid the money upon written request.

**Rules Coordinator:** Bryant Haley—(503) 872-5136

## 845-004-0031

### Refunds

(1) The Commission shall not refund any amount of \$25.00 or less, except if a written request for a refund is filed by the person who paid the money.

(2) Refund requests must be filed within 18 months from the date of payment.

Stat. Auth.: ORS 471.040

Stats. Implemented: ORS 293.445

Hist.: OLCC 13-2016, f. 8-23-16, cert. ef. 9-3-16

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**Oregon State Lottery**  
**Chapter 177**

**Rule Caption:** Removes references to arrest records; housekeeping edits

**Adm. Order No.:** LOTT 6-2016

**Filed with Sec. of State:** 8-26-2016

**Certified to be Effective:** 9-1-16

**Notice Publication Date:** 5-1-2016

**Rules Amended:** 177-040-0003

**Rules Repealed:** 177-040-0003(T)

**Subject:** The Oregon State Lottery amended this administrative rule to remove the references to arrest records when evaluating a person's application for a temporary Lottery retailer contract, and to make housekeeping edits.

**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 criminal background check;

(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

# ADMINISTRATIVE RULES

(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  
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; LOTT 6-2016, f. 8-26-16, cert. ef. 9-1-16

## Oregon State Marine Board Chapter 250

**Rule Caption:** Prohibit boating on the Deschutes River during Tetherow Road Bridge construction.

**Adm. Order No.:** OSMB 12-2016(Temp)

**Filed with Sec. of State:** 8-18-2016

**Certified to be Effective:** 8-21-16 thru 12-31-16

**Notice Publication Date:**

**Rules Amended:** 250-020-0091

**Rules Suspended:** 250-020-0091(T)

**Subject:** This rule will prohibit boat operation on the Deschutes River near RM 141.1 in the area of the Tetherow Bridge due to scheduled construction removal and replacement of the bridge.

**Rules Coordinator:** June LeTarte—(503) 378-2617

### 250-020-0091

#### Boat Operations in Deschutes County

(1) Marine Toilets: No person shall maintain or operate upon the following-named inland waters of this state any boat which is equipped with a toilet unless such toilet has an approved device to render waste harmless, or unless such toilet is rendered inoperative by having the discharge outlet effectively seals. "An approved device" is a marine toilet, or marine toilet attachment, which has been approved by the State Board of Health and the State Sanitary Authority:

- (a) Paulina Lake;
- (b) East Lake;
- (c) Elk Lake;
- (d) Big Lava Lake;
- (e) Wickiup Reservoir;
- (f) Crane Prairie Reservoir;
- (g) Big Cultus Lake;
- (h) Little Cultus Lake.

(2) No person shall operate a motorboat in excess of 10 MPH on: Deschutes River and Davis Creek Arms of Wickiup Reservoir.

(3) No person shall operate a motorboat for any purpose on the following area: Torso Lake.

(4) No person shall operate a motorboat except with an electric motor on the following areas:

- (a) Meadow Lake;
- (b) Hosmer Lake.
- (5) Deschutes River:

(a) No person shall operate a motorboat for the purpose of towing a person on water skis, surfboard or similar device and no person shall engage in waterskiing or similar activities on the Deschutes River;

(b) No person shall operate jet ski type boats on the Deschutes River. For the purposes of this rule, jet ski type boat means any motorized vessel or other description of watercraft which is generally less than ten feet in length and capable of exceeding a speed of 15 MPH, including but not limited to jetskis, wet bikes, and surf jets;

(c) No person shall operate a motorboat in excess of a "slow-no wake" speed limit between Wickiup Dam and the Deschutes National Forest Boundary in Sec. 14.T.18.S., R.11.E., W.M.;

(d) No person shall operate a motorboat between LaPine State Recreation area boat ramp and Pringle Falls;

(e) No person shall operate a motorboat between Aspen Camp boat ramp and the north end of Lava Island in Sec. 22.T.18.S., R.11.E., W.M.

(f) No person shall operate a motorboat between the Deschutes National Forest boundary in Sec. 14.T.18.S., R.11.E., W.M. and Mirror Pond Dam.

(g) No person shall operate a motorboat for any purpose between the Mirror Pond Dam and the Jefferson County Line.

(h) No person shall operate a boat in the area of the Tetherow Road Bridge located near river mile 141.1 on the Deschutes River due to the destruction and replacement of the bridge.

(A) Boaters are required to exit the river, as directed by posted signs and in-water buoys, upstream of the bridge at the Tetherow Crossing Park and portage around the bridge area.

(B) As directed by posted signs, boaters may re-enter the river downstream of the bridge on Deschutes County Property.

(C) Boater restrictions on the Deschutes River, as described in 250-020-0091(5)(h) are in effect from:

- (i) 11:59 pm, August 21, 2016 to 11:59 pm, August 25, 2016, and
- (ii) 11:59 pm, September 25, 2016 to 11:59 pm, September 28, 2016.

Stat. Auth.: ORS 830.110 & 830.175  
Stats. Implemented: ORS 830.110 & 830.175  
Hist.: MB 26, f. 7-20-64; MB 52, f. 8-17-73, ef. 9-1-73; MB 57, f. 7-2-74, ef. 7-2-74(Temp) & 7-25-74(Perm); Renumbered from 250-020-0170; MB 10-1988, f. & cert. ef. 6-28-88; MB 13-1988, f. 12-28-88, cert. ef. 1-1-89; MB 5-1993, f. & cert. ef. 7-14-93; MB 12-1996, f. & cert. ef. 12-4-96; MB 7-1997, f. & cert. ef. 7-17-97; OSMB 11-1998(Temp), f. & cert. ef. 7-15-98 thru 12-31-98; Administrative correction 8-5-99; OSMB 4-2015, f. 4-30-15, cert. ef. 5-1-15; OSMB 10-2015(Temp), f. & cert. ef. 10-19-15 thru 12-31-15; Administrative correction, 1-22-16; OSMB 11-2016(Temp), f. 8-11-16, cert. ef. 8-21-16 thru 12-31-16; OSMB 12-2016(Temp), f. 8-18-16, cert. ef. 8-21-16 thru 12-31-16

## Public Utility Commission, Board of Maritime Pilots Chapter 856

**Rule Caption:** Codifies current practice of submitting documentation of professional development and safety training for pilots.

**Adm. Order No.:** BMP 6-2016

**Filed with Sec. of State:** 8-23-2016

**Certified to be Effective:** 8-23-16

**Notice Publication Date:** 7-1-2016

**Rules Amended:** 856-010-0027

**Subject:** Codifies existing practice of submitting documentation of courses taken to comply with continuing professional development and personal safety training requirements for annual license renewals.

**Rules Coordinator:** Susan Johnson—(971) 673-1530

### 856-010-0027

#### Continuing Professional Development and Safety Training

(1) All applications for renewal of an unlimited license after January 1, 2012 shall, within the sixty-three (63) months preceding the expiration date of their license, complete a minimum of 10 days of continuing professional development training, as provided in paragraphs (a) and (b) below.

(a) Each pilot shall satisfactorily complete a five (5) day manned model course at a Board approved manned model facility.

(b) Each pilot shall satisfactorily complete an additional five (5) days of course work, at least one day of which must be Bridge Resources Management for Pilots. All courses must be conducted at an accredited college, maritime academy, U.S. Coast Guard approved training facility or conducted by an expert in a field related to the subject matter of the course. All courses must cover one or more subject matter topics approved by the Board in advance of the course being taken. The Board shall maintain a list of approved topics, which may include, but are not limited to:

- (A) Emergency Shiphandling for Pilots,
- (B) Advanced Electronic Navigation Systems,
- (C) Azipod Controls and Operations with Azipods,
- (D) Fatigue, Sleep and Medications for Pilots,
- (E) Legal Aspects of Pilotage, including State Statutes and Regulations for Pilots,
- (F) Maritime Domain Awareness and Security for Pilots,
- (G) Crisis Management and Media Response,
- (H) Pilot Self-Assessment Simulation,
- (I) Advanced Shiphandling Simulation,
- (J) Operation with Tugs for Pilots,
- (K) Radar Observer (credit limited to one day per reporting period),
- (L) Bridge Resources Management for Pilots,
- (M) Train the Trainer.

(2) In addition to satisfying the requirements set forth above, each pilot holding an unlimited license shall complete a minimum of one day of personal safety training during the 12-month period preceding the expiration

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tion date of their license. The Board shall maintain a list of pre-approved training, which may include, but are not limited to:

- (a) CPR.
- (b) Man Overboard (MOB).
- (c) Cold Water Survival.
- (d) Helicopter Dunker.
- (e) Pilot Boat Drills.
- (f) Rescue Systems.
- (g) STCW — Basic Safety Training.

(3) Each pilot shall submit with every license renewal application, documentation of all requirements from paragraphs (1) and (2) of this rule, which were obtained by that pilot subsequent to the pilot's most recent, prior renewal application or, for pilots submitting a first renewal application, obtained subsequent to being granted initial licensure. The documentation shall be submitted in a format approved by the Board.

Stat. Auth.: ORS 776 & 670  
Stats. Implemented: ORS 776.115 & 670.310  
Hist.: BMP 1-2010, f. & cert. ef. 4-27-10; BMP 7-2011, f. 12-29-11, cert. ef. 12-30-11; BMP 6-2016, f. & cert. ef. 8-23-16

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**Southern Oregon University**  
**Chapter 573**

**Rule Caption:** Discrimination  
**Adm. Order No.:** SOU 3-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016  
**Rules Repealed:** 573-035-0005, 573-035-0010, 573-035-0020, 573-035-0030, 573-035-0040, 573-035-0050, 573-035-0060, 573-035-0070, 573-035-0080  
**Subject:** Southern Oregon University is repealing Administrative Rule 573-035. This rule will be adopted as University Policy as of September 1, 2016.  
**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-005 Faculty Grievance Procedures  
**Adm. Order No.:** SOU 4-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016  
**Rules Repealed:** 573-005-0005, 573-005-0015, 573-005-0025, 573-005-0035, 573-005-0045, 573-005-0055, 573-005-0065, 573-005-0075, 573-005-0085, 573-005-0095, 573-005-0105, 573-005-0115, 573-005-0125, 573-005-0135, 573-005-0145, 573-005-0155, 573-005-0165, 573-005-0175, 573-005-0185, 573-005-0195, 573-005-0205, 573-005-0215  
**Subject:** Southern Oregon University is repealing Administrative Rule 573-005. This rule will be adopted as a University Policy as of September 1, 2016.  
**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-010 Faculty Records Policy  
**Adm. Order No.:** SOU 5-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016  
**Rules Repealed:** 573-010-0005, 573-010-0010, 573-010-0015, 573-010-0020, 573-010-0025, 573-010-0030, 573-010-0035, 573-010-0040, 573-010-0045, 573-010-0050, 573-010-0055, 573-010-0060, 573-010-0065, 573-010-0070  
**Subject:** Southern Oregon University is repealing Administrative Rule 573-010. This rule will be adopted as a University Policy as of September 1, 2016.  
**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-015 and 573-025 Administrative Rules  
**Adm. Order No.:** SOU 6-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016

**Rules Repealed:** 573-015-0005, 573-015-0010, 573-025-0005  
**Subject:** Southern Oregon University is repealing Administrative Rules 573-015 and 573-025. These rules will be adopted as University Policies as of September 1, 2016.  
**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** 573-026 Medical Insurance  
**Adm. Order No.:** SOU 7-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016  
**Rules Repealed:** 573-026-0005  
**Subject:** Southern Oregon University is repealing Administrative Rule 573-026. This rule will be adopted as a University Policy as of September 1, 2016.  
**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal of 573-030 Model Rules of Procedure Applicable to Contested Cases  
**Adm. Order No.:** SOU 8-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016  
**Rules Repealed:** 573-030-0005, 573-030-0015, 573-030-0025, 573-030-0026, 573-030-0030, 573-030-0035, 573-030-0040, 573-030-0045, 573-030-0050, 573-030-0051, 573-030-0052, 573-030-0053, 573-030-0055, 573-030-0060, 573-030-0065  
**Subject:** Southern Oregon University is repealing Administrative Rule 573-030. This rule will be adopted as a University Policy as of September 1, 2016.  
**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-040, 573-042, and 573-045 Administrative Rules.  
**Adm. Order No.:** SOU 9-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016  
**Rules Repealed:** 573-040-0005, 573-042-0005, 573-045-0000, 573-045-0005, 573-045-0010, 573-045-0020  
**Subject:** Southern Oregon University is repealing Administrative Rules 573-040, 573-042, and 573-045. These rules will be adopted as University Policy as of September 1, 2016.  
**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-051 and 573-055  
**Adm. Order No.:** SOU 10-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016  
**Rules Repealed:** 573-051-0005, 573-051-0010, 573-051-0020, 573-051-0030, 573-051-0040, 573-051-0050, 573-055-0010, 573-055-0020, 573-055-0030, 573-055-0040, 573-055-0050  
**Subject:** Southern Oregon University is repealing Administrative Rules 573-051 and 573-055. These rules will be adopted as University Policy as of September 1, 2016.  
**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-070 and 573-071 Administrative Rules  
**Adm. Order No.:** SOU 11-2016  
**Filed with Sec. of State:** 9-1-2016  
**Certified to be Effective:** 9-1-16  
**Notice Publication Date:** 8-1-2016  
**Rules Repealed:** 573-070-0001, 573-070-0004, 573-070-0005, 573-070-0011, 573-070-0012, 573-070-0013, 573-070-0067, 573-070-0068, 573-071-0005, 573-071-0010, 573-071-0020, 573-071-0040



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**Subject:** Southern Oregon University is repealing Administrative Rules 573-070 and 573-071. These rules will be adopted as University Policy as of September 1, 2016.

**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-075, 573-080, and 573-095

**Adm. Order No.:** SOU 12-2016

**Filed with Sec. of State:** 9-1-2016

**Certified to be Effective:** 9-1-16

**Notice Publication Date:** 8-1-2016

**Rules Repealed:** 573-075-0120, 573-075-0200, 573-075-0230, 573-075-0240, 573-075-0250, 573-075-0260, 573-080-0005, 573-080-0025, 573-095-0000, 573-095-0005, 573-095-0010

**Subject:** Southern Oregon University is repealing Administrative Rules 573-075, 573-080, and 573-095. These rules will be adopted as University Policy as of September 1, 2016.

**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-076 Code of Conduct Administrative Rule

**Adm. Order No.:** SOU 13-2016

**Filed with Sec. of State:** 9-1-2016

**Certified to be Effective:** 9-1-16

**Notice Publication Date:** 8-1-2016

**Rules Repealed:** 573-076-0000, 573-076-0010, 573-076-0020, 573-076-0030, 573-076-0040, 573-076-0050, 573-076-0060, 573-076-0070, 573-076-0080, 573-076-0090, 573-076-0100, 573-076-0110, 573-076-0120, 573-076-0130

**Subject:** Southern Oregon University is repealing Administrative Rule 573-076. This rule will be adopted as University Policy as of September 1, 2016.

**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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**Rule Caption:** Repeal 573-001 Procedural Rules

**Adm. Order No.:** SOU 14-2016

**Filed with Sec. of State:** 9-1-2016

**Certified to be Effective:** 9-1-16

**Notice Publication Date:** 8-1-2016

**Rules Repealed:** 573-001-0000, 573-001-0010, 573-001-0015, 573-001-0020, 573-001-0030, 573-001-0040, 573-001-0050, 573-001-0055, 573-001-0060, 573-001-0070, 573-001-0075

**Subject:** Southern Oregon University is repealing Administrative Rule 573-001. This rule will be adopted as University Policy as of September 1, 2016.

**Rules Coordinator:** Treasa Sprague—(541) 552-6319

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## Teacher Standards and Practices Commission Chapter 584

**Rule Caption:** Adopting and amending rules related to program standards for dyslexia and reading instruction.

**Adm. Order No.:** TSPC 4-2016(Temp)

**Filed with Sec. of State:** 8-31-2016

**Certified to be Effective:** 9-1-16 thru 2-27-17

**Notice Publication Date:**

**Rules Adopted:** 584-420-0015, 584-420-0016

**Rules Amended:** 584-420-0345, 584-420-0440, 584-420-0460

**Subject:** HB 3069 (2015) directs the Commission to adopt rules to require teacher education programs to demonstrate that teacher candidates enrolled in their programs receive instructional training that will enable pupils to meet or exceed Oregon's third-grade reading standards and become proficient readers by the end of the third grade. HB 3069 requires teacher education programs to create a plan if unable to implement reading instruction requirements. This rule-making fulfills the requirement for the Commission to adopt rules for reading instruction training. It requires educator preparation providers to provide training to teacher candidates so that they are able to provide classroom instruction that is aligned with Oregon's

reading standards and to implement reading strategies to enable students to become proficient readers by the end of third grade. The rule requires the programs to demonstrate compliance with the standards by June 30, 2017. If the program is unable to demonstrate compliance, the educator preparation provider must submit a plan for meeting the requirements to the Commission and to report on their progress on meeting the plan. HB 2412 (2015) directs the Commission to adopt standards that require educator preparation programs to provide instruction on dyslexia. The new statutory provisions require that the instruction be consistent with the knowledge and practice standards of an international organization on dyslexia. Programs must demonstrate compliance with the dyslexia instruction standards no later than December 31, 2016. The rule adopts standards based on international standards for dyslexia instruction and requires Oregon educator preparation programs to report on alignment of their elementary education, reading intervention and special education programs with the new dyslexia standards before December 15, 2016. In addition, the rules makes technical changes to terminology, grammar and punctuation.

**Rules Coordinator:** Tamara Dykeman—(503) 378-3586

### 584-420-0015

#### Reading Instruction: Program Standards

(1) Purpose of the Standards: ORS 342.147 requires educator preparation providers to provide training to candidates that enables public school students to meet or exceed third-grade reading standards and become proficient readers by the end of the third grade.

[Note: This rule is established pursuant to Section 1, Chapter 427, Oregon Laws 2015 (Enrolled HB 3069).]

(2) Scope of standards: The reading instruction standards apply to all Oregon educator preparation programs preparing candidates for:

(a) Elementary-Multiple Subjects (includes early childhood education);

(b) Reading Intervention; and

(c) Special Education: Generalist.

(3) Oregon educator preparation programs as provided in subsection (2) must provide course curriculum, approved textbooks and other program requirements that enable candidates to:

(a) Provide classroom instruction that aligns with the adopted standards of State Board of Education for:

(A) Early childhood literacy;

(B) First grade reading standards;

(C) Second grade reading standards; and

(D) Third grade reading standards.

(b) Implement reading strategies to enable public school students to become proficient readers by the end of third grade.

(4) Oregon educator preparation programs must demonstrate compliance with the reading instruction standards as provided in this rule by June 30, 2017. If a program is unable to meet the reading instruction standards by this date, it must submit:

(a) A plan for meeting the reading instruction standards, submitted to the Commission no later than June 30, 2018;

(b) A progress report on implementing reading instruction standards, submitted to the Commission no later than January 15, 2019.

Stat. Auth.: ORS 342

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

Hist.: TSPC 4-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

### 584-420-0016

#### Dyslexia Instruction: Program Standards

(1) Purpose of the Standards: ORS 342.147 requires the Commission to establish standards for approval of an educator preparation program that require early childhood education, elementary education, special education and reading programs to provide instruction on dyslexia and that the instruction be consistent with the knowledge and practice standards of an international organization on dyslexia.

[Note: This rule is established pursuant to Section 8, Chapter 245, Oregon Laws 2015 (Enrolled HB 2412).]

(2) Scope of standards: The dyslexia instruction standards set forth in this rule apply to all Oregon educator preparation programs preparing candidates for the following endorsements:

(a) Elementary-Multiple Subjects (includes early childhood education);

(b) Reading Intervention; and

(c) Special Education: Generalist.

# ADMINISTRATIVE RULES

(3) Oregon educator preparation programs, as provided in subsection (2), must provide coursework, assessments, curriculum, practicum and other necessary program components that will enable candidates to meet the standards related to dyslexia instruction, as provided in this rule.

(4) Oregon education preparation programs must demonstrate compliance with the dyslexia standards by submitting a report to the Commission no later than December 15, 2016. The report must include:

(a) Revised syllabi for Elementary-Multiple Subjects, Reading Intervention and Special Education: Generalist endorsement programs. The report must include all revisions to the syllabi that are necessary to meet the dyslexia instruction standards; and

(b) A description of revised practica, approved textbooks, assessments or other program components. The report must describe all revisions to program components that are necessary to meet the dyslexia instruction standards for the Elementary-Multiple Subjects, Reading Intervention and Special Education: Generalist endorsements.

## (5) STANDARDS FOR DYSLEXIA INSTRUCTION

(a) Standard 1: Foundation Concepts about Oral and Written Learning.

(b) Standard 2: Knowledge of the Structure of Language.

(c) Standard 3: Structure Language Teaching, including:

(A) Phonology;

(B) Phonics and Word Recognition;

(C) Fluent, Automatic Reading of Text;

(D) Vocabulary;

(E) Text Comprehension; and

(F) Handwriting, Spelling, and Written Expression.

(d) Standard 4: Interpretation and Administration of Assessments for Planning Instruction.

(e) Standard 5: Knowledge of Dyslexia and Other Learning Disorders.

(6) Program alignment with the dyslexia instruction standards provided in subsection (5) must be consistent with the knowledge and practice standards of an international organization on dyslexia.

Stat. Auth.: ORS 342

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

Hist.: TSPC 4-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

## 584-420-0345

### Elementary Education: Multiple Subjects Endorsement: Program Standards

(1) Candidates who are prepared for the Elementary Education - Multiple Subjects endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in elementary education learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for an Elementary Education — Multiple Subjects endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Instruction based on reading standards adopted by the Oregon Department of Education as provided in OAR 584-420-0015;

(c) Instruction related to dyslexia as provided in OAR 584-420-0016;

(d) A requirement for candidates to complete the Commission-approved test for Elementary-Multiple Subjects;

(e) A requirement for pre-service candidates to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for a Preliminary Teaching License;

(f) Field experiences that include supervised teaching or internships in elementary education classrooms; and

(g) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Elementary Education - Multiple Subjects Endorsement program.

(3) DEVELOPMENT, LEARNING, AND MOTIVATION. Standard 1: Development, Learning, and Motivation — Candidates know, understand, and use the major concepts, principles, theories, and research related to development of children and young adolescents to construct learning opportunities that support individual students' development, acquisition of knowledge, and motivation.

(4) CURRICULUM. Standard 2: Reading, Writing, and Oral Language — Candidates demonstrate a high level of competence in use of English language arts and they know, understand, and use concepts from

reading, language and child development, to teach reading, writing, speaking, viewing, listening, and thinking skills and to help students successfully apply their developing skills to many different situations, materials, and ideas.

(5) Standard 3: Science — Candidates know, understand, and use fundamental concepts of physical, life, and earth/space sciences. Candidates can design and implement age-appropriate inquiry lessons to teach science, to build student understanding for personal and social applications, and to convey the nature of science.

(6) Standard 4: Mathematics — Candidates know, understand, and use the major concepts and procedures that define number and operations, algebra, geometry, measurement, and data analysis and probability. In doing so they consistently engage problem solving, reasoning and proof, communication, connections, and representation.

(7) Standard 5: Social studies — Candidates know, understand, and use the major concepts and modes of inquiry from the social studies — the integrated study of history, geography, the social sciences, and other related areas — to promote elementary students' abilities to make informed decisions as citizens of a culturally diverse democratic society and interdependent world.

(8) Standard 6: The arts — Candidates know, understand, and use — as appropriate to their own understanding and skills — the content, functions, and achievements of the performing arts (dance, music, theater) and the visual arts as primary media for communication, inquiry, and engagement among elementary students.

(9) Standard 7: Health education — Candidates know, understand, and use the major concepts in the subject matter of health education to create opportunities for student development and practice of skills that contribute to good health.

(10) Standard 8: Physical education — Candidates know, understand, and use — as appropriate to their own understanding and skills—human movement and physical activity as central elements to foster active, healthy life styles and enhanced quality of life for elementary students.

(11) INSTRUCTION. Standard 9: Integrating and applying knowledge for instruction — Candidates plan and implement instruction based on knowledge of students, learning theory, connections across the curriculum, curricular goals, and community.

(12) Standard 10: Adaptation to diverse students — Candidates understand how elementary students differ in their development and approaches to learning, and create instructional opportunities that are adapted to diverse students.

(13) Standard 11: Development of critical thinking and problem solving — Candidates understand and use a variety of teaching strategies that encourage elementary students' development of critical thinking and problem solving.

(14) Standard 12: Active engagement in learning — Candidates use their knowledge and understanding of individual and group motivation and behavior among students at the K–6 level to foster active engagement in learning, self-motivation, and positive social interaction and to create supportive learning environments.

(15) Standard 13: Communication to foster collaboration — Candidates use their knowledge and understanding of effective verbal, non-verbal, and media communication techniques to foster active inquiry, collaboration, and supportive interaction in the elementary classroom.

(16) ASSESSMENT. Standard 14: Assessment for instruction — Candidates know, understand, and use formal and informal assessment strategies to plan, evaluate and strengthen instruction that will promote continuous intellectual, social, emotional, and physical development of each elementary student.

(17) PROFESSIONALISM. Standard 15: Professional growth, reflection, and evaluation — Candidates are aware of and reflect on their practice in light of research on teaching, professional ethics, and resources available for professional learning; they continually evaluate the effects of their professional decisions and actions on students, families and other professionals in the learning community and actively seek out opportunities to grow professionally.

(18) Standard 16: Collaboration with families, colleagues, and community agencies — Candidates know the importance of establishing and maintaining a positive collaborative relationship with families, school colleagues, and agencies in the larger community to promote the intellectual, social, emotional, physical growth and well-being of children.

Stat. Auth.: ORS 342

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

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 4-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

# ADMINISTRATIVE RULES

## 584-420-0440

### Reading Interventionist: Program Standards

(1) Candidates who are prepared for the Reading Intervention endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in a reading intervention learning environment.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for a Reading Intervention endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Instruction based on reading standards adopted by the Oregon Department of Education as provided in OAR 584-420-0015;

(c) Instruction related to dyslexia as provided in OAR 584-420-0016;

(d) A requirement for candidates to complete the Commission-approved test for Reading Intervention;

(e) A requirement for pre-service candidates to complete the edTPA teacher performance assessment if the candidate is being recommended for the Preliminary Teaching License;

(f) Field experiences that include supervised teaching or internships in reading intervention learning environments; and

(g) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Reading Intervention endorsement program.

(3) Standard 1: Candidates demonstrate the knowledge and skills related to foundational reading knowledge and dispositions.

(4) Standard 2: Candidates demonstrate the knowledge and skills related to instructional reading strategies and curriculum materials.

(5) Standard 3: Candidates demonstrate the knowledge and skills related to reading assessment, diagnosis and evaluation.

(6) Standard 4: Candidates demonstrate the ability and understand the importance of creating a literate environment.

(7) Standard 5: Candidates understand the importance on participation in professional development related to reading instructional skills.

(8) Standard 6: Candidates demonstrate the ability to provide leadership, guidance and supervision of paraprofessionals.

Stat. Auth.: ORS 342

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

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 4-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

## 584-420-0460

### Special Education: Program Standards

(1) Candidates who are prepared for special education endorsements will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in the special education population.

(2) The Commission may provide approval to an educator preparation program or course of study that prepares candidates for a special education endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Instruction based on reading standards adopted by the Oregon Department of Education as provided in OAR 584-420-0015;

(c) Instruction related to dyslexia as provided in OAR 584-420-0016;

(d) A requirement for candidates to complete the Commission-approved subject matter test for special education;

(e) Field experiences that include supervised teaching or internships in classroom environments with students who are “individuals with exceptionalities” across the full range of disabilities. Field and clinical experiences must be supervised by qualified professionals who are either licensed as special educators or eligible for licensure as special educators; and

(f) Integration of principles of cultural competency, cultural responsive pedagogy and equitable practices are imbedded in each competency standard through the entire special education endorsement program.

(3) The Commission-approved elementary multiple subjects examination is not required to obtain the license. However, passage of the Commission-adopted Elementary-- Multiple Subjects examination is required in order for special educators licensed to teach general education content in grades prekindergarten through 8 (elementary teachers) and to

meet the federal definition of “highly qualified” teacher under the Elementary/Secondary Education Act (ESEA).

(4) Standard 1: Candidates demonstrate the ability to understand how exceptionalities may interact with development and learning and use this knowledge to provide meaningful and challenging learning experiences for individuals with exceptionalities.

(5) Standard 2: Candidates demonstrate the ability to create safe, inclusive, culturally responsive learning environments so that individuals with exceptionalities become active and effective learners and develop emotional well-being, positive social interactions, and self-determination.

(6) Standard 3: Candidates demonstrate the ability to use knowledge of general and specialized curricula to individualize learning for individuals with exceptionalities.

(7) Standard 4: Candidates demonstrate the ability to use multiple methods of assessment and data sources in making educational decisions.

(8) Standard 5: Candidates demonstrate the ability to select, adapt, and use a repertoire of evidence-based instructional strategies to advance learning of individuals with exceptionalities.

(9) Standard 6: Candidates demonstrate the ability to use foundational knowledge of the field and their professional, ethical principles and practice standards to inform their special education practice, to engage in life-long learning, and to advance the profession.

(10) Standard 7: Candidates demonstrate the ability to collaborate with families, other educators, related service providers, individuals with exceptionalities, and personnel from community agencies in culturally responsive ways to address the needs of individuals with exceptionalities across a range of learning experiences.

Stat. Auth.: ORS 342

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

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 4-2016(Temp), f. 8-31-16, cert. ef. 9-1-16 thru 2-27-17

## Water Resources Department Chapter 690

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

**Adm. Order No.:** WRD 4-2016

**Filed with Sec. of State:** 8-23-2016

**Certified to be Effective:** 8-23-16

**Notice Publication Date:** 6-1-2016

**Rules Adopted:** 690-504-0005

**Rules Amended:** 690-504-0000, 690-504-0020, 690-504-0100

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

**Rules Coordinator:** Diana Enright—(503) 986-0874

### 690-504-0000

#### Classifications

(1) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Hood Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole, will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, flow augmentation, commercial, agriculture, power development, industrial, mining, recreation, wildlife, fish life, pollution abatement use, and the waters of the Hood Basin are hereby so classified with the following exceptions:

(a) The maximum economic development of this state, and the attainment of the highest and best use of the waters of Dog River above its point of diversion at Water Resources Department – U.S. Geological Survey

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Gage 14113400, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for municipal use, and the waters of Dog River above that point are hereby so classified;

(b) The maximum economic development of this state, and the attainment of the highest and best use of the waters of the natural lakes of the Hood Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole, will be furthered through utilization of the aforementioned waters only for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development not to exceed 7-1/2 theoretical horsepower, recreation, wildlife, and fish life uses and the waters of natural lakes of the basin are hereby so classified.

(2) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed, and operated in conformity with the applicable provisions of ORS 536.310 and any such structures or work are further declared to be prejudicial to the public interest which do not give cognizance to the multiple-purpose concept.

(3) Pursuant to ORS 538.200, the following streams forming waterfalls near the Columbia River Highway and flowing directly into the Columbia River shall not be diverted or interrupted for any purposes, except as provided in ORS 538.210:

- (a) Summit Creek — Forming Camp Benson Falls;
- (b) Wonder Creek also known as Spring Creek — Forming Lancaster Falls;
- (c) Warren Creek;
- (d) Phelps Creek;
- (e) Perham Creek;
- (f) Lindsey Creek — Forming Lindsey Falls;
- (g) Herman Creek;
- (h) Harphan Creek;
- (i) Grays Creek;
- (j) Gorton Creek — Forming Gorton Creek Falls;
- (k) Eagle Creek;
- (l) Cabin Creek;
- (m) Ruckles Creek, also known as Deadman's Creek;
- (n) Starvation Creek — Forming Starvation Falls;
- (o) Viento Creek.

Stat. Auth.: ORS 536 & 537

Stats. Implemented: ORS 538.200

Hist.: WRB 34, f. 4-7-66; WRD 3-1980, f. 1-23-80; WRD 1-1981, f. 4-20-81; WRD 1-1985, f. & cert. ef. 3-28-85; WRD 4-1988, f. 5-17-88, cert. ef. 5-13-88; Administrative Renumbering 1-1993, Renumbered from 690-080-0040; WRD 4-2016, f. & cert. ef. 8-23-16

## 690-504-0005

### Definitions

(1) "Indian Tribe" as defined by ORS 182.162, which defines a tribe as a federal recognized Indian tribe in Oregon.

(2) "Consultation", for the purpose of this rule "consultation" means a dialogue for the purpose of obtaining information or advice.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: WRD 4-2016, f. & cert. ef. 8-23-16

## 690-504-0020

### Water Quality

Rights to use of water for industrial or mining purposes shall be issued only on condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: WRB 34, f. 4-7-66; WRD 3-1980, f. 1-23-80; WRD 1-1981, f. 4-20-81; WRD 1-1985, f. & cert. ef. 3-28-85; WRD 4-1988, f. 5-17-88, cert. ef. 5-13-88; Administrative Renumbering 1-1993, Renumbered from 690-080-0040; WRD 4-2016, f. & cert. ef. 8-23-16

## 690-504-0100

### Application Process to Store Reserved Water

(1) Reservations of water for economic development are established pursuant to ORS 537.249 and 537.356 to ensure sufficient surface water will be available in the future to meet expected needs. Economic development includes, but is not limited to, the production of goods and services and management of natural resources which contribute economic benefits through both instream and out-of-stream uses of water.

(2) "Multipurpose reservoir," as used in OAR 690-504-0100 through 0160, means a reservoir storing water to serve multiple potential beneficial uses such as, but not limited to irrigation, commercial, agriculture, power

development, municipal, recreation, and flow augmentation for instream purposes.

(3) Reservations of water for future economic development in OAR 690-504-0110 through 0160 reserve surface water for future storage in multipurpose reservoirs. The storage of up to 2,000 acre-feet of water for live-stock or domestic purposes authorized under water rights with priority dates after November 6, 1992, shall be exempt from regulation for storage of water reserved under OAR 690-504-0110 through 0160.

(4) Permits to store reserved water shall receive the priority date of the reservation. The priority date for reservations under OAR 690-504-0110 through 0160 shall be November 6, 1992.

(5) In addition to the requirements of ORS Chapter 537, OAR Chapter 690, Division 310, and any other applicable rules, an application for a permit to store reserved water shall include:

(a) An assessment of the effect of the proposed reservoir on fish and wildlife developed after consultation with the Oregon Department of Fish and Wildlife;

(b) An assessment of the effect of the proposed reservoir on water quality developed after consultation with the Oregon Department of Environmental Quality;

(c) Documentation of consultation with any affected Indian Tribe(s), including the Confederated Tribes of Warm Springs Reservation.

(d) An analysis of water supply alternatives to the proposed reservoir, such as off-stream storage, water right transfers and implementation of conservation measures; and

(e) An analysis summarizing and describing how the proposed project will enhance instream values, including but not limited to instream flows.

(6) For the purposes of review of water right permit applications to store reserved water under OAR Chapter 690, Division 310, the reserved quantities of water listed in OAR 690-504-0110 through 0160 are available for appropriation. However, the determination that water is available under OAR 690-504-0110 through 0160 shall not substitute for consideration during the public interest review of site-specific information as required under OAR chapter 690, division 310 and any other applicable statutes or rules. Because the finding that water is available in OAR 690-504-0110 through 0160 is a water availability determination for a sub-basin, analysis of water availability at the specific location shall be conducted at the time of permit application review.

(7) In addition to any other findings required for issuance of a reservoir permit under OAR 690, Division 310 and applicable rules, and prior to issuance of a permit for a proposed project storing water reserved under 690-504-0110 through 0160, the Department shall also find:

(a) The proposed reservoir is consistent with the purpose of the reservation following consultation with the Department of Agriculture and other state agencies;

(b) The proposed reservoir will enhance instream values; including but not limited to instream flows; and

(c) Whether minimum bypass flow are required.

(8) The Department shall determine, and impose as a condition, an appropriate storage season, and shall include other conditions to ensure no injury to senior water rights and to protect instream values.

(9) Progress Reports: Until the Department has issued permits for multipurpose reservoirs for the full quantity of reserved water under OAR 690-504-0110 through 0160, the Department shall biennially report to the Water Resources Commission on the amount of water available under the reservation, and the quantity allocated under the reservation. The Department or Commission may require periodic reports from the Oregon Department of Agriculture on continued interest in the reservation, efforts undertaken to develop the reservation, and any challenges to developing the reservation.

(10) Effective date of rules:

(a) OAR 690-504-0110 through 0160 shall be effective until October 17, 2036, unless the effective date has been extended by further rulemaking of the Water Resources Commission.

(b) The expiration of these reservation rules shall not affect pending applications that have been received and deemed complete and not defective by the Water Resources Department pursuant to ORS 537.150(2), prior to the expiration date of the rules.

Stat. Auth.: ORS 536 & 537

Stats. Implemented: ORS 536.310, 537.249, 537.356 & 537.358

Hist.: WRD 8-1996, f. & cert. ef. 11-14-96; WRD 4-2016, f. & cert. ef. 8-23-16

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

# ADMINISTRATIVE RULES

**Adm. Order No.:** WRD 5-2016

**Filed with Sec. of State:** 9-6-2016

**Certified to be Effective:** 9-6-16

**Notice Publication Date:** 6-1-2016

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

**Rules Repealed:** 690-215-0200

**Subject:** The proposed changes include:

- Clean-up out of date, or incorrect, rule, table, or appendix numbers.

- Clarify and clean-up existing rule language so that it is more clear and easy to read.

- Adds definitions for “petroleum” and “wet soil monitoring hole”.

- Adds requirement for information on submitted well reports.

- Adds setback requirements from petroleum storage tanks.

- Clean-up and modify well construction sealing standards.

- Add requirement for dedicated measuring tubes.

- Clarify geotechnical hole requirements.

- Clarify piezometer abandonment requirements.

- Add requirements for direct push monitoring wells and piezometers.

**Rules Coordinator:** Diana Enright—(503) 986-0874

## 690-200-0005

### Basis for Regulatory Authority

Instructions: Separately attached PDF of Table 200-1 is to replace the table linked at the bottom of 690-200-0005 in the Editor’s Note

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

Stat. Auth.: ORS 536.027, 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 3, f. & ef. 2-18-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; Renumbered from 690-060-0005 by WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 3-2014, f. & cert. ef. 11-25-14; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-200-0028

### Designated Special Area Standards

(1) Special Area Standards for the Construction and Alteration of Water Supply Wells in the Lakeview Area.

(a) As used in this rule and illustrated in Figure 200-3, “The Lakeview Area” includes the area located in Sections 4, 5, 8 and 9 of Township 39 South, Range 20 East of the Willamette Meridian, Lake County, Oregon. Beginning at a point on the West line of Section 4, said point bears South 1 40’ 45” East — 2245.31 feet from the Northwest Corner of Section 4; thence South 89 54’ 45” East — 1907.04 feet to the West right of way line of the Fremont Logging Road; thence South 39 26’ 40” East along the West right of way line of the Fremont Logging Road — 3095.16 feet; thence South 1 53’ 14” East — 617.32 feet to the South line of Section 4; thence continuing in Section 9 — South 00 13’ 8” West parallel to the North South centerline of Section 9 - 2649.14 feet to the East West centerline of Section 9; thence South 89 45’ 31” West along the East West centerline of Section 9 — 3782.55 feet more or less to the West line of Section 9; thence West along the East West centerline of Section 8 — 1320.00 feet more or less to the center East 1/16 corner of Section 8; thence North 2640.00 feet more or less to the East 1/16 corner common to Sections 5 and 8; thence North 1 41’ 33” West — 2630.48 feet more or less to the center East 1/16 corner of Section 5; thence North 1 40’ 45” West — 410.32 feet; thence South 59 54’ 45” East — 1307.02 feet more or less to the point of beginning.

(b) Any new, altered, deepened or converted well in the sedimentary units (clay, sand, silt, gravel) in the Lakeview Area shall be cased and sealed according to OAR 690, division 210 with the following additional requirements:

(A) Unperforated casing and seal shall extend from land surface to a depth of 250 feet below land surface; and

(B) Perforated casing may extend below the seal.

(c) Liner installed in any new, altered, deepened or converted well in the sedimentary units (clay, sand, silt, gravel) in the Lakeview Area shall not extend more than 10 feet above the bottom of the unperforated casing.

(d) Alternatives to the special area standards shall be approved only if it can be demonstrated that the alternative techniques proposed to be used

are as effective as the techniques required in subsection (1)(b) and (1)(c) above. Such alternatives require prior written approval by the Department and follow-up testing as may be required by the Department.

(e) Except as they may conflict with subsection (1)(b) and (1)(c), all other provisions of Oregon Administrative Rules for Well Construction and Maintenance Standards apply.

(f) This rule is applicable to wells for which construction, alteration, deepening or conversion began on or after April 1, 2004.

(g) This special area standard may be revised at a future date when additional information and analysis is provided from other agencies including the Oregon Department of Environmental Quality.

(2) Special Area Standards for the Construction, Conversion and Maintenance of Water Supply Wells for the “Petes Mountain Area”, Clackamas County.

(a) As used in this rule and illustrated in Figure 200-4, “The Petes Mountain Area” includes the area located in Sections 28, 29, 32, 33 and 34 Township 2 South, Range 1 East, Willamette Meridian; and Sections 2, 3, 4, 5, 9, 10, 11, 15 and 16, Township 3 South, Range 1 East, Willamette Meridian. Beginning at the intersection of SW Ek Road and SW Stafford Road (T.2 S., R.1 E., Sec. 29); thence southerly along SW Stafford Road to SW Mountain Road; thence southerly along SW Mountain Road to SW Hoffman Road; thence easterly along SW Hoffman Road to the intersection of SW Hoffman Road, SW Petes Mountain Road and SW Riverwood Drive; thence due east to the Willamette River; thence northerly along the Willamette River to the mouth of the Tualatin River; thence northwesterly along the Tualatin River to SW Borland Road (a.k.a. Willamette Falls Drive); thence northwesterly along SW Borland Road to SW Ek Road; thence westerly along SW Ek Road to SW Stafford Road, to the point of beginning.

(b) All new, altered, deepened or converted wells constructed in the Petes Mountain Area shall be cased and sealed in accordance with OAR 690, Division 210 with the following additional requirements:

(A) All new wells shall have a nominal minimum well casing diameter of at least 6 inches.

(B) All wells shall have a minimum 3/4-inch diameter dedicated measuring tube installed at the time of pump installation, pump repair or pump replacement (See Figure 200-5 and OAR 690-215-0200).

(C) Alternatives to the special area standards shall be approved only if it can be demonstrated that the alternative techniques proposed to be used are as effective as the techniques required in subsection (2)(b) above. Such alternatives require prior written approval by the Department. In addition, follow-up testing may be required by the Department to insure the effectiveness of the alternative technique.

(D) Except as they may conflict with subsection (2)(b), all other provisions of Oregon Administrative Rules for Well Construction and Maintenance Standards apply.

(E) This rule is applicable to wells for which pump installation, repair or replacement began on or after July 1, 2008.

(F) This special area standard may be revised at a future date when additional information and analysis is provided from other agencies including the Oregon Department of Environmental Quality.

(3) Special Area Standards for the Construction, Conversion and Maintenance of Water Supply Wells for the “Eola Hills Ground Water Limited Area,” Polk and Yamhill Counties.

(a) As used in this rule and illustrated in Figure 200-7, “The Eola Hills Ground Water Limited Area” includes all or portions of Sections 4 through 9, 16 through 21, and 29 through 32, Township 6 South, Range 3 West, Willamette Meridian; Sections 3 through 10, 15 through 22, 28, 29 and 30, Township 7 South, Range 3 West, Willamette Meridian; Sections 1 through 5, 8 through 17, 20 through 29, and 32 through 36, Township 6 South, Range 4 West, Willamette Meridian; and Sections 1 through 30, Township 7 South, Range 4 West, Willamette Meridian. The boundary of the Eola Hills area is as follows: Beginning at the intersection of the south line of Township 5 South and U.S. Highway 99W, thence east along the township line to the Willamette River, thence southerly to Oregon State Highway 22, thence westerly to U.S. Highway 99W, thence northerly along Hwy 99W to the point of beginning.

(b) All new, altered, deepened or converted wells constructed in the Eola Hills Ground Water Limited Area shall be cased and sealed in accordance with OAR 690, Division 210 with the following additional requirements:

(A) All new wells shall have a nominal minimum well casing diameter of at least 6 inches.

# ADMINISTRATIVE RULES

(B) All wells, in all aquifers, shall have a minimum 3/4-inch diameter dedicated measuring tube installed at the time of pump installation, pump repair or pump replacement (See Figure 200-5 and OAR 690-215-0200).

(C) All new and deepened wells developing water from basalt in the Eola Hills Ground Water Limited Area shall be limited to one aquifer and shall be continuously cased and continuously sealed to within 100 feet of the bottom of the hole.

(c) Alternatives to the special area standards shall be approved only if it can be demonstrated that the alternative techniques proposed to be used are as effective as the techniques required in subsection (3)(b) above. Such alternatives require prior written approval by the Department. In addition, follow-up testing may be required by the Department to insure the effectiveness of the alternative technique.

(d) Except as they may conflict with subsection (3)(b), all other provisions of Oregon Administrative Rules for Well Construction and Maintenance Standards apply.

(e) This rule is applicable to wells for which pump installation, repair or replacement began on or after July 1, 2008.

(4) Special Area Standards for New, Altered, Deepened or Converted Water Supply Wells in the "Mosier Area," Wasco County.

(a) As used in this rule and illustrated in Figure 200-8, the "Mosier Area" includes the area located in Section 36 Township 3 North, Range 11 East, Willamette Meridian; and Sections 31, 32, 33 and 34 Township 3 North, Range 12 East, Willamette Meridian; and Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36 Township 2 North, Range 11 East, Willamette Meridian; and Sections 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32 and 33 Township 2 North, Range 12 East, Willamette Meridian. Beginning at a point of intersection of the Wasco County, Hood River County, State of Oregon and State of Washington lines; thence south along the Wasco and Hood River County line to the Southwest corner of Section 34, Township 2 North, Range 11 East of the Willamette Meridian; thence east to the Southeast corner of Section 32, Township 2 North, Range 12 East of the Willamette Meridian; thence north to the East 1/4 corner of Section 32; thence east to the Southeast corner of the SW1/4 of the NW1/4 of Section 33; thence north to the Southeast corner of the NW1/4 of the NW1/4 of Section 33; thence east to the Southeast corner of the NE1/4 of the NW1/4 of Section 33; thence north to the North 1/4 corner of Section 33; thence east to the Southeast corner of the SW1/4 of the SE1/4 of Section 28; thence north to the Southeast corner of the NW1/4 of the SE1/4 of Section 28; thence east to Southeast corner of the NW1/4 of the SW1/4 of Section 27; thence north to the Southeast corner of the SW1/4 of the NW1/4 of Section 27; thence east to the Center 1/4 corner of Section 27; thence north to Southeast corner of the NE1/4 of the NW1/4 of Section 27; thence east to the Southeast corner of the NW1/4 of the NE1/4 of Section 27; thence north to the SE corner of section 22; thence north to the East 1/4 corner of Section 22; thence east to the Center 1/4 of Section 23; thence north to the Southeast corner of the NE1/4 of the NW1/4 of Section 23; thence east to the Southeast corner of the NE1/4 of the NE1/4 of Section 23; thence north to the Northwest corner of Section 24; thence east to the North 1/4 corner of Section 24; thence north to the North 1/4 corner of Section 13; thence west to the Northeast corner of Section 15; thence north to the Oregon and Washington State line; thence west along the Oregon-Washington State line to the point of beginning.

(b) Well constructors shall provide at least 10 calendar days notice to the Department prior to the start of construction, alteration, deepening or conversion on any new or existing well in the "Mosier Area", in one of two ways:

(A) A Start Card submitted electronically at least ten (10) calendar days prior to the start of construction, alteration, deepening or conversion; or

(B) A Start Card mailed, faxed or hand delivered and received by the Department in Salem at least ten (10) calendar days prior to the start of construction, alteration, deepening or conversion.

(c) In cases where the additional notice requirement cannot be met the well constructor shall notify the Department by fax, telephone or e-mail prior to the start of construction, alteration, deepening or conversion. Department approval is required to proceed. Approval shall be either, verbal, written or electronic.

(d) All new and deepened water supply wells developing water from the Columbia River Basalt Group in the "Mosier Area", as described in (a) above, shall be limited to one aquifer and shall be constructed in accordance with OAR 690, division 210 with the following additional requirements:

(A) All new wells shall have a nominal minimum well casing diameter of at least 6 inches.

(B) The well constructor shall provide the following information to the Department so that a case and seal depth can be determined. The well shall not be permanently cased and sealed prior to consultation with the Department:

(i) A rough log that describes the kind and nature of the material in each formation penetrated, with at least one entry for each change of formation, the thickness of aquifers and available static water level measurements; and

(ii) Such additional information as required by the Department.

(c) Alternatives to the special area standards shall be approved only if it can be demonstrated that the alternative techniques proposed to be used are as effective as the techniques required in (d) above. Such alternatives require prior written approval by the Department. In addition, follow-up testing may be required by the Department to ensure the effectiveness of the alternative technique.

(f) All wells, in all aquifers, shall have a minimum 3/4-inch diameter dedicated measuring tube installed at the time of pump installation, pump repair or pump replacement (See Figure 200-5 and OAR 690-215-0200).

(g) Except as they may conflict with (d) above, all other provisions of Oregon Administrative Rules for Well Construction and Maintenance Standards apply.

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

Stat. Auth.: ORS 183, 537.780, 536.027, 536.090, 540

Stats. Implemented: ORS 183, 536, 537.505 - 537.795, 537.780(1) & 540

Hist.: WRD 2-2004, f. & cert. ef. 4-1-04; WRD 2-2008, f. 6-18-08, cert. ef. 7-1-08; WRD 5-2015, f. & cert. ef. 7-1-15; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-200-0048

### Label Well Identification

(1) Within 30 days of completion of well construction, conversion, or alteration, the constructor shall permanently affix a well identification label to the wellhead in an accessible and visible location in the following manner:

(a) Labels shall be at least six inches above ground surface and shall be permanently attached to the outside of the casing using a stainless steel band, stainless steel rivets, or screws; and

(b) Labels shall be attached in such a manner as to be easily readable upon inspection.

(2) Identification labels may not be attached to pumps, pump equipment, water delivery lines, or well caps.

(3) The identification label number shall be recorded on the well report at the time the report is submitted.

(4) Identification labels shall be furnished by the Department.

(5) If a well identification label is already affixed to an existing well that is being altered, converted, or abandoned, the constructor shall record the identification label number on the well report.

(6) When a well that has a well identification label on it is permanently abandoned, the well identification label shall be destroyed. The well identification label shall not be reused.

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

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

Hist.: WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-200-0050

### Definitions

The Water Resources Commission uses the definitions of the words listed below in the administration and enforcement of Oregon's Ground Water Law and the Rules and Regulations for the Construction and Alteration of Wells. No other definitions of these same words apply:

(1) "Abandonment, Permanent" means to remove a well from service by completely filling it in such a manner that vertical movement of water within the well bore and within the annular space surrounding the well casing, is effectively and permanently prevented. If a portion of a well is to be abandoned in order to prevent commingling, waste, or loss of artesian pressure, the abandonment shall conform with the requirements of OAR chapter 690, division 220 for water supply wells. This term is synonymous with "decommission."

(2) "Abandonment, Temporary" means to remove a drilling machine from a well site after completing or altering a well provided the well is not immediately put into service, or to remove a well from service with the intent of using it in the future.

(3) "Access Port" means a minimum 1/2-inch tapped hole and plug, a 1/2-inch capped pipe welded onto the casing in the upper portion of a water supply well, or a dedicated measuring tube to permit unobstructed entry to determine the water level in the well at any time.

## ADMINISTRATIVE RULES

(4) “Air Gap” means a complete physical break between the outlet end of the discharge pipe or other conduit and the discharged substance. The break shall be at least twice the inside diameter of the pipe or conduit. (Back-siphon prevention)

(5) “Airline” means a water level measuring device consisting of a pressure gauge attached to an airtight line or pipe of known length, within the water supply well bore, extending from land surface to below the pumping level. The device will allow the water level to be computed by measuring the stable air pressure remaining in the line after completely purging water from within the line.

(6) “Air/Vacuum Relief Valve” means a device to automatically relieve or break vacuum. (Back-siphon prevention).

(7) “Altering a Well” means the deepening, hydrofracturing, re-casing, perforating, re-perforating, installation of packers or seals, and any other material change in the design or construction of a well. Material changes include but are not limited to casing installation or modification including casing extensions, installation or modification of liner pipe, reaming or under reaming of the borehole, pitless unit installation or re-sealing except for re-sealing performed during pitless adapter installation.

(8) “Annular Space” means the space between the drillhole wall and the outer well casing.

(9) “Aquifer” means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout in characteristics such as potentiometric head, chemistry, and temperature (see Figure 200-2).

(10) “Artesian Aquifer” means a confined aquifer in which groundwater is under sufficient head to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the water level stands above land surface, the well is a flowing artesian well (see Figure 200-2).

(11) “Artesian Water Supply Well” means a water supply well in which groundwater is under sufficient pressure to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the water level stands above land surface the well is a flowing artesian water supply well.

(12) “Automatic Low-Pressure Drain” means a self-activating device designed and constructed to intercept incidental leakage and drain that portion of an irrigation pipeline or any other method of conveyance whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down. (Back-siphon prevention).

(13) “Back-Siphon Prevention Device” means a safety device used to prevent water pollution or contamination by preventing flow of a mixture of water and/or chemicals in the opposite direction of that intended. (Back-siphon prevention)

(14) “Bored Well” means a well constructed with the use of earth augers turned either by hand or by power equipment.

(15) “Buried Slab Type Well” means a dug well in which well casing is used to case the upper hole. A slab, sealed with cement grout, is placed between the upper hole and lower drillhole, and the remainder of the annulus is filled with concrete.

(16) “Casing” means the outer tubing, pipe, or conduit, welded or thread coupled, and installed in the borehole during or after drilling to support the sides of the well and prevent caving. Casing can be used, in conjunction with proper seal placement, to shut off water, gas, or contaminated fluids from entering the hole, and to prevent waste of groundwater.

(17) “Casing Seal” means the water tight seal established in the well bore between the well casing and the drillhole wall to prevent the inflow and movement of surface water or shallow groundwater in the well annulus, or to prevent the outflow or movement of water under artesian or hydrostatic pressures. This term is synonymous with “annular seal” or “surface seal”

(18) “Check Valve” means a certified device designed and constructed to close a water supply pipeline, chemical injection line, or other conduit in a chemigation system to prevent reverse flow in that line. (Back-siphon prevention).

(19) “Chemigation” means the method of applying agricultural chemicals and fertilizer through an irrigation system.

(20) “Clay” means a fine-grained, inorganic material having plastic properties and with a predominant grain size of less than 0.002 mm.

(21) “Commission” means the Oregon Water Resources Commission.

(22) “Committee” means the Oregon Ground Water Advisory Committee created by ORS 536.090.

(23) “Community Well” means a water supply well, whether publicly or privately owned, which serves or is intended to serve more than three connections for residences or other connections for the purpose of supplying water for drinking, culinary, or household uses.

(24) “Confined Animal Feeding or Holding Area” means the concentrated confined feeding or holding of animals or poultry, including but not limited to horse, cattle, sheep, swine, and dairy confinement areas, slaughterhouse or shipping terminal holding pens where the animal waste is allowed to build up on the ground. Pastures and areas adjacent to buildings where animals and animal waste is confined by a physical barrier such as concrete are exempt.

(25) “Confining Interval” means a low permeability material such as clay or solid, unfractured, consolidated rock immediately overlying an artesian (confined) aquifer (see Figure 200-2).

(26) “Consolidated Formation” means materials that have become firm through natural rock-forming processes. It includes, but is not limited to, such materials as basalt, sandstone, shale, hard claystone, and granite.

(27) “Contamination” means an impairment of water quality by chemicals, radionuclides, biologic organisms or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

(28) “Continuing Education” means that education required as a condition of licensure under ORS 537.747, to maintain the skills necessary for the protection of groundwater, the health and general welfare of the citizens of Oregon and the competent practice of the construction, alteration, abandonment, conversion, and maintenance of water supply wells, monitoring wells, and geotechnical holes.

(29) “Continuing Education Committee” means the Well Constructor Continuing Education Committee authorized under Chapter 496, Oregon Laws 2001 (ORS 537.765).

(30) “Continuing Education Course” means a formal offering of instruction or information to licensee’s that provides continuing education credits.

(31) “Continuing Education Credit” (CEC) means a minimum of 50 minutes of instruction or information approved by the Continuing Education Committee.

(32) “Converting” a well means changing the use of an existing well or hole not previously used to either withdraw or monitor water such that the well or hole can be used to either withdraw or monitor water.

(33) “Deepening a well” means extending the well bore of an existing well through previously undisturbed native material. Deepening is a type of alteration.

(34) “Department” means the Oregon Water Resources Department.

(35) “Director” means the Director of the Department or the Director’s authorized representatives.

(36) “Documentation of Completion” means written evidence or documentation demonstrating attendance and completion of a continuing education course, including but not limited to: a certificate of completion, diploma, transcript, certified class roster, or other documentation as approved by the Continuing Education Committee.

(37) “Domestic Well” means a water supply well used to serve no more than three residences for the purpose of supplying water for drinking, culinary, or household uses, and which is not used as a public water supply.

(38) “Drawdown” means the difference in vertical distance between the pumping level and the static water level in a well.

(39) “Drive Point Well” means a well constructed by driving into the ground a well-point fitted to the end of a pipe section or series of pipe sections.

(40) “Dug Well” means a well in which the excavation is made by the use of digging equipment such as backhoes, clam shell buckets, or sand buckets. (See Hand dug well).

(41) “Excavation” means a free-standing cavity with greater width than depth constructed in the earth’s surface which has a primary purpose other than seeking water or water quality monitoring.

(42) “Figure”, when used herein, refers to an illustration and is made a part of the primary article and section by reference.

(43) “Filter Pack Well” means a well in which the area immediately surrounding the well screen or perforated pipe within the water-producing zone is filled with graded granular material.

(44) “Geologic Formation” means an igneous, sedimentary, or metamorphic material that is relatively homogeneous and is sufficiently recognized as to be distinguished from the adjacent material. The term is synonymous with “formation.”

(45) “Geologist” means an individual registered by the State of Oregon to practice geology.

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(46) "Geotechnical hole" means a hole constructed to collect or evaluate subsurface data or information, monitor movement of landslide features, or to stabilize or dewater landslide features. Geotechnical holes are not monitoring wells or water supply wells as defined below. Various classes and examples of geotechnical holes are listed in OAR 690-240-0035(6)-(9).

(47) "Grout" means approved cement, concrete, or bentonite sealing material used to fill an annular space of a well or to abandon a well.

(48) "Grout Pipe" means a pipe which is used to place grout at the bottom of the sealing interval of a well.

(49) "Hand dug well" means a well in which the excavation is only made by the use of picks, shovels, spades, or other similar hand operated implements. (See Dug Well).

(50) "Hazardous Materials Training" means training as defined by OAR 437-002-0100 Adoption by Reference Subdivision H Hazardous Materials 1910.120 Hazardous Waste Operations and Emergency Response.

(51) "Hazardous Waste" means a substance as defined by ORS 466.005.

(52) "Hazardous Waste Disposal Site" means a geographical site in which or upon which hazardous waste is disposed.

(53) "Hazardous Waste Storage Site" means the geographical site upon which hazardous waste is stored.

(54) "Hazardous Waste Treatment Site" means the geographical site upon which or a facility in which hazardous waste is treated.

(55) "Health Hazard" means a condition where there are sufficient concentrations of biological, chemical, or physical, including radiological, contaminants in the water that are likely to cause human illness, disorders, or disability. These include but are not limited to, naturally occurring substances, pathogenic viruses, bacteria, parasites, toxic chemicals, and radioactive isotopes. Sufficient concentrations of a contaminant include but are not limited to contaminant levels set by the Oregon Department of Environmental Quality and Oregon Health Division.

(56) "Health Threat" means a condition where there is an impending health hazard. The threat may be posed by, but not limited to: a conduit for contamination, or a well affecting migration of a contaminant plume, or the use of contaminated water. A well in which the construction is not verified by a water supply well report or geophysical techniques may be considered a conduit for contamination in certain circumstances. Those circumstances include, but are not limited to: an unused and neglected well or a well for which no surface seal was required. A well in which the casing seal, sanitary seal, or watertight cap has failed, or was inadequately installed may be considered a conduit for contamination.

(57) "Horizontal Well" means a well that intentionally deviates more than 20 degrees from true vertical at any point.

(58) "Hydrofracturing" means the use of high pressure liquid, sand, packers or other material to open or widen fractures in consolidated formations for the purpose of increasing well yield.

(59) "Hydrologic Cycle" is the general pattern of water movement by evaporation from sea to atmosphere, by precipitation onto land, and by return to sea under influence of gravity.

(60) "Inspection Port" means an orifice or other viewing device from which the low-pressure drain and check valve may be observed.

(61) "Jetted Well" means a well in which the drillhole excavation is made by the use of a high velocity jet of water.

(62) "Leakage" means movement of surface and/or subsurface water around the well casing or seal.

(63) "Liner Pipe" means the inner tubing, pipe, or conduit installed inside the well casing or lower well bore. The liner pipe is used to protect against caving formations and is not permanently affixed to the drillhole wall or casing.

(64) "Lower Drillhole" means that part of the well bore extending below the casing seal interval in a well.

(65) "Mineralized Water" means any naturally occurring groundwater containing an amount of dissolved chemical constituents limiting the beneficial uses to which the water may be applied.

(66) "Monitoring Well" means a well designed and constructed to determine the physical (including water level), chemical, biological, or radiological properties of groundwater.

(67) "Monitoring Well Constructor" means any person who has a current water well constructor's license with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(68) "Monitoring Well Constructor's License" means a Water Well Constructor's License with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(69) "Municipal or Quasi-Municipal Well" means a water supply well owned by a municipality or nonprofit corporation that may be used as a community or public water supply.

(70) "Order" means any action satisfying the definition given in ORS Chapter 183 or any other action so designated in ORS 537.505 to 537.795.

(71) "Other Hole" means a hole other than a water supply well, a monitoring well, or geotechnical hole, however constructed, in naturally occurring or artificially emplaced earth materials, through which groundwater can become contaminated. Holes constructed under ORS Chapters 517, 520, and 522 are not subject to these rules. Other holes are regulated under OAR 690-240. Examples of other holes are listed in 690-240-0030.

(72) "Perched Groundwater" means groundwater held above the regional or main water table by a less permeable underlying earth or rock material (see Figure 200-2).

(73) "Permeability" means the ability of material to transmit fluid, usually described in units of gallons per day per square foot of cross-section area. It is related to the effectiveness with which pore spaces transmit fluids.

(74) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(75) "Petcock Valve" is a valve used to contain pressure which when opened will drain the line or pipe.

(76) "Petroleum" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels, and any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute. "Petroleum" does not include any substance identified as a hazardous waste under 40 CFR Part 261.

(77) "Piezometer" means a type of monitoring well designed solely to obtain groundwater levels. Piezometers are prohibited in areas of known or reasonably suspected contamination. This term is synonymous with "observation well" (See OAR 690-240).

(78) "Pitless Adapter" means a commercially manufactured device designed for attachment to one or more openings through a well casing, which will permit water service pipes to pass through the wall of a well casing or extension thereof and prevent entrance of contaminants into the well or groundwater. (Note: Unhydrated bentonite shall be installed at least one and one-half inches thick around the casing in any disturbed seal interval during pitless adapter installation).

(79) "Pitless Unit" means a commercially manufactured assembly which extends the upper end of the well casing to above grade, constructed and installed so as to prevent the entrance of contaminants into the well and to protect the groundwater supply, conduct water from the well, and provide full access to the well and water system parts therein. (Note: Unhydrated bentonite shall be installed at least one and one-half inches thick around the casing in any disturbed seal interval during pitless unit installation).

(80) "Porosity" means the ratio of the volume of voids in the geologic formation being drilled to the overall volume of the material without regard to size, shape, interconnection, or arrangement of openings.

(81) "Potable Water" means water which is sufficiently free from biological, chemical, physical, or radiological impurities so that users thereof will not be exposed to or threatened with exposure to disease or harmful physiological effects.

(82) "Potentiometric Surface" means the level to which water will rise in tightly cased artesian wells (see Figure 200-2).

(83) "Pressure Grouting" means a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

(84) "Professional" means any person licensed or registered by the State of Oregon to construct monitoring wells, water supply wells, or practice geology or civil engineering.

(85) "Public-at-Large" means a person not actively engaged in the well industry.

(86) "Public Water System" means a system for the provision to the public of piped water for human consumption, if such system has more than three service connections or supplies water to a public or commercial establishment that operates a total of at least 60 days per year, and that is used by ten or more individuals per day. Public water system also means a system for the provision to the public of water through constructed conveyances other than pipes to at least 15 service connections or regularly



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serves at least 25 individuals daily at least 60 days of the year. A public water system is either a "Community Water System," a "Transient Non-Community Water System," a "Non-Transient Non-Community Water System" or a "State Regulated Water System."

(87) "Public Well" means a water supply well, whether publicly or privately owned, other than a municipal well, where water is provided for or is available through the single user for public consumption. This includes, but is not limited to, a school, a farm labor camp, an industrial establishment, a recreational facility, a restaurant, a motel, or a group care home.

(88) "Pumping Level" means the level of the water surface in a well while it is being pumped or bailed.

(89) "Pump Test" means the procedure involving pumping water for a specified period of time to determine the yield characteristics of an aquifer.

(90) "Refusal to Renew" means a provision in an order, or as allowed by ORS 537.747, that prohibits renewal of a well constructor's license, for a specified term not to exceed one year from the expiration date of the current license.

(91) "Remediation Well" means a well used for extracting contaminants and/or contaminated groundwater from an aquifer. This term is synonymous with "extraction well" and "recovery well."

(92) "Respondent" means the person against whom an enforcement action is taken.

(93) "Responsible Party" means the person or agency that is in charge of construction or maintenance and is either in violation as specified in a notice of violation or who may benefit from that violation.

(94) "Rough Drilling Log" means a record kept on the well site of the information needed to complete the well report for the well being constructed.

(95) "Revoke" means termination of a well constructor's license.

(96) "Sand" means a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

(97) "Sanitary Seal" means a tight fitting properly sized threaded, welded, or gasketed cap placed on the top of the permanent well casing to prevent entry of water and foreign material.

(98) "Sealant": See Grout.

(99) "Silt" means an unconsolidated sediment composed predominantly of particles between 0.06 mm and 0.002mm in diameter.

(100) "Slope Stability Geotechnical Hole" means a geotechnical hole excavated, drilled or bored for studying and/or monitoring movement of landslide features, including water levels, or other mass-wasting features to detect zones of movement and establish whether movement is constant, accelerating, or responding to remedial measures. Hole(s) excavated, drilled or bored for the purpose of slope remediation or stabilization shall be considered a slope stability geotechnical hole. Slope stability geotechnical holes are not monitoring wells, piezometers, or water supply wells.

(101) "Sponsor" means an institution, professional organization, individual, or business that offers continuing education courses to licensees. This term is synonymous with provider.

(102) "Static Water Level" means the stabilized level or elevation of water surface in a well not being pumped.

(103) "Sump" means a hole dug to a depth of ten feet or less with a diameter greater than ten feet in which groundwater is sought or encountered.

(104) "Suspension" means the temporary removal of the privilege to construct wells under an existing license for a period of time not to exceed one year.

(105) "System Interlock" means an interlocking mechanism used to link irrigation pumps and chemical injection units, other pumps, or supply tanks so designed that in the event of irrigation pump malfunction or failure, shutdown of the chemical injection units will occur. (Back-siphon prevention).

(106) "Unconsolidated Formation" means naturally occurring, loosely cemented, or poorly indurated materials including clay, sand, silt, and gravel.

(107) "Underground Injection" means the emplacement or discharge of fluids to the subsurface.

(108) "Underground Injection System" means a well, improved sump, sewage drain hole, subsurface fluid distribution system, or other system or groundwater point source used for the emplacement or discharge of fluids.

(109) "Upper Oversize Drillhole" means that part of the well bore extending from land surface to the bottom of the surface seal interval.

(110) "Violation" means an infraction of any statute, rule, standard, order, license, compliance schedule, or any part thereof and includes both acts and omissions.

(111) "Water Supply Well" means a well, other than a monitoring well, that is used to beneficially withdraw or beneficially inject ground or surface water. Water supply wells include, but are not limited to, community, dewatering, domestic, irrigation, industrial, municipal, and aquifer storage and recovery wells.

(112) "Water Supply Well Constructor" means any person who has a current water well constructor's license with a water supply well endorsement issued in accordance with ORS 537.747(3).

(113) "Water Supply Well Constructor's License" means a Water Well Constructor's License with a water supply well endorsement issued in accordance with ORS 537.747(3).

(114) "Water Supply Well Drilling Machine" means any power-driven driving, jetting, percussion, rotary, boring, digging, augering machine, or other equipment used in the construction or alteration of water supply wells.

(115) "Water Table" means the upper surface of an unconfined water body, the surface of which is at atmospheric pressure and fluctuates seasonally. The water table is defined by the levels at which water stands in wells that penetrate the water body (see Figure 200-2).

(116) "Water Well Constructor's License" means a license to construct, alter, deepen, abandon or convert wells issued in accordance with ORS 537.747(3). Endorsements are issued to the license and are specific to the type of well a constructor is qualified to construct, alter, deepen, abandon or convert.

(117) "Well" means any artificial opening or artificially altered natural opening, however made, by which groundwater is sought or through which groundwater flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in 522.055 is regulated by the Department of Geology and Mineral Industries.

(118) "Wet Soil Monitoring Hole" means a shallow geotechnical hole set vertically in the ground and constructed to a depth of three and one-half feet or less for studying and/or monitoring the upper portion of the shallowest water-bearing unit within and immediately below the surface soil horizon.

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

Stat. Auth.: ORS 536.027, 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 9, f. & ef. 12-9-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 12-1982, f. & ef. 12-14-82; Renumbered from 690-060-0050 & 690-064-0000 by WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 21-1990, f. & cert. ef. 12-14-90; WRD 1-1991, f. & cert. ef. 2-8-91; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 2-2008, f. 6-18-08, cert. ef. 7-1-08; WRD 3-2008, f. 12-22-08, cert. ef. 1-2-09; WRD 5-2015, f. & cert. ef. 7-1-15; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-205-0210

### Well Report Required (Water Supply Well Log)

(1) A water well report (water well log) shall be prepared for each water supply well constructed, altered, converted, or abandoned. This requirement includes unsuccessful wells and wells exempt from appropriation permit requirements under ORS 537.545. The log shall be certified as correct by signature of the Water Supply Well Constructor constructing the water supply well. The completed log shall also be certified by the bonded Water Supply Well Constructor responsible for construction of the well. A water well report must be submitted by each bonded constructor (if drilling responsibility is shifted to a different bonded constructor), showing the work performed by each bonded constructor.

(2) The log shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the Water Supply Well Constructor, and the second copy shall be given to the customer who contracted for the construction of the water supply well.

(3) The bonded Water Supply Well Constructor shall file the water well log with the Director within 30 days after the completion of the construction, alteration, conversion or abandonment of the water supply well.

(4) The trainee or Water Supply Well Constructor operating the water supply well drilling machine shall maintain a rough log of all geologic strata encountered and all materials used in the construction of the water supply well. This log shall be available for inspection by the Watermaster, or other authorized agent of the Water Resources Department at any time

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before the water well report is received by the Department. The rough drilling log shall be in handwritten or electronic form, or a voice recording.

(5) In the event a constructor leaves any drilling equipment or other tools in a water supply well, this fact shall be entered on the water well report.

(6) A copy of any special authorizations or special standards issued by the Director shall be attached to the water supply well report.

(7) The report of water well construction required in section (1) of this rule shall be recorded on a form provided or previously approved in writing by the Department. The form shall include, as a minimum, the following:

- (a) Name and Address of Landowner;
  - (b) Started/Completed date;
  - (c) Location of the well by county, Township, Range, Section, tax lot number, if assigned, street address, or nearest address, and either the 1/4, 1/4 section or Latitude and Longitude as established by a global positioning system (GPS);
  - (d) Start card number;
  - (e) Well identification label number (well tag number);
  - (f) Use of well;
  - (g) Type of work;
  - (h) Temperature of water;
  - (i) Total dissolved solids (TDS); and
  - (j) Such additional information as required by the Department.
- Stat. Auth.: ORS 536.090 & 537.505 - 537.795  
Stats. Implemented: ORS 536.090 & 537.505 - 537.795  
Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0040; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0080; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-210-0030

### Placement of Water Supply Wells

- (1) No person shall construct a water supply well:
  - (a) Within 50 feet of any septic tank; or
  - (b) Within 100 feet of a septic drainline or sewage disposal structure or facility; or
  - (c) Within 50 feet of a closed sewage or storm drainage system (except those in or underneath a building); or
  - (d) Within 50 feet of a confined animal feeding or holding area; or
  - (e) Within 50 feet of any animal waste holding area such as a pond or lagoon; or
  - (f) Within 100 feet of any sewage sludge disposal area; or
  - (g) Within 5 feet from a permanent structure or the roof, eaves or overhangs of a permanent structure. This includes decks or other additions to the structure that may hinder the ability of a drilling machine to get over the well. This does not include pump houses or other outbuildings that are easily moved; or
  - (h) Within 500 feet of a hazardous waste storage, disposal or treatment facility without written permission of the Director; or
  - (i) Within 25 feet of an underground or aboveground petroleum storage tank that is used for residential purposes; or
  - (j) Within 50 feet of an underground or aboveground petroleum storage tank that is used for commercial purposes.
- (2) A new water supply well may be constructed at the site of an abandoned septic tank or drain field one year after the septic tank or drain field is taken out of use. The abandoned septic tank shall be pumped by a DEQ licensed sewage disposal business to remove all contents. Following pumping, the tank shall be filled with reject sand, bar run gravel or other material approved by the on site sub-surface sewage permitting agent. The delivery line between the building and the tank shall be permanently capped or filled with cement grout. A water supply well shall not be constructed through an abandoned septic tank or septic drain line. The new water supply well shall be located to meet other setbacks as directed in section (1) of this rule.
- (3) Rain water gutter downspouts and drains are exempt from the setback requirements.
- (4) The constructor should consider whether greater setback distances are required for the protection of the groundwater depending on the topography and local geology.
- (5) To enable drilling equipment future access to the water supply well for alteration, repair, or abandonment, the property owner should maintain a minimum twenty-foot separation distance between the well and any power pole.

(6) Additional Oregon Health Authority setback standards apply to wells used for public water systems. See OAR 333-061-0050(2) or contact the Oregon Health Authority for more information.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 3, f. & ef. 2-18-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-060-0015; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-210-0140

### Sealing of Water Supply Wells in Unconsolidated Formations with Significant Clay Beds

Water supply wells drilled into water-bearing intervals overlain by unconsolidated deposits of clay, or sand and gravel in which significant interbeds of clay are present, shall have a watertight, nonperforated, permanent well casing extending at least five feet into the clay interval overlying the water-bearing zone. In all cases, an upper oversize drillhole, at least four inches greater in diameter than the nominal diameter of the permanent well casing shall be constructed to this same depth. In the event that the subsurface materials penetrated by the upper drillhole cave, or tend to cave, an outer, temporary surface casing shall be used to case out caving materials throughout the construction of the oversize drillhole. If the clay interval is 13 feet or less below land surface, the watertight, nonperforated well casing and the upper, oversize drillhole shall extend to a minimum depth of 18 feet below land surface. If necessary to complete the well, the single, permanent well casing may be extended below the required sealing depth prior to sealing the well with grout. If preferred, a smaller diameter casing, liner, or well screen may be installed. The annular space between the permanent well casing and the upper, oversize drillhole shall be completely filled with grout in accordance with OAR 690-210-0310 through 690-210-0360 after the permanent well casing is set into final position. The temporary surface casing shall be removed from the well as the annular space is filled. (See Figure 210-3).

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

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

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79, Renumbered from 690-061-0131; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-210-0150

### Sealing of Water Supply Wells in Consolidated Formations

- (1) Water supply wells drilled into a water-bearing rock formation overlain by clay, silt, sand, gravel, cobbles, or similar materials, shall be constructed in accordance with one of the following methods:
  - (a) Method 1 (Continuous Seal):
    - (A) An upper oversize drillhole, at least four inches greater in diameter than the nominal diameter of the permanent well casing to be installed, shall extend from land surface to at least five feet into solid, unfractured, consolidated rock overlying the water-bearing rock formation below a depth of 13 feet. Unperforated permanent well casing shall extend to this same depth.
    - (B) The annular space between the permanent well casing and the drillhole wall within the consolidated rock formation shall be filled with grout using an approved grout placement method.
    - (C) The upper annular space between the permanent well casing and the drillhole wall shall be filled with grout using an approved grout placement method from land surface to at least five feet into a clay interval below a depth of 13 feet.
    - (D) The annular space between the upper and lower sealing intervals shall be filled with grout using an approved grout placement method.
    - (E) A smaller diameter liner pipe or well screen may be installed to complete the well.
    - (F) If cement grout is placed by a suitable method from the bottom of the permanent well casing to land surface (Methods A, B, D, Appendix 210-3), the upper drillhole shall be at least two inches larger than the nominal diameter of the permanent well casing. (See Figure 210-4);
  - (b) Method 2 (Step-Down Casing/Inner Casing):
    - (A) An upper oversize drillhole, at least four inches greater in diameter than the upper permanent well casing to be installed, shall extend from land surface to at least five feet into a clay interval below a depth of 13 feet.
    - (B) Unperforated, permanent well casing shall extend to, and be driven into, solid, unfractured, consolidated rock overlying the water-bearing rock formation.
    - (C) A lower drillhole, at least as large as the inside diameter of the upper permanent well casing, shall be constructed at least five feet into

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solid unfractured consolidated rock overlying the water-bearing rock formation.

(D) A smaller diameter steel well casing, at least two inches smaller in diameter than the diameter of the upper permanent well casing, shall extend at least five feet into solid unfractured consolidated rock overlying the water-bearing rock formation and at least eight feet into the upper permanent well casing.

(E) The annular space between the upper oversize drillhole and the upper permanent well casing, and the annular space between the smaller diameter lower permanent well casing and the lower drillhole, shall be completely filled with grout using an approved grout placement after the upper permanent well casing and the lower permanent well casing are set into final position. (See Figure 210-5);

(c) Method 3 (Under-Reaming):

(A) An upper oversize drillhole, at least four inches greater in diameter than the permanent well casing to be installed, shall extend from land surface to at least five feet into a clay interval below a depth of 13 feet.

(B) A lower drillhole, at least two inches greater in diameter than the diameter of the permanent well casing to be installed, shall be constructed at least fifteen feet into solid, unfractured, consolidated rock overlying the water-bearing rock formation by under-reaming methods.

(C) Unperforated, permanent well casing shall extend to and be driven into solid, unfractured, consolidated rock overlying the water-bearing rock formation at the bottom of the under-reamed section following placement of the casing seal material.

(D) The annular space between the upper oversize drillhole and the permanent well casing shall be filled with cement grout using Method C or unhydrated bentonite. The annular space between the lower under-reamed drillhole and the permanent well casing shall be completely filled with grout applied under pressure in accordance with grout placement Method A, B, or D, in Appendix 210-3.

(E) Casing seals may not be placed in unconsolidated formation materials using the under-reaming method.

(2) In all cases, (Methods 1, 2, or 3, above), if materials penetrated by the upper oversize drillhole cave, or tend to cave, an outer temporary surface casing shall be used to case out all caving material throughout construction of the oversize drillhole. The temporary surface casing shall be withdrawn as the annular space is filled with grout.

[ED. NOTE: Figures and Appendices referenced are available from the agency.]

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

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

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0136; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-210-0155

### Additional Standards for Artesian Water Supply Wells

(1) Water supply wells penetrating into an artesian aquifer shall have an upper oversize drillhole at least four inches greater in diameter than the nominal diameter of the permanent well casing to be installed. Watertight unperforated casing shall extend and be sealed at least five feet into the confining interval immediately overlying the artesian water-bearing zone. In all cases, a minimum of 18 feet of casing and casing seal will be required. If cement grout is placed by a suitable method from the bottom of the casing (Methods A, B, or D, in Appendix 210-3 and Figure 210-1), the diameter of the upper oversize drillhole shall be at least two inches larger than the nominal diameter of the permanent well casing.

(2) To complete the well, inner casing, liner, or a well screen may be installed. When artesian pressures are encountered in the absence of a confining interval, casing and casing seal requirements shall be determined by the Director upon written application. In the alternative, the person constructing the well may construct the well in conformance with the minimum standards for artesian wells with a confining interval, set forth in section (1) of this rule.

(3) If an artesian water supply well flows at land surface, the well shall be equipped with a control valve and a watertight mechanical cap, threaded or welded, so that all flow of water from the well can be completely stopped.

(4) All flowing artesian wells shall be equipped with a pressure gauge placed on a dead-end line. A petcock valve shall be placed between the gauge and well casing. (See Figure 210-7).

(5) All flowing artesian water supply wells shall be tested for artesian shut-in pressure in pounds per square inch and rate of flow in cubic feet per second, or gallons per minute, under free discharge conditions. This data shall be reported on the well report.

[ED. NOTE: Figures & Appendices referenced are available from the agency.]

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

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

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0156, 690-061-0161, 690-061-0166, 690-061-0171 & 690-061-0176; Renumbered from 690-210-0120 by WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-210-0280

### Access Ports, Dedicated Measuring Tubes and Airlines

(1) All water supply wells, including wells that have been temporarily removed from service, temporarily abandoned due to a recess in construction, or temporarily abandoned before commencing service, shall be properly covered and shall be equipped with a usable access port with a minimum diameter of 1/2-inch for the purpose of determining the water level in the well at any time.

(2) Access ports shall be installed prior to the Water Supply Well Constructor removing the well drilling machine from the well site.

(3) Dedicated measuring tubes that meet the requirements of OAR 690-215-0060 are recommended to be installed on all water supply wells at the time of pump installation, pump repair, or pump replacement. Where required, dedicated measuring tubes shall be a minimum of 3/4-inch diameter schedule 40 PVC extending to the top of the pump (See Figure 200-5). The 3/4-inch diameter dedicated measuring tube may be reduced in size to 1/2-inch where it goes through the watertight well cap, but shall not be reduced in size over the length of the pipe.

(4) An airline is not a substitute for a required dedicated measuring tube and, if installed, must enter the well in a location other than the access port.

(5) Access ports, dedicated measuring tubes or airlines on all water supply wells shall be capped and be a minimum of twelve inches above finished ground surface or pumphouse floor (See Figure 210-12) (See Figure 200-5).

(6) Access ports, airlines and dedicated measuring tubes on all water supply wells shall be maintained by the landowner in a condition that will prevent contamination of the groundwater resource, and shall remain free from wire or other obstruction.

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented:

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2008, f. 6-18-08, cert. ef. 7-1-08; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-210-0320

### Methods of Placement of Cement Grout or Concrete

Instructions: Separately attached PDF of Appendix 210-3 is referenced in OAR 690-210-0320 and is available from the agency.

[ED. NOTE: Figures and Appendices referenced are available from the agency.]

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

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

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0021 & 690-061-0096; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-215-0055

### Well Identification Label Maintenance

The well identification label shall not be removed from the wellhead and shall be maintained by the landowner in an accessible location and in a readable condition. See OAR 690-200-0048 for well identification label placement methods and instructions.

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-215-0060

### Access Ports, Dedicated Measuring Tubes or Airlines

(1) All water supply wells, including wells that have been temporarily removed from service, temporarily abandoned due to a recess in construction, or temporarily abandoned before commencing service, shall be properly covered and shall be equipped with a usable access port with a minimum diameter of 1/2-inch for the purpose of determining the water level in the well at any time.

(2) Dedicated measuring tubes are recommended to be installed on all water supply wells at the time of pump installation, pump repair, or pump replacement. Where required, dedicated measuring tubes shall be a minimum of 3/4-inch diameter schedule 40 PVC extending to the top of the pump. The 3/4-inch diameter dedicated measuring tube may be reduced in size to 1/2-inch where it goes through the watertight well cap, but shall not be reduced in size over the length of the pipe. Dedicated measuring tubes shall be vented above and below the well cap and shall be attached to the

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pump column at 10 foot intervals with 10 mil plastic tape. The lower five feet of the dedicated measuring tube shall be either 0.020 inch machine slotted well screen or the lower 20 feet of the dedicated measuring tube shall be extensively perforated with 1/8 inch holes. Dedicated measuring tubes shall be plugged or capped at the bottom (See Figure 200-5) and shall remain free from wire or other obstruction.

(3) An airline is not a substitute for a required dedicated measuring tube and, if installed, must enter the well in a location other than the access port.

(4) Access ports, dedicated measuring tubes or airlines on all water supply wells shall be capped and a minimum of twelve inches above finished ground surface or pumphouse floor. If the well has a pitless adaptor then the dedicated measuring tube shall terminate within six inches of the top of the well casing.

(5) Access ports, airlines and dedicated measuring tubes on all water supply wells shall be maintained by the landowner in a condition that will prevent contamination of the groundwater resource.

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

Stats. Implemented:

Hist.: WRD 3, f. & ef. 2-18-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-062-0015; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2008, f. 6-18-08, cert. ef. 7-1-08; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0005

### Introduction

Instructions: Separately attached PDF of Table 240-1 is to replace the table linked at the bottom of 690-240-0005 in the Editor's Note

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 3-2014, f. & cert. ef. 11-25-14; WRD 5-2015, f. & cert. ef. 7-1-15; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0010

### Definitions

The following definitions apply to terms as used in monitoring well, geotechnical hole and other hole rules, OAR 690-240-0005 to 690-240-0640. No other definitions of these same words apply:

(1) "Abandonment, Permanent" means to remove all or any portion of a monitoring well from service by filling it in such a manner that vertical movement of water within the well bore and within the annular space surrounding the well casing is effectively and permanently prevented. This term is synonymous with "decommission".

(2) "Abandonment, Temporary" means to remove a drilling machine from a well site after completing or altering a well provided the well is not immediately put into service, or to remove a well from service with the intent of using it in the future.

(3) "Altering a Well" means the deepening, re-casing, perforating, re-perforating, installation of packers or seals, and other material changes in the design or construction of a well. Material changes include but are not limited to the installation or modification of well casing including casing extensions, or installation or modification of liner pipe, or under reaming of the borehole.

(4) "Annular Space" means the space between the drillhole wall and the outer well casing.

(5) "Aquifer" means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout in characteristics such as potentiometric head, chemistry, and temperature. (Figure 240-1)

(6) "Area of Known or Reasonably Suspected Contamination" means a site that is currently under investigation by the Oregon Department of Environmental Quality, U.S. Environmental Protection Agency, or other state or federal agency for the presence of contaminants, or a site where a prudent person would suspect contamination after conducting an appropriate inquiry consistent with good commercial or customary practice as to the nature of the property.

(7) "Artesian Aquifer" means a confined aquifer in which groundwater is under sufficient head to rise above the level at which it was first encountered whether or not the water flows at land surface. If the water level stands above land surface the well is a flowing artesian well. (Figure 240-1).

(8) "Artesian Monitoring Well" means a monitoring well in which groundwater is under sufficient pressure to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the

water level stands above land surface the well is a flowing artesian monitoring well.

(9) "Bored Well" means a well constructed with the use of earth augers turned either by hand or by power equipment.

(10) "Casing" means the outer tubing, pipe, or conduit, welded or thread coupled, and installed in the borehole during or after drilling to support the sides of the well and prevent caving. Casing can be used, in conjunction with proper seal placement, to shut off water, gas, or contaminated fluids from entering the hole, and to prevent waste of groundwater.

(11) "Casing Seal" means the water tight seal established in the well bore between the well casing and the drillhole wall, above the filter pack seal, to prevent the inflow and movement of surface water or shallow groundwater in the well annulus, or to prevent the outflow or movement of water under artesian or hydrostatic pressures. This term is synonymous with "annular seal" or "surface seal".

(12) "Civil Engineer" means an individual registered by the State of Oregon to practice civil engineering.

(13) "Clay" means a fine-grained, inorganic material having plastic properties and with a predominant grain size of less than 0.002 mm.

(14) "Closed Loop Ground Source Heat Pump Boring" means a geotechnical hole, cased or uncased, constructed for the purpose of installing a closed loop heat exchange system for a ground source heat pump.

(15) "Commission" means the Oregon Water Resources Commission.

(16) "Committee" means the Oregon Ground Water Advisory Committee created by ORS 536.090.

(17) "Confining Interval" means a low permeability material such as clay or solid, unfractured, consolidated rock immediately overlying an artesian (confined) aquifer. (Figure 240-1)

(18) "Consolidated Formation" means materials that have become firm through natural rock-forming processes. It includes, but is not limited to, materials such as basalt, sandstone, shale, hard claystone, and granite.

(19) "Contamination" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance that does not occur naturally in groundwater or that occurs naturally but at a lower concentration.

(20) "Continuing Education" means that education required as a condition of licensure under ORS 537.747, to maintain the skills necessary for the protection of groundwater, the health and general welfare of the citizens of Oregon and the competent practice of the construction, alteration, abandonment, conversion, and maintenance of water supply wells, monitoring wells, and geotechnical holes.

(21) "Continuing Education Committee" means the Well Constructor Continuing Education Committee authorized under Chapter 496, Oregon Laws 2001 (ORS 537.765).

(22) "Continuing Education Course" means a formal offering of instruction or information to licensees that provide continuing education credits.

(23) "Continuing Education Credit" (CEC) means a minimum of 50 minutes of instruction or information approved by the Continuing Education Committee.

(24) "Converting" a well means changing the use of an existing well or hole not previously used to either withdraw or monitor water such that the well or hole can be used to either withdraw or monitor water.

(25) "Deepening a well" means extending the well bore of an existing well through previously undisturbed native material. Deepening is a type of alteration.

(26) "Department" means the Oregon Water Resources Department.

(27) "Director" means the Director of the Department or the Director's authorized representatives.

(28) "Documentation of Completion" means written evidence or documentation demonstrating attendance and completion of a continuing education course, including but not limited to: a certificate of completion, diploma, transcript, certified class roster, or other documentation as approved by the Continuing Education Committee.

(29) "Dug Well" means a well in which the excavation is made by the use of digging equipment such as backhoes, clam shell buckets, or sand buckets. (See Hand dug well)

(30) "Excavation" means a free-standing cavity with greater width than depth constructed in the earth's surface which has a primary purpose other than seeking water or water quality monitoring.

(31) "Figure", when used herein, refers to an illustration and is made a part of the primary article and section by reference.

(32) "Filter Pack" means the granular material placed in the annular space between the well screen and the borehole.

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(33) "Filter Pack Seal" means the fine grained sand or dry bentonite which is placed in the annulus above the filter pack and prevents grout infiltration into the filter pack.

(34) "Geologic Formation" means an igneous, sedimentary or metamorphic material that is relatively homogeneous and is sufficiently recognized as to be distinguished from the adjacent material. The term is synonymous with "formation".

(35) "Geologist" means an individual registered by the State of Oregon to practice geology.

(36) "Geotechnical hole" means a hole constructed to collect or evaluate subsurface data or information, monitor movement of landslide features, or to stabilize or dewater landslide features. "Geotechnical hole" includes closed loop ground source heat pump borings. Geotechnical holes are not monitoring wells or water supply wells as defined below. Various classes and examples of geotechnical holes are listed in OAR 690-240-0035(6)-(9)

(37) "Grout" means approved cement, concrete or bentonite sealing material used to fill an annular space of a well or to abandon a well.

(38) "Grout Pipe" means a pipe which is used to place grout at the bottom of the sealing interval of a well.

(39) "Hand dug well" means a well in which the excavation is only made by the use of picks, shovels, spades, or other similar hand operated implements. (See Dug Well)

(40) "Hazardous Materials Training" means training as defined by OAR 437-002-0100 Adoption by Reference Subdivision H Hazardous Materials 1910.120 Hazardous Waste Operations and Emergency Response.

(41) "Hazardous Waste" means a substance as defined by ORS 466.005.

(42) "Health Hazard" means a condition where there are sufficient concentrations of biological, chemical, or physical, including radiological, contaminants in the water that are likely to cause human illness, disorders, or disability. These include, but are not limited to naturally occurring substances, pathogenic viruses, bacteria, parasites, toxic chemicals, and radioactive isotopes. Sufficient concentrations of a contaminant include but are not limited to contaminant levels set by the Oregon Department of Environmental Quality and Oregon Health Division.

(43) "Health Threat" means a condition where there is an impending health hazard. The threat may be posed by, but not limited to: a conduit for contamination, or a well affecting migration of a contaminant plume, or the use of contaminated water. A well in which the construction is not verified by a monitoring well report or geophysical techniques may be considered a conduit for contamination in certain circumstances. Those circumstances include, but are not limited to: an unused and neglected well or a well for which no surface seal was required. A well in which the casing seal, filter pack seal, or watertight cap has failed, or was inadequately installed may be considered a conduit for contamination.

(44) "Horizontal Well" means a well that intentionally deviates more than 20 degrees from true vertical at any point.

(45) "Hydrologic Cycle" is the general pattern of water movement by evaporation from sea to atmosphere, by precipitation onto land, and by return to sea under influence of gravity.

(46) "Jetted Well" means a well in which the drillhole excavation is made by the use of a high velocity jet of water.

(47) "Leakage" means movement of surface and/ or subsurface water around the well casing or seal.

(48) "Monitoring Well" means a well designed and constructed to determine the physical (including water level), chemical, biological, or radiological properties of groundwater.

(49) "Monitoring Well Constructor" means any person who has a current water well constructor's license with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(50) "Monitoring Well Constructor's License" means a Water Well Constructor's License with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(51) "Monitoring Well Drilling Machine" means any driving, jetting, percussion, rotary, boring, auguring, or other equipment used in the construction, alteration, or abandonment of monitoring wells.

(52) "Order" means any action satisfying the definition given in ORS Chapter 183 or any other action so designated in ORS 537.505 to 537.795.

(53) "Other Hole" means a hole other than a water supply well, monitoring well, or geotechnical hole, however constructed, in naturally occurring or artificially emplaced earth materials through which groundwater can become contaminated. Holes constructed under ORS Chapters 517, 520,

and 522 are not subject to these rules. Examples of other holes are listed in OAR 690-240-0030.

(54) "Perched Groundwater" means groundwater held above the regional or main water table by a less permeable underlying earth or rock material. (Figure 240-1)

(55) "Permeability" means the ability of material to transmit fluid, usually described in units of gallons per day per square foot of cross-section area. It is related to the effectiveness with which pore spaces transmit fluids.

(56) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(57) "Petcock Valve" is a valve used to contain pressure which when opened will drain the line or pipe.

(58) "Petroleum" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels, and any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute. "Petroleum" does not include any substance identified as a hazardous waste under 40 CFR Part 261.

(59) "Piezometer" means a type of monitoring well designed solely to obtain groundwater levels. Piezometers are prohibited in areas of known or reasonably suspected contamination. This term is synonymous with observation well.

(60) "Porosity" means the ratio of the volume of voids in the geologic formation being drilled to the overall volume of the material without regard to size, shape, interconnection, or arrangement of openings.

(61) "Potable Water" means water which is sufficiently free from biological, chemical, physical, or radiological impurities so that users thereof will not be exposed to or threatened with exposure to disease or harmful physiological effects.

(62) "Potentiometric Surface" means the level to which water will rise in tightly cased wells. (Figure 240-1).

(63) "Pressure Grouting" means a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

(64) "Professional" means a person licensed or registered by the State of Oregon to construct monitoring wells, water supply wells, or practice geology or civil engineering. All licenses and registrations must be valid at the time of monitoring well, water supply well or geotechnical hole construction, alteration or abandonment as required by these rules.

(65) "Public-at-Large" means a person not actively engaged in the well industry.

(66) "Refusal to Renew" means a provision in an order, or as allowed by ORS 537.747, that prohibits renewal of a well constructor's license, for a specified term not to exceed one year from the expiration date of the current license.

(67) "Remediation Well" means a well used for extracting contaminated groundwater from an aquifer. This term is synonymous with "extraction well" and "recovery well".

(68) "Respondent" means the person against whom an enforcement action is taken.

(69) "Responsible Party" means the person or agency that is in charge of construction or maintenance, or the landowner of record and is either in violation as specified in a notice of violation or who may benefit from that violation.

(70) "Rough Drilling Log" means a record kept on the well site of the information needed to complete the well report for the well being constructed.

(71) "Revoke" means termination of a well constructor's license.

(72) "Sand" means a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

(73) "Silt" means an unconsolidated sediment composed predominantly of particles between 0.06 mm and 0.002 mm in diameter.

(74) "Slope Stability Geotechnical Hole" means a geotechnical hole excavated, drilled or bored for studying and/or monitoring movement of landslide features, including water levels, or other mass-wasting features to detect zones of movement and establish whether movement is constant, accelerating, or responding to remedial measures. Hole(s) excavated, drilled or bored for the purpose of slope remediation or stabilization shall be considered a slope stability geotechnical hole. Slope stability geotechnical holes are not monitoring wells, piezometers, or water supply wells.

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(75) "Sponsor" means an institution, professional organization, individual, or business that offers continuing education courses to licensees. This term is synonymous with provider.

(76) "Static Water Level" means the stabilized level or elevation of water surface in a well not being pumped.

(77) "Sump" means a hole dug to a depth of ten feet or less with a diameter greater than ten feet in which groundwater is sought or encountered.

(78) "Suspension" means the temporary removal of the privilege to construct wells under an existing license for a period of time not to exceed one year.

(79) "Unconsolidated Formation" means naturally occurring, loosely cemented, or poorly indurated materials including clay, sand, silt, and gravel.

(80) "Underground Injection" means the emplacement or discharge of fluids to the subsurface.

(81) "Underground Injection System" means a well, improved sump, sewage drain hole, subsurface fluid distribution system, or other system or groundwater point source used for the emplacement or discharge of fluids.

(82) "Upper Oversize Drillhole" means that part of the well bore extending from land surface to the bottom of the surface seal interval.

(83) "Violation" means an infraction of any statute, rule, standard, order, license, compliance schedule, or any part thereof and includes both acts and omissions.

(84) "Water Supply Well" means a well, other than a monitoring well, that is used to beneficially withdraw or beneficially inject groundwater. Water supply wells include, but are not limited to, community, dewatering, domestic, irrigation, industrial, municipal, and aquifer storage and recovery wells.

(85) "Water Supply Well Constructor" means any person who has a current water well constructor's license with a water supply well endorsement issued in accordance with ORS 537.747(3).

(86) "Water Supply Well Constructor's License" means a Water Well Constructor's License with a water supply well endorsement issued in accordance with ORS 537.747(3).

(87) "Water Table" means the upper surface of an unconfined water body, the surface of which is at atmospheric pressure and fluctuates seasonally. The water table is defined by the levels at which water stands in wells that penetrate the water body. (See Figure 240-1)

(88) "Water Well Constructor's License" means a license to construct, alter, deepen, abandon or convert wells issued in accordance with ORS 537.747(3). Endorsements are issued to the license and are specific to the type of well a constructor is qualified to construct, alter, deepen, abandon or convert.

(89) "Well" means any artificial opening or artificially altered natural opening, however made, by which groundwater is sought or through which groundwater flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

(90) "Wet Soil Monitoring Hole" means a shallow geotechnical hole set vertically in the ground and constructed to a depth of three and one-half feet or less for studying and/or monitoring the upper portion of the shallowest water-bearing unit within and immediately below the surface soil horizon.

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 3-2008, f. 12-22-08, cert. ef. 1-2-09; WRD 2-2012, f. & cert. ef. 2-2-12; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0024

### Well Identification Label

(1) Within 30 days of completion of well construction, conversion, or alteration, the constructor shall permanently affix a well identification label to the wellhead in an accessible and visible location in the following manner:

(a) For above ground completions:

(A) Labels shall be at least six inches above ground surface and shall be permanently attached to the outside of the protective casing using a stainless steel band, stainless steel rivets, or screws.

(b) For flush grade completions:

(A) Rivet or bolt the label to the inside of the monument skirting; or

(B) Band or strap the label to the well casing; or

(C) Insert the strap or band into the concrete in the bottom of the vault.

(2) Identification labels may not be attached to pumps, pump equipment, water delivery lines, or well caps.

(3) The identification label number shall be recorded on the well report at the time the report is submitted.

(4) The well identification label shall be attached in such a manner as to be easily readable upon inspection.

(5) Identification labels shall be furnished by the Department.

(6) If a well identification label is already affixed to an existing well that is being altered, converted, or abandoned, the constructor shall record the identification label number on the well report.

(7) When a well that has a well identification label on it is permanently abandoned, the well identification label shall be destroyed. The well identification label shall not be reused.

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0035

### Geotechnical Holes: General Performance and Responsibility Requirements

(1) A geotechnical hole is defined in OAR 690-240-0010(36). Geotechnical holes, cased or uncased, are generally constructed to evaluate subsurface data or information (geologic, hydrogeologic, chemical, or other physical characteristics). Geotechnical holes are divided into the following classifications:

(a) Temporary (abandoned within 72 hours) geotechnical holes;

(b) Cased permanent geotechnical holes;

(c) Uncased permanent geotechnical holes; or

(d) Slope stability geotechnical holes.

(2) A geotechnical hole report shall be signed by a professional and must be submitted to the department if the geotechnical hole is:

(a) Greater than 18 feet deep;

(b) Within 50 feet of a water supply or monitoring well;

(c) Used to make a determination of water quality; or

(d) Constructed in an area of known or reasonably suspected contamination.

(3) Geotechnical holes that do not meet any of the criteria spelled out in OAR 690-240-0035(2) do not require a geotechnical hole report to be filed with the Department, but shall be required to have a professional as described in 690-240-0035(4)(c) be responsible for the construction and abandonment of the geotechnical hole.

(4)(a) Although enforcement actions may be exercised against other parties, the landowner of the property where the geotechnical hole is constructed is ultimately responsible for the condition, use, maintenance, and abandonment of the geotechnical hole;

(b) Conversion of a geotechnical hole to a water supply or monitoring well shall be considered by the Department on a case by case basis

(4)(c) When a geotechnical hole report is required, the professional responsible for the construction, alteration or abandonment of a geotechnical hole shall have one of the following certifications or licenses at the time the professional signs the geotechnical hole report:

(A) A valid Oregon Monitoring Well Constructor's License;

(B) A valid Oregon Water Supply Well Constructor's License;

(C) Valid certification by the State of Oregon as a Registered Geologist; or

(D) Valid certification by the State of Oregon as a Professional Engineer.

(d) The professional shall provide proof of license, certification or registration and photo identification to Department employees upon request.

(e) In order to protect the groundwater resource, all geotechnical holes shall be constructed, operated, used, maintained, and abandoned in such a manner as to prevent contamination or waste of groundwater, or loss of artesian pressure.

(f) If the geotechnical hole is completed above ground, it shall have a minimum casing height of one foot above finished grade and a lockable cap with lock shall be attached to the top of the casing. If a geotechnical hole, except a slope stability hole, is completed flush with the land surface, a lockable watertight cap with lock, shall be attached to the top of the casing. A vault or monument designed to be watertight, level with the ground sur-

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face, shall be installed to prevent the inflow of surface water. The cover must be designed to withstand the maximum expected loadings.

(5)(a) A 'Geotechnical Hole Report' shall be prepared for each geotechnical hole, including unsuccessful geotechnical holes, constructed, altered, converted, or abandoned if the hole meets any of the requirements of OAR 690-240-0035(2) above.

(b) The 'Geotechnical Hole Report' shall be filed with the Department within 30 days of the completion of the geotechnical hole;

(c) The report shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the professional, and the second copy shall be given to the landowner or customer who contracted for the construction of the geotechnical hole;

(d) In the event any drilling equipment or other tools are left in a geotechnical hole the professional shall enter this fact on the Geotechnical Hole Report;

(e) A copy of any special authorizations or special standards issued by the Director shall be attached to the Geotechnical Hole Report. See OAR 690-240-0006 for information concerning special standards;

(f) The report of geotechnical hole construction shall include, as a minimum, the following:

(A) Landowner name and address;

(B) Started/Completed date;

(C) Location of the geotechnical hole by County, Township, Range, Section, tax lot number, if assigned, street address, or nearest address, and either the 1/4, 1/4 section or Latitude and Longitude as established by a global positioning system (GPS);

(D) Use of geotechnical hole;

(E) Type of geotechnical hole;

(F) Depth;

(G) Map showing location of geotechnical hole on site must be attached and shall include an approximate scale and a north arrow;

(H) General hydrologic and geologic information as indicated on the Geotechnical Hole Report; and

(I) Such additional information as required by the Department.

(6) Temporary geotechnical holes:

(a) Temporary geotechnical holes include but are not limited to: drive points, soil and rock borings, temporary sample holes, permeability test holes, and soil vapor holes;

(b) Temporary geotechnical holes shall be abandoned within 72 hours of initial construction;

(c) Any temporary casing that has been installed shall be removed as part of the abandonment.

(7) Cased permanent geotechnical holes

(a) Cased permanent geotechnical holes include but are not limited to: gas migration holes, cathodic protection holes, wet soil monitoring holes, and vapor extraction holes;

(b) Permanent casing installed in a geotechnical hole shall meet the casing requirements in OAR 690-240-0430, 690-210-0210, or 690-210-0190.

(c) The borehole diameter for cased permanent geotechnical holes shall be at least four inches larger than the nominal casing diameter. If the cased permanent geotechnical hole is constructed using a hollow stem auger drilling machine, the inside diameter of the auger must be at least four inches larger than the nominal diameter of the casing to be installed. Cased permanent geotechnical holes installed using direct push technology shall meet the annular space requirements in OAR 690-240-0540.

(d) Cased permanent geotechnical holes, except wet soil monitoring holes, shall be sealed in accordance with the filter pack seal requirements in OAR 690-240-0460, and the casing seal requirements in OAR 690-240-0475.

(e) Wet soil monitoring holes shall have a casing seal that extends to a minimum depth of one-foot. The casing seal shall be placed in accordance with OAR 690-240-0475.

(f) Wet soil monitoring holes shall not exceed three and one-half feet in depth.

(8) Uncased permanent geotechnical holes:

(a) Uncased permanent geotechnical holes include but are not limited to: pneumatic and electrical piezometers;

(b) Temporary casing can be used during the construction of the uncased permanent geotechnical hole but must be removed prior to completion. Surface casing (5 feet maximum) may be installed for placement of logging or recording equipment.

(9) Slope stability geotechnical holes.

(a) Slope stability geotechnical holes include but are not limited to: slope instrumentation holes such as slope inclinometers, and slope remedial holes.

(b) Slope stability geotechnical holes are defined in OAR 690-240-0010(74). Such holes shall be constructed, operated, used, maintained, and abandoned in such a manner as to prevent contamination or waste of groundwater.

(c) When a Geotechnical Hole Report is required under OAR 690-240-0035(2) for a slope stability geotechnical hole that is constructed to facilitate water level measurements, an affidavit from an engineer or geologist qualified to perform geotechnical investigations shall be attached to the Geotechnical Hole Report. The affidavit shall have the qualified engineer or geologist's stamp on it and shall certify that the slope stability geotechnical hole is on a landslide or a mass-wasting feature.

(10) Geotechnical Holes abandonment:

(a) Geotechnical holes shall be abandoned in the following manner:

(A) If it can be verified that the geotechnical hole was constructed in accordance with these rules, it shall be abandoned by filling the well from the bottom up with an approved grout as described in OAR 690-240-0475. The casing shall then be removed below grade, as compatible with local site conditions and land practices. The following are acceptable methods of original geotechnical hole construction verification:

(i) A geotechnical hole report previously submitted to the Water Resources Department;

(ii) Geotechnical hole information submitted to the Oregon Department of Environmental Quality;

(iii) Other information as approved by the Water Resources Department;

(B) If the geotechnical hole construction cannot be verified by means listed in section (A) of this rule, or if the geotechnical hole was not constructed in accordance with these rules, the geotechnical hole shall be abandoned by completely redrilling the hole to a minimum of the original diameter. All casing, screen, annular sealing material, drill cuttings, debris, and filter pack material shall be removed prior to sealing.

(b) Geotechnical holes constructed to collect a water quality sample shall be abandoned in accordance with OAR 690-240-0510.

Stat. Auth.: ORS 537.780

Stats. Implemented:

Hist.: WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 3-2008, f. 12-22-08, cert. ef. 1-2-09; WRD 2-2012, f. & cert. ef. 2-2-12; WRD 3-2014, f. & cert. ef. 11-25-14; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0043

### Construction Standards

(1) If permanent casing is needed in a ground source heat pump boring, it shall meet the standards set out in OAR 690-210-0190 through 690-210-0220 for steel and plastic.

(2) Site specific conditions shall be assessed to determine the best method and materials to be used for sealing the boring annulus to protect the groundwater resource and that method shall meet the standards set out in OAR 690-210-0300 through 690-210-0360 for sealing wells.

(3) The diameter of the borehole for cased and uncased ground source heat pump borings shall allow placement of the heat exchange loop and grout pipe to the bottom of the boring as follows:

(a) For installation of a 3/4 inch loop, the diameter of the borehole shall be a minimum of 4 inches;

(b) For installation of a 1 inch loop, the diameter of the borehole shall be a minimum of 4 1/2 inches; and

(c) For installation of a 1 1/4 inch loop, the diameter of the borehole shall be a minimum of 5 inches.

(4) The type of sealing material used shall be compatible with the heat exchange loop material and permanent casing material used in the construction of the boring.

Stat. Auth.: ORS 536.027, 537.780

Stats. Implemented:

Hist.: WRD 2-2012, f. & cert. ef. 2-2-12; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0395

### Monitoring Well Report Required (Monitoring Well Log)

(1) A monitoring well report shall be prepared for each monitoring well constructed, altered, converted, or abandoned including unsuccessful monitoring wells. The log shall be certified as correct by signature of the Monitoring Well Constructor constructing the monitoring well. The completed log shall also be certified by the bonded Monitoring Well Constructor responsible for construction of the monitoring well. A monitoring well report must be submitted by each bonded constructor (if drilling

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responsibility is shifted to a different bonded constructor), showing the work performed by each bonded constructor.

(2) The log shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the Monitoring Well Constructor, and the second copy shall be given to the customer who contracted for the construction of the monitoring well.

(3) The bonded Monitoring Well Constructor shall file the monitoring well log with the Director within 30 days after the completion of the construction, alteration, conversion, or abandonment of the monitoring well.

(4) The trainee or Monitoring Well Constructor operating the monitoring well drilling machine shall maintain a rough log of all geologic strata encountered and all materials used in the construction of the monitoring well. This log shall be available for inspection by the Watermaster or other authorized agent of the Water Resources Department or other delegated agency representative at any time before the monitoring well report is received by the Department. The rough drilling log shall be in handwritten or electronic form, or a voice recording.

(5) In the event a constructor leaves any drilling equipment or other tools in a monitoring well this fact shall be entered on the monitoring well report.

(6) A copy of any special authorizations or special standards issued by the Director shall be attached to the monitoring well report.

(7) The report of monitoring well construction required in section (1) of this rule shall be recorded on a form provided or previously approved in writing by the Department. The form shall include, as a minimum, the following:

- (a) Name and Address of Landowner;
- (b) Started/Completed date;
- (c) Location of the well by county, Township, Range, Section, tax lot number, if assigned, street address, or nearest address, and either the 1/4, 1/4 section or Latitude and Longitude as established by a global positioning system (GPS);
- (d) Start card number;
- (e) Well identification label number (well tag number);
- (f) Use of well;
- (g) Type of work;
- (h) Type and amount of sealant used and measured weight of the grout slurry as required in OAR 690-240-0475(2)(g);
- (i) Temperature of water;
- (j) Total dissolved solids (TDS);
- (k) Map showing location of monitoring well on site, must be attached and shall include an approximate scale and a north arrow; and
- (l) Such additional information as required by the Department.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0095; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0440

### Additional Standards for Artesian Monitoring Wells

(1) Monitoring wells penetrating into an artesian aquifer shall have an upper oversize drillhole at least four inches greater in diameter than the nominal diameter of the permanent well casing except as noted in OAR 690-240-0525 concerning piezometers. Watertight unperforated casing shall extend and be sealed, according to OAR 690-240-0475, at least five feet into the confining interval immediately overlying the artesian water-bearing zone.

(2) If an artesian monitoring well flows at land surface, the well shall be equipped with a control valve and a watertight mechanical cap, threaded or welded, so that all flow of water from the well can be completely stopped.

(3) All flowing artesian monitoring wells shall be equipped with a pressure gauge placed on a dead-end line. A petcock valve shall be placed between the gauge and well casing.

(4) All flowing artesian monitoring wells shall be tested for artesian shut-in pressure in pounds per square inch and rate of flow in cubic feet per second, or gallons per minute, under free discharge conditions. This data shall be reported on the well report.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0118; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0510

### Abandonment of Monitoring Wells

Proper abandonment of monitoring wells will prevent both vertical movement of water within the well bore and infiltration of surface water into the well:

(1) In areas where groundwater contamination has been identified, except as described in number (4) below, abandonment shall require the borehole to be completely redrilled to a minimum of the original diameter. All casing, screen, annular sealing material, drill cuttings, debris, and filter pack material shall be removed prior to sealing.

(2) In areas where groundwater contamination has not been identified, if it can be verified that the monitoring well was constructed in accordance with these rules, it shall be abandoned by filling the well from the bottom up with an approved sealant as described in OAR 690-240-0475. The casing shall then be removed below grade, as compatible with local site conditions and land practices. The following are acceptable methods of original well construction verification:

(a) A well report in accordance with OAR 690-240-0395;

(b) Well construction information submitted to the Oregon Department of Environmental Quality;

(c) Information obtained through down-hole geophysical logging; or

(d) Other information as approved by the Water Resources Department.

(3) In areas where groundwater contamination is not present, and if the monitoring well construction cannot be verified by means listed in section (2) of this rule, the well shall be abandoned according to section (1) of this rule.

(4) In contaminated areas where remediation has occurred, an approved special standard is required to abandon a well unless it is abandoned according to section (1) of this rule. Abandonment procedures will be considered on a case by case basis. The Department will consult with the state or federal agency that supervised the remediation in determining the appropriate abandonment method. In cases where there was no agency oversight, the Department will consider any information supplied by the licensed and bonded Monitoring Well Constructor in determining the appropriate abandonment procedure.

(5) Grout slurries shall be placed from the bottom up by a grout pipe to avoid segregation or dilution of the sealant. The discharge end of the grout pipe shall be submerged in the grout to avoid breaking the seal while filling the annular space. Grout slurries used to abandon monitoring wells shall conform to the requirements of OAR 690-240-0475.

(6) The abandonment procedure shall be recorded on a form provided by or previously approved in writing by the Department. The form shall include, as a minimum, all the requirements as listed in OAR 690-240-0395, plus:

(a) Method of abandonment;

(b) If assigned, the well identification number, original start card number, and owner's well number of the abandoned well.

(7) When abandoning artesian monitoring wells, in addition to sections (1)-(6) of this rule, the flow shall be confined or restricted by cement grout applied under pressure, or by the use of a suitable well packer, or a wooden plug placed at the bottom of the confining interval immediately above the artesian water bearing zone. An approved grout shall be used to fill the well to land surface as specified in OAR 690-240-0475.

(8) Monitoring wells that were constructed under special standards will require the abandonment method to be approved by the Department.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0135; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 5-2016, f. & cert. ef. 9-6-16

## 690-240-0525

### Piezometers

It is prohibited to construct a piezometer in an area of known or reasonably suspected contamination.

**NOTE:** The Water Resources Department and the Department of Environmental Quality have information sources to use in determining if contaminants are present. Customary drilling practice as conducted by licensed professional must be included as part of the appropriate inquiry to determine if contaminants are present or reasonably suspected.

(1) A piezometer is defined in OAR 690-240-0010(59). Piezometers are a type of monitoring well and shall meet current monitoring well rules except for the following:

(a) Borehole size with depth requirements:

(A) For piezometers with a sealing depth less than 50 feet deep, the borehole diameter shall be at least two and one half inches (2.5") larger than the nominal casing diameter. If the piezometer is constructed using a



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hollow stem auger drilling machine, the inside diameter of the auger must be at least 2.5 inches larger than the nominal diameter of the casing to be installed;

(B) For piezometers with a sealing depth greater than 50 feet deep, the borehole diameter shall be at least three inches larger than the nominal casing diameter. If the piezometer is constructed using a hollow stem auger drilling machine, the inside diameter of the auger must be at least 3 inches larger than the nominal diameter of the casing to be installed.

(b) Surface Completion:

(A) Piezometers shall be protected as described in OAR 690-240-0420 concerning monitoring wells.

(c) If an artesian piezometer flows at land surface, it shall be equipped with a control valve or a watertight mechanical cap, so that all flow of water from the well can be completely stopped. Flowing artesian piezometers are not required to be equipped with a pressure gauge placed on a dead-end line or a petcock valve;

(d) The special cleaning and drill cutting storage requirements in OAR 690-240-0450 shall not apply to piezometers because they may not be constructed in areas of known or reasonably suspected contamination. However, all equipment and materials used in the construction of a piezometer shall be free of foreign materials and contaminants prior to entry into the well;

(e) Use of commercially fabricated screens are not required for piezometers. The screens installed shall be in new or like new condition, being free of pits or breaks, and shall be free of foreign materials and contaminants prior to installation;

(f) The filter pack requirements of OAR 690-240-0460(5) shall not apply to piezometers because they are not constructed in areas of known or reasonably suspected contamination;

(g) A minimum three foot annular seal is required. If a grout slurry is used, the filter pack seal requirements of 690-240-0460(6) apply. If a piezometer is completed with a flush monument, the annular seal shall extend a minimum of three feet below the monument seal.

(2) Piezometer well abandonment: Piezometer wells shall be abandoned as described in OAR 690-240-0510 concerning monitoring wells.

Stat. Auth.: ORS 537.780

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

Hist.: WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0137; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 5-2015, f. & cert. ef. 7-1-15

### 690-240-0540

#### Direct Push Monitoring Wells and Piezometers

(1) Monitoring wells and piezometers that are installed using direct push technology shall comply with the applicable standards in these.

(2) Monitoring wells and piezometers that are installed using direct push technology shall also comply with the following standards:

(a) Only prepacked screens shall be used; and

(b) The outside diameter of the borehole shall be a minimum of two inches greater than the outside diameter of the well casing; and

(c) Granular bentonite shall not be used in the casing seal interval below the static water level; and,

(d) Monitoring wells and piezometers shall not be constructed through more than one water bearing formation and shall not be greater than 50 feet in depth; and

(e) Monitoring wells and piezometers that extend deeper than 30 feet shall be equipped with centering guides to insure proper centering of casing. Guides shall be spaced at minimum ten foot intervals and attached to the casing.

(3) Monitoring wells and piezometers larger than two inches in diameter shall not be installed using direct push technology without prior Department approval.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0139; WRD 5-2015, f. & cert. ef. 7-1-15

## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
101-020-0012	8-24-2016	Amend	10-1-2016	105-050-0004	7-1-2016	Amend	8-1-2016
101-020-0015	8-24-2016	Amend	10-1-2016	105-050-0006	7-1-2016	Repeal	8-1-2016
101-020-0059	8-24-2016	Adopt	10-1-2016	105-050-0025	7-1-2016	Amend	8-1-2016
101-020-0060	7-12-2016	Amend	8-1-2016	105-050-0030	7-1-2016	Amend	8-1-2016
101-020-0065	7-12-2016	Amend	8-1-2016	111-005-0010	6-10-2016	Amend(T)	7-1-2016
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104-080-0100	12-1-2015	Adopt	1-1-2016	123-021-0020	6-3-2016	Amend	7-1-2016
104-080-0110	12-1-2015	Adopt	1-1-2016	123-021-0020(T)	6-3-2016	Repeal	7-1-2016
104-080-0120	12-1-2015	Adopt	1-1-2016	123-021-0050	4-11-2016	Amend(T)	5-1-2016
104-080-0125	12-1-2015	Adopt	1-1-2016	123-021-0050	6-3-2016	Amend	7-1-2016
104-080-0135	12-1-2015	Adopt	1-1-2016	123-021-0050(T)	6-3-2016	Repeal	7-1-2016
104-080-0140	12-1-2015	Adopt	1-1-2016	123-021-0080	4-11-2016	Amend(T)	5-1-2016
104-080-0150	12-1-2015	Adopt	1-1-2016	123-021-0080	6-3-2016	Amend	7-1-2016
104-080-0160	12-1-2015	Adopt	1-1-2016	123-021-0080(T)	6-3-2016	Repeal	7-1-2016
104-080-0165	12-1-2015	Adopt	1-1-2016	123-021-0090	4-11-2016	Amend(T)	5-1-2016
104-080-0170	12-1-2015	Adopt	1-1-2016	123-021-0090	6-3-2016	Amend	7-1-2016
104-080-0180	12-1-2015	Adopt	1-1-2016	123-021-0090(T)	6-3-2016	Repeal	7-1-2016
104-080-0190	12-1-2015	Adopt	1-1-2016	123-021-0110	4-11-2016	Amend(T)	5-1-2016
104-080-0195	12-1-2015	Adopt	1-1-2016	123-021-0110	6-3-2016	Amend	7-1-2016
104-080-0200	12-1-2015	Adopt	1-1-2016	123-021-0110(T)	6-3-2016	Repeal	7-1-2016
104-080-0210	12-1-2015	Adopt	1-1-2016	123-042-0020	2-29-2016	Amend	4-1-2016
105-010-0000	7-1-2016	Repeal	8-1-2016	123-042-0020(T)	2-29-2016	Repeal	4-1-2016
105-010-0011	7-1-2016	Repeal	8-1-2016	123-042-0026	2-29-2016	Amend	4-1-2016
105-010-0016	7-1-2016	Repeal	8-1-2016	123-042-0026(T)	2-29-2016	Repeal	4-1-2016
105-020-0001	7-1-2016	Amend	8-1-2016	123-042-0036(T)	2-29-2016	Repeal	4-1-2016
105-020-0015	7-1-2016	Amend	8-1-2016	123-042-0038	2-29-2016	Amend	4-1-2016
105-040-0001	7-1-2016	Amend	8-1-2016	123-042-0038(T)	2-29-2016	Repeal	4-1-2016
105-040-0010	7-1-2016	Repeal	8-1-2016	123-042-0045	2-29-2016	Amend	4-1-2016
105-040-0020	7-1-2016	Repeal	8-1-2016	123-042-0045(T)	2-29-2016	Repeal	4-1-2016
105-040-0030	7-1-2016	Repeal	8-1-2016	123-042-0055	2-29-2016	Amend	4-1-2016
105-040-0040	3-1-2016	Amend(T)	3-1-2016	123-042-0055(T)	2-29-2016	Repeal	4-1-2016
105-040-0040(T)	7-1-2016	Repeal	8-1-2016	123-042-0061	2-29-2016	Adopt	4-1-2016
105-040-0050	7-1-2016	Repeal	8-1-2016	123-042-0065(T)	2-29-2016	Repeal	4-1-2016
105-040-0060	7-1-2016	Repeal	8-1-2016	123-042-0076	2-29-2016	Amend	4-1-2016
105-040-0065	3-1-2016	Amend(T)	3-1-2016	123-042-0076(T)	2-29-2016	Repeal	4-1-2016
105-040-0065(T)	7-1-2016	Repeal	8-1-2016	123-042-0122	2-29-2016	Amend	4-1-2016
105-040-0070	7-1-2016	Repeal	8-1-2016	123-042-0122(T)	2-29-2016	Repeal	4-1-2016
105-040-0080	7-1-2016	Repeal	8-1-2016	123-042-0132	2-29-2016	Amend	4-1-2016
105-050-0003	7-1-2016	Amend	8-1-2016	123-042-0132(T)	2-29-2016	Repeal	4-1-2016

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123-042-0155(T)	2-29-2016	Repeal	4-1-2016	123-623-2000	1-29-2016	Amend	3-1-2016
123-042-0165	2-29-2016	Amend	4-1-2016	123-623-3000	1-29-2016	Amend	3-1-2016
123-042-0165(T)	2-29-2016	Repeal	4-1-2016	123-623-3200	1-29-2016	Amend	3-1-2016
123-042-0175	2-29-2016	Amend	4-1-2016	123-623-4000	1-29-2016	Amend	3-1-2016
123-042-0175(T)	2-29-2016	Repeal	4-1-2016	123-623-4100	1-29-2016	Amend	3-1-2016
123-042-0180	2-29-2016	Amend	4-1-2016	123-623-4200	1-29-2016	Adopt	3-1-2016
123-042-0180(T)	2-29-2016	Repeal	4-1-2016	123-635-0000	3-28-2016	Amend	5-1-2016
123-042-0190(T)	2-29-2016	Repeal	4-1-2016	123-635-0100	3-28-2016	Amend	5-1-2016
123-052-1000	8-3-2016	Amend	9-1-2016	123-635-0150	3-28-2016	Amend	5-1-2016
123-052-1100	2-9-2016	Amend(T)	3-1-2016	123-635-0175	3-28-2016	Amend	5-1-2016
123-052-1100	8-3-2016	Amend	9-1-2016	123-635-0200	3-28-2016	Amend	5-1-2016
123-052-1100(T)	8-3-2016	Repeal	9-1-2016	123-635-0250	3-28-2016	Amend	5-1-2016
123-052-1150	8-3-2016	Adopt	9-1-2016	123-635-0270	3-28-2016	Amend	5-1-2016
123-052-1200	8-3-2016	Repeal	9-1-2016	123-635-0300	3-28-2016	Amend	5-1-2016
123-052-1300	8-3-2016	Amend	9-1-2016	123-635-0350	3-28-2016	Amend	5-1-2016
123-052-1400	8-3-2016	Amend	9-1-2016	125-007-0200	1-4-2016	Amend	2-1-2016
123-052-1500	8-3-2016	Amend	9-1-2016	125-007-0210	1-4-2016	Amend	2-1-2016
123-052-1600	8-3-2016	Amend	9-1-2016	125-007-0220	1-4-2016	Amend	2-1-2016
123-052-1610	8-3-2016	Adopt	9-1-2016	125-007-0230	1-4-2016	Repeal	2-1-2016
123-052-1700	8-3-2016	Amend	9-1-2016	125-007-0240	1-4-2016	Repeal	2-1-2016
123-052-1800	8-3-2016	Repeal	9-1-2016	125-007-0250	1-4-2016	Amend	2-1-2016
123-052-1850	2-9-2016	Adopt(T)	3-1-2016	125-007-0260	1-4-2016	Amend	2-1-2016
123-052-1850(T)	8-3-2016	Repeal	9-1-2016	125-007-0270	1-4-2016	Amend	2-1-2016
123-052-1900	8-3-2016	Amend	9-1-2016	125-007-0280	1-4-2016	Repeal	2-1-2016
123-052-2000	8-3-2016	Amend	9-1-2016	125-007-0290	1-4-2016	Repeal	2-1-2016
123-200-1000	1-5-2016	Amend	2-1-2016	125-007-0300	1-4-2016	Amend	2-1-2016
123-200-1100	1-5-2016	Amend	2-1-2016	125-007-0310	1-4-2016	Amend	2-1-2016
123-200-1200	1-5-2016	Repeal	2-1-2016	125-007-0320	1-4-2016	Repeal	2-1-2016
123-200-1210	1-5-2016	Adopt	2-1-2016	125-007-0330	1-4-2016	Amend	2-1-2016
123-200-1220	1-5-2016	Adopt	2-1-2016	125-045-0200	1-7-2016	Amend	2-1-2016
123-200-1230	1-5-2016	Adopt	2-1-2016	125-045-0205	1-7-2016	Amend	2-1-2016
123-200-1240	1-5-2016	Adopt	2-1-2016	125-045-0225	1-7-2016	Amend	2-1-2016
123-200-1300	1-5-2016	Amend	2-1-2016	125-045-0235	1-7-2016	Amend	2-1-2016
123-200-1400	1-5-2016	Amend	2-1-2016	125-045-0245	1-7-2016	Amend	2-1-2016
123-200-1500	1-5-2016	Amend	2-1-2016	125-055-0040	1-1-2016	Amend	2-1-2016
123-200-1600	1-5-2016	Amend	2-1-2016	125-246-0100	1-1-2016	Amend	2-1-2016
123-200-1700	1-5-2016	Amend	2-1-2016	125-246-0110	1-1-2016	Amend	2-1-2016
123-200-1800	1-5-2016	Amend	2-1-2016	125-246-0135	1-1-2016	Adopt	2-1-2016
123-200-1900	1-5-2016	Amend	2-1-2016	125-246-0330	1-1-2016	Amend	2-1-2016
123-200-2000	1-5-2016	Amend	2-1-2016	125-246-0500	1-1-2016	Amend	2-1-2016
123-200-2100	1-5-2016	Am. & Ren.	2-1-2016	125-247-0100	1-1-2016	Amend	2-1-2016
123-200-2200	1-5-2016	Amend	2-1-2016	125-247-0185	1-1-2016	Adopt	2-1-2016
123-200-2210	1-5-2016	Adopt	2-1-2016	125-247-0260	1-1-2016	Amend	2-1-2016
123-623-1000	1-29-2016	Amend	3-1-2016	125-247-0270	1-1-2016	Amend	2-1-2016
123-623-1100	1-29-2016	Amend	3-1-2016	125-247-0500	1-1-2016	Amend	2-1-2016
123-623-1115	1-29-2016	Adopt	3-1-2016	125-247-0640	1-1-2016	Amend	2-1-2016
123-623-1250	1-29-2016	Amend	3-1-2016	125-248-0100	1-1-2016	Amend	2-1-2016
123-623-1300	1-29-2016	Amend	3-1-2016	125-248-0220	1-1-2016	Amend	2-1-2016
123-623-1400	1-29-2016	Amend	3-1-2016	125-249-0100	1-1-2016	Amend	2-1-2016
123-623-1500	1-29-2016	Amend	3-1-2016	125-249-0120	1-1-2016	Amend	2-1-2016
123-623-1525	1-29-2016	Amend	3-1-2016	125-249-0370	1-1-2016	Amend	2-1-2016
123-623-1600	1-29-2016	Amend	3-1-2016	125-249-0390	1-1-2016	Amend	2-1-2016
123-623-1700	1-29-2016	Amend	3-1-2016	125-249-0440	1-1-2016	Amend	2-1-2016
123-623-1800	1-29-2016	Amend	3-1-2016	137-003-0640	2-1-2016	Amend	3-1-2016
123-623-1900	1-29-2016	Amend	3-1-2016	137-008-0100	7-25-2016	Amend	9-1-2016

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137-010-0030	1-1-2017	Amend	10-1-2016	141-067-0215	6-1-2016	Amend	6-1-2016
137-020-0020	1-1-2016	Amend	2-1-2016	141-067-0220	6-1-2016	Amend	6-1-2016
137-020-0050	1-1-2016	Amend	2-1-2016	141-067-0270	6-1-2016	Amend	6-1-2016
137-046-0110	1-1-2016	Amend	2-1-2016	141-067-0300	6-1-2016	Amend	6-1-2016
137-046-0140	1-1-2016	Adopt	2-1-2016	141-068-0000	6-1-2016	Adopt	6-1-2016
137-046-0200	1-1-2016	Amend	2-1-2016	141-068-0010	6-1-2016	Adopt	6-1-2016
137-046-0210	1-1-2016	Amend	2-1-2016	141-068-0020	6-1-2016	Adopt	6-1-2016
137-047-0260	1-1-2016	Amend	2-1-2016	141-068-0030	6-1-2016	Adopt	6-1-2016
137-047-0640	1-1-2016	Amend	2-1-2016	141-068-0040	6-1-2016	Adopt	6-1-2016
137-048-0220	1-1-2016	Amend	2-1-2016	141-068-0050	6-1-2016	Adopt	6-1-2016
137-049-0120	1-1-2016	Amend	2-1-2016	141-068-0060	6-1-2016	Adopt	6-1-2016
137-049-0370	1-1-2016	Amend	2-1-2016	141-068-0070	6-1-2016	Adopt	6-1-2016
137-049-0390	1-1-2016	Amend	2-1-2016	141-068-0080	6-1-2016	Adopt	6-1-2016
137-049-0440	1-1-2016	Amend	2-1-2016	141-068-0090	6-1-2016	Adopt	6-1-2016
137-050-0715	7-1-2016	Amend	8-1-2016	141-068-0100	6-1-2016	Adopt	6-1-2016
137-050-0735	1-29-2016	Amend(T)	3-1-2016	141-068-0110	6-1-2016	Adopt	6-1-2016
137-050-0735	4-1-2016	Amend	5-1-2016	141-068-0120	6-1-2016	Adopt	6-1-2016
137-050-0745	1-1-2016	Amend	2-1-2016	141-068-0130	6-1-2016	Adopt	6-1-2016
137-050-0750	7-1-2016	Amend	8-1-2016	141-068-0140	6-1-2016	Adopt	6-1-2016
137-055-1140	2-1-2016	Amend	3-1-2016	141-089-0820	1-2-2016	Amend(T)	2-1-2016
137-055-1160	2-1-2016	Amend	3-1-2016	141-089-0820	6-15-2016	Amend	7-1-2016
137-055-3240	1-1-2016	Amend	2-1-2016	141-089-0825	1-2-2016	Amend(T)	2-1-2016
137-055-3300	2-1-2016	Amend	3-1-2016	141-089-0825	6-15-2016	Amend	7-1-2016
137-055-3490	1-1-2016	Amend	2-1-2016	141-089-0835	1-2-2016	Amend(T)	2-1-2016
137-055-3660	1-1-2016	Amend	2-1-2016	141-089-0835	6-15-2016	Amend	7-1-2016
137-055-5035	1-1-2016	Amend	2-1-2016	141-093-0185	2-8-2016	Amend	3-1-2016
137-055-5080	1-1-2016	Amend	2-1-2016	141-093-0190	2-8-2016	Amend	3-1-2016
137-055-5110	2-1-2016	Amend	3-1-2016	141-093-0250	9-1-2016	Adopt	8-1-2016
137-055-6220	1-1-2016	Amend	2-1-2016	141-093-0255	9-1-2016	Adopt	8-1-2016
137-055-6240	1-1-2016	Amend	2-1-2016	141-093-0260	9-1-2016	Adopt	8-1-2016
137-055-7020	1-1-2016	Repeal	2-1-2016	141-093-0265	9-1-2016	Adopt	8-1-2016
137-055-7040	1-1-2016	Amend	2-1-2016	141-093-0270	9-1-2016	Adopt	8-1-2016
137-055-7060	1-1-2016	Amend	2-1-2016	141-093-0275	9-1-2016	Adopt	8-1-2016
137-055-7100	1-1-2016	Amend	2-1-2016	141-093-0280	9-1-2016	Adopt	8-1-2016
137-055-7120	1-1-2016	Amend	2-1-2016	141-125-0170	12-29-2015	Amend	2-1-2016
137-055-7140	1-1-2016	Amend	2-1-2016	150-118.005	9-1-2016	Renumber	9-1-2016
137-055-7160	1-1-2016	Amend	2-1-2016	150-118.010	9-1-2016	Renumber	9-1-2016
137-055-7160	1-1-2016	Repeal	2-1-2016	150-118.010(1)	9-1-2016	Renumber	9-1-2016
137-055-7180	1-1-2016	Amend	2-1-2016	150-118.010(2)	9-1-2016	Renumber	9-1-2016
137-055-7190	1-1-2016	Amend	2-1-2016	150-118.010(3)	9-1-2016	Renumber	9-1-2016
137-084-0001	4-19-2016	Amend(T)	6-1-2016	150-118.010(4)(b)	9-1-2016	Renumber	9-1-2016
137-084-0010	4-19-2016	Amend(T)	6-1-2016	150-118.010(7)	9-1-2016	Renumber	9-1-2016
137-084-0020	4-19-2016	Amend(T)	6-1-2016	150-118.010(8)	9-1-2016	Renumber	9-1-2016
137-084-0030	4-19-2016	Amend(T)	6-1-2016	150-118.100(1)	9-1-2016	Renumber	9-1-2016
137-085-0060	2-3-2016	Adopt	3-1-2016	150-118.100(6)	9-1-2016	Renumber	9-1-2016
137-085-0070	2-3-2016	Adopt	3-1-2016	150-118.140	1-1-2016	Amend	2-1-2016
137-085-0080	2-3-2016	Adopt	3-1-2016	150-118.140	9-1-2016	Renumber	9-1-2016
137-085-0090	2-3-2016	Adopt	3-1-2016	150-118.160	9-1-2016	Renumber	9-1-2016
137-105-0025	5-23-2016	Adopt(T)	7-1-2016	150-118.160(B)	9-1-2016	Renumber	9-1-2016
141-067-0130	6-1-2016	Amend	6-1-2016	150-118.171	9-1-2016	Renumber	9-1-2016
141-067-0150	6-1-2016	Amend	6-1-2016	150-118.225	9-1-2016	Renumber	9-1-2016
141-067-0155	6-1-2016	Amend	6-1-2016	150-118.250	9-1-2016	Renumber	9-1-2016
141-067-0170	6-1-2016	Amend	6-1-2016	150-118.260	9-1-2016	Renumber	9-1-2016
141-067-0180	6-1-2016	Amend	6-1-2016	150-118.260(6)	9-1-2016	Renumber	9-1-2016
141-067-0195	6-1-2016	Amend	6-1-2016	150-118.265	9-1-2016	Renumber	9-1-2016

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150-118.NOTE	1-1-2016	Repeal	2-1-2016	150-294.175(2)	1-1-2016	Am. & Ren.	2-1-2016
150-137.300	9-1-2016	Renumber	9-1-2016	150-294.175(2)-(A)	9-1-2016	Renumber	9-1-2016
150-18.385	9-1-2016	Renumber	9-1-2016	150-294.175(2)-(B)	9-1-2016	Renumber	9-1-2016
150-18.385-(A)	9-1-2016	Renumber	9-1-2016	150-294.181	9-1-2016	Renumber	9-1-2016
150-18.855(5)	9-1-2016	Renumber	9-1-2016	150-294.187	9-1-2016	Renumber	9-1-2016
150-18.855(6)	9-1-2016	Renumber	9-1-2016	150-294.187(1)(c)	9-1-2016	Renumber	9-1-2016
150-180.455	9-1-2016	Renumber	9-1-2016	150-294.311	9-1-2016	Renumber	9-1-2016
150-181.534(9)	9-1-2016	Renumber	9-1-2016	150-294.311(31)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(A)	9-1-2016	Renumber	9-1-2016	150-294.311(6)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(B)	9-1-2016	Renumber	9-1-2016	150-294.338(2)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(C)	9-1-2016	Renumber	9-1-2016	150-294.346	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(D)	9-1-2016	Renumber	9-1-2016	150-294.346-(A)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(E)	9-1-2016	Renumber	9-1-2016	150-294.358	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(F)	9-1-2016	Renumber	9-1-2016	150-294.361(1)-(A)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(G)	9-1-2016	Renumber	9-1-2016	150-294.361(1)-(B)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(H)	9-1-2016	Renumber	9-1-2016	150-294.361(2)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(I)	9-1-2016	Renumber	9-1-2016	150-294.368(2)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(J)	9-1-2016	Renumber	9-1-2016	150-294.388	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(K)	9-1-2016	Renumber	9-1-2016	150-294.388(1)-(A)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(L)	9-1-2016	Renumber	9-1-2016	150-294.388(7)	9-1-2016	Renumber	9-1-2016
150-181.534(9)-(M)	9-1-2016	Renumber	9-1-2016	150-294.398	9-1-2016	Renumber	9-1-2016
150-183.330	9-1-2016	Renumber	9-1-2016	150-294.414	9-1-2016	Renumber	9-1-2016
150-183.330(1)	1-1-2016	Am. & Ren.	2-1-2016	150-294.426(8)	9-1-2016	Renumber	9-1-2016
150-183.341(2)	9-1-2016	Renumber	9-1-2016	150-294.438	9-1-2016	Renumber	9-1-2016
150-183.341(4)	9-1-2016	Renumber	9-1-2016	150-294.453(1)	9-1-2016	Renumber	9-1-2016
150-192.440	1-1-2016	Amend	2-1-2016	150-294.456(1)-(A)	9-1-2016	Renumber	9-1-2016
150-192.440	9-1-2016	Renumber	9-1-2016	150-294.456(1)-(C)	9-1-2016	Renumber	9-1-2016
150-192.501	9-1-2016	Renumber	9-1-2016	150-294.456(3)	9-1-2016	Renumber	9-1-2016
150-198.955(3)(a)	9-1-2016	Renumber	9-1-2016	150-294.458(3)-(A)	9-1-2016	Renumber	9-1-2016
150-222.111	9-1-2016	Renumber	9-1-2016	150-294.458(3)-(B)	9-1-2016	Renumber	9-1-2016
150-222.111(3)	9-1-2016	Renumber	9-1-2016	150-294.463(3)	9-1-2016	Renumber	9-1-2016
150-267.380(1)(c)	9-1-2016	Renumber	9-1-2016	150-294.471	9-1-2016	Renumber	9-1-2016
150-267.380(2)	9-1-2016	Renumber	9-1-2016	150-294.900	9-1-2016	Renumber	9-1-2016
150-267.380(2)(h)	9-1-2016	Renumber	9-1-2016	150-294.905(2)	9-1-2016	Renumber	9-1-2016
150-267.380(4)	9-1-2016	Renumber	9-1-2016	150-294.905(4)	9-1-2016	Renumber	9-1-2016
150-267.385(3)	9-1-2016	Renumber	9-1-2016	150-294.915	9-1-2016	Renumber	9-1-2016
150-276.595	9-1-2016	Renumber	9-1-2016	150-294.920	9-1-2016	Renumber	9-1-2016
150-280.060(A)	9-1-2016	Renumber	9-1-2016	150-305.100	9-1-2016	Renumber	9-1-2016
150-280.075	8-1-2016	Amend	9-1-2016	150-305.100-(A)	9-1-2016	Renumber	9-1-2016
150-280.075	9-1-2016	Renumber	9-1-2016	150-305.100-(B)	9-1-2016	Renumber	9-1-2016
150-285C.140(12)	9-1-2016	Renumber	9-1-2016	150-305.100-(C)	1-1-2016	Repeal	2-1-2016
150-285C.180	9-1-2016	Renumber	9-1-2016	150-305.100-(D)	9-1-2016	Renumber	9-1-2016
150-285C.409	9-1-2016	Renumber	9-1-2016	150-305.100-(E)	7-1-2016	Adopt	8-1-2016
150-285C.420	9-1-2016	Renumber	9-1-2016	150-305.100-(E)	9-1-2016	Renumber	9-1-2016
150-285C.420-(A)	1-1-2016	Adopt	2-1-2016	150-305.105	9-1-2016	Renumber	9-1-2016
150-285C.420-(A)	9-1-2016	Renumber	9-1-2016	150-305.120	1-1-2016	Adopt	2-1-2016
150-291.349	9-1-2016	Renumber	9-1-2016	150-305.120	9-1-2016	Renumber	9-1-2016
150-293.250(2)	9-1-2016	Renumber	9-1-2016	150-305.140	9-1-2016	Renumber	9-1-2016
150-293.445(4)	9-1-2016	Renumber	9-1-2016	150-305.140(3)(d)	9-1-2016	Renumber	9-1-2016
150-293.475(3)	9-1-2016	Renumber	9-1-2016	150-305.145	9-1-2016	Renumber	9-1-2016
150-293.525(1)(b)	9-1-2016	Renumber	9-1-2016	150-305.145(2)	9-1-2016	Renumber	9-1-2016
150-294-175(6)	9-1-2016	Renumber	9-1-2016	150-305.145(3)	9-1-2016	Renumber	9-1-2016
150-294.175	9-1-2016	Renumber	9-1-2016	150-305.145(4)	9-1-2016	Renumber	9-1-2016
150-294.175-(B)	9-1-2016	Renumber	9-1-2016	150-305.145(5)	1-1-2016	Renumber	2-1-2016
150-294.175-(C)	9-1-2016	Renumber	9-1-2016	150-305.145(A)	9-1-2016	Renumber	9-1-2016

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150-305.150	9-1-2016	Renumber	9-1-2016	150-305.620(4)	9-1-2016	Renumber	9-1-2016
150-305.155	9-1-2016	Renumber	9-1-2016	150-305.720(1)(a)	9-1-2016	Renumber	9-1-2016
150-305.155-(A)	1-1-2016	Adopt	2-1-2016	150-305.725(1)	9-1-2016	Renumber	9-1-2016
150-305.155(1)(d)	9-1-2016	Renumber	9-1-2016	150-305.727	9-1-2016	Renumber	9-1-2016
150-305.155(A)	9-1-2016	Renumber	9-1-2016	150-305.727(3)(a)	9-1-2016	Renumber	9-1-2016
150-305.190	9-1-2016	Renumber	9-1-2016	150-305.727(3)(b)	9-1-2016	Renumber	9-1-2016
150-305.192	9-1-2016	Renumber	9-1-2016	150-305.727(3)(b)-(B)	9-1-2016	Renumber	9-1-2016
150-305.193	9-1-2016	Renumber	9-1-2016	150-305.730	9-1-2016	Renumber	9-1-2016
150-305.217	9-1-2016	Renumber	9-1-2016	150-305.747	9-1-2016	Renumber	9-1-2016
150-305.220(1)	9-1-2016	Renumber	9-1-2016	150-305.749(3)	9-1-2016	Renumber	9-1-2016
150-305.220(2)	9-1-2016	Renumber	9-1-2016	150-305.792	12-7-2015	Adopt(T)	1-1-2016
150-305.220(3)	9-1-2016	Renumber	9-1-2016	150-305.796	9-1-2016	Renumber	9-1-2016
150-305.222	9-1-2016	Renumber	9-1-2016	150-305.810	9-1-2016	Renumber	9-1-2016
150-305.222(3)	9-1-2016	Renumber	9-1-2016	150-305.820	9-1-2016	Renumber	9-1-2016
150-305.228	9-1-2016	Renumber	9-1-2016	150-305.992	9-1-2016	Renumber	9-1-2016
150-305.230	9-1-2016	Renumber	9-1-2016	150-306.115	9-1-2016	Renumber	9-1-2016
150-305.242(2)	9-1-2016	Renumber	9-1-2016	150-306.115-(A)	9-1-2016	Renumber	9-1-2016
150-305.242(5)	9-1-2016	Renumber	9-1-2016	150-306.115-(C)	9-1-2016	Renumber	9-1-2016
150-305.265(1)	9-1-2016	Renumber	9-1-2016	150-306.125	1-1-2016	Repeal	2-1-2016
150-305.265(1)-(B)	9-1-2016	Renumber	9-1-2016	150-306.125(1)	9-1-2016	Renumber	9-1-2016
150-305.265(10)	9-1-2016	Renumber	9-1-2016	150-306.126	9-1-2016	Renumber	9-1-2016
150-305.265(11)	9-1-2016	Renumber	9-1-2016	150-306.126-(A)	9-1-2016	Renumber	9-1-2016
150-305.265(12)-(B)	9-1-2016	Renumber	9-1-2016	150-306.126-(B)	9-1-2016	Renumber	9-1-2016
150-305.265(13)	9-1-2016	Renumber	9-1-2016	150-306.126-(C)	9-1-2016	Renumber	9-1-2016
150-305.265(14)	9-1-2016	Renumber	9-1-2016	150-306.126(1)	1-1-2016	Am. & Ren.	2-1-2016
150-305.265(15)	9-1-2016	Renumber	9-1-2016	150-306.126(2)	1-1-2016	Am. & Ren.	2-1-2016
150-305.265(2)-(A)	9-1-2016	Renumber	9-1-2016	150-306.126(3)-(A)	1-1-2016	Am. & Ren.	2-1-2016
150-305.265(2)-(B)	9-1-2016	Renumber	9-1-2016	150-306.132	9-1-2016	Renumber	9-1-2016
150-305.265(2)-(C)	9-1-2016	Renumber	9-1-2016	150-306.135	9-1-2016	Renumber	9-1-2016
150-305.265(4)(a)	9-1-2016	Renumber	9-1-2016	150-306.265	9-1-2016	Renumber	9-1-2016
150-305.265(5)	9-1-2016	Renumber	9-1-2016	150-307.010(1)	9-1-2016	Renumber	9-1-2016
150-305.265(6)-(A)	9-1-2016	Renumber	9-1-2016	150-307.020	9-1-2016	Renumber	9-1-2016
150-305.265(6)-(B)	9-1-2016	Renumber	9-1-2016	150-307.020(3)	9-1-2016	Renumber	9-1-2016
150-305.270(10)	9-1-2016	Renumber	9-1-2016	150-307.080	9-1-2016	Renumber	9-1-2016
150-305.270(3)-(A)	9-1-2016	Renumber	9-1-2016	150-307.110(1)	9-1-2016	Renumber	9-1-2016
150-305.270(3)-(B)	9-1-2016	Renumber	9-1-2016	150-307.112	9-1-2016	Renumber	9-1-2016
150-305.270(4)-(A)	9-1-2016	Renumber	9-1-2016	150-307.115(1)	9-1-2016	Renumber	9-1-2016
150-305.270(4)-(B)	9-1-2016	Renumber	9-1-2016	150-307.120	9-1-2016	Renumber	9-1-2016
150-305.270(8)	9-1-2016	Renumber	9-1-2016	150-307.120(3)(a)	9-1-2016	Renumber	9-1-2016
150-305.285	9-1-2016	Renumber	9-1-2016	150-307.123	9-1-2016	Renumber	9-1-2016
150-305.295(1)(c)	9-1-2016	Renumber	9-1-2016	150-307.126	8-1-2016	Am. & Ren.	9-1-2016
150-305.295(1)(d)	9-1-2016	Renumber	9-1-2016	150-307.130-(A)	9-1-2016	Renumber	9-1-2016
150-305.295(4)	9-1-2016	Renumber	9-1-2016	150-307.130(1)	9-1-2016	Renumber	9-1-2016
150-305.295(6)	9-1-2016	Renumber	9-1-2016	150-307.140	9-1-2016	Renumber	9-1-2016
150-305.305	9-1-2016	Renumber	9-1-2016	150-307.140(4)	9-1-2016	Renumber	9-1-2016
150-305.385(4)(a)-(A)	9-1-2016	Renumber	9-1-2016	150-307.145	9-1-2016	Renumber	9-1-2016
150-305.385(6)-(A)	9-1-2016	Renumber	9-1-2016	150-307.147	9-1-2016	Renumber	9-1-2016
150-305.385(6)-(B)	9-1-2016	Renumber	9-1-2016	150-307.150	9-1-2016	Renumber	9-1-2016
150-305.385(6)-(C)	9-1-2016	Renumber	9-1-2016	150-307.162(1)	9-1-2016	Renumber	9-1-2016
150-305.385(7)	9-1-2016	Renumber	9-1-2016	150-307.166	9-1-2016	Renumber	9-1-2016
150-305.501	9-1-2016	Renumber	9-1-2016	150-307.175	9-1-2016	Renumber	9-1-2016
150-305.525	9-1-2016	Renumber	9-1-2016	150-307.180	9-1-2016	Renumber	9-1-2016
150-305.565(2)(a)	9-1-2016	Renumber	9-1-2016	150-307.183	9-1-2016	Renumber	9-1-2016
150-305.612	1-1-2016	Amend	2-1-2016	150-307.190	9-1-2016	Renumber	9-1-2016
150-305.612	9-1-2016	Renumber	9-1-2016	150-307.210	9-1-2016	Renumber	9-1-2016
150-305.620(1)-(A)	9-1-2016	Renumber	9-1-2016	150-307.210(5)	9-1-2016	Renumber	9-1-2016

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150-307.220-(A)	9-1-2016	Renumber	9-1-2016	150-308.156(5)-(C)	9-1-2016	Renumber	9-1-2016
150-307.220-(B)	9-1-2016	Renumber	9-1-2016	150-308.156(5)-(D)	9-1-2016	Renumber	9-1-2016
150-307.230-(A)	9-1-2016	Renumber	9-1-2016	150-308.159	9-1-2016	Renumber	9-1-2016
150-307.230-(B)	9-1-2016	Renumber	9-1-2016	150-308.205-(A)	1-1-2016	Amend	2-1-2016
150-307.240-(B)	9-1-2016	Renumber	9-1-2016	150-308.205-(A)	9-1-2016	Renumber	9-1-2016
150-307.241	9-1-2016	Renumber	9-1-2016	150-308.205-(C)	9-1-2016	Renumber	9-1-2016
150-307.242	9-1-2016	Renumber	9-1-2016	150-308.205-(D)	1-1-2016	Amend	2-1-2016
150-307.242(2)	1-1-2016	Am. & Ren.	2-1-2016	150-308.205-(D)	9-1-2016	Renumber	9-1-2016
150-307.250	9-1-2016	Renumber	9-1-2016	150-308.205-(E)	9-1-2016	Renumber	9-1-2016
150-307.260(1)(a)	9-1-2016	Renumber	9-1-2016	150-308.205-(F)	9-1-2016	Renumber	9-1-2016
150-307.260(3)	9-1-2016	Renumber	9-1-2016	150-308.205-(G)	9-1-2016	Renumber	9-1-2016
150-307.270(1)-(A)	9-1-2016	Renumber	9-1-2016	150-308.205-(H)	9-1-2016	Renumber	9-1-2016
150-307.270(1)-(B)	9-1-2016	Renumber	9-1-2016	150-308.205(2)	1-1-2016	Am. & Ren.	2-1-2016
150-307.270(1)-(C)	9-1-2016	Renumber	9-1-2016	150-308.215(1)-(A)	9-1-2016	Renumber	9-1-2016
150-307.286	9-1-2016	Renumber	9-1-2016	150-308.215(1)-(B)	9-1-2016	Renumber	9-1-2016
150-307.289	9-1-2016	Renumber	9-1-2016	150-308.215(1)(g)	9-1-2016	Renumber	9-1-2016
150-307.320	9-1-2016	Renumber	9-1-2016	150-308.219	9-1-2016	Renumber	9-1-2016
150-307.330	9-1-2016	Renumber	9-1-2016	150-308.225	9-1-2016	Renumber	9-1-2016
150-307.370	9-1-2016	Renumber	9-1-2016	150-308.231	9-1-2016	Renumber	9-1-2016
150-307.375	9-1-2016	Renumber	9-1-2016	150-308.232	9-1-2016	Renumber	9-1-2016
150-307.394	9-1-2016	Renumber	9-1-2016	150-308.234	9-1-2016	Renumber	9-1-2016
150-307.397	9-1-2016	Renumber	9-1-2016	150-308.235	9-1-2016	Renumber	9-1-2016
150-307.405	9-1-2016	Renumber	9-1-2016	150-308.242(3)	9-1-2016	Renumber	9-1-2016
150-307.405(3)	1-1-2016	Repeal	2-1-2016	150-308.250	9-1-2016	Renumber	9-1-2016
150-307.455	8-1-2016	Amend	9-1-2016	150-308.256(4)	9-1-2016	Renumber	9-1-2016
150-307.455	9-1-2016	Renumber	9-1-2016	150-308.275(1)	9-1-2016	Renumber	9-1-2016
150-307.475	8-1-2016	Amend	9-1-2016	150-308.290	9-1-2016	Renumber	9-1-2016
150-307.475	9-1-2016	Renumber	9-1-2016	150-308.290-(A)	1-1-2016	Repeal	2-1-2016
150-307.480	9-1-2016	Renumber	9-1-2016	150-308.290-(B)	1-1-2016	Amend	2-1-2016
150-307.495	9-1-2016	Renumber	9-1-2016	150-308.290-(B)	9-1-2016	Renumber	9-1-2016
150-307.547	9-1-2016	Renumber	9-1-2016	150-308.290(7)-(A)	9-1-2016	Renumber	9-1-2016
150-307.804	9-1-2016	Renumber	9-1-2016	150-308.290(7)-(B)	9-1-2016	Renumber	9-1-2016
150-307.811(1)	9-1-2016	Renumber	9-1-2016	150-308.411-(A)	9-1-2016	Renumber	9-1-2016
150-307.811(2)(a)	9-1-2016	Renumber	9-1-2016	150-308.413	9-1-2016	Renumber	9-1-2016
150-308.010	1-1-2016	Amend	2-1-2016	150-308.425	9-1-2016	Renumber	9-1-2016
150-308.010	9-1-2016	Renumber	9-1-2016	150-308.490	9-1-2016	Renumber	9-1-2016
150-308.010(1)	9-1-2016	Renumber	9-1-2016	150-308.505(6)	9-1-2016	Renumber	9-1-2016
150-308.015	9-1-2016	Renumber	9-1-2016	150-308.515	9-1-2016	Renumber	9-1-2016
150-308.030	9-1-2016	Renumber	9-1-2016	150-308.515(2)(b)	9-1-2016	Renumber	9-1-2016
150-308.057	9-1-2016	Renumber	9-1-2016	150-308.525	9-1-2016	Renumber	9-1-2016
150-308.059-(A)	9-1-2016	Renumber	9-1-2016	150-308.540	9-1-2016	Renumber	9-1-2016
150-308.059-(B)	9-1-2016	Renumber	9-1-2016	150-308.550(2)-(A)	9-1-2016	Renumber	9-1-2016
150-308.105	9-1-2016	Renumber	9-1-2016	150-308.550(2)-(B)	9-1-2016	Renumber	9-1-2016
150-308.115	9-1-2016	Renumber	9-1-2016	150-308.550(2)-(C)	9-1-2016	Renumber	9-1-2016
150-308.146	9-1-2016	Renumber	9-1-2016	150-308.550(2)-(D)	9-1-2016	Renumber	9-1-2016
150-308.146(5)(a)	9-1-2016	Renumber	9-1-2016	150-308.550(2)-(E)	9-1-2016	Renumber	9-1-2016
150-308.146(8)	9-1-2016	Renumber	9-1-2016	150-308.550(2)-(F)	9-1-2016	Renumber	9-1-2016
150-308.149-(A)	9-1-2016	Renumber	9-1-2016	150-308.550(2)-(G)	9-1-2016	Renumber	9-1-2016
150-308.149(3)	9-1-2016	Renumber	9-1-2016	150-308.550(2)-(H)	9-1-2016	Renumber	9-1-2016
150-308.149(5)	9-1-2016	Renumber	9-1-2016	150-308.555	9-1-2016	Renumber	9-1-2016
150-308.149(6)	9-1-2016	Renumber	9-1-2016	150-308.560	9-1-2016	Renumber	9-1-2016
150-308.156	9-1-2016	Renumber	9-1-2016	150-308.605(2)	9-1-2016	Renumber	9-1-2016
150-308.156-(B)	9-1-2016	Renumber	9-1-2016	150-308.655	9-1-2016	Renumber	9-1-2016
150-308.156(5)	9-1-2016	Renumber	9-1-2016	150-308.671	9-1-2016	Renumber	9-1-2016
150-308.156(5)-(A)	9-1-2016	Renumber	9-1-2016	150-308.704	9-1-2016	Renumber	9-1-2016
150-308.156(5)-(B)	8-1-2016	Am. & Ren.	9-1-2016	150-308.709	9-1-2016	Renumber	9-1-2016

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150-308.714-(A)	9-1-2016	Renumber	9-1-2016	150-310.090	9-1-2016	Renumber	9-1-2016
150-308.714-(B)	9-1-2016	Renumber	9-1-2016	150-310.110	9-1-2016	Renumber	9-1-2016
150-308.865	9-1-2016	Renumber	9-1-2016	150-310.110(1)	1-1-2016	Repeal	2-1-2016
150-308.875-(A)	9-1-2016	Renumber	9-1-2016	150-310.630(11)	9-1-2016	Renumber	9-1-2016
150-308.875-(B)	9-1-2016	Renumber	9-1-2016	150-310.630(4)	9-1-2016	Renumber	9-1-2016
150-308A.056	9-1-2016	Renumber	9-1-2016	150-310.630(5)	9-1-2016	Renumber	9-1-2016
150-308A.056(1)(g)	9-1-2016	Renumber	9-1-2016	150-310.630(8)(a)-(A)	9-1-2016	Renumber	9-1-2016
150-308A.062	9-1-2016	Renumber	9-1-2016	150-310.630(8)(a)-(C)	9-1-2016	Renumber	9-1-2016
150-308A.068	9-1-2016	Renumber	9-1-2016	150-310.630(8)(a)-(D)	9-1-2016	Renumber	9-1-2016
150-308A.071	9-1-2016	Renumber	9-1-2016	150-310.630(8)(a)-(O)	9-1-2016	Renumber	9-1-2016
150-308A.074	9-1-2016	Renumber	9-1-2016	150-310.630(8)(b)-(F)	9-1-2016	Renumber	9-1-2016
150-308A.080	9-1-2016	Renumber	9-1-2016	150-310.630(9)	9-1-2016	Renumber	9-1-2016
150-308A.092	9-1-2016	Renumber	9-1-2016	150-310.635	9-1-2016	Renumber	9-1-2016
150-308A.107	9-1-2016	Renumber	9-1-2016	150-310.635(7)	9-1-2016	Renumber	9-1-2016
150-308A.113	9-1-2016	Renumber	9-1-2016	150-310.657	9-1-2016	Renumber	9-1-2016
150-308A.116	9-1-2016	Renumber	9-1-2016	150-311.105(1)(b)	9-1-2016	Renumber	9-1-2016
150-308A.250	9-1-2016	Renumber	9-1-2016	150-311.150	9-1-2016	Renumber	9-1-2016
150-308A.253	9-1-2016	Renumber	9-1-2016	150-311.160(2)	9-1-2016	Renumber	9-1-2016
150-308A.256	9-1-2016	Renumber	9-1-2016	150-311.160(4)	9-1-2016	Renumber	9-1-2016
150-308A.315(4)	9-1-2016	Renumber	9-1-2016	150-311.205(1)(a)	9-1-2016	Renumber	9-1-2016
150-308A.703	9-1-2016	Renumber	9-1-2016	150-311.205(1)(b)-(A)	9-1-2016	Renumber	9-1-2016
150-308A.706	9-1-2016	Renumber	9-1-2016	150-311.205(1)(b)-(B)	9-1-2016	Renumber	9-1-2016
150-308A.712	9-1-2016	Renumber	9-1-2016	150-311.205(1)(b)-(C)	9-1-2016	Renumber	9-1-2016
150-308A.718	9-1-2016	Renumber	9-1-2016	150-311.205(3)	9-1-2016	Renumber	9-1-2016
150-309.022(1)	9-1-2016	Renumber	9-1-2016	150-311.206-(A)	9-1-2016	Renumber	9-1-2016
150-309.024	9-1-2016	Renumber	9-1-2016	150-311.206-(B)	9-1-2016	Renumber	9-1-2016
150-309.026-(A)	9-1-2016	Renumber	9-1-2016	150-311.216	9-1-2016	Renumber	9-1-2016
150-309.026(2)-(A)	1-1-2016	Am. & Ren.	2-1-2016	150-311.223(4)	9-1-2016	Renumber	9-1-2016
150-309.026(2)-(B)	9-1-2016	Renumber	9-1-2016	150-311.229	9-1-2016	Renumber	9-1-2016
150-309.067(1)	9-1-2016	Renumber	9-1-2016	150-311.234	1-1-2016	Amend	2-1-2016
150-309.072	9-1-2016	Renumber	9-1-2016	150-311.234	9-1-2016	Renumber	9-1-2016
150-309.100-(D)	9-1-2016	Renumber	9-1-2016	150-311.250	9-1-2016	Renumber	9-1-2016
150-309.100(2)-(A)	9-1-2016	Renumber	9-1-2016	150-311.250(4)	9-1-2016	Renumber	9-1-2016
150-309.100(2)-(B)	9-1-2016	Renumber	9-1-2016	150-311.356(3)(c)	9-1-2016	Renumber	9-1-2016
150-309.100(3)-(A)	9-1-2016	Renumber	9-1-2016	150-311.395(1)(d)	9-1-2016	Renumber	9-1-2016
150-309.100(3)-(B)	9-1-2016	Renumber	9-1-2016	150-311.507(1)(d)	9-1-2016	Renumber	9-1-2016
150-309.100(3)-(C)	9-1-2016	Renumber	9-1-2016	150-311.508(1)	9-1-2016	Renumber	9-1-2016
150-309.100(5)	9-1-2016	Renumber	9-1-2016	150-311.520	9-1-2016	Renumber	9-1-2016
150-309.110-(A)	1-1-2016	Amend	2-1-2016	150-311.520-(A)	9-1-2016	Renumber	9-1-2016
150-309.110-(A)	9-1-2016	Renumber	9-1-2016	150-311.525	9-1-2016	Renumber	9-1-2016
150-309.110(1)	9-1-2016	Renumber	9-1-2016	150-311.525-(A)	9-1-2016	Renumber	9-1-2016
150-309.110(1)-(A)	9-1-2016	Renumber	9-1-2016	150-311.633	9-1-2016	Renumber	9-1-2016
150-309.110(1)-(C)	9-1-2016	Renumber	9-1-2016	150-311.635	9-1-2016	Renumber	9-1-2016
150-309.110(1)-(D)	9-1-2016	Renumber	9-1-2016	150-311.670(1)(a)	9-1-2016	Renumber	9-1-2016
150-309.115	9-1-2016	Renumber	9-1-2016	150-311.672(1)(a)	9-1-2016	Renumber	9-1-2016
150-309.115(1)-(C)	9-1-2016	Renumber	9-1-2016	150-311.676	9-1-2016	Renumber	9-1-2016
150-309.115(2)	9-1-2016	Renumber	9-1-2016	150-311.679-(A)	9-1-2016	Renumber	9-1-2016
150-309.115(2)(e)	9-1-2016	Renumber	9-1-2016	150-311.684	9-1-2016	Renumber	9-1-2016
150-309.200-(A)	9-1-2016	Renumber	9-1-2016	150-311.688	9-1-2016	Renumber	9-1-2016
150-309.200-(B)	9-1-2016	Renumber	9-1-2016	150-311.690(4)	9-1-2016	Renumber	9-1-2016
150-309.200-(C)	9-1-2016	Renumber	9-1-2016	150-311.691	9-1-2016	Renumber	9-1-2016
150-309.360	9-1-2016	Renumber	9-1-2016	150-311.708	9-1-2016	Renumber	9-1-2016
150-310.055	9-1-2016	Renumber	9-1-2016	150-311.711	9-1-2016	Renumber	9-1-2016
150-310.060-(A)	9-1-2016	Renumber	9-1-2016	150-311.725	9-1-2016	Renumber	9-1-2016
150-310.060(4)	9-1-2016	Renumber	9-1-2016	150-311.806-(A)	9-1-2016	Renumber	9-1-2016



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150-311.806-(C)	9-1-2016	Renumber	9-1-2016	150-314.385(1)-(B)	9-1-2016	Renumber	9-1-2016
150-311.807	9-1-2016	Renumber	9-1-2016	150-314.385(3)	9-1-2016	Renumber	9-1-2016
150-311.812(3)	9-1-2016	Renumber	9-1-2016	150-314.385(4)	9-1-2016	Renumber	9-1-2016
150-311.814	9-1-2016	Renumber	9-1-2016	150-314.385(c)-(A)	9-1-2016	Renumber	9-1-2016
150-311.860	9-1-2016	Renumber	9-1-2016	150-314.385(c)-(B)	9-1-2016	Renumber	9-1-2016
150-311.865	9-1-2016	Renumber	9-1-2016	150-314.395	9-1-2016	Renumber	9-1-2016
150-312.030(1)(d)	9-1-2016	Renumber	9-1-2016	150-314.395(1)	9-1-2016	Renumber	9-1-2016
150-312.030(2)	9-1-2016	Renumber	9-1-2016	150-314.400	9-1-2016	Renumber	9-1-2016
150-312.040(1)(b)	9-1-2016	Renumber	9-1-2016	150-314.400(1)	1-1-2016	Am. & Ren.	2-1-2016
150-312.110	9-1-2016	Renumber	9-1-2016	150-314.400(2)	9-1-2016	Renumber	9-1-2016
150-314.085(2)	9-1-2016	Renumber	9-1-2016	150-314.400(4)	9-1-2016	Renumber	9-1-2016
150-314.105	9-1-2016	Renumber	9-1-2016	150-314.402	1-1-2016	Repeal	2-1-2016
150-314.105(1)(d)	9-1-2016	Renumber	9-1-2016	150-314.402-(A)	9-1-2016	Renumber	9-1-2016
150-314.220	9-1-2016	Renumber	9-1-2016	150-314.402-(C)	9-1-2016	Renumber	9-1-2016
150-314.255(1)	9-1-2016	Renumber	9-1-2016	150-314.402(1)	1-1-2016	Am. & Ren.	2-1-2016
150-314.255(2)	9-1-2016	Renumber	9-1-2016	150-314.402(4)(b)	9-1-2016	Renumber	9-1-2016
150-314.256	9-1-2016	Renumber	9-1-2016	150-314.402(6)	1-1-2016	Am. & Ren.	2-1-2016
150-314.258	9-1-2016	Renumber	9-1-2016	150-314.403	9-1-2016	Renumber	9-1-2016
150-314.260	9-1-2016	Renumber	9-1-2016	150-314.410(1)	9-1-2016	Renumber	9-1-2016
150-314.260(4)	9-1-2016	Renumber	9-1-2016	150-314.410(2)	9-1-2016	Renumber	9-1-2016
150-314.276	9-1-2016	Renumber	9-1-2016	150-314.410(4)	9-1-2016	Renumber	9-1-2016
150-314.280-(A)	9-1-2016	Renumber	9-1-2016	150-314.410(6)	9-1-2016	Renumber	9-1-2016
150-314.280-(B)	9-1-2016	Renumber	9-1-2016	150-314.410(7)	9-1-2016	Renumber	9-1-2016
150-314.280-(C)	9-1-2016	Renumber	9-1-2016	150-314.410(9)	9-1-2016	Renumber	9-1-2016
150-314.280-(D)	9-1-2016	Renumber	9-1-2016	150-314.415	9-1-2016	Renumber	9-1-2016
150-314.280-(E)	9-1-2016	Renumber	9-1-2016	150-314.415(2)(b)-(A)	9-1-2016	Renumber	9-1-2016
150-314.280-(F)	9-1-2016	Renumber	9-1-2016	150-314.415(2)(b)-(B)	9-1-2016	Renumber	9-1-2016
150-314.280-(G)	9-1-2016	Renumber	9-1-2016	150-314.415(2)(f)-(A)	9-1-2016	Renumber	9-1-2016
150-314.280-(H)	9-1-2016	Renumber	9-1-2016	150-314.415(2)(f)-(B)	1-1-2016	Amend	2-1-2016
150-314.280-(I)	9-1-2016	Renumber	9-1-2016	150-314.415(2)(f)-(B)	9-1-2016	Renumber	9-1-2016
150-314.280-(J)	9-1-2016	Renumber	9-1-2016	150-314.415(5)(a)	9-1-2016	Renumber	9-1-2016
150-314.280-(K)	9-1-2016	Renumber	9-1-2016	150-314.415(6)	9-1-2016	Renumber	9-1-2016
150-314.280-(L)	9-1-2016	Renumber	9-1-2016	150-314.415(7)	9-1-2016	Renumber	9-1-2016
150-314.280-(M)	9-1-2016	Renumber	9-1-2016	150-314.415(8)	9-1-2016	Renumber	9-1-2016
150-314.280-(N)	9-1-2016	Renumber	9-1-2016	150-314.425	9-1-2016	Renumber	9-1-2016
150-314.280-(O)	1-1-2016	Adopt	2-1-2016	150-314.425-(B)	9-1-2016	Renumber	9-1-2016
150-314.280-(O)	1-26-2016	Amend(T)	3-1-2016	150-314.430(1)-(A)	9-1-2016	Renumber	9-1-2016
150-314.280-(O)	7-1-2016	Amend	8-1-2016	150-314.430(1)-(B)	9-1-2016	Renumber	9-1-2016
150-314.280-(O)	9-1-2016	Renumber	9-1-2016	150-314.430(2)	9-1-2016	Renumber	9-1-2016
150-314.280(3)	9-1-2016	Renumber	9-1-2016	150-314.466-(B)	9-1-2016	Renumber	9-1-2016
150-314.295	9-1-2016	Renumber	9-1-2016	150-314.505-(A)	9-1-2016	Renumber	9-1-2016
150-314.297	9-1-2016	Renumber	9-1-2016	150-314.505-(B)	9-1-2016	Renumber	9-1-2016
150-314.297(6)	1-1-2016	Am. & Ren.	2-1-2016	150-314.505(2)	9-1-2016	Renumber	9-1-2016
150-314.300	9-1-2016	Renumber	9-1-2016	150-314.515	9-1-2016	Renumber	9-1-2016
150-314.302	9-1-2016	Renumber	9-1-2016	150-314.515-(A)	9-1-2016	Renumber	9-1-2016
150-314.306	9-1-2016	Renumber	9-1-2016	150-314.515(2)	1-1-2016	Am. & Ren.	2-1-2016
150-314.308	9-1-2016	Renumber	9-1-2016	150-314.518	9-1-2016	Renumber	9-1-2016
150-314.330(2)	9-1-2016	Renumber	9-1-2016	150-314.525(1)-(A)	9-1-2016	Renumber	9-1-2016
150-314.355	9-1-2016	Renumber	9-1-2016	150-314.525(1)-(B)	9-1-2016	Renumber	9-1-2016
150-314.360	9-1-2016	Renumber	9-1-2016	150-314.525(1)(c)-(A)	9-1-2016	Renumber	9-1-2016
150-314.360(2)	9-1-2016	Renumber	9-1-2016	150-314.525(1)(d)	9-1-2016	Renumber	9-1-2016
150-314.364(A)	9-1-2016	Renumber	9-1-2016	150-314.525(2)-(A)	9-1-2016	Renumber	9-1-2016
150-314.364(B)	9-1-2016	Renumber	9-1-2016	150-314.525(2)-(B)	9-1-2016	Renumber	9-1-2016
150-314.380-(A)	9-1-2016	Renumber	9-1-2016	150-314.525(5)	9-1-2016	Renumber	9-1-2016
150-314.380(2)(B)	1-1-2016	Am. & Ren.	2-1-2016	150-314.610(1)-(A)	9-1-2016	Renumber	9-1-2016

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150-314.610(1)-(C)	9-1-2016	Renumber	9-1-2016	150-314.855	9-1-2016	Renumber	9-1-2016
150-314.615-(A)	9-1-2016	Renumber	9-1-2016	150-314.870	9-1-2016	Renumber	9-1-2016
150-314.615-(C)	9-1-2016	Renumber	9-1-2016	150-315.068	9-1-2016	Renumber	9-1-2016
150-314.615-(D)	9-1-2016	Renumber	9-1-2016	150-315.104(1)	9-1-2016	Renumber	9-1-2016
150-314.615-(E)	9-1-2016	Renumber	9-1-2016	150-315.104(10)	9-1-2016	Renumber	9-1-2016
150-314.615-(F)	9-1-2016	Renumber	9-1-2016	150-315.104(2)	9-1-2016	Renumber	9-1-2016
150-314.615-(G)	9-1-2016	Renumber	9-1-2016	150-315.104(5)	9-1-2016	Renumber	9-1-2016
150-314.615-(H)	9-1-2016	Renumber	9-1-2016	150-315.113	9-1-2016	Renumber	9-1-2016
150-314.620-(A)	9-1-2016	Renumber	9-1-2016	150-315.138(9)	9-1-2016	Renumber	9-1-2016
150-314.620-(B)	9-1-2016	Renumber	9-1-2016	150-315.144	1-1-2016	Amend	2-1-2016
150-314.620-(C)	9-1-2016	Renumber	9-1-2016	150-315.144	9-1-2016	Renumber	9-1-2016
150-314.620-(D)	9-1-2016	Renumber	9-1-2016	150-315.156	9-1-2016	Renumber	9-1-2016
150-314.640	9-1-2016	Renumber	9-1-2016	150-315.164	9-1-2016	Renumber	9-1-2016
150-314.650	9-1-2016	Renumber	9-1-2016	150-315.204-(A)	9-1-2016	Renumber	9-1-2016
150-314.655(1)-(A)	9-1-2016	Renumber	9-1-2016	150-315.204-(B)	9-1-2016	Renumber	9-1-2016
150-314.655(1)-(B)	9-1-2016	Renumber	9-1-2016	150-315.204-(C)	9-1-2016	Renumber	9-1-2016
150-314.655(1)-(C)	9-1-2016	Renumber	9-1-2016	150-315.208	9-1-2016	Renumber	9-1-2016
150-314.655(1)-(D)	9-1-2016	Renumber	9-1-2016	150-315.213(4)	9-1-2016	Renumber	9-1-2016
150-314.655(2)-(A)	9-1-2016	Renumber	9-1-2016	150-315.237(8)	9-1-2016	Renumber	9-1-2016
150-314.655(2)-(B)	9-1-2016	Renumber	9-1-2016	150-315.262	9-1-2016	Renumber	9-1-2016
150-314.655(2)-(C)	9-1-2016	Renumber	9-1-2016	150-315.274(3)	9-1-2016	Renumber	9-1-2016
150-314.655(2)-(E)	9-1-2016	Renumber	9-1-2016	150-315.274(4)	9-1-2016	Renumber	9-1-2016
150-314.655(3)	9-1-2016	Renumber	9-1-2016	150-315.304(1)(a)	9-1-2016	Renumber	9-1-2016
150-314.660(1)	9-1-2016	Renumber	9-1-2016	150-315.304(1)(b)	9-1-2016	Renumber	9-1-2016
150-314.660(2)	9-1-2016	Renumber	9-1-2016	150-315.304(10)	9-1-2016	Renumber	9-1-2016
150-314.665(1)-(A)	1-1-2016	Amend	2-1-2016	150-315.304(2)	9-1-2016	Renumber	9-1-2016
150-314.665(1)-(A)	9-1-2016	Renumber	9-1-2016	150-315.304(4)	9-1-2016	Renumber	9-1-2016
150-314.665(1)-(B)	9-1-2016	Renumber	9-1-2016	150-315.304(5)	9-1-2016	Renumber	9-1-2016
150-314.665(2)-(A)	9-1-2016	Renumber	9-1-2016	150-315.304(8)	9-1-2016	Renumber	9-1-2016
150-314.665(2)-(B)	9-1-2016	Renumber	9-1-2016	150-315.304(9)	9-1-2016	Renumber	9-1-2016
150-314.665(2)-(C)	1-1-2016	Repeal	2-1-2016	150-315.326	9-1-2016	Renumber	9-1-2016
150-314.665(3)	9-1-2016	Renumber	9-1-2016	150-315.354(5)	9-1-2016	Renumber	9-1-2016
150-314.665(4)	9-1-2016	Renumber	9-1-2016	150-315.514	9-1-2016	Renumber	9-1-2016
150-314.665(5)	9-1-2016	Renumber	9-1-2016	150-315.521	1-1-2016	Repeal	2-1-2016
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150-314.665(6)(a)	9-1-2016	Renumber	9-1-2016	150-316.007	9-1-2016	Renumber	9-1-2016
150-314.665(6)(b)	9-1-2016	Renumber	9-1-2016	150-316.007-(A)	9-1-2016	Renumber	9-1-2016
150-314.665(6)(c)	9-1-2016	Renumber	9-1-2016	150-316.007-(B)	9-1-2016	Renumber	9-1-2016
150-314.667-(A)	9-1-2016	Renumber	9-1-2016	150-316.012	9-1-2016	Renumber	9-1-2016
150-314.670-(A)	7-1-2016	Renumber	8-1-2016	150-316.021	9-1-2016	Renumber	9-1-2016
150-314.675	9-1-2016	Renumber	9-1-2016	150-316.027(1)	9-1-2016	Renumber	9-1-2016
150-314.684(4)	9-1-2016	Renumber	9-1-2016	150-316.027(1)(b)	9-1-2016	Renumber	9-1-2016
150-314.686	9-1-2016	Renumber	9-1-2016	150-316.028	9-1-2016	Renumber	9-1-2016
150-314.714(3)	9-1-2016	Renumber	9-1-2016	150-316.032(2)	9-1-2016	Renumber	9-1-2016
150-314.722	9-1-2016	Renumber	9-1-2016	150-316.037	9-1-2016	Renumber	9-1-2016
150-314.724	9-1-2016	Renumber	9-1-2016	150-316.045	9-1-2016	Renumber	9-1-2016
150-314.724(3)	9-1-2016	Renumber	9-1-2016	150-316.047-(A)	9-1-2016	Renumber	9-1-2016
150-314.732(2)(c)	9-1-2016	Renumber	9-1-2016	150-316.048	9-1-2016	Renumber	9-1-2016
150-314.732(2)(d)	9-1-2016	Renumber	9-1-2016	150-316.054	9-1-2016	Renumber	9-1-2016
150-314.752	9-1-2016	Renumber	9-1-2016	150-316.078	9-1-2016	Renumber	9-1-2016
150-314.775	9-1-2016	Renumber	9-1-2016	150-316.079	9-1-2016	Renumber	9-1-2016
150-314.778	9-1-2016	Renumber	9-1-2016	150-316.082(1)-(A)	9-1-2016	Renumber	9-1-2016
150-314.781	9-1-2016	Renumber	9-1-2016	150-316.082(1)-(B)	9-1-2016	Renumber	9-1-2016
150-314.784	9-1-2016	Renumber	9-1-2016	150-316.082(2)	9-1-2016	Renumber	9-1-2016
150-314.835	9-1-2016	Renumber	9-1-2016	150-316.082(3)	9-1-2016	Renumber	9-1-2016

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150-316.082(6)	9-1-2016	Renumber	9-1-2016	150-316.197(1)(a)-(B)	9-1-2016	Renumber	9-1-2016
150-316.087	9-1-2016	Renumber	9-1-2016	150-316.197(1)(b)	9-1-2016	Renumber	9-1-2016
150-316.095	9-1-2016	Renumber	9-1-2016	150-316.197(2)	9-1-2016	Renumber	9-1-2016
150-316.095(6)	9-1-2016	Renumber	9-1-2016	150-316.198	9-1-2016	Renumber	9-1-2016
150-316.099	9-1-2016	Renumber	9-1-2016	150-316.198-(A)	9-1-2016	Renumber	9-1-2016
150-316.102	9-1-2016	Renumber	9-1-2016	150-316.202(1)	9-1-2016	Renumber	9-1-2016
150-316.109	9-1-2016	Renumber	9-1-2016	150-316.202(2)	9-1-2016	Renumber	9-1-2016
150-316.116	9-1-2016	Renumber	9-1-2016	150-316.202(3)	9-1-2016	Renumber	9-1-2016
150-316.117-(A)	9-1-2016	Renumber	9-1-2016	150-316.202(4)	9-1-2016	Renumber	9-1-2016
150-316.117-(B)	9-1-2016	Renumber	9-1-2016	150-316.207	9-1-2016	Renumber	9-1-2016
150-316.119	9-1-2016	Renumber	9-1-2016	150-316.207(3)(a)	9-1-2016	Renumber	9-1-2016
150-316.122	9-1-2016	Renumber	9-1-2016	150-316.212	9-1-2016	Renumber	9-1-2016
150-316.124(2)	9-1-2016	Renumber	9-1-2016	150-316.223	9-1-2016	Renumber	9-1-2016
150-316.124(4)	9-1-2016	Renumber	9-1-2016	150-316.272	9-1-2016	Renumber	9-1-2016
150-316.127-(9)	9-1-2016	Renumber	9-1-2016	150-316.277	9-1-2016	Renumber	9-1-2016
150-316.127-(A)	9-1-2016	Renumber	9-1-2016	150-316.282	9-1-2016	Renumber	9-1-2016
150-316.127-(B)	9-1-2016	Renumber	9-1-2016	150-316.282(4)	9-1-2016	Renumber	9-1-2016
150-316.127-(C)	9-1-2016	Renumber	9-1-2016	150-316.287	9-1-2016	Renumber	9-1-2016
150-316.127-(D)	9-1-2016	Renumber	9-1-2016	150-316.298	9-1-2016	Renumber	9-1-2016
150-316.127-(E)	9-1-2016	Renumber	9-1-2016	150-316.307	9-1-2016	Renumber	9-1-2016
150-316.127-(F)	9-1-2016	Renumber	9-1-2016	150-316.362(1)(c)	9-1-2016	Renumber	9-1-2016
150-316.127(1)(a)	9-1-2016	Renumber	9-1-2016	150-316.362(2)	9-1-2016	Renumber	9-1-2016
150-316.127(1)(a)-(A)	9-1-2016	Renumber	9-1-2016	150-316.368	9-1-2016	Renumber	9-1-2016
150-316.127(10)	9-1-2016	Renumber	9-1-2016	150-316.369	9-1-2016	Renumber	9-1-2016
150-316.127(3)(a)	9-1-2016	Renumber	9-1-2016	150-316.382	9-1-2016	Renumber	9-1-2016
150-316.130(2)(c)-(A)	9-1-2016	Renumber	9-1-2016	150-316.387(1)	9-1-2016	Renumber	9-1-2016
150-316.130(3)	9-1-2016	Renumber	9-1-2016	150-316.387(4)	9-1-2016	Renumber	9-1-2016
150-316.131(1)	9-1-2016	Renumber	9-1-2016	150-316.457	9-1-2016	Renumber	9-1-2016
150-316.148	9-1-2016	Renumber	9-1-2016	150-316.563	9-1-2016	Renumber	9-1-2016
150-316.149	9-1-2016	Renumber	9-1-2016	150-316.567	9-1-2016	Renumber	9-1-2016
150-316.153	9-1-2016	Renumber	9-1-2016	150-316.573	9-1-2016	Renumber	9-1-2016
150-316.157	9-1-2016	Renumber	9-1-2016	150-316.583	9-1-2016	Renumber	9-1-2016
150-316.159	9-1-2016	Renumber	9-1-2016	150-316.583(2)	1-1-2016	Am. & Ren.	2-1-2016
150-316.162(2)-(A)	9-1-2016	Renumber	9-1-2016	150-316.587(1)	9-1-2016	Renumber	9-1-2016
150-316.162(2)-(B)	9-1-2016	Renumber	9-1-2016	150-316.587(5)(b)	9-1-2016	Renumber	9-1-2016
150-316.162(2)-(C)	9-1-2016	Renumber	9-1-2016	150-316.587(5)(c)	9-1-2016	Renumber	9-1-2016
150-316.162(2)(j)	9-1-2016	Renumber	9-1-2016	150-316.587(5)(d)	9-1-2016	Renumber	9-1-2016
150-316.162(3)	9-1-2016	Renumber	9-1-2016	150-316.587(8)-(A)	9-1-2016	Renumber	9-1-2016
150-316.164	9-1-2016	Renumber	9-1-2016	150-316.587(8)-(B)	9-1-2016	Renumber	9-1-2016
150-316.167(1)	9-1-2016	Renumber	9-1-2016	150-316.587(8)-(C)	9-1-2016	Renumber	9-1-2016
150-316.167(2)	9-1-2016	Renumber	9-1-2016	150-316.680-(A)	9-1-2016	Renumber	9-1-2016
150-316.168(1)-(A)	9-1-2016	Renumber	9-1-2016	150-316.680-(B)	9-1-2016	Renumber	9-1-2016
150-316.168(2)	9-1-2016	Renumber	9-1-2016	150-316.680(1)(a)	9-1-2016	Renumber	9-1-2016
150-316.171	9-1-2016	Renumber	9-1-2016	150-316.680(2)(a)	9-1-2016	Renumber	9-1-2016
150-316.177(1)-(A)	9-1-2016	Renumber	9-1-2016	150-316.680(2)(b)	9-1-2016	Renumber	9-1-2016
150-316.177(1)-(B)	9-1-2016	Renumber	9-1-2016	150-316.680(2)(c)	9-1-2016	Renumber	9-1-2016
150-316.177(2)	9-1-2016	Renumber	9-1-2016	150-316.680(2)(i)	9-1-2016	Renumber	9-1-2016
150-316.182	9-1-2016	Renumber	9-1-2016	150-316.680(5)	9-1-2016	Renumber	9-1-2016
150-316.187-(A)	9-1-2016	Renumber	9-1-2016	150-316.681	9-1-2016	Renumber	9-1-2016
150-316.187-(B)	9-1-2016	Renumber	9-1-2016	150-316.683(1)	9-1-2016	Renumber	9-1-2016
150-316.189	9-1-2016	Renumber	9-1-2016	150-316.685(1)	9-1-2016	Renumber	9-1-2016
150-316.189(6)	9-1-2016	Renumber	9-1-2016	150-316.685(2)	9-1-2016	Renumber	9-1-2016
150-316.191	9-1-2016	Renumber	9-1-2016	150-316.687	9-1-2016	Renumber	9-1-2016
150-316.193	9-1-2016	Renumber	9-1-2016	150-316.693	9-1-2016	Renumber	9-1-2016
150-316.196	9-1-2016	Renumber	9-1-2016	150-316.695(1)	9-1-2016	Renumber	9-1-2016

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150-316.695(2)	9-1-2016	Renumber	9-1-2016	150-317.309	9-1-2016	Renumber	9-1-2016
150-316.707(1)-(A)	9-1-2016	Renumber	9-1-2016	150-317.310(2)	9-1-2016	Renumber	9-1-2016
150-316.707(1)-(B)(1)	9-1-2016	Renumber	9-1-2016	150-317.314	9-1-2016	Renumber	9-1-2016
150-316.707(1)-(C)	9-1-2016	Renumber	9-1-2016	150-317.329	9-1-2016	Renumber	9-1-2016
150-316.737	9-1-2016	Renumber	9-1-2016	150-317.349-(A)	9-1-2016	Renumber	9-1-2016
150-316.752	9-1-2016	Renumber	9-1-2016	150-317.349-(B)	9-1-2016	Renumber	9-1-2016
150-316.758	9-1-2016	Renumber	9-1-2016	150-317.356	9-1-2016	Renumber	9-1-2016
150-316.771	9-1-2016	Renumber	9-1-2016	150-317.362	9-1-2016	Renumber	9-1-2016
150-316.777	9-1-2016	Renumber	9-1-2016	150-317.374(2)	9-1-2016	Renumber	9-1-2016
150-316.778	9-1-2016	Renumber	9-1-2016	150-317.374(3)	9-1-2016	Renumber	9-1-2016
150-316.792	9-1-2016	Renumber	9-1-2016	150-317.476(4)	9-1-2016	Renumber	9-1-2016
150-316.806	9-1-2016	Renumber	9-1-2016	150-317.478	9-1-2016	Renumber	9-1-2016
150-316.818	9-1-2016	Renumber	9-1-2016	150-317.660(1)	9-1-2016	Renumber	9-1-2016
150-316.832(2)	9-1-2016	Renumber	9-1-2016	150-317.660(2)	9-1-2016	Renumber	9-1-2016
150-316.844	9-1-2016	Renumber	9-1-2016	150-317.705	9-1-2016	Renumber	9-1-2016
150-316.846	9-1-2016	Renumber	9-1-2016	150-317.705(3)(a)	9-1-2016	Renumber	9-1-2016
150-316.852	9-1-2016	Renumber	9-1-2016	150-317.705(3)(b)	9-1-2016	Renumber	9-1-2016
150-316.856	9-1-2016	Renumber	9-1-2016	150-317.705(3)(c)	9-1-2016	Renumber	9-1-2016
150-316.863	9-1-2016	Renumber	9-1-2016	150-317.710(5)(a)-(A)	9-1-2016	Renumber	9-1-2016
150-316.992	9-1-2016	Renumber	9-1-2016	150-317.710(5)(a)-(B)	9-1-2016	Renumber	9-1-2016
150-316.992(5)	9-1-2016	Renumber	9-1-2016	150-317.710(5)(a)-(C)	9-1-2016	Renumber	9-1-2016
150-317.010	9-1-2016	Renumber	9-1-2016	150-317.710(5)(b)	9-1-2016	Renumber	9-1-2016
150-317.010(10)	9-1-2016	Renumber	9-1-2016	150-317.710(6)	9-1-2016	Renumber	9-1-2016
150-317.010(10)-(B)	9-1-2016	Renumber	9-1-2016	150-317.710(7)	9-1-2016	Renumber	9-1-2016
150-317.010(4)	9-1-2016	Renumber	9-1-2016	150-317.713	9-1-2016	Renumber	9-1-2016
150-317.013	9-1-2016	Renumber	9-1-2016	150-317.715(3)-(A)	9-1-2016	Renumber	9-1-2016
150-317.013(2)	9-1-2016	Renumber	9-1-2016	150-317.715(3)-(B)	9-1-2016	Renumber	9-1-2016
150-317.018	9-1-2016	Renumber	9-1-2016	150-317.715(4)(b)	9-1-2016	Renumber	9-1-2016
150-317.018(1)	9-1-2016	Renumber	9-1-2016	150-317.715(5)	9-1-2016	Renumber	9-1-2016
150-317.018(2)	9-1-2016	Renumber	9-1-2016	150-317.717	1-1-2016	Adopt	2-1-2016
150-317.021	9-1-2016	Renumber	9-1-2016	150-317.717	9-1-2016	Renumber	9-1-2016
150-317.063	9-1-2016	Renumber	9-1-2016	150-317.720	9-1-2016	Renumber	9-1-2016
150-317.067	9-1-2016	Renumber	9-1-2016	150-317.725(1)(b)	9-1-2016	Renumber	9-1-2016
150-317.070(1)	9-1-2016	Renumber	9-1-2016	150-317.920	9-1-2016	Renumber	9-1-2016
150-317.080	9-1-2016	Renumber	9-1-2016	150-317.NOTE	9-1-2016	Renumber	9-1-2016
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150-317.092	9-1-2016	Renumber	9-1-2016	150-318.020(1)	9-1-2016	Renumber	9-1-2016
150-317.097	9-1-2016	Renumber	9-1-2016	150-318.020(2)	9-1-2016	Renumber	9-1-2016
150-317.099	9-1-2016	Renumber	9-1-2016	150-318.060	9-1-2016	Renumber	9-1-2016
150-317.111	9-1-2016	Renumber	9-1-2016	150-320.010-(A)	9-1-2016	Renumber	9-1-2016
150-317.112	9-1-2016	Renumber	9-1-2016	150-320.016(5)	9-1-2016	Renumber	9-1-2016
150-317.112(1)	9-1-2016	Renumber	9-1-2016	150-320.080	9-1-2016	Renumber	9-1-2016
150-317.112(7)	9-1-2016	Renumber	9-1-2016	150-320.305	9-1-2016	Renumber	9-1-2016
150-317.131	9-1-2016	Renumber	9-1-2016	150-320.308	9-1-2016	Renumber	9-1-2016
150-317.147	9-1-2016	Renumber	9-1-2016	150-321.005(12)	9-1-2016	Renumber	9-1-2016
150-317.151	9-1-2016	Renumber	9-1-2016	150-321.005(9)	9-1-2016	Renumber	9-1-2016
150-317.152	1-1-2016	Adopt	2-1-2016	150-321.045	9-1-2016	Renumber	9-1-2016
150-317.152	9-1-2016	Renumber	9-1-2016	150-321.045(2)	9-1-2016	Renumber	9-1-2016
150-317.153	9-1-2016	Renumber	9-1-2016	150-321.207-(A)	9-1-2016	Renumber	9-1-2016
150-317.154	9-1-2016	Renumber	9-1-2016	150-321.207(1)	1-1-2016	Am. & Ren.	2-1-2016
150-317.259-(A)	9-1-2016	Renumber	9-1-2016	150-321.257(3)	9-1-2016	Renumber	9-1-2016
150-317.267-(A)	9-1-2016	Renumber	9-1-2016	150-321.348(2)	9-1-2016	Renumber	9-1-2016
150-317.267-(B)	9-1-2016	Renumber	9-1-2016	150-321.349	9-1-2016	Renumber	9-1-2016
150-317.288	9-1-2016	Renumber	9-1-2016	150-321.354	9-1-2016	Renumber	9-1-2016

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150-321.358(4)	9-1-2016	Renumber	9-1-2016	150-323.320-(A)	9-1-2016	Renumber	9-1-2016
150-321.358(4)(b)	9-1-2016	Renumber	9-1-2016	150-323.320-(B)	9-1-2016	Renumber	9-1-2016
150-321.358(5)	9-1-2016	Renumber	9-1-2016	150-323.320-(C)	9-1-2016	Renumber	9-1-2016
150-321.550	9-1-2016	Renumber	9-1-2016	150-323.325	9-1-2016	Renumber	9-1-2016
150-321.550(1)	9-1-2016	Renumber	9-1-2016	150-323.340	9-1-2016	Renumber	9-1-2016
150-321.550(3)(a)	9-1-2016	Renumber	9-1-2016	150-323.343	9-1-2016	Renumber	9-1-2016
150-321.560(2)	9-1-2016	Renumber	9-1-2016	150-323.365(1)	9-1-2016	Renumber	9-1-2016
150-321.609(1)	9-1-2016	Renumber	9-1-2016	150-323.390(1)	9-1-2016	Renumber	9-1-2016
150-321.609(1)-(A)	9-1-2016	Renumber	9-1-2016	150-323.480(1)-(A)	9-1-2016	Renumber	9-1-2016
150-321.609(2)-(A)	9-1-2016	Renumber	9-1-2016	150-323.480(1)-(B)	9-1-2016	Renumber	9-1-2016
150-321.609(2)-(B)	9-1-2016	Renumber	9-1-2016	150-323.500(9)	9-1-2016	Renumber	9-1-2016
150-321.609(2)-(C)	9-1-2016	Renumber	9-1-2016	150-323.505	9-1-2016	Renumber	9-1-2016
150-321.609(2)-(D)	9-1-2016	Renumber	9-1-2016	150-323.505(2)	9-1-2016	Renumber	9-1-2016
150-321.684-(A)	9-1-2016	Renumber	9-1-2016	150-323.510	9-1-2016	Renumber	9-1-2016
150-321.684(1)	9-1-2016	Renumber	9-1-2016	150-323.515	9-1-2016	Renumber	9-1-2016
150-321.700(1)	9-1-2016	Renumber	9-1-2016	150-323.520	9-1-2016	Renumber	9-1-2016
150-321.700(12)	9-1-2016	Renumber	9-1-2016	150-323.525	9-1-2016	Renumber	9-1-2016
150-321.700(13)	9-1-2016	Renumber	9-1-2016	150-323.530	9-1-2016	Renumber	9-1-2016
150-321.706	9-1-2016	Renumber	9-1-2016	150-323.535	9-1-2016	Renumber	9-1-2016
150-321.706(2)	9-1-2016	Renumber	9-1-2016	150-323.540	9-1-2016	Renumber	9-1-2016
150-321.706(4)	9-1-2016	Renumber	9-1-2016	150-323.560	9-1-2016	Renumber	9-1-2016
150-321.706(7)	9-1-2016	Renumber	9-1-2016	150-323.630-(A)	9-1-2016	Renumber	9-1-2016
150-321.709(1)(b)	9-1-2016	Renumber	9-1-2016	150-323.630-(B)	9-1-2016	Renumber	9-1-2016
150-321.709(1)(c)	9-1-2016	Renumber	9-1-2016	150-324.050-(A)	9-1-2016	Renumber	9-1-2016
150-321.709(3)	9-1-2016	Renumber	9-1-2016	150-324.050-(B)	9-1-2016	Renumber	9-1-2016
150-321.712(1)	9-1-2016	Renumber	9-1-2016	150-324.050-(C)	9-1-2016	Renumber	9-1-2016
150-321.719(1)	9-1-2016	Renumber	9-1-2016	150-324.050-(D)	9-1-2016	Renumber	9-1-2016
150-321.741(2)	9-1-2016	Renumber	9-1-2016	150-324.050-(E)	9-1-2016	Renumber	9-1-2016
150-321.751(3)	9-1-2016	Renumber	9-1-2016	150-324.050-(F)	9-1-2016	Renumber	9-1-2016
150-321.754(3)	9-1-2016	Renumber	9-1-2016	150-324.340(Note)	9-1-2016	Renumber	9-1-2016
150-321.805(4)	9-1-2016	Renumber	9-1-2016	150-358.505	1-1-2016	Amend	2-1-2016
150-321.833	9-1-2016	Renumber	9-1-2016	150-358.505	9-1-2016	Renumber	9-1-2016
150-321.839	9-1-2016	Renumber	9-1-2016	150-401.794	1-1-2016	Renumber	2-1-2016
150-321.839(3)(b)	9-1-2016	Renumber	9-1-2016	150-403.205	9-1-2016	Renumber	9-1-2016
150-321.839(4)	9-1-2016	Renumber	9-1-2016	150-457.430	9-1-2016	Renumber	9-1-2016
150-321.839(5)	9-1-2016	Renumber	9-1-2016	150-457.440(2)	9-1-2016	Renumber	9-1-2016
150-323.030	9-1-2016	Renumber	9-1-2016	150-457.440(9)	9-1-2016	Renumber	9-1-2016
150-323.030-(B)	9-1-2016	Renumber	9-1-2016	150-457.440(9)-(A)	9-1-2016	Renumber	9-1-2016
150-323.105	9-1-2016	Renumber	9-1-2016	150-457.440(9)-(B)	9-1-2016	Renumber	9-1-2016
150-323.106	9-1-2016	Renumber	9-1-2016	150-457.450	9-1-2016	Renumber	9-1-2016
150-323.107	9-1-2016	Renumber	9-1-2016	150-457.450(1)	9-1-2016	Renumber	9-1-2016
150-323.110	9-1-2016	Renumber	9-1-2016	150-465.101	9-1-2016	Renumber	9-1-2016
150-323.130	9-1-2016	Renumber	9-1-2016	150-465.101(5)	9-1-2016	Renumber	9-1-2016
150-323.140	9-1-2016	Renumber	9-1-2016	150-465.101(5)-(B)	9-1-2016	Renumber	9-1-2016
150-323.160(1)	9-1-2016	Renumber	9-1-2016	150-465.104(1)-(A)	9-1-2016	Renumber	9-1-2016
150-323.160(2)	9-1-2016	Renumber	9-1-2016	150-465.104(1)-(B)	9-1-2016	Renumber	9-1-2016
150-323.160(3)-(A)	9-1-2016	Renumber	9-1-2016	150-465.104(1)-(C)	9-1-2016	Renumber	9-1-2016
150-323.160(3)-(B)	9-1-2016	Renumber	9-1-2016	150-465.104(2)	9-1-2016	Renumber	9-1-2016
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150-323.180	9-1-2016	Renumber	9-1-2016	150-475B.705	6-2-2016	Adopt(T)	7-1-2016
150-323.190	9-1-2016	Renumber	9-1-2016	150-475B.710-(A)	1-4-2016	Adopt(T)	1-1-2016
150-323.211	9-1-2016	Renumber	9-1-2016	150-475B.710-(A)	7-1-2016	Adopt	8-1-2016
150-323.220-(A)	9-1-2016	Renumber	9-1-2016	150-475B.710-(A)	9-1-2016	Renumber	9-1-2016
150-323.220-(B)	9-1-2016	Renumber	9-1-2016	150-475B.710-(B)	1-4-2016	Adopt(T)	1-1-2016

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150-475B.710-(C)	1-4-2016	Adopt(T)	1-1-2016	165-016-0000	1-1-2016	Amend	2-1-2016
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150-475B.710-(C)	9-1-2016	Renumber	9-1-2016	166-017-0005	5-5-2016	Adopt	6-1-2016
150-475B.715	7-1-2016	Adopt	8-1-2016	166-017-0010	5-5-2016	Amend	6-1-2016
150-475B.715	9-1-2016	Renumber	9-1-2016	166-017-0015	5-5-2016	Adopt	6-1-2016
150-475B.720	7-1-2016	Adopt	8-1-2016	166-017-0020	5-5-2016	Repeal	6-1-2016
150-475B.740	7-1-2016	Adopt	8-1-2016	166-017-0025	5-5-2016	Adopt	6-1-2016
150-475B.740	9-1-2016	Renumber	9-1-2016	166-017-0030	5-5-2016	Repeal	6-1-2016
150-475B.755	7-1-2016	Adopt	8-1-2016	166-017-0035	5-5-2016	Adopt	6-1-2016
150-475B.755	9-1-2016	Renumber	9-1-2016	166-017-0040	5-5-2016	Repeal	6-1-2016
150-670.600	9-1-2016	Renumber	9-1-2016	166-017-0045	5-5-2016	Adopt	6-1-2016
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161-002-0000	5-12-2016	Amend	6-1-2016	166-017-0055	5-5-2016	Adopt	6-1-2016
161-025-0060	5-12-2016	Amend	6-1-2016	166-017-0060	5-5-2016	Repeal	6-1-2016
165-001-0016	1-1-2016	Amend	2-1-2016	166-017-0065	5-5-2016	Adopt	6-1-2016
165-001-0016	7-6-2016	Amend	8-1-2016	166-017-0070	5-5-2016	Repeal	6-1-2016
165-001-0025	1-1-2016	Amend	2-1-2016	166-017-0075	5-5-2016	Adopt	6-1-2016
165-001-0025	7-6-2016	Amend	8-1-2016	166-017-0080	5-5-2016	Repeal	6-1-2016
165-001-0034	1-1-2016	Amend	2-1-2016	166-017-0085	5-5-2016	Adopt	6-1-2016
165-001-0034	7-6-2016	Amend	8-1-2016	166-017-0090	5-5-2016	Adopt	6-1-2016
165-001-0050	1-1-2016	Amend	2-1-2016	166-017-0095	5-5-2016	Adopt	6-1-2016
165-001-0050	7-6-2016	Amend	8-1-2016	166-030-0019	5-5-2016	Adopt	6-1-2016
165-001-0095	1-1-2016	Adopt	2-1-2016	170-062-0000	2-10-2016	Amend	3-1-2016
165-001-0095	7-6-2016	Amend	8-1-2016	170-062-0000	6-30-2016	Amend	8-1-2016
165-005-0055	1-1-2016	Amend	2-1-2016	170-063-0000	2-12-2016	Amend(T)	3-1-2016
165-005-0055	7-6-2016	Amend	8-1-2016	170-063-0000	5-25-2016	Amend	7-1-2016
165-005-0065	1-1-2016	Amend	2-1-2016	173-005-0000	7-28-2016	Amend	9-1-2016
165-005-0065	7-6-2016	Amend	8-1-2016	173-006-0005	7-28-2016	Amend	9-1-2016
165-005-0070	1-1-2016	Amend	2-1-2016	173-007-0000	7-28-2016	Amend	9-1-2016
165-005-0070	7-6-2016	Amend	8-1-2016	173-007-0005	7-28-2016	Amend	9-1-2016
165-005-0170	1-1-2016	Adopt	2-1-2016	173-008-0000	7-28-2016	Amend	9-1-2016
165-005-0170	5-13-2016	Amend	6-1-2016	173-008-0005	7-28-2016	Amend	9-1-2016
165-007-0030	12-11-2015	Amend	1-1-2016	173-008-0010	7-28-2016	Amend	9-1-2016
165-007-0035	1-1-2016	Amend	2-1-2016	173-009-0000	7-28-2016	Amend	9-1-2016
165-007-0035	7-6-2016	Amend	8-1-2016	173-009-0005	7-28-2016	Amend	9-1-2016
165-010-0005	1-1-2016	Amend	2-1-2016	173-009-0010	7-28-2016	Amend	9-1-2016
165-010-0005	7-6-2016	Amend	8-1-2016	173-009-0015	7-28-2016	Amend	9-1-2016
165-010-1103	8-9-2016	Adopt(T)	9-1-2016	173-010-0000	7-28-2016	Amend	9-1-2016
165-012-0005	1-1-2016	Amend	2-1-2016	173-010-0025	7-28-2016	Amend	9-1-2016
165-012-0005	7-6-2016	Amend	8-1-2016	173-011-0000	7-28-2016	Amend	9-1-2016
165-012-0240	1-1-2016	Amend	2-1-2016	173-012-0000	7-28-2016	Amend	9-1-2016
165-012-0240	7-6-2016	Amend	8-1-2016	173-012-0005	7-28-2016	Amend	9-1-2016
165-013-0010	1-1-2016	Amend	2-1-2016	173-014-0000	7-28-2016	Amend	9-1-2016
165-013-0010	7-6-2016	Amend	8-1-2016	173-014-0010	7-28-2016	Amend	9-1-2016
165-013-0020	1-1-2016	Amend	2-1-2016	173-016-0010	7-28-2016	Amend	9-1-2016
165-013-0020	7-6-2016	Amend	8-1-2016	177-010-0094	1-1-2016	Adopt	2-1-2016
165-013-0030	1-2-2016	Amend	2-1-2016	177-040-0003	4-1-2016	Amend(T)	5-1-2016
165-013-0030	7-6-2016	Amend	8-1-2016	177-040-0003	9-1-2016	Amend	10-1-2016
165-014-0005	1-1-2016	Amend	2-1-2016	177-040-0003(T)	9-1-2016	Repeal	10-1-2016
165-014-0005	7-6-2016	Amend	8-1-2016	177-052-0020	6-7-2016	Amend	7-1-2016
165-014-0100	1-1-2016	Amend	2-1-2016	177-052-0030	6-7-2016	Amend	7-1-2016
165-014-0100	7-6-2016	Amend	8-1-2016	177-052-0040	6-7-2016	Amend	7-1-2016
165-014-0260	1-1-2016	Amend	2-1-2016	177-052-0050	6-7-2016	Amend	7-1-2016
165-014-0260	7-6-2016	Amend	8-1-2016	177-052-0060	6-7-2016	Amend	7-1-2016

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177-070-0080	2-22-2016	Amend(T)	4-1-2016	255-085-0030	1-27-2016	Adopt	3-1-2016
177-070-0080	8-1-2016	Amend	9-1-2016	255-085-0040	1-27-2016	Adopt	3-1-2016
177-070-0080(T)	8-1-2016	Repeal	9-1-2016	255-085-0050	1-27-2016	Adopt	3-1-2016
177-085-0015	8-1-2016	Amend	9-1-2016	257-070-0010	3-7-2016	Repeal	4-1-2016
177-094-0080	8-9-2016	Amend(T)	8-1-2016	257-070-0015	3-7-2016	Amend	4-1-2016
199-001-0010	6-1-2016	Amend	7-1-2016	257-070-0100	3-7-2016	Adopt	4-1-2016
199-001-0030	6-1-2016	Amend	7-1-2016	257-070-0110	3-7-2016	Adopt	4-1-2016
199-040-0020	6-1-2016	Adopt	7-1-2016	257-070-0120	3-7-2016	Adopt	4-1-2016
199-040-0025	6-1-2016	Adopt	7-1-2016	257-070-0130	3-7-2016	Adopt	4-1-2016
199-040-0030	6-1-2016	Adopt	7-1-2016	259-008-0005	1-1-2016	Amend	2-1-2016
199-040-0050	6-1-2016	Adopt	7-1-2016	259-008-0005	4-1-2016	Amend	5-1-2016
213-003-0001	5-10-2016	Amend	6-1-2016	259-008-0010	1-1-2016	Amend	2-1-2016
213-017-0002	5-10-2016	Amend	6-1-2016	259-008-0010	4-1-2016	Amend	5-1-2016
213-017-0003	5-10-2016	Amend	6-1-2016	259-008-0010	7-29-2016	Amend	9-1-2016
213-017-0005	5-10-2016	Amend	6-1-2016	259-008-0011	4-1-2016	Amend	5-1-2016
213-017-0006	5-10-2016	Amend	6-1-2016	259-008-0011	7-29-2016	Amend	9-1-2016
213-017-0007	5-10-2016	Amend	6-1-2016	259-008-0015	4-1-2016	Amend	5-1-2016
213-017-0008	5-10-2016	Amend	6-1-2016	259-008-0020	4-1-2016	Amend	5-1-2016
213-018-0035	5-10-2016	Amend	6-1-2016	259-008-0020	7-29-2016	Amend	9-1-2016
213-018-0050	5-10-2016	Amend	6-1-2016	259-008-0025	1-1-2016	Amend	2-1-2016
213-018-0068	5-10-2016	Amend	6-1-2016	259-008-0025	3-22-2016	Amend	5-1-2016
230-030-0150	9-30-2016	Amend(T)	10-1-2016	259-008-0030	3-22-2016	Repeal	5-1-2016
250-001-0035	5-12-2016	Adopt(T)	6-1-2016	259-008-0035	3-22-2016	Repeal	5-1-2016
250-010-0057	4-13-2016	Suspend	5-1-2016	259-008-0040	1-1-2016	Amend	2-1-2016
250-010-0057	7-1-2016	Repeal	8-1-2016	259-008-0060	1-1-2016	Amend	2-1-2016
250-010-0058	7-1-2016	Amend	8-1-2016	259-008-0060	7-29-2016	Amend	9-1-2016
250-011-0050	5-2-2016	Amend(T)	6-1-2016	259-008-0064	7-29-2016	Amend	9-1-2016
250-011-0050	7-1-2016	Amend	8-1-2016	259-008-0065	7-29-2016	Amend	9-1-2016
250-011-0050(T)	7-1-2016	Repeal	8-1-2016	259-008-0066	7-29-2016	Amend	9-1-2016
250-011-0060	5-2-2016	Amend(T)	6-1-2016	259-008-0076	7-29-2016	Amend	9-1-2016
250-011-0060	7-1-2016	Amend	8-1-2016	259-008-0080	7-29-2016	Amend	9-1-2016
250-011-0060(T)	7-1-2016	Repeal	8-1-2016	259-008-0085	3-22-2016	Amend	5-1-2016
250-020-0032	6-7-2016	Amend(T)	7-1-2016	259-008-0100	1-1-2016	Amend	2-1-2016
250-020-0091	8-21-2016	Amend(T)	9-1-2016	259-009-0010	7-29-2016	Amend	9-1-2016
250-020-0091	8-21-2016	Amend(T)	10-1-2016	259-009-0059	1-1-2016	Amend	2-1-2016
250-020-0091(T)	8-21-2016	Suspend	10-1-2016	259-009-0062	12-22-2015	Amend	2-1-2016
250-020-0161	7-1-2016	Amend	8-1-2016	259-009-0070	1-1-2016	Amend	2-1-2016
250-020-0221	4-1-2016	Amend(T)	5-1-2016	259-060-0010	12-22-2015	Amend	2-1-2016
250-020-0340	7-1-2016	Amend	8-1-2016	259-060-0010	6-22-2016	Amend	8-1-2016
250-030-0010	2-1-2016	Repeal	2-1-2016	259-060-0015	12-22-2015	Amend	2-1-2016
250-030-0020	2-1-2016	Repeal	2-1-2016	259-060-0015	6-22-2016	Amend	8-1-2016
250-030-0030	2-1-2016	Repeal	2-1-2016	259-060-0025	6-22-2016	Amend	8-1-2016
250-030-0041	2-1-2016	Repeal	2-1-2016	259-060-0030	6-22-2016	Amend	8-1-2016
250-030-0100	2-1-2016	Adopt	2-1-2016	259-060-0060	3-22-2016	Amend	5-1-2016
250-030-0110	2-1-2016	Adopt	2-1-2016	259-060-0120	3-22-2016	Amend	5-1-2016
250-030-0120	2-1-2016	Adopt	2-1-2016	259-060-0130	6-22-2016	Amend	8-1-2016
250-030-0130	2-1-2016	Adopt	2-1-2016	259-060-0135	3-22-2016	Amend	5-1-2016
250-030-0140	2-1-2016	Adopt	2-1-2016	259-060-0145	12-22-2015	Amend	2-1-2016
250-030-0150	2-1-2016	Adopt	2-1-2016	259-061-0010	3-22-2016	Amend	5-1-2016
250-030-0160	2-1-2016	Adopt	2-1-2016	259-061-0018	3-22-2016	Amend	5-1-2016
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250-030-0180	2-1-2016	Adopt	2-1-2016	259-061-0160	3-22-2016	Amend	5-1-2016
255-030-0015	4-26-2016	Amend(T)	6-1-2016	259-061-0170	3-22-2016	Repeal	5-1-2016
255-030-0015	8-29-2016	Amend	10-1-2016	259-061-0250	3-22-2016	Repeal	5-1-2016
255-085-0010	1-27-2016	Adopt	3-1-2016	259-061-0300	3-22-2016	Amend	5-1-2016

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274-005-0046	12-28-2015	Adopt	2-1-2016	291-209-0050	1-1-2016	Suspend	2-1-2016
291-014-0110	4-29-2016	Amend	6-1-2016	291-209-0050	3-30-2016	Repeal	5-1-2016
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291-041-0010	3-24-2016	Amend	5-1-2016	291-209-0060	1-1-2016	Suspend	2-1-2016
291-041-0015	3-24-2016	Amend	5-1-2016	291-209-0060	3-30-2016	Repeal	5-1-2016
291-041-0016	3-24-2016	Amend	5-1-2016	291-209-0060(T)	3-30-2016	Repeal	5-1-2016
291-041-0018	3-24-2016	Amend	5-1-2016	291-209-0070	1-1-2016	Amend(T)	2-1-2016
291-041-0020	3-24-2016	Amend	5-1-2016	309-008-0100	7-1-2016	Adopt(T)	8-1-2016
291-041-0030	3-24-2016	Amend	5-1-2016	309-008-0100	7-29-2016	Amend(T)	9-1-2016
291-041-0035	3-24-2016	Amend	5-1-2016	309-008-0200	7-1-2016	Adopt(T)	8-1-2016
291-082-0110	3-8-2016	Amend	4-1-2016	309-008-0250	7-1-2016	Adopt(T)	8-1-2016
291-097-0200	9-15-2016	Amend	10-1-2016	309-008-0250	7-29-2016	Amend(T)	9-1-2016
291-097-0210	9-15-2016	Amend	10-1-2016	309-008-0300	7-1-2016	Adopt(T)	8-1-2016
291-097-0215	9-15-2016	Amend	10-1-2016	309-008-0400	7-1-2016	Adopt(T)	8-1-2016
291-097-0220	9-15-2016	Amend	10-1-2016	309-008-0500	7-1-2016	Adopt(T)	8-1-2016
291-097-0225	9-15-2016	Amend	10-1-2016	309-008-0600	7-1-2016	Adopt(T)	8-1-2016
291-097-0230	9-15-2016	Amend	10-1-2016	309-008-0700	7-1-2016	Adopt(T)	8-1-2016
291-097-0231	9-15-2016	Amend	10-1-2016	309-008-0800	7-1-2016	Adopt(T)	8-1-2016
291-097-0236	9-15-2016	Adopt	10-1-2016	309-008-0900	7-1-2016	Adopt(T)	8-1-2016
291-097-0240	9-15-2016	Amend	10-1-2016	309-008-1000	7-1-2016	Adopt(T)	8-1-2016
291-097-0245	9-15-2016	Amend	10-1-2016	309-008-1100	7-1-2016	Adopt(T)	8-1-2016
291-097-0260	9-15-2016	Amend	10-1-2016	309-008-1200	7-1-2016	Adopt(T)	8-1-2016
291-131-0005	5-10-2016	Amend	6-1-2016	309-008-1300	7-1-2016	Adopt(T)	8-1-2016
291-131-0010	5-10-2016	Amend	6-1-2016	309-008-1400	7-1-2016	Adopt(T)	8-1-2016
291-131-0015	5-10-2016	Amend	6-1-2016	309-008-1500	7-1-2016	Adopt(T)	8-1-2016
291-131-0020	5-10-2016	Amend	6-1-2016	309-008-1600	7-1-2016	Adopt(T)	8-1-2016
291-131-0021	5-10-2016	Amend	6-1-2016	309-012-0130	11-25-2015	Amend(T)	1-1-2016
291-131-0025	5-10-2016	Amend	6-1-2016	309-012-0130(T)	7-1-2016	Suspend	8-1-2016
291-131-0026	5-10-2016	Adopt	6-1-2016	309-012-0140(T)	7-1-2016	Suspend	8-1-2016
291-131-0030	5-10-2016	Amend	6-1-2016	309-012-0150(T)	7-1-2016	Suspend	8-1-2016
291-131-0035	5-10-2016	Amend	6-1-2016	309-012-0160(T)	7-1-2016	Suspend	8-1-2016
291-131-0037	5-10-2016	Amend	6-1-2016	309-012-0170(T)	7-1-2016	Suspend	8-1-2016
291-131-0050	5-10-2016	Amend	6-1-2016	309-012-0180(T)	7-1-2016	Suspend	8-1-2016
291-133-0005	4-20-2016	Amend	6-1-2016	309-012-0190(T)	7-1-2016	Suspend	8-1-2016
291-133-0015	4-20-2016	Amend	6-1-2016	309-012-0200(T)	7-1-2016	Suspend	8-1-2016
291-133-0025	4-20-2016	Amend	6-1-2016	309-012-0210	11-25-2015	Amend(T)	1-1-2016
291-133-0035	4-20-2016	Amend	6-1-2016	309-012-0210(T)	7-1-2016	Suspend	8-1-2016
291-167-0005	2-29-2016	Amend	4-1-2016	309-012-0220	11-25-2015	Amend(T)	1-1-2016
291-167-0010	2-29-2016	Amend	4-1-2016	309-012-0220(T)	7-1-2016	Suspend	8-1-2016
291-167-0015	2-29-2016	Amend	4-1-2016	309-012-0230	7-1-2016	Suspend	8-1-2016
291-180-0252	3-1-2016	Amend	4-1-2016	309-018-0100	7-1-2016	Amend(T)	8-1-2016
291-205-0020	1-21-2016	Amend	3-1-2016	309-018-0105	7-1-2016	Amend(T)	8-1-2016
291-205-0030	1-21-2016	Amend	3-1-2016	309-018-0107	7-1-2016	Adopt(T)	8-1-2016
291-205-0050	1-21-2016	Amend	3-1-2016	309-018-0160	7-1-2016	Amend(T)	8-1-2016
291-209-0010	1-1-2016	Amend(T)	2-1-2016	309-018-0210	7-1-2016	Amend(T)	8-1-2016
291-209-0010	3-30-2016	Amend	5-1-2016	309-018-0215	7-1-2016	Amend(T)	8-1-2016
291-209-0010(T)	3-30-2016	Repeal	5-1-2016	309-019-0100	7-1-2016	Amend(T)	8-1-2016
291-209-0020	1-1-2016	Amend(T)	2-1-2016	309-019-0105	7-1-2016	Amend(T)	8-1-2016
291-209-0020	3-30-2016	Amend	5-1-2016	309-019-0110	7-1-2016	Amend(T)	8-1-2016
291-209-0020(T)	3-30-2016	Repeal	5-1-2016	309-019-0125	7-1-2016	Amend(T)	8-1-2016
291-209-0030	1-1-2016	Amend(T)	2-1-2016	309-019-0130	7-1-2016	Amend(T)	8-1-2016
291-209-0030	3-30-2016	Amend	5-1-2016	309-019-0140	7-1-2016	Amend(T)	8-1-2016
291-209-0030(T)	3-30-2016	Repeal	5-1-2016	309-019-0145	7-1-2016	Amend(T)	8-1-2016
291-209-0040	1-1-2016	Amend(T)	2-1-2016	309-019-0195	7-1-2016	Amend(T)	8-1-2016
291-209-0040	3-30-2016	Amend	5-1-2016	309-019-0215	7-1-2016	Amend(T)	8-1-2016



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309-019-0225	7-1-2016	Adopt(T)	8-1-2016	309-035-0420(T)	9-7-2016	Suspend	10-1-2016
309-019-0230	7-1-2016	Adopt(T)	8-1-2016	309-035-0430(T)	9-7-2016	Suspend	10-1-2016
309-019-0235	7-1-2016	Adopt(T)	8-1-2016	309-035-0440(T)	9-7-2016	Suspend	10-1-2016
309-019-0240	7-1-2016	Adopt(T)	8-1-2016	309-035-0450(T)	9-7-2016	Suspend	10-1-2016
309-019-0245	7-1-2016	Adopt(T)	8-1-2016	309-035-0460(T)	9-7-2016	Suspend	10-1-2016
309-019-0248	7-1-2016	Amend(T)	8-1-2016	309-035-0500(T)	9-7-2016	Suspend	10-1-2016
309-019-0250	7-1-2016	Adopt(T)	8-1-2016	309-035-0550(T)	9-7-2016	Suspend	10-1-2016
309-019-0255	7-1-2016	Adopt(T)	8-1-2016	309-035-0560(T)	9-7-2016	Suspend	10-1-2016
309-022-0100	7-1-2016	Amend(T)	8-1-2016	309-035-0570(T)	9-7-2016	Suspend	10-1-2016
309-022-0105	7-1-2016	Amend(T)	8-1-2016	309-035-0580(T)	9-7-2016	Suspend	10-1-2016
309-022-0135	7-1-2016	Amend(T)	8-1-2016	309-035-0590(T)	9-7-2016	Suspend	10-1-2016
309-022-0175	7-1-2016	Amend(T)	8-1-2016	309-035-0600(T)	9-7-2016	Suspend	10-1-2016
309-022-0205	7-1-2016	Amend(T)	8-1-2016	309-039-0500	7-1-2016	Amend(T)	8-1-2016
309-035-0100	9-7-2016	Amend(T)	10-1-2016	309-039-0510	7-1-2016	Amend(T)	8-1-2016
309-035-0105	9-7-2016	Amend(T)	10-1-2016	309-039-0530	7-1-2016	Amend(T)	8-1-2016
309-035-0107	9-7-2016	Adopt(T)	10-1-2016	309-039-0580	7-1-2016	Amend(T)	8-1-2016
309-035-0110	9-7-2016	Amend(T)	10-1-2016	309-040-0300	9-7-2016	Amend(T)	10-1-2016
309-035-0113	9-7-2016	Amend(T)	10-1-2016	309-040-0301	9-7-2016	Adopt(T)	10-1-2016
309-035-0115	9-7-2016	Amend(T)	10-1-2016	309-040-0305	9-7-2016	Amend(T)	10-1-2016
309-035-0117	9-7-2016	Amend(T)	10-1-2016	309-040-0310	9-7-2016	Amend(T)	10-1-2016
309-035-0120	9-7-2016	Amend(T)	10-1-2016	309-040-0315	9-7-2016	Amend(T)	10-1-2016
309-035-0125	9-7-2016	Amend(T)	10-1-2016	309-040-0320	9-7-2016	Amend(T)	10-1-2016
309-035-0130	9-7-2016	Amend(T)	10-1-2016	309-040-0325	9-7-2016	Amend(T)	10-1-2016
309-035-0135	9-7-2016	Amend(T)	10-1-2016	309-040-0330	9-7-2016	Amend(T)	10-1-2016
309-035-0140	9-7-2016	Amend(T)	10-1-2016	309-040-0335	9-7-2016	Amend(T)	10-1-2016
309-035-0145	9-7-2016	Amend(T)	10-1-2016	309-040-0340	9-7-2016	Amend(T)	10-1-2016
309-035-0146	9-7-2016	Adopt(T)	10-1-2016	309-040-0345	9-7-2016	Amend(T)	10-1-2016
309-035-0150	9-7-2016	Amend(T)	10-1-2016	309-040-0350	9-7-2016	Amend(T)	10-1-2016
309-035-0155	9-7-2016	Amend(T)	10-1-2016	309-040-0355	9-7-2016	Amend(T)	10-1-2016
309-035-0157	9-7-2016	Amend(T)	10-1-2016	309-040-0360	9-7-2016	Amend(T)	10-1-2016
309-035-0159	9-7-2016	Amend(T)	10-1-2016	309-040-0365	9-7-2016	Amend(T)	10-1-2016
309-035-0160	9-7-2016	Adopt(T)	10-1-2016	309-040-0370	9-7-2016	Amend(T)	10-1-2016
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309-035-0165	9-7-2016	Amend(T)	10-1-2016	309-040-0380	9-7-2016	Amend(T)	10-1-2016
309-035-0167	9-7-2016	Amend(T)	10-1-2016	309-040-0385	9-7-2016	Amend(T)	10-1-2016
309-035-0170	9-7-2016	Amend(T)	10-1-2016	309-040-0390	9-7-2016	Amend(T)	10-1-2016
309-035-0175	9-7-2016	Amend(T)	10-1-2016	309-040-0391	9-7-2016	Adopt(T)	10-1-2016
309-035-0185	9-7-2016	Amend(T)	10-1-2016	309-040-0392	9-7-2016	Adopt(T)	10-1-2016
309-035-0190	9-7-2016	Amend(T)	10-1-2016	309-040-0395	9-7-2016	Amend(T)	10-1-2016
309-035-0250(T)	9-7-2016	Suspend	10-1-2016	309-040-0400	9-7-2016	Amend(T)	10-1-2016
309-035-0260(T)	9-7-2016	Suspend	10-1-2016	309-040-0405	9-7-2016	Amend(T)	10-1-2016
309-035-0270(T)	9-7-2016	Suspend	10-1-2016	309-040-0410	9-7-2016	Amend(T)	10-1-2016
309-035-0280(T)	9-7-2016	Suspend	10-1-2016	309-040-0415	9-7-2016	Amend(T)	10-1-2016
309-035-0290(T)	9-7-2016	Suspend	10-1-2016	309-040-0420	9-7-2016	Amend(T)	10-1-2016
309-035-0300(T)	9-7-2016	Suspend	10-1-2016	309-040-0425	9-7-2016	Amend(T)	10-1-2016
309-035-0310(T)	9-7-2016	Suspend	10-1-2016	309-040-0430	9-7-2016	Amend(T)	10-1-2016
309-035-0320(T)	9-7-2016	Suspend	10-1-2016	309-040-0435	9-7-2016	Amend(T)	10-1-2016
309-035-0330(T)	9-7-2016	Suspend	10-1-2016	309-040-0440	9-7-2016	Amend(T)	10-1-2016
309-035-0340(T)	9-7-2016	Suspend	10-1-2016	309-040-0445	9-7-2016	Amend(T)	10-1-2016
309-035-0350(T)	9-7-2016	Suspend	10-1-2016	309-040-0450	9-7-2016	Amend(T)	10-1-2016
309-035-0360(T)	9-7-2016	Suspend	10-1-2016	309-040-0455	9-7-2016	Amend(T)	10-1-2016
309-035-0370(T)	9-7-2016	Suspend	10-1-2016	309-088-0100	4-7-2016	Adopt(T)	5-1-2016
309-035-0380(T)	9-7-2016	Suspend	10-1-2016	309-088-0110	4-7-2016	Adopt(T)	5-1-2016
309-035-0390(T)	9-7-2016	Suspend	10-1-2016	309-088-0120	4-7-2016	Adopt(T)	5-1-2016
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309-090-0015	5-3-2016	Amend	6-1-2016	333-002-0150	7-1-2016	Amend	7-1-2016
309-090-0020	5-3-2016	Amend	6-1-2016	333-002-0160	7-1-2016	Repeal	7-1-2016
309-090-0025	5-3-2016	Amend	6-1-2016	333-002-0170	7-1-2016	Amend	7-1-2016
309-090-0030	5-3-2016	Amend	6-1-2016	333-002-0180	7-1-2016	Repeal	7-1-2016
309-090-0035	5-3-2016	Amend	6-1-2016	333-002-0190	7-1-2016	Amend	7-1-2016
309-090-0050	5-3-2016	Amend	6-1-2016	333-002-0200	7-1-2016	Repeal	7-1-2016
309-090-0055	5-3-2016	Amend	6-1-2016	333-002-0210	7-1-2016	Amend	7-1-2016
309-090-0060	5-3-2016	Amend	6-1-2016	333-002-0220	7-1-2016	Repeal	7-1-2016
309-090-0065	5-3-2016	Amend	6-1-2016	333-002-0230	7-1-2016	Amend	7-1-2016
309-090-0070	5-3-2016	Amend	6-1-2016	333-007-0010	2-8-2016	Amend(T)	3-1-2016
309-091-0050	4-28-2016	Amend	6-1-2016	333-007-0010	6-28-2016	Adopt	8-1-2016
309-112-0000	4-21-2016	Amend	6-1-2016	333-007-0010	6-28-2016	Adopt	8-1-2016
309-112-0005	4-21-2016	Amend	6-1-2016	333-007-0010(T)	6-28-2016	Repeal	8-1-2016
309-112-0010	4-21-2016	Amend	6-1-2016	333-007-0020	6-28-2016	Adopt	8-1-2016
309-112-0015	4-21-2016	Amend	6-1-2016	333-007-0020	6-28-2016	Adopt	8-1-2016
309-112-0017	4-21-2016	Amend	6-1-2016	333-007-0020(T)	6-28-2016	Repeal	8-1-2016
309-112-0020	4-21-2016	Amend	6-1-2016	333-007-0030	6-28-2016	Adopt	8-1-2016
309-112-0025	4-21-2016	Amend	6-1-2016	333-007-0030	6-28-2016	Adopt	8-1-2016
309-112-0030	4-21-2016	Amend	6-1-2016	333-007-0030(T)	6-28-2016	Repeal	8-1-2016
309-112-0035	4-21-2016	Amend	6-1-2016	333-007-0040	6-28-2016	Adopt	8-1-2016
309-114-0000	5-25-2016	Amend	7-1-2016	333-007-0040	6-28-2016	Adopt	8-1-2016
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309-114-0005	5-25-2016	Amend	7-1-2016	333-007-0050	6-28-2016	Adopt	8-1-2016
325-005-0015	1-29-2016	Amend	3-1-2016	333-007-0050	6-28-2016	Adopt	8-1-2016
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330-070-0022	6-2-2016	Amend	7-1-2016	333-007-0060	6-28-2016	Adopt	8-1-2016
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330-140-0060	12-23-2015	Amend	2-1-2016	333-007-0070	6-28-2016	Adopt	8-1-2016
330-140-0070	12-23-2015	Amend	2-1-2016	333-007-0070	6-28-2016	Adopt	8-1-2016
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330-170-0010	3-1-2016	Amend	4-1-2016	333-007-0080	6-28-2016	Adopt	8-1-2016
330-170-0050	3-1-2016	Amend	4-1-2016	333-007-0080	6-28-2016	Adopt	8-1-2016
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330-210-0010	3-15-2016	Amend	4-1-2016	333-007-0083	6-28-2016	Adopt	8-1-2016
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330-210-0100	3-15-2016	Amend	4-1-2016	333-007-0083(T)	6-28-2016	Repeal	8-1-2016
330-210-0110	3-15-2016	Adopt	4-1-2016	333-007-0085	6-28-2016	Adopt	8-1-2016
330-210-0150	3-15-2016	Amend	4-1-2016	333-007-0085	6-28-2016	Adopt	8-1-2016
331-130-0011	7-1-2016	Amend	8-1-2016	333-007-0085(T)	6-28-2016	Repeal	8-1-2016
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333-007-0300	6-28-2016	Adopt	8-1-2016	333-007-0490	6-28-2016	Adopt	8-1-2016
333-007-0310	6-28-2016	Adopt	8-1-2016	333-007-0490	6-28-2016	Adopt	8-1-2016
333-007-0310	6-28-2016	Adopt	8-1-2016	333-007-0490(T)	6-28-2016	Repeal	8-1-2016
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333-007-0315	6-28-2016	Adopt	8-1-2016	333-008-0010	3-1-2016	Amend	4-1-2016
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333-007-0320(T)	6-28-2016	Repeal	8-1-2016	333-008-0020	6-28-2016	Amend	8-1-2016
333-007-0330	6-28-2016	Adopt	8-1-2016	333-008-0021	3-1-2016	Adopt	4-1-2016
333-007-0330	6-28-2016	Adopt	8-1-2016	333-008-0021	6-28-2016	Amend	8-1-2016
333-007-0330(T)	6-28-2016	Repeal	8-1-2016	333-008-0022	3-1-2016	Adopt	4-1-2016
333-007-0340	6-28-2016	Adopt	8-1-2016	333-008-0022	6-28-2016	Amend	8-1-2016
333-007-0340	6-28-2016	Adopt	8-1-2016	333-008-0023	3-1-2016	Adopt	4-1-2016
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333-007-0345	6-28-2016	Adopt	8-1-2016	333-008-0025	3-1-2016	Amend	4-1-2016
333-007-0350	6-28-2016	Adopt	8-1-2016	333-008-0025	6-28-2016	Amend	8-1-2016
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333-007-0360(T)	6-28-2016	Repeal	8-1-2016	333-008-0035	3-1-2016	Adopt	4-1-2016
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333-007-0390	6-28-2016	Adopt	8-1-2016	333-008-0049	3-1-2016	Adopt	4-1-2016
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333-008-1010	3-1-2016	Amend	4-1-2016	333-008-1270	3-1-2016	Repeal	4-1-2016
333-008-1010(T)	3-1-2016	Repeal	4-1-2016	333-008-1275	3-1-2016	Repeal	4-1-2016
333-008-1020	3-1-2016	Amend	4-1-2016	333-008-1280	3-1-2016	Repeal	4-1-2016
333-008-1020	6-28-2016	Amend	8-1-2016	333-008-1290	3-1-2016	Repeal	4-1-2016
333-008-1030	3-1-2016	Amend	4-1-2016	333-008-1400	3-1-2016	Repeal	4-1-2016
333-008-1040	3-1-2016	Amend	4-1-2016	333-008-1500	3-1-2016	Adopt	4-1-2016
333-008-1040	6-28-2016	Amend	8-1-2016	333-008-1500	6-2-2016	Amend(T)	7-1-2016
333-008-1050	3-1-2016	Amend	4-1-2016	333-008-1500(T)	3-1-2016	Repeal	4-1-2016
333-008-1060	3-1-2016	Amend	4-1-2016	333-008-1501	3-1-2016	Adopt	4-1-2016
333-008-1060	6-28-2016	Amend	8-1-2016	333-008-1501(T)	3-1-2016	Repeal	4-1-2016
333-008-1060(T)	3-1-2016	Repeal	4-1-2016	333-008-1505	3-1-2016	Adopt	4-1-2016
333-008-1063	3-1-2016	Adopt	4-1-2016	333-008-1505	6-2-2016	Amend(T)	7-1-2016
333-008-1070	3-1-2016	Amend	4-1-2016	333-008-1600	3-1-2016	Adopt	4-1-2016
333-008-1070	6-28-2016	Amend	8-1-2016	333-008-1610	3-1-2016	Adopt	4-1-2016
333-008-1070(T)	3-1-2016	Repeal	4-1-2016	333-008-1610	6-28-2016	Amend	8-1-2016
333-008-1073	3-1-2016	Adopt	4-1-2016	333-008-1620	3-1-2016	Adopt	4-1-2016
333-008-1073	6-28-2016	Repeal	8-1-2016	333-008-1620	6-28-2016	Amend	8-1-2016
333-008-1075	3-1-2016	Adopt	4-1-2016	333-008-1630	3-1-2016	Adopt	4-1-2016
333-008-1075	6-28-2016	Amend	8-1-2016	333-008-1640	3-1-2016	Adopt	4-1-2016
333-008-1078	3-1-2016	Adopt	4-1-2016	333-008-1640	6-28-2016	Repeal	8-1-2016
333-008-1078	6-28-2016	Amend	8-1-2016	333-008-1650	3-1-2016	Adopt	4-1-2016
333-008-1080	3-1-2016	Repeal	4-1-2016	333-008-1650	6-28-2016	Amend	8-1-2016
333-008-1090	3-1-2016	Repeal	4-1-2016	333-008-1660	3-1-2016	Adopt	4-1-2016
333-008-1100	3-1-2016	Repeal	4-1-2016	333-008-1670	3-1-2016	Adopt	4-1-2016
333-008-1110	3-1-2016	Amend	4-1-2016	333-008-1670	6-28-2016	Amend	8-1-2016
333-008-1110	6-28-2016	Amend	8-1-2016	333-008-1680	3-1-2016	Adopt	4-1-2016
333-008-1120	3-1-2016	Repeal	4-1-2016	333-008-1690	3-1-2016	Adopt	4-1-2016
333-008-1130	3-2-2016	Repeal	4-1-2016	333-008-1690	6-28-2016	Amend	8-1-2016
333-008-1140	3-2-2016	Repeal	4-1-2016	333-008-1700	3-1-2016	Adopt	4-1-2016
333-008-1150	3-2-2016	Repeal	4-1-2016	333-008-1710	3-1-2016	Adopt	4-1-2016
333-008-1160	3-2-2016	Repeal	4-1-2016	333-008-1710	6-28-2016	Amend	8-1-2016
333-008-1170	3-2-2016	Repeal	4-1-2016	333-008-1720	3-1-2016	Adopt	4-1-2016
333-008-1180	3-2-2016	Repeal	4-1-2016	333-008-1720	6-28-2016	Amend	8-1-2016

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333-008-1730	6-28-2016	Amend	8-1-2016	333-010-0110	4-1-2016	Amend	5-1-2016
333-008-1740	3-1-2016	Adopt	4-1-2016	333-010-0110(T)	4-1-2016	Repeal	5-1-2016
333-008-1740	6-28-2016	Amend	8-1-2016	333-010-0115	4-1-2016	Amend	5-1-2016
333-008-1750	3-1-2016	Adopt	4-1-2016	333-010-0115(T)	4-1-2016	Repeal	5-1-2016
333-008-1760	3-1-2016	Adopt	4-1-2016	333-010-0120	4-1-2016	Amend	5-1-2016
333-008-1760	6-28-2016	Amend	8-1-2016	333-010-0120(T)	4-1-2016	Repeal	5-1-2016
333-008-1770	3-1-2016	Adopt	4-1-2016	333-010-0125	4-1-2016	Amend	5-1-2016
333-008-1770	6-28-2016	Amend	8-1-2016	333-010-0130	4-1-2016	Amend	5-1-2016
333-008-1780	3-1-2016	Adopt	4-1-2016	333-010-0130(T)	4-1-2016	Repeal	5-1-2016
333-008-1780	6-28-2016	Amend	8-1-2016	333-010-0135	4-1-2016	Amend	5-1-2016
333-008-1790	3-1-2016	Adopt	4-1-2016	333-010-0140	4-1-2016	Amend	5-1-2016
333-008-1790	6-28-2016	Amend	8-1-2016	333-010-0140(T)	4-1-2016	Repeal	5-1-2016
333-008-1800	3-1-2016	Adopt	4-1-2016	333-010-0145	4-1-2016	Amend	5-1-2016
333-008-1800	6-28-2016	Amend	8-1-2016	333-010-0145(T)	4-1-2016	Repeal	5-1-2016
333-008-1810	3-1-2016	Adopt	4-1-2016	333-010-0150	4-1-2016	Amend	5-1-2016
333-008-1810	6-28-2016	Amend	8-1-2016	333-010-0155	4-1-2016	Amend	5-1-2016
333-008-1820	3-1-2016	Adopt	4-1-2016	333-010-0160	4-1-2016	Amend	5-1-2016
333-008-1830	3-1-2016	Adopt	4-1-2016	333-010-0165	4-1-2016	Amend	5-1-2016
333-008-1830	6-28-2016	Amend	8-1-2016	333-010-0175	4-1-2016	Amend	5-1-2016
333-008-2000	3-1-2016	Adopt	4-1-2016	333-010-0180	4-1-2016	Amend	5-1-2016
333-008-2010	3-1-2016	Adopt	4-1-2016	333-010-0197	4-1-2016	Amend	5-1-2016
333-008-2020	3-1-2016	Adopt	4-1-2016	333-010-0197(T)	4-1-2016	Repeal	5-1-2016
333-008-2030	3-1-2016	Adopt	4-1-2016	333-012-0500	1-1-2016	Am. & Ren.	2-1-2016
333-008-2030	6-28-2016	Amend	8-1-2016	333-015-0030	1-1-2016	Amend	2-1-2016
333-008-2040	3-1-2016	Adopt	4-1-2016	333-015-0035	1-1-2016	Amend	2-1-2016
333-008-2050	3-1-2016	Adopt	4-1-2016	333-015-0040	1-1-2016	Amend	2-1-2016
333-008-2060	3-1-2016	Adopt	4-1-2016	333-015-0045	1-1-2016	Amend	2-1-2016
333-008-2070	3-1-2016	Adopt	4-1-2016	333-015-0064	1-1-2016	Amend	2-1-2016
333-008-2080	3-1-2016	Adopt	4-1-2016	333-015-0068	1-1-2016	Amend	2-1-2016
333-008-2080	6-28-2016	Amend	8-1-2016	333-015-0070	1-1-2016	Amend	2-1-2016
333-008-2090	3-1-2016	Adopt	4-1-2016	333-015-0075	1-1-2016	Amend	2-1-2016
333-008-2090	6-28-2016	Amend	8-1-2016	333-015-0078	1-1-2016	Amend	2-1-2016
333-008-2100	3-1-2016	Adopt	4-1-2016	333-015-0085	1-1-2016	Amend	2-1-2016
333-008-2100	6-28-2016	Amend	8-1-2016	333-015-0200	1-1-2016	Adopt(T)	2-1-2016
333-008-2110	3-1-2016	Adopt	4-1-2016	333-015-0200	6-24-2016	Amend	8-1-2016
333-008-2110	6-28-2016	Amend	8-1-2016	333-015-0200(T)	6-24-2016	Repeal	8-1-2016
333-008-2120	3-1-2016	Adopt	4-1-2016	333-015-0205	1-1-2016	Adopt(T)	2-1-2016
333-008-2130	3-1-2016	Adopt	4-1-2016	333-015-0205	6-24-2016	Amend	8-1-2016
333-008-2140	3-1-2016	Adopt	4-1-2016	333-015-0205(T)	6-24-2016	Repeal	8-1-2016
333-008-2150	3-1-2016	Adopt	4-1-2016	333-015-0210	1-1-2016	Adopt(T)	2-1-2016
333-008-2160	3-1-2016	Adopt	4-1-2016	333-015-0210	6-24-2016	Amend	8-1-2016
333-008-2170	3-1-2016	Adopt	4-1-2016	333-015-0210(T)	6-24-2016	Repeal	8-1-2016
333-008-2180	3-1-2016	Adopt	4-1-2016	333-015-0215	1-1-2016	Adopt(T)	2-1-2016
333-008-2180	6-28-2016	Amend	8-1-2016	333-015-0215	6-24-2016	Amend	8-1-2016
333-008-2190	3-1-2016	Adopt	4-1-2016	333-015-0215(T)	6-24-2016	Repeal	8-1-2016
333-008-2190	6-28-2016	Amend	8-1-2016	333-015-0220	1-1-2016	Adopt(T)	2-1-2016
333-008-2200	3-1-2016	Adopt	4-1-2016	333-015-0220	6-24-2016	Amend	8-1-2016
333-008-3000	3-1-2016	Adopt	4-1-2016	333-015-0220(T)	6-24-2016	Repeal	8-1-2016
333-008-3010	3-1-2016	Adopt	4-1-2016	333-015-0300	6-24-2016	Adopt	8-1-2016
333-008-9000	1-1-2016	Adopt(T)	2-1-2016	333-015-0305	6-24-2016	Adopt	8-1-2016
333-008-9000(T)	3-1-2016	Repeal	4-1-2016	333-015-0310	6-24-2016	Adopt	8-1-2016
333-008-9900	4-15-2016	Adopt(T)	5-1-2016	333-015-0320	6-24-2016	Adopt	8-1-2016
333-010-0100	4-1-2016	Amend	5-1-2016	333-015-0325	6-24-2016	Adopt	8-1-2016
333-010-0100(T)	4-1-2016	Repeal	5-1-2016	333-015-0340	6-24-2016	Adopt	8-1-2016
333-010-0105	4-1-2016	Amend	5-1-2016	333-015-0345	6-24-2016	Adopt	8-1-2016

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333-015-0355	6-24-2016	Adopt	8-1-2016	333-050-0110	1-20-2016	Amend	3-1-2016
333-015-0360	6-24-2016	Adopt	8-1-2016	333-050-0110(T)	1-20-2016	Repeal	3-1-2016
333-015-0365	6-24-2016	Adopt	8-1-2016	333-052-0040	1-1-2016	Amend	1-1-2016
333-015-0370	6-24-2016	Adopt	8-1-2016	333-052-0043	1-1-2016	Amend	1-1-2016
333-015-0375	6-24-2016	Adopt	8-1-2016	333-052-0080	1-1-2016	Amend	1-1-2016
333-016-2000	1-1-2016	Adopt	2-1-2016	333-052-0120	1-1-2016	Amend	1-1-2016
333-016-2010	1-1-2016	Adopt	2-1-2016	333-053-0040	1-1-2016	Amend	1-1-2016
333-016-2020	1-1-2016	Adopt	2-1-2016	333-053-0050	1-1-2016	Amend	1-1-2016
333-016-2030	1-1-2016	Adopt	2-1-2016	333-053-0080	1-1-2016	Amend	1-1-2016
333-017-0000	8-16-2016	Amend	9-1-2016	333-054-0010	1-1-2016	Amend	1-1-2016
333-018-0015	2-18-2016	Amend(T)	4-1-2016	333-054-0020	1-1-2016	Amend	1-1-2016
333-018-0015	8-16-2016	Amend	9-1-2016	333-054-0050	1-1-2016	Amend	1-1-2016
333-018-0015(T)	8-16-2016	Repeal	9-1-2016	333-054-0060	1-1-2016	Amend	1-1-2016
333-018-0018	8-16-2016	Amend	9-1-2016	333-054-0070	1-1-2016	Amend	1-1-2016
333-018-0100	8-16-2016	Amend	9-1-2016	333-055-0000	2-8-2016	Amend	3-1-2016
333-018-0110	8-16-2016	Amend	9-1-2016	333-055-0006	2-8-2016	Amend	3-1-2016
333-018-0127	8-16-2016	Amend	9-1-2016	333-055-0015	2-8-2016	Amend	3-1-2016
333-019-0010	8-16-2016	Amend	9-1-2016	333-055-0021	2-8-2016	Amend	3-1-2016
333-019-0017	8-16-2016	Amend	9-1-2016	333-055-0030	2-8-2016	Amend	3-1-2016
333-019-0027	8-16-2016	Amend	9-1-2016	333-055-0035	2-8-2016	Amend	3-1-2016
333-022-1000	8-2-2016	Amend	9-1-2016	333-061-0020	4-1-2016	Amend	3-1-2016
333-022-1010	8-2-2016	Amend	9-1-2016	333-061-0030	4-1-2016	Amend	3-1-2016
333-022-1020	8-2-2016	Amend	9-1-2016	333-061-0031	4-1-2016	Amend	3-1-2016
333-022-1030	8-2-2016	Amend	9-1-2016	333-061-0032	4-1-2016	Amend	3-1-2016
333-022-1050	8-2-2016	Amend	9-1-2016	333-061-0036	4-1-2016	Amend	3-1-2016
333-022-1080	8-2-2016	Amend	9-1-2016	333-061-0040	4-1-2016	Amend	3-1-2016
333-022-1090	8-2-2016	Amend	9-1-2016	333-061-0042	4-1-2016	Amend	3-1-2016
333-022-1110	8-2-2016	Repeal	9-1-2016	333-061-0043	4-1-2016	Amend	3-1-2016
333-022-1120	8-2-2016	Amend	9-1-2016	333-061-0045	4-1-2016	Amend	3-1-2016
333-022-1140	8-2-2016	Amend	9-1-2016	333-061-0050	4-1-2016	Amend	3-1-2016
333-022-1145	8-2-2016	Amend	9-1-2016	333-061-0060	1-1-2016	Amend	1-1-2016
333-022-1147	8-2-2016	Adopt	9-1-2016	333-061-0060	4-1-2016	Amend	3-1-2016
333-028-0300	1-29-2016	Adopt	3-1-2016	333-061-0063	4-1-2016	Amend	3-1-2016
333-028-0310	1-29-2016	Adopt	3-1-2016	333-061-0065	4-1-2016	Amend	3-1-2016
333-028-0320	1-29-2016	Adopt	3-1-2016	333-061-0070	4-1-2016	Amend	3-1-2016
333-028-0330	1-29-2016	Adopt	3-1-2016	333-061-0071	4-1-2016	Amend	3-1-2016
333-028-0340	1-29-2016	Adopt	3-1-2016	333-061-0072	1-1-2016	Amend	1-1-2016
333-028-0350	1-29-2016	Adopt	3-1-2016	333-061-0073	1-1-2016	Amend	1-1-2016
333-030-0015	5-9-2016	Amend	6-1-2016	333-061-0075	4-1-2016	Amend	3-1-2016
333-030-0020	5-9-2016	Amend	6-1-2016	333-061-0076	1-1-2016	Amend	1-1-2016
333-030-0023	5-9-2016	Adopt	6-1-2016	333-061-0076	4-1-2016	Amend	3-1-2016
333-030-0100	5-9-2016	Amend	6-1-2016	333-061-0077	4-1-2016	Amend	3-1-2016
333-030-0110	5-9-2016	Amend	6-1-2016	333-061-0078	4-1-2016	Adopt	3-1-2016
333-030-0120	5-9-2016	Amend	6-1-2016	333-061-0090	4-1-2016	Amend	3-1-2016
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	333-064-0005	6-7-2016	Amend	7-1-2016
333-050-0050(T)	1-20-2016	Repeal	3-1-2016	333-064-0010	1-1-2016	Amend(T)	2-1-2016
333-050-0080	1-20-2016	Amend	3-1-2016	333-064-0010	6-7-2016	Amend	7-1-2016
333-050-0080(T)	1-20-2016	Repeal	3-1-2016	333-064-0025	1-1-2016	Amend(T)	2-1-2016
333-050-0095	1-20-2016	Amend	3-1-2016	333-064-0025	6-7-2016	Amend	7-1-2016
333-050-0095(T)	1-20-2016	Repeal	3-1-2016	333-064-0060	1-1-2016	Amend(T)	2-1-2016
333-050-0100	1-20-2016	Amend	3-1-2016	333-064-0060	6-7-2016	Amend	7-1-2016

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333-064-0100	6-28-2016	Amend	8-1-2016	333-205-0050	1-1-2016	Amend	1-1-2016
333-064-0100(T)	6-28-2016	Repeal	8-1-2016	333-250-0040	4-28-2016	Amend	6-1-2016
333-064-0110	6-28-2016	Amend	8-1-2016	333-250-0041	4-28-2016	Amend	6-1-2016
333-064-0110(T)	6-28-2016	Repeal	8-1-2016	333-250-0085	4-28-2016	Adopt	6-1-2016
333-076-0101	2-24-2016	Amend	4-1-2016	333-265-0056	4-7-2016	Adopt	5-1-2016
333-076-0135	2-24-2016	Amend	4-1-2016	333-500-0045	2-24-2016	Amend	4-1-2016
333-076-0137	2-24-2016	Adopt	4-1-2016	333-501-0035	7-1-2016	Amend	8-1-2016
333-101-0005	9-1-2016	Amend	10-1-2016	333-501-0040	7-1-2016	Amend	8-1-2016
333-102-0005	9-1-2016	Amend	10-1-2016	333-501-0045	7-1-2016	Amend	8-1-2016
333-102-0102	9-1-2016	Amend	10-1-2016	333-505-0005	2-24-2016	Amend	4-1-2016
333-102-0104	9-1-2016	Amend	10-1-2016	333-505-0007	2-24-2016	Amend	4-1-2016
333-102-0190	9-1-2016	Amend	10-1-2016	333-505-0030	2-24-2016	Amend	4-1-2016
333-103-0010	9-1-2016	Amend	10-1-2016	333-505-0050	2-24-2016	Amend	4-1-2016
333-103-0025	1-1-2016	Amend	2-1-2016	333-510-0002	7-1-2016	Amend	8-1-2016
333-106-0005	9-1-2016	Amend	10-1-2016	333-510-0030	2-24-2016	Amend	4-1-2016
333-106-0035	9-1-2016	Amend	10-1-2016	333-510-0045	7-1-2016	Amend	8-1-2016
333-106-0205	9-1-2016	Amend	10-1-2016	333-510-0105	7-1-2016	Adopt	8-1-2016
333-106-0325	9-1-2016	Amend	10-1-2016	333-510-0110	7-1-2016	Adopt	8-1-2016
333-106-0710	9-1-2016	Amend	10-1-2016	333-510-0115	7-1-2016	Adopt	8-1-2016
333-116-0020	9-1-2016	Amend	10-1-2016	333-510-0120	7-1-2016	Adopt	8-1-2016
333-116-0125	9-1-2016	Amend	10-1-2016	333-510-0125	7-1-2016	Adopt	8-1-2016
333-116-0130	9-1-2016	Repeal	10-1-2016	333-510-0130	7-1-2016	Adopt	8-1-2016
333-116-0640	9-1-2016	Amend	10-1-2016	333-510-0135	7-1-2016	Adopt	8-1-2016
333-116-0720	9-1-2016	Amend	10-1-2016	333-510-0140	7-1-2016	Adopt	8-1-2016
333-116-0905	9-1-2016	Amend	10-1-2016	333-515-0030	2-24-2016	Amend	4-1-2016
333-116-0910	9-1-2016	Amend	10-1-2016	333-515-0050	2-24-2016	Repeal	4-1-2016
333-116-1000	9-1-2016	Amend	10-1-2016	333-515-0060	2-24-2016	Repeal	4-1-2016
333-116-1010	9-1-2016	Repeal	10-1-2016	333-520-0020	2-24-2016	Amend	4-1-2016
333-125-0060	9-1-2016	Amend	10-1-2016	333-520-0050	2-24-2016	Amend	4-1-2016
333-125-0100	9-1-2016	Amend	10-1-2016	333-525-0000	2-24-2016	Amend	4-1-2016
333-125-0120	9-1-2016	Amend	10-1-2016	333-535-0061	2-24-2016	Amend	4-1-2016
333-125-0180	9-1-2016	Amend	10-1-2016	333-535-0080	2-24-2016	Amend	4-1-2016
333-200-0000	1-1-2016	Amend	1-1-2016	333-535-0110	2-24-2016	Amend	4-1-2016
333-200-0010	1-1-2016	Amend	1-1-2016	334-010-0015	7-1-2016	Amend	7-1-2016
333-200-0020	1-1-2016	Amend	1-1-2016	334-010-0017	7-1-2016	Amend	7-1-2016
333-200-0030	1-1-2016	Amend	1-1-2016	334-010-0018	7-1-2016	Amend	7-1-2016
333-200-0035	1-1-2016	Amend	1-1-2016	334-010-0033	7-1-2016	Amend	7-1-2016
333-200-0040	1-1-2016	Amend	1-1-2016	334-010-0050	7-1-2016	Amend	7-1-2016
333-200-0050	1-1-2016	Amend	1-1-2016	337-010-0007	8-5-2016	Amend	9-1-2016
333-200-0060	1-1-2016	Amend	1-1-2016	337-021-0073	8-5-2016	Adopt	9-1-2016
333-200-0070	1-1-2016	Amend	1-1-2016	339-020-0010	7-29-2016	Amend	9-1-2016
333-200-0080	1-1-2016	Amend	1-1-2016	339-020-0020	7-29-2016	Amend	9-1-2016
333-200-0090	1-1-2016	Amend	1-1-2016	340-012-0054	1-1-2016	Amend	1-1-2016
333-200-0235	1-1-2016	Adopt	1-1-2016	340-012-0135	1-1-2016	Amend	1-1-2016
333-200-0245	1-1-2016	Adopt	1-1-2016	340-012-0140	1-1-2016	Amend	1-1-2016
333-200-0250	1-1-2016	Adopt	1-1-2016	340-039-0001	12-10-2015	Adopt	1-1-2016
333-200-0255	1-1-2016	Adopt	1-1-2016	340-039-0003	12-10-2015	Adopt	1-1-2016
333-200-0265	1-1-2016	Adopt	1-1-2016	340-039-0005	12-10-2015	Adopt	1-1-2016
333-200-0275	1-1-2016	Adopt	1-1-2016	340-039-0015	12-10-2015	Adopt	1-1-2016
333-200-0285	1-1-2016	Adopt	1-1-2016	340-039-0017	12-10-2015	Adopt	1-1-2016
333-200-0295	1-1-2016	Adopt	1-1-2016	340-039-0020	12-10-2015	Adopt	1-1-2016
333-200-0300	1-1-2016	Adopt	1-1-2016	340-039-0025	12-10-2015	Adopt	1-1-2016
333-205-0000	1-1-2016	Amend	1-1-2016	340-039-0030	12-10-2015	Adopt	1-1-2016
333-205-0010	1-1-2016	Amend	1-1-2016	340-039-0035	12-10-2015	Adopt	1-1-2016
333-205-0020	1-1-2016	Amend	1-1-2016	340-039-0040	12-10-2015	Adopt	1-1-2016

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340-041-0009	8-18-2016	Amend	10-1-2016	340-253-0310	1-1-2016	Amend	1-1-2016
340-041-0101	8-18-2016	Amend	10-1-2016	340-253-0320	1-1-2016	Amend	1-1-2016
340-041-0220	8-18-2016	Amend	10-1-2016	340-253-0330	1-1-2016	Amend	1-1-2016
340-041-0230	8-18-2016	Amend	10-1-2016	340-253-0340	1-1-2016	Amend	1-1-2016
340-041-0300	8-18-2016	Amend	10-1-2016	340-253-0400	1-1-2016	Amend	1-1-2016
340-041-0320	8-18-2016	Amend	10-1-2016	340-253-0450	1-1-2016	Amend	1-1-2016
340-045-0075	1-1-2016	Amend	1-1-2016	340-253-0500	1-1-2016	Amend	1-1-2016
340-071-0140	1-1-2016	Amend	1-1-2016	340-253-0600	1-1-2016	Amend	1-1-2016
340-071-0140	1-27-2016	Amend	3-1-2016	340-253-0620	1-1-2016	Amend	1-1-2016
340-083-0010	2-4-2016	Amend	3-1-2016	340-253-0630	1-1-2016	Amend	1-1-2016
340-083-0020	2-4-2016	Amend	3-1-2016	340-253-0650	1-1-2016	Amend	1-1-2016
340-083-0030	2-4-2016	Amend	3-1-2016	340-253-1000	1-1-2016	Amend	1-1-2016
340-083-0040	2-4-2016	Amend	3-1-2016	340-253-1010	1-1-2016	Amend	1-1-2016
340-083-0050	2-4-2016	Amend	3-1-2016	340-253-1020	1-1-2016	Amend	1-1-2016
340-083-0070	2-4-2016	Amend	3-1-2016	340-253-1030	1-1-2016	Amend	1-1-2016
340-083-0080	2-4-2016	Amend	3-1-2016	340-253-1050	1-1-2016	Amend	1-1-2016
340-083-0090	2-4-2016	Amend	3-1-2016	340-253-2000	1-1-2016	Amend	1-1-2016
340-083-0100	2-4-2016	Amend	3-1-2016	340-253-2100	1-1-2016	Amend	1-1-2016
340-083-0500	2-4-2016	Adopt	3-1-2016	340-253-2200	1-1-2016	Amend	1-1-2016
340-083-0510	2-4-2016	Adopt	3-1-2016	340-253-8010	1-1-2016	Amend	1-1-2016
340-083-0520	2-4-2016	Adopt	3-1-2016	340-253-8010	4-22-2016	Amend(T)	6-1-2016
340-083-0530	2-4-2016	Adopt	3-1-2016	340-253-8010	8-18-2016	Amend	10-1-2016
340-097-0001	2-4-2016	Amend	3-1-2016	340-253-8010(T)	8-18-2016	Repeal	10-1-2016
340-097-0110	2-4-2016	Amend	3-1-2016	340-253-8020	1-1-2016	Amend	1-1-2016
340-097-0120	2-4-2016	Amend	3-1-2016	340-253-8020	4-22-2016	Amend(T)	6-1-2016
340-200-0040	12-10-2015	Amend	1-1-2016	340-253-8020	8-18-2016	Amend	10-1-2016
340-215-0010	12-10-2015	Amend	1-1-2016	340-253-8020(T)	8-18-2016	Repeal	10-1-2016
340-215-0020	12-10-2015	Amend	1-1-2016	340-253-8030	1-1-2016	Amend	1-1-2016
340-215-0030	12-10-2015	Amend	1-1-2016	340-253-8030	4-22-2016	Amend(T)	6-1-2016
340-215-0040	12-10-2015	Amend	1-1-2016	340-253-8030	8-18-2016	Amend	10-1-2016
340-215-0060	12-10-2015	Amend	1-1-2016	340-253-8030(T)	8-18-2016	Repeal	10-1-2016
340-220-0030	6-9-2016	Amend	7-1-2016	340-253-8040	1-1-2016	Amend	1-1-2016
340-220-0040	6-9-2016	Amend	7-1-2016	340-253-8040	4-22-2016	Amend(T)	6-1-2016
340-220-0050	6-9-2016	Amend	7-1-2016	340-253-8040	8-18-2016	Amend	10-1-2016
340-244-0010	4-21-2016	Amend(T)	6-1-2016	340-253-8040(T)	8-18-2016	Repeal	10-1-2016
340-244-9000	4-21-2016	Adopt(T)	6-1-2016	340-253-8050	1-1-2016	Amend	1-1-2016
340-244-9010	4-21-2016	Adopt(T)	6-1-2016	340-253-8060	1-1-2016	Amend	1-1-2016
340-244-9020	4-21-2016	Adopt(T)	6-1-2016	340-253-8070	1-1-2016	Amend	1-1-2016
340-244-9030	4-21-2016	Adopt(T)	6-1-2016	340-253-8080	1-1-2016	Amend	1-1-2016
340-244-9040	4-21-2016	Adopt(T)	6-1-2016	407-007-0000	1-14-2016	Amend(T)	2-1-2016
340-244-9050	4-21-2016	Adopt(T)	6-1-2016	407-007-0000	6-15-2016	Amend	7-1-2016
340-244-9060	4-21-2016	Adopt(T)	6-1-2016	407-007-0000(T)	6-15-2016	Repeal	7-1-2016
340-244-9070	4-21-2016	Adopt(T)	6-1-2016	407-007-0010	1-14-2016	Amend(T)	2-1-2016
340-244-9070	5-6-2016	Amend(T)	6-1-2016	407-007-0010	6-15-2016	Amend	7-1-2016
340-244-9080	4-21-2016	Adopt(T)	6-1-2016	407-007-0010(T)	6-15-2016	Repeal	7-1-2016
340-244-9090	4-21-2016	Adopt(T)	6-1-2016	407-007-0020	1-14-2016	Amend(T)	2-1-2016
340-248-0250	1-1-2016	Amend(T)	1-1-2016	407-007-0020	6-15-2016	Amend	7-1-2016
340-248-0250	4-21-2016	Amend	6-1-2016	407-007-0020(T)	6-15-2016	Repeal	7-1-2016
340-248-0270	1-1-2016	Amend(T)	1-1-2016	407-007-0030	1-14-2016	Amend(T)	2-1-2016
340-248-0270	4-21-2016	Amend	6-1-2016	407-007-0030	6-15-2016	Amend	7-1-2016
340-253-0000	1-1-2016	Amend	1-1-2016	407-007-0030(T)	6-15-2016	Repeal	7-1-2016
340-253-0040	1-1-2016	Amend	1-1-2016	407-007-0040	6-15-2016	Repeal	7-1-2016
340-253-0060	1-1-2016	Amend	1-1-2016	407-007-0050	1-14-2016	Amend(T)	2-1-2016
340-253-0100	1-1-2016	Amend	1-1-2016	407-007-0050	6-15-2016	Amend	7-1-2016
340-253-0200	1-1-2016	Amend	1-1-2016	407-007-0050(T)	6-15-2016	Repeal	7-1-2016



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407-007-0060	6-15-2016	Amend	7-1-2016	407-007-0320	1-14-2016	Amend(T)	2-1-2016
407-007-0060(T)	6-15-2016	Repeal	7-1-2016	407-007-0320	6-15-2016	Amend	7-1-2016
407-007-0065	1-14-2016	Amend(T)	2-1-2016	407-007-0320	7-1-2016	Amend(T)	8-1-2016
407-007-0065	6-15-2016	Amend	7-1-2016	407-007-0320(T)	6-15-2016	Repeal	7-1-2016
407-007-0065(T)	6-15-2016	Repeal	7-1-2016	407-007-0325	1-14-2016	Suspend	2-1-2016
407-007-0070	1-14-2016	Amend(T)	2-1-2016	407-007-0325	6-15-2016	Repeal	7-1-2016
407-007-0070	6-15-2016	Amend	7-1-2016	407-007-0330	1-14-2016	Amend(T)	2-1-2016
407-007-0070(T)	6-15-2016	Repeal	7-1-2016	407-007-0330	6-15-2016	Amend	7-1-2016
407-007-0075	1-14-2016	Suspend	2-1-2016	407-007-0330(T)	6-15-2016	Repeal	7-1-2016
407-007-0075	6-15-2016	Repeal	7-1-2016	407-007-0350	1-14-2016	Amend(T)	2-1-2016
407-007-0080	1-14-2016	Amend(T)	2-1-2016	407-007-0350	6-15-2016	Amend	7-1-2016
407-007-0080	6-15-2016	Amend	7-1-2016	407-007-0350(T)	6-15-2016	Repeal	7-1-2016
407-007-0080(T)	6-15-2016	Repeal	7-1-2016	407-007-0370	1-14-2016	Amend(T)	2-1-2016
407-007-0090	1-14-2016	Amend(T)	2-1-2016	407-007-0370	6-15-2016	Amend	7-1-2016
407-007-0090	6-15-2016	Amend	7-1-2016	407-007-0370(T)	6-15-2016	Repeal	7-1-2016
407-007-0090(T)	6-15-2016	Repeal	7-1-2016	407-007-0400	1-14-2016	Suspend	2-1-2016
407-007-0200	1-14-2016	Amend(T)	2-1-2016	407-045-0260	2-3-2016	Amend	3-1-2016
407-007-0200	6-15-2016	Amend	7-1-2016	407-045-0350	2-3-2016	Amend	3-1-2016
407-007-0200(T)	6-15-2016	Repeal	7-1-2016	407-045-0800	7-1-2016	Amend(T)	8-1-2016
407-007-0210	1-14-2016	Amend(T)	2-1-2016	407-045-0810	7-1-2016	Suspend	8-1-2016
407-007-0210	6-15-2016	Amend	7-1-2016	407-045-0820	7-1-2016	Amend(T)	8-1-2016
407-007-0210	7-1-2016	Amend(T)	8-1-2016	407-045-0825	7-1-2016	Adopt(T)	8-1-2016
407-007-0210(T)	6-15-2016	Repeal	7-1-2016	407-045-0830	7-1-2016	Suspend	8-1-2016
407-007-0220	1-14-2016	Amend(T)	2-1-2016	407-045-0850	7-1-2016	Suspend	8-1-2016
407-007-0220	6-15-2016	Amend	7-1-2016	407-045-0860	7-1-2016	Suspend	8-1-2016
407-007-0220(T)	6-15-2016	Repeal	7-1-2016	407-045-0870	7-1-2016	Suspend	8-1-2016
407-007-0230	1-14-2016	Amend(T)	2-1-2016	407-045-0880	7-1-2016	Suspend	8-1-2016
407-007-0230	6-15-2016	Amend	7-1-2016	407-045-0885	7-1-2016	Adopt(T)	8-1-2016
407-007-0230(T)	6-15-2016	Repeal	7-1-2016	407-045-0890	7-1-2016	Amend(T)	8-1-2016
407-007-0240	1-14-2016	Amend(T)	2-1-2016	407-045-0895	7-1-2016	Adopt(T)	8-1-2016
407-007-0240	6-15-2016	Amend	7-1-2016	407-045-0900	7-1-2016	Suspend	8-1-2016
407-007-0240(T)	6-15-2016	Repeal	7-1-2016	407-045-0910	7-1-2016	Amend(T)	8-1-2016
407-007-0250	1-14-2016	Amend(T)	2-1-2016	407-045-0920	7-1-2016	Suspend	8-1-2016
407-007-0250	6-15-2016	Amend	7-1-2016	407-045-0930	7-1-2016	Suspend	8-1-2016
407-007-0250	7-1-2016	Amend(T)	8-1-2016	407-045-0940	7-1-2016	Amend(T)	8-1-2016
407-007-0250(T)	6-15-2016	Repeal	7-1-2016	407-045-0950	7-1-2016	Amend(T)	8-1-2016
407-007-0275	1-14-2016	Amend(T)	2-1-2016	407-045-0955	7-1-2016	Adopt(T)	8-1-2016
407-007-0275	6-15-2016	Amend	7-1-2016	407-045-0960	7-1-2016	Suspend	8-1-2016
407-007-0275(T)	6-15-2016	Repeal	7-1-2016	407-045-0970	7-1-2016	Suspend	8-1-2016
407-007-0277	1-14-2016	Amend(T)	2-1-2016	407-045-0980	7-1-2016	Amend(T)	8-1-2016
407-007-0277	6-15-2016	Amend	7-1-2016	409-015-0005	3-28-2016	Amend	5-1-2016
407-007-0277(T)	6-15-2016	Repeal	7-1-2016	409-015-0010	3-28-2016	Amend	5-1-2016
407-007-0279	6-15-2016	Adopt	7-1-2016	409-015-0015	3-28-2016	Amend	5-1-2016
407-007-0279	7-1-2016	Amend(T)	8-1-2016	409-015-0030	3-28-2016	Amend	5-1-2016
407-007-0280	1-14-2016	Suspend	2-1-2016	409-015-0035	3-28-2016	Amend	5-1-2016
407-007-0280	6-15-2016	Repeal	7-1-2016	409-015-0040	3-28-2016	Repeal	5-1-2016
407-007-0290	1-14-2016	Amend(T)	2-1-2016	409-025-0100	1-5-2016	Amend	2-1-2016
407-007-0290	6-15-2016	Amend	7-1-2016	409-025-0100	1-1-2017	Amend	8-1-2016
407-007-0290	7-1-2016	Amend(T)	8-1-2016	409-025-0110	1-5-2016	Amend	2-1-2016
407-007-0290(T)	6-15-2016	Repeal	7-1-2016	409-025-0110	1-1-2017	Amend	8-1-2016
407-007-0300	1-14-2016	Amend(T)	2-1-2016	409-025-0120	1-5-2016	Amend	2-1-2016
407-007-0300	6-15-2016	Amend	7-1-2016	409-025-0120	9-13-2016	Amend	10-1-2016
407-007-0300(T)	6-15-2016	Repeal	7-1-2016	409-025-0120	1-1-2017	Amend	8-1-2016
407-007-0315	1-14-2016	Amend(T)	2-1-2016	409-025-0130	1-5-2016	Amend	2-1-2016
407-007-0315	6-15-2016	Amend	7-1-2016	409-025-0130	9-13-2016	Amend	10-1-2016

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409-025-0140	1-5-2016	Amend	2-1-2016	409-062-0040	4-22-2016	Adopt(T)	6-1-2016
409-025-0150	1-5-2016	Amend	2-1-2016	409-062-0050	4-22-2016	Adopt(T)	6-1-2016
409-025-0150	9-13-2016	Amend	10-1-2016	409-062-0060	4-22-2016	Adopt(T)	6-1-2016
409-025-0150	1-1-2017	Amend	8-1-2016	409-110-0025	5-9-2016	Adopt(T)	6-1-2016
409-025-0160	1-5-2016	Amend	2-1-2016	409-110-0030	5-9-2016	Adopt(T)	6-1-2016
409-025-0170	1-5-2016	Amend	2-1-2016	409-110-0035	5-9-2016	Adopt(T)	6-1-2016
409-026-0100	2-8-2016	Amend(T)	3-1-2016	409-110-0040	5-9-2016	Adopt(T)	6-1-2016
409-026-0100	3-25-2016	Amend	5-1-2016	409-110-0045	5-9-2016	Adopt(T)	6-1-2016
409-026-0100(T)	3-25-2016	Repeal	5-1-2016	410-050-0861	4-1-2016	Amend(T)	5-1-2016
409-026-0110	2-8-2016	Amend(T)	3-1-2016	410-050-0861	9-1-2016	Amend	9-1-2016
409-026-0110	3-25-2016	Amend	5-1-2016	410-050-0861(T)	9-1-2016	Repeal	9-1-2016
409-026-0110(T)	3-25-2016	Repeal	5-1-2016	410-120-0000	7-1-2016	Amend	8-1-2016
409-026-0120	2-8-2016	Amend(T)	3-1-2016	410-120-0000	7-1-2016	Amend	8-1-2016
409-026-0120	3-25-2016	Amend	5-1-2016	410-120-0006	1-1-2016	Amend	1-1-2016
409-026-0120(T)	3-25-2016	Repeal	5-1-2016	410-120-0006	7-1-2016	Amend	8-1-2016
409-026-0130	2-8-2016	Amend(T)	3-1-2016	410-120-0006	8-1-2016	Amend	9-1-2016
409-026-0130	3-25-2016	Amend	5-1-2016	410-120-0045	9-1-2016	Amend	10-1-2016
409-026-0130(T)	3-25-2016	Repeal	5-1-2016	410-120-1230	9-1-2016	Amend	10-1-2016
409-026-0140	2-8-2016	Amend(T)	3-1-2016	410-120-1280	9-1-2016	Amend	10-1-2016
409-026-0140	3-25-2016	Amend	5-1-2016	410-120-1340	1-1-2016	Amend(T)	2-1-2016
409-026-0140(T)	3-25-2016	Repeal	5-1-2016	410-120-1340	3-1-2016	Amend	4-1-2016
409-027-0005	7-8-2016	Adopt	8-1-2016	410-120-1340(T)	3-1-2016	Repeal	4-1-2016
409-027-0015	7-8-2016	Adopt	8-1-2016	410-121-0000	1-1-2016	Amend	2-1-2016
409-027-0025	7-8-2016	Adopt	8-1-2016	410-121-0030	12-27-2015	Amend	2-1-2016
409-035-0020	11-24-2015	Amend	1-1-2016	410-121-0030	1-1-2016	Amend(T)	2-1-2016
409-035-0020	4-22-2016	Amend	6-1-2016	410-121-0030	5-1-2016	Amend(T)	6-1-2016
409-035-0020(T)	11-24-2015	Repeal	1-1-2016	410-121-0030	6-28-2016	Amend	8-1-2016
409-055-0000	5-13-2016	Amend	6-1-2016	410-121-0030	7-1-2016	Amend(T)	8-1-2016
409-055-0010	1-1-2016	Amend(T)	2-1-2016	410-121-0030(T)	12-27-2015	Repeal	2-1-2016
409-055-0010	5-13-2016	Amend	6-1-2016	410-121-0030(T)	6-28-2016	Repeal	8-1-2016
409-055-0010(T)	5-13-2016	Repeal	6-1-2016	410-121-0040	12-27-2015	Amend	2-1-2016
409-055-0020	5-13-2016	Amend	6-1-2016	410-121-0040	1-1-2016	Amend(T)	2-1-2016
409-055-0030	1-1-2016	Amend(T)	2-1-2016	410-121-0040	2-12-2016	Amend(T)	3-1-2016
409-055-0030	5-13-2016	Amend	6-1-2016	410-121-0040	5-1-2016	Amend(T)	6-1-2016
409-055-0030	8-29-2016	Amend(T)	10-1-2016	410-121-0040	6-28-2016	Amend	8-1-2016
409-055-0030(T)	5-13-2016	Repeal	6-1-2016	410-121-0040	7-1-2016	Amend(T)	8-1-2016
409-055-0040	1-1-2016	Amend(T)	2-1-2016	410-121-0040	8-26-2016	Amend(T)	10-1-2016
409-055-0040	5-13-2016	Amend	6-1-2016	410-121-0040(T)	12-27-2015	Repeal	2-1-2016
409-055-0040(T)	5-13-2016	Repeal	6-1-2016	410-121-0040(T)	6-28-2016	Repeal	8-1-2016
409-055-0045	5-13-2016	Amend	6-1-2016	410-121-0135	1-1-2016	Amend	2-1-2016
409-055-0050	5-13-2016	Amend	6-1-2016	410-121-0146	1-1-2016	Amend	2-1-2016
409-055-0060	1-1-2016	Amend(T)	2-1-2016	410-121-4000	1-1-2016	Am. & Ren.	2-1-2016
409-055-0060	5-13-2016	Amend	6-1-2016	410-121-4005	1-1-2016	Am. & Ren.	2-1-2016
409-055-0060(T)	5-13-2016	Repeal	6-1-2016	410-121-4010	1-1-2016	Am. & Ren.	2-1-2016
409-055-0070	1-1-2016	Amend(T)	2-1-2016	410-121-4015	1-1-2016	Renumber	2-1-2016
409-055-0070	5-13-2016	Amend	6-1-2016	410-121-4020	1-1-2016	Renumber	2-1-2016
409-055-0070(T)	5-13-2016	Repeal	6-1-2016	410-122-0186	2-3-2016	Amend	3-1-2016
409-055-0080	5-13-2016	Amend	6-1-2016	410-122-0204	3-1-2016	Amend	4-1-2016
409-055-0090	5-13-2016	Amend	6-1-2016	410-122-0211	4-1-2016	Amend	5-1-2016
409-060-0110	4-19-2016	Amend	6-1-2016	410-122-0240	3-1-2016	Amend	4-1-2016
409-060-0120	4-19-2016	Amend	6-1-2016	410-122-0300	3-1-2016	Amend	4-1-2016
409-060-0150	4-19-2016	Amend	6-1-2016	410-122-0360	3-1-2016	Amend	4-1-2016
409-062-0000	4-22-2016	Adopt(T)	6-1-2016	410-122-0365	3-1-2016	Amend	4-1-2016
409-062-0010	4-22-2016	Adopt(T)	6-1-2016	410-122-0380	3-1-2016	Amend	4-1-2016
409-062-0020	4-22-2016	Adopt(T)	6-1-2016	410-122-0475	3-1-2016	Amend	4-1-2016

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410-122-0480	3-1-2016	Amend	4-1-2016	410-140-0080	3-1-2016	Amend	4-1-2016
410-122-0510	3-1-2016	Amend	4-1-2016	410-140-0120	3-1-2016	Amend	4-1-2016
410-122-0525	3-1-2016	Amend	4-1-2016	410-140-0140	3-1-2016	Amend	4-1-2016
410-122-0640	3-1-2016	Amend	4-1-2016	410-140-0160	3-1-2016	Amend	4-1-2016
410-122-0678	3-1-2016	Amend	4-1-2016	410-140-0200	3-1-2016	Amend	4-1-2016
410-123-1060	7-1-2016	Amend	8-1-2016	410-140-0260	3-1-2016	Amend	4-1-2016
410-123-1220	5-10-2016	Amend(T)	6-1-2016	410-140-0280	3-1-2016	Amend	4-1-2016
410-123-1220	7-22-2016	Amend(T)	9-1-2016	410-140-0300	3-1-2016	Amend	4-1-2016
410-123-1240	12-1-2015	Amend	1-1-2016	410-141-0000	12-10-2015	Amend	1-1-2016
410-123-1240(T)	12-1-2015	Repeal	1-1-2016	410-141-0000	7-1-2016	Amend	8-1-2016
410-123-1260	1-1-2016	Amend(T)	2-1-2016	410-141-0080	12-10-2015	Amend	1-1-2016
410-123-1260	2-9-2016	Amend(T)	3-1-2016	410-141-0085	12-10-2015	Repeal	1-1-2016
410-123-1260	7-1-2016	Amend	8-1-2016	410-141-0160	12-10-2015	Amend	1-1-2016
410-123-1260	7-13-2016	Amend	8-1-2016	410-141-0220	12-10-2015	Amend	1-1-2016
410-123-1260(T)	7-1-2016	Repeal	8-1-2016	410-141-0320	12-10-2015	Amend	1-1-2016
410-123-1510	1-1-2016	Adopt(T)	2-1-2016	410-141-0340	12-10-2015	Amend	1-1-2016
410-123-1510	6-28-2016	Adopt	8-1-2016	410-141-0410	12-10-2015	Repeal	1-1-2016
410-123-1510(T)	6-28-2016	Repeal	8-1-2016	410-141-0420	12-10-2015	Amend	1-1-2016
410-125-0080	7-1-2016	Amend	8-1-2016	410-141-0420	7-1-2016	Repeal	8-1-2016
410-125-0141	7-1-2016	Amend	8-1-2016	410-141-0520	1-1-2016	Amend(T)	2-1-2016
410-125-0400	7-1-2016	Amend	8-1-2016	410-141-0520	3-1-2016	Amend	4-1-2016
410-129-0020	8-1-2016	Amend	9-1-2016	410-141-0520	7-1-2016	Amend(T)	8-1-2016
410-129-0040	8-1-2016	Amend	9-1-2016	410-141-0520(T)	3-1-2016	Repeal	4-1-2016
410-129-0060	8-1-2016	Amend	9-1-2016	410-141-0660	12-10-2015	Repeal	1-1-2016
410-129-0065	8-1-2016	Amend	9-1-2016	410-141-0680	12-10-2015	Repeal	1-1-2016
410-129-0070	8-1-2016	Amend	9-1-2016	410-141-0700	12-10-2015	Repeal	1-1-2016
410-129-0080	8-1-2016	Amend	9-1-2016	410-141-0720	12-10-2015	Repeal	1-1-2016
410-129-0100	8-1-2016	Amend	9-1-2016	410-141-0740	12-10-2015	Repeal	1-1-2016
410-129-0180	8-1-2016	Amend	9-1-2016	410-141-0760	12-10-2015	Repeal	1-1-2016
410-129-0220	8-1-2016	Amend	9-1-2016	410-141-0780	12-10-2015	Repeal	1-1-2016
410-129-0260	8-1-2016	Amend	9-1-2016	410-141-0800	12-10-2015	Repeal	1-1-2016
410-130-0200	12-1-2015	Amend(T)	1-1-2016	410-141-0820	12-10-2015	Repeal	1-1-2016
410-130-0200	1-1-2016	Amend	2-1-2016	410-141-0840	12-10-2015	Repeal	1-1-2016
410-130-0200(T)	1-1-2016	Repeal	2-1-2016	410-141-0860	12-10-2015	Amend	1-1-2016
410-130-0220	3-4-2016	Amend(T)	4-1-2016	410-141-3015	7-6-2016	Amend(T)	8-1-2016
410-130-0220	5-1-2016	Amend	6-1-2016	410-141-3040	1-7-2016	Adopt	2-1-2016
410-130-0220(T)	5-1-2016	Repeal	6-1-2016	410-141-3040(T)	1-7-2016	Repeal	2-1-2016
410-131-0040	8-1-2016	Amend	9-1-2016	410-141-3060	1-1-2016	Amend(T)	2-1-2016
410-131-0080	8-1-2016	Amend	9-1-2016	410-141-3060	6-28-2016	Amend	8-1-2016
410-131-0100	8-1-2016	Amend	9-1-2016	410-141-3060(T)	6-28-2016	Repeal	8-1-2016
410-131-0120	8-1-2016	Amend	9-1-2016	410-141-3070	7-1-2016	Amend	8-1-2016
410-131-0160	8-1-2016	Amend	9-1-2016	410-141-3080	12-10-2015	Amend	1-1-2016
410-133-0000	7-1-2016	Amend	8-1-2016	410-141-3080	1-1-2016	Amend(T)	2-1-2016
410-133-0040	7-1-2016	Amend	8-1-2016	410-141-3080	6-28-2016	Amend	8-1-2016
410-133-0060	7-1-2016	Amend	8-1-2016	410-141-3080(T)	6-28-2016	Repeal	8-1-2016
410-133-0080	7-1-2016	Amend	8-1-2016	410-141-3110	7-1-2016	Adopt	8-1-2016
410-133-0100	7-1-2016	Amend	8-1-2016	410-141-3145	7-6-2016	Amend(T)	8-1-2016
410-133-0120	7-1-2016	Amend	8-1-2016	410-141-3150	1-1-2016	Adopt	2-1-2016
410-133-0140	7-1-2016	Amend	8-1-2016	410-141-3150(T)	1-1-2016	Repeal	2-1-2016
410-133-0200	7-1-2016	Amend	8-1-2016	410-141-3260	7-6-2016	Amend(T)	8-1-2016
410-133-0300	7-1-2016	Amend	8-1-2016	410-141-3262	7-1-2016	Amend	8-1-2016
410-133-0320	7-1-2016	Amend	8-1-2016	410-141-3267	12-27-2015	Adopt	2-1-2016
410-136-3040	1-1-2016	Amend	2-1-2016	410-141-3267(T)	12-27-2015	Repeal	2-1-2016
410-140-0020	3-1-2016	Amend	4-1-2016	410-141-3300	7-6-2016	Amend(T)	8-1-2016
410-140-0040	3-1-2016	Amend	4-1-2016	410-141-3345	1-1-2016	Amend(T)	2-1-2016
410-140-0050	3-1-2016	Amend	4-1-2016	410-141-3345	3-1-2016	Amend	3-1-2016

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410-141-3420	7-1-2016	Amend	8-1-2016	410-200-0120	6-3-2016	Amend	7-1-2016
410-141-3440	1-1-2016	Amend	2-1-2016	410-200-0120(T)	6-3-2016	Repeal	7-1-2016
410-165-0000	5-13-2016	Amend(T)	6-1-2016	410-200-0125	12-22-2015	Amend(T)	2-1-2016
410-165-0000	8-1-2016	Amend	9-1-2016	410-200-0125	6-3-2016	Amend	7-1-2016
410-165-0000(T)	8-1-2016	Repeal	9-1-2016	410-200-0125(T)	6-3-2016	Repeal	7-1-2016
410-165-0020	5-13-2016	Amend(T)	6-1-2016	410-200-0130	12-22-2015	Amend(T)	2-1-2016
410-165-0020	8-1-2016	Amend	9-1-2016	410-200-0130	6-3-2016	Amend	7-1-2016
410-165-0020(T)	8-1-2016	Repeal	9-1-2016	410-200-0130(T)	6-3-2016	Repeal	7-1-2016
410-165-0040	5-13-2016	Amend(T)	6-1-2016	410-200-0135	12-22-2015	Amend(T)	2-1-2016
410-165-0040	8-1-2016	Amend	9-1-2016	410-200-0135	6-3-2016	Amend	7-1-2016
410-165-0040(T)	8-1-2016	Repeal	9-1-2016	410-200-0135(T)	6-3-2016	Repeal	7-1-2016
410-165-0060	5-13-2016	Amend(T)	6-1-2016	410-200-0140	12-22-2015	Amend(T)	2-1-2016
410-165-0060	8-1-2016	Amend	9-1-2016	410-200-0140	6-3-2016	Amend	7-1-2016
410-165-0060(T)	8-1-2016	Repeal	9-1-2016	410-200-0140(T)	6-3-2016	Repeal	7-1-2016
410-165-0080	5-13-2016	Amend(T)	6-1-2016	410-200-0200	12-22-2015	Amend(T)	2-1-2016
410-165-0080	8-1-2016	Amend	9-1-2016	410-200-0200	6-3-2016	Amend	7-1-2016
410-165-0080(T)	8-1-2016	Repeal	9-1-2016	410-200-0200(T)	6-3-2016	Repeal	7-1-2016
410-165-0100	5-13-2016	Amend(T)	6-1-2016	410-200-0215	12-22-2015	Amend(T)	2-1-2016
410-165-0100	8-1-2016	Amend	9-1-2016	410-200-0215	6-3-2016	Amend	7-1-2016
410-165-0100(T)	8-1-2016	Repeal	9-1-2016	410-200-0215(T)	6-3-2016	Repeal	7-1-2016
410-165-0120	5-13-2016	Amend(T)	6-1-2016	410-200-0230	12-22-2015	Amend(T)	2-1-2016
410-165-0120	8-1-2016	Amend	9-1-2016	410-200-0230	6-3-2016	Amend	7-1-2016
410-165-0120(T)	8-1-2016	Repeal	9-1-2016	410-200-0230(T)	6-3-2016	Repeal	7-1-2016
410-165-0140	5-13-2016	Amend(T)	6-1-2016	410-200-0235	12-22-2015	Amend(T)	2-1-2016
410-165-0140	8-1-2016	Amend	9-1-2016	410-200-0235	6-3-2016	Amend	7-1-2016
410-165-0140(T)	8-1-2016	Repeal	9-1-2016	410-200-0235(T)	6-3-2016	Repeal	7-1-2016
410-170-0110	2-7-2016	Amend(T)	3-1-2016	410-200-0240	12-22-2015	Amend(T)	2-1-2016
410-170-0110	2-23-2016	Amend	4-1-2016	410-200-0240	6-3-2016	Amend	7-1-2016
410-170-0110	6-3-2016	Amend(T)	7-1-2016	410-200-0240(T)	6-3-2016	Repeal	7-1-2016
410-170-0110(T)	2-23-2016	Repeal	4-1-2016	410-200-0310	12-22-2015	Amend(T)	2-1-2016
410-172-0660	4-15-2016	Amend(T)	5-1-2016	410-200-0310	6-3-2016	Amend	7-1-2016
410-172-0660	8-3-2016	Amend(T)	9-1-2016	410-200-0310(T)	6-3-2016	Repeal	7-1-2016
410-172-0670	8-3-2016	Amend(T)	9-1-2016	410-200-0315	3-1-2016	Amend(T)	4-1-2016
410-172-0700	8-3-2016	Amend(T)	9-1-2016	410-200-0315	5-18-2016	Amend	7-1-2016
410-172-0710	8-3-2016	Amend(T)	9-1-2016	410-200-0315(T)	5-18-2016	Repeal	7-1-2016
410-172-0740	8-3-2016	Suspend	9-1-2016	410-200-0407	12-18-2015	Adopt(T)	2-1-2016
410-172-0750	8-3-2016	Suspend	9-1-2016	410-200-0407	6-2-2016	Adopt	7-1-2016
410-200-0015	12-22-2015	Amend(T)	2-1-2016	410-200-0407(T)	6-2-2016	Repeal	7-1-2016
410-200-0015	6-3-2016	Amend	7-1-2016	410-200-0415	12-22-2015	Amend(T)	2-1-2016
410-200-0015(T)	6-3-2016	Repeal	7-1-2016	410-200-0415	6-3-2016	Amend	7-1-2016
410-200-0100	12-22-2015	Amend(T)	2-1-2016	410-200-0415(T)	6-3-2016	Repeal	7-1-2016
410-200-0100	6-3-2016	Amend	7-1-2016	410-200-0425	12-22-2015	Amend(T)	2-1-2016
410-200-0100(T)	6-3-2016	Repeal	7-1-2016	410-200-0425	6-3-2016	Amend	7-1-2016
410-200-0105	12-22-2015	Amend(T)	2-1-2016	410-200-0425(T)	6-3-2016	Repeal	7-1-2016
410-200-0105	6-3-2016	Amend	7-1-2016	410-200-0440	12-22-2015	Amend(T)	2-1-2016
410-200-0105(T)	6-3-2016	Repeal	7-1-2016	410-200-0440	6-3-2016	Amend	7-1-2016
410-200-0110	12-22-2015	Amend(T)	2-1-2016	410-200-0440(T)	6-3-2016	Repeal	7-1-2016
410-200-0110	6-3-2016	Amend	7-1-2016	410-200-0500	12-22-2015	Suspend	2-1-2016
410-200-0110(T)	6-3-2016	Repeal	7-1-2016	410-200-0500	6-3-2016	Repeal	7-1-2016
410-200-0111	12-22-2015	Amend(T)	2-1-2016	410-200-0505	12-22-2015	Amend(T)	2-1-2016
410-200-0111	6-3-2016	Amend	7-1-2016	410-200-0505	6-3-2016	Amend	7-1-2016
410-200-0111(T)	6-3-2016	Repeal	7-1-2016	410-200-0505(T)	6-3-2016	Repeal	7-1-2016
410-200-0115	12-22-2015	Amend(T)	2-1-2016	410-200-0510	12-22-2015	Amend(T)	2-1-2016
410-200-0115	6-3-2016	Amend	7-1-2016	410-200-0510	6-3-2016	Amend	7-1-2016
410-200-0115(T)	6-3-2016	Repeal	7-1-2016	410-200-0510(T)	6-3-2016	Repeal	7-1-2016

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411-004-0000	1-1-2016	Adopt	1-1-2016	411-050-0632	1-1-2016	Amend(T)	2-1-2016
411-004-0010	1-1-2016	Adopt	1-1-2016	411-050-0632	6-28-2016	Amend	8-1-2016
411-004-0020	1-1-2016	Adopt	1-1-2016	411-050-0632(T)	6-28-2016	Repeal	8-1-2016
411-004-0020	1-1-2016	Amend	2-1-2016	411-050-0635	1-1-2016	Amend(T)	2-1-2016
411-004-0030	1-1-2016	Adopt	1-1-2016	411-050-0635	6-28-2016	Amend	8-1-2016
411-004-0040	1-1-2016	Adopt	1-1-2016	411-050-0635(T)	6-28-2016	Repeal	8-1-2016
411-004-0040	7-1-2016	Amend(T)	8-1-2016	411-050-0640	6-28-2016	Amend	8-1-2016
411-020-0002	1-1-2016	Amend(T)	2-1-2016	411-050-0642	1-1-2016	Amend(T)	2-1-2016
411-020-0002	5-6-2016	Amend	6-1-2016	411-050-0642	6-28-2016	Amend	8-1-2016
411-020-0002(T)	5-6-2016	Repeal	6-1-2016	411-050-0642(T)	6-28-2016	Repeal	8-1-2016
411-027-0005	3-18-2016	Amend	4-1-2016	411-050-0645	1-1-2016	Amend(T)	2-1-2016
411-027-0005(T)	3-18-2016	Repeal	4-1-2016	411-050-0645	6-28-2016	Amend	8-1-2016
411-027-0170	3-18-2016	Adopt	4-1-2016	411-050-0645(T)	6-28-2016	Repeal	8-1-2016
411-027-0170	7-1-2016	Amend(T)	8-1-2016	411-050-0650	1-1-2016	Amend(T)	2-1-2016
411-027-0170(T)	3-18-2016	Repeal	4-1-2016	411-050-0650	6-28-2016	Amend	8-1-2016
411-030-0020	3-18-2016	Amend	4-1-2016	411-050-0650(T)	6-28-2016	Repeal	8-1-2016
411-030-0020(T)	3-18-2016	Repeal	4-1-2016	411-050-0655	1-1-2016	Amend(T)	2-1-2016
411-030-0068	3-18-2016	Adopt	4-1-2016	411-050-0655	6-28-2016	Amend	8-1-2016
411-030-0068	7-1-2016	Amend(T)	8-1-2016	411-050-0655(T)	6-28-2016	Repeal	8-1-2016
411-030-0068(T)	3-18-2016	Repeal	4-1-2016	411-050-0660	6-28-2016	Amend	8-1-2016
411-030-0070	3-18-2016	Amend	4-1-2016	411-050-0662	1-1-2016	Amend(T)	2-1-2016
411-030-0070	7-1-2016	Amend(T)	8-1-2016	411-050-0662	6-28-2016	Amend	8-1-2016
411-030-0070(T)	3-18-2016	Repeal	4-1-2016	411-050-0662(T)	6-28-2016	Repeal	8-1-2016
411-030-0080	3-18-2016	Amend	4-1-2016	411-050-0665	1-1-2016	Amend(T)	2-1-2016
411-030-0080(T)	3-18-2016	Repeal	4-1-2016	411-050-0665	6-28-2016	Amend	8-1-2016
411-030-0100	3-18-2016	Amend	4-1-2016	411-050-0670	1-1-2016	Amend(T)	2-1-2016
411-030-0100(T)	3-18-2016	Repeal	4-1-2016	411-050-0670	6-28-2016	Amend	8-1-2016
411-031-0020	3-2-2016	Amend(T)	4-1-2016	411-050-0670(T)	6-28-2016	Repeal	8-1-2016
411-031-0020	3-23-2016	Amend(T)	5-1-2016	411-050-0685	1-1-2016	Amend(T)	2-1-2016
411-031-0020	8-28-2016	Amend	10-1-2016	411-050-0685	6-28-2016	Amend	8-1-2016
411-031-0020(T)	3-23-2016	Suspend	5-1-2016	411-050-0685(T)	6-28-2016	Repeal	8-1-2016
411-031-0020(T)	8-28-2016	Repeal	10-1-2016	411-054-0000	1-1-2016	Amend(T)	2-1-2016
411-031-0030	8-28-2016	Amend	10-1-2016	411-054-0000	6-28-2016	Amend	8-1-2016
411-031-0040	3-2-2016	Amend(T)	4-1-2016	411-054-0000(T)	6-28-2016	Repeal	8-1-2016
411-031-0040	3-23-2016	Amend(T)	5-1-2016	411-054-0005	1-1-2016	Amend(T)	2-1-2016
411-031-0040	8-28-2016	Amend	10-1-2016	411-054-0005	6-28-2016	Amend	8-1-2016
411-031-0040(T)	3-23-2016	Suspend	5-1-2016	411-054-0005(T)	6-28-2016	Repeal	8-1-2016
411-031-0040(T)	8-28-2016	Repeal	10-1-2016	411-054-0012	1-1-2016	Amend(T)	2-1-2016
411-031-0050	3-2-2016	Amend(T)	4-1-2016	411-054-0012	6-28-2016	Amend	8-1-2016
411-031-0050	3-23-2016	Amend(T)	5-1-2016	411-054-0012(T)	6-28-2016	Repeal	8-1-2016
411-031-0050	8-28-2016	Amend	10-1-2016	411-054-0025	1-1-2016	Amend(T)	2-1-2016
411-031-0050(T)	3-23-2016	Suspend	5-1-2016	411-054-0025	6-28-2016	Amend	8-1-2016
411-031-0050(T)	8-28-2016	Repeal	10-1-2016	411-054-0025(T)	6-28-2016	Repeal	8-1-2016
411-032-0050	12-27-2015	Amend	1-1-2016	411-054-0027	1-1-2016	Amend(T)	2-1-2016
411-032-0050(T)	12-27-2015	Repeal	1-1-2016	411-054-0027	6-28-2016	Amend	8-1-2016
411-050-0602	1-1-2016	Amend(T)	2-1-2016	411-054-0027(T)	6-28-2016	Repeal	8-1-2016
411-050-0602	6-28-2016	Amend	8-1-2016	411-054-0034	6-28-2016	Amend	8-1-2016
411-050-0602(T)	6-28-2016	Repeal	8-1-2016	411-054-0036	1-1-2016	Amend(T)	2-1-2016
411-050-0610	6-28-2016	Amend	8-1-2016	411-054-0036	6-28-2016	Amend	8-1-2016
411-050-0615	1-1-2016	Amend(T)	2-1-2016	411-054-0036(T)	6-28-2016	Repeal	8-1-2016
411-050-0615	6-28-2016	Amend	8-1-2016	411-054-0038	1-1-2016	Adopt(T)	2-1-2016
411-050-0615(T)	6-28-2016	Repeal	8-1-2016	411-054-0038	6-28-2016	Adopt	8-1-2016
411-050-0625	6-28-2016	Amend	8-1-2016	411-054-0038(T)	6-28-2016	Repeal	8-1-2016
411-050-0630	1-1-2016	Amend(T)	2-1-2016	411-054-0065	6-28-2016	Amend	8-1-2016
411-050-0630	6-28-2016	Amend	8-1-2016	411-054-0080	6-28-2016	Amend	8-1-2016
411-050-0630(T)	6-28-2016	Repeal	8-1-2016	411-054-0120	6-28-2016	Amend	8-1-2016

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411-070-0442	4-1-2016	Amend(T)	5-1-2016	411-320-0040	1-1-2016	Amend(T)	2-1-2016
411-070-0470	4-1-2016	Amend	4-1-2016	411-320-0040	6-29-2016	Amend	8-1-2016
411-089-0030	4-1-2016	Amend	4-1-2016	411-320-0050	6-29-2016	Amend	8-1-2016
411-300-0100	6-29-2016	Amend	8-1-2016	411-320-0060	1-1-2016	Amend(T)	2-1-2016
411-300-0110	1-1-2016	Amend(T)	2-1-2016	411-320-0060	6-29-2016	Repeal	8-1-2016
411-300-0110	6-29-2016	Amend	8-1-2016	411-320-0070	6-29-2016	Amend	8-1-2016
411-300-0120	6-29-2016	Amend	8-1-2016	411-320-0080	1-1-2016	Amend(T)	2-1-2016
411-300-0130	1-1-2016	Amend(T)	2-1-2016	411-320-0080	6-29-2016	Amend	8-1-2016
411-300-0130	6-29-2016	Repeal	8-1-2016	411-320-0090	1-1-2016	Amend(T)	2-1-2016
411-300-0150	1-1-2016	Amend(T)	2-1-2016	411-320-0090	6-29-2016	Repeal	8-1-2016
411-300-0150	6-29-2016	Amend	8-1-2016	411-320-0100	6-29-2016	Repeal	8-1-2016
411-300-0155	1-1-2016	Amend(T)	2-1-2016	411-320-0110	1-1-2016	Amend(T)	2-1-2016
411-300-0155	6-29-2016	Repeal	8-1-2016	411-320-0110	6-29-2016	Repeal	8-1-2016
411-300-0165	6-29-2016	Repeal	8-1-2016	411-320-0120	1-1-2016	Amend(T)	2-1-2016
411-300-0170	1-1-2016	Amend(T)	2-1-2016	411-320-0120	6-29-2016	Repeal	8-1-2016
411-300-0170	6-29-2016	Repeal	8-1-2016	411-320-0130	6-29-2016	Repeal	8-1-2016
411-300-0175	6-29-2016	Repeal	8-1-2016	411-320-0150	6-29-2016	Repeal	8-1-2016
411-300-0190	6-29-2016	Amend	8-1-2016	411-320-0160	6-29-2016	Repeal	8-1-2016
411-300-0200	6-29-2016	Repeal	8-1-2016	411-320-0170	6-29-2016	Amend	8-1-2016
411-300-0205	6-29-2016	Amend	8-1-2016	411-320-0180	6-29-2016	Amend	8-1-2016
411-308-0010	6-29-2016	Repeal	8-1-2016	411-323-0010	1-1-2016	Amend(T)	2-1-2016
411-308-0020	1-1-2016	Amend(T)	2-1-2016	411-323-0010	6-29-2016	Amend	8-1-2016
411-308-0020	6-29-2016	Repeal	8-1-2016	411-323-0020	1-1-2016	Amend(T)	2-1-2016
411-308-0030	6-29-2016	Repeal	8-1-2016	411-323-0020	6-29-2016	Amend	8-1-2016
411-308-0040	6-29-2016	Repeal	8-1-2016	411-323-0030	1-1-2016	Amend(T)	2-1-2016
411-308-0050	1-1-2016	Amend(T)	2-1-2016	411-323-0030	6-29-2016	Amend	8-1-2016
411-308-0050	6-29-2016	Repeal	8-1-2016	411-323-0035	1-1-2016	Amend(T)	2-1-2016
411-308-0060	6-29-2016	Repeal	8-1-2016	411-323-0035	6-29-2016	Amend	8-1-2016
411-308-0070	6-29-2016	Repeal	8-1-2016	411-323-0050	6-29-2016	Amend	8-1-2016
411-308-0080	1-1-2016	Amend(T)	2-1-2016	411-323-0060	1-1-2016	Amend(T)	2-1-2016
411-308-0080	6-29-2016	Repeal	8-1-2016	411-323-0060	6-29-2016	Amend	8-1-2016
411-308-0090	6-29-2016	Repeal	8-1-2016	411-323-0065	6-29-2016	Adopt	8-1-2016
411-308-0100	1-1-2016	Amend(T)	2-1-2016	411-323-0070	6-29-2016	Amend	8-1-2016
411-308-0100	6-29-2016	Repeal	8-1-2016	411-325-0010	1-1-2016	Amend(T)	2-1-2016
411-308-0110	1-1-2016	Amend(T)	2-1-2016	411-325-0010	6-29-2016	Amend	8-1-2016
411-308-0110	6-29-2016	Repeal	8-1-2016	411-325-0020	1-1-2016	Amend(T)	2-1-2016
411-308-0120	1-1-2016	Amend(T)	2-1-2016	411-325-0020	6-29-2016	Amend	8-1-2016
411-308-0120	6-29-2016	Repeal	8-1-2016	411-325-0020	9-1-2016	Amend(T)	10-1-2016
411-308-0130	1-1-2016	Amend(T)	2-1-2016	411-325-0025	6-29-2016	Amend	8-1-2016
411-308-0130	6-29-2016	Repeal	8-1-2016	411-325-0030	6-29-2016	Amend	8-1-2016
411-308-0135	6-29-2016	Repeal	8-1-2016	411-325-0040	1-1-2016	Amend(T)	2-1-2016
411-308-0140	6-29-2016	Repeal	8-1-2016	411-325-0040	6-29-2016	Amend	8-1-2016
411-308-0150	6-29-2016	Repeal	8-1-2016	411-325-0110	6-29-2016	Amend	8-1-2016
411-317-0000	1-1-2016	Amend(T)	2-1-2016	411-325-0130	1-1-2016	Amend(T)	2-1-2016
411-317-0000	6-29-2016	Amend	8-1-2016	411-325-0130	6-29-2016	Amend	8-1-2016
411-317-0000	9-1-2016	Amend(T)	10-1-2016	411-325-0140	1-1-2016	Amend(T)	2-1-2016
411-318-0000	1-1-2016	Amend(T)	2-1-2016	411-325-0140	6-29-2016	Amend	8-1-2016
411-318-0000	6-29-2016	Amend	8-1-2016	411-325-0150	1-1-2016	Amend(T)	2-1-2016
411-318-0005	1-1-2016	Amend(T)	2-1-2016	411-325-0150	6-29-2016	Amend	8-1-2016
411-318-0005	6-29-2016	Amend	8-1-2016	411-325-0170	1-1-2016	Amend(T)	2-1-2016
411-318-0010	1-1-2016	Amend(T)	2-1-2016	411-325-0170	6-29-2016	Amend	8-1-2016
411-318-0010	6-29-2016	Amend	8-1-2016	411-325-0220	1-1-2016	Amend(T)	2-1-2016
411-320-0010	6-29-2016	Amend	8-1-2016	411-325-0220	6-29-2016	Amend	8-1-2016
411-320-0020	1-1-2016	Amend(T)	2-1-2016	411-325-0270	6-29-2016	Amend	8-1-2016
411-320-0020	6-29-2016	Amend	8-1-2016	411-325-0280	6-29-2016	Amend	8-1-2016

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411-325-0290	6-29-2016	Amend	8-1-2016	411-340-0020	1-1-2016	Amend(T)	2-1-2016
411-325-0300	1-1-2016	Amend(T)	2-1-2016	411-340-0020	6-29-2016	Amend	8-1-2016
411-325-0300	6-29-2016	Amend	8-1-2016	411-340-0030	1-1-2016	Amend(T)	2-1-2016
411-325-0390	1-1-2016	Amend(T)	2-1-2016	411-340-0030	6-29-2016	Amend	8-1-2016
411-325-0390	6-29-2016	Amend	8-1-2016	411-340-0040	6-29-2016	Amend	8-1-2016
411-325-0410	6-29-2016	Amend	8-1-2016	411-340-0050	6-29-2016	Amend	8-1-2016
411-325-0420	6-29-2016	Repeal	8-1-2016	411-340-0060	6-29-2016	Amend	8-1-2016
411-325-0430	1-1-2016	Amend(T)	2-1-2016	411-340-0070	6-29-2016	Amend	8-1-2016
411-325-0430	6-29-2016	Amend	8-1-2016	411-340-0080	6-29-2016	Amend	8-1-2016
411-325-0460	6-29-2016	Amend	8-1-2016	411-340-0090	6-29-2016	Amend	8-1-2016
411-328-0550	1-1-2016	Amend(T)	2-1-2016	411-340-0100	6-29-2016	Amend	8-1-2016
411-328-0550	6-29-2016	Amend	8-1-2016	411-340-0110	6-29-2016	Amend	8-1-2016
411-328-0560	1-1-2016	Amend(T)	2-1-2016	411-340-0120	1-1-2016	Amend(T)	2-1-2016
411-328-0560	6-29-2016	Amend	8-1-2016	411-340-0120	6-29-2016	Amend	8-1-2016
411-328-0560	9-1-2016	Amend(T)	10-1-2016	411-340-0125	6-29-2016	Repeal	8-1-2016
411-328-0625	1-1-2016	Adopt(T)	2-1-2016	411-340-0130	1-1-2016	Amend(T)	2-1-2016
411-328-0625	6-29-2016	Adopt	8-1-2016	411-340-0130	6-29-2016	Repeal	8-1-2016
411-328-0630	1-1-2016	Amend(T)	2-1-2016	411-340-0135	6-29-2016	Repeal	8-1-2016
411-328-0640	6-29-2016	Amend	8-1-2016	411-340-0140	1-1-2016	Amend(T)	2-1-2016
411-328-0650	1-1-2016	Amend(T)	2-1-2016	411-340-0140	6-29-2016	Repeal	8-1-2016
411-328-0650	6-29-2016	Amend	8-1-2016	411-340-0150	1-1-2016	Amend(T)	2-1-2016
411-328-0700	6-29-2016	Amend	8-1-2016	411-340-0150	6-29-2016	Amend	8-1-2016
411-328-0720	1-1-2016	Amend(T)	2-1-2016	411-340-0160	1-1-2016	Amend(T)	2-1-2016
411-328-0720	6-29-2016	Amend	8-1-2016	411-340-0160	6-29-2016	Repeal	8-1-2016
411-328-0750	1-1-2016	Amend(T)	2-1-2016	411-340-0170	1-1-2016	Amend(T)	2-1-2016
411-328-0750	6-29-2016	Amend	8-1-2016	411-340-0170	6-29-2016	Repeal	8-1-2016
411-328-0760	6-29-2016	Amend	8-1-2016	411-340-0180	6-29-2016	Repeal	8-1-2016
411-328-0770	6-29-2016	Amend	8-1-2016	411-345-0010	1-1-2016	Amend(T)	2-1-2016
411-328-0780	6-29-2016	Amend	8-1-2016	411-345-0010	6-29-2016	Amend	8-1-2016
411-328-0790	1-1-2016	Amend(T)	2-1-2016	411-345-0020	1-1-2016	Amend(T)	2-1-2016
411-328-0790	6-29-2016	Amend	8-1-2016	411-345-0020	6-29-2016	Amend	8-1-2016
411-330-0010	6-29-2016	Repeal	8-1-2016	411-345-0020	9-1-2016	Amend(T)	10-1-2016
411-330-0020	1-1-2016	Amend(T)	2-1-2016	411-345-0025	1-1-2016	Amend(T)	2-1-2016
411-330-0020	6-29-2016	Repeal	8-1-2016	411-345-0025	6-29-2016	Amend	8-1-2016
411-330-0030	6-29-2016	Repeal	8-1-2016	411-345-0027	6-29-2016	Amend	8-1-2016
411-330-0040	6-29-2016	Repeal	8-1-2016	411-345-0030	1-1-2016	Amend(T)	2-1-2016
411-330-0050	1-1-2016	Amend(T)	2-1-2016	411-345-0030	6-29-2016	Amend	8-1-2016
411-330-0050	6-29-2016	Repeal	8-1-2016	411-345-0085	1-1-2016	Amend(T)	2-1-2016
411-330-0060	1-1-2016	Amend(T)	2-1-2016	411-345-0085	6-29-2016	Amend	8-1-2016
411-330-0060	6-29-2016	Repeal	8-1-2016	411-345-0095	6-29-2016	Amend	8-1-2016
411-330-0065	6-29-2016	Repeal	8-1-2016	411-345-0110	1-1-2016	Amend(T)	2-1-2016
411-330-0070	1-1-2016	Amend(T)	2-1-2016	411-345-0110	6-29-2016	Amend	8-1-2016
411-330-0070	6-29-2016	Repeal	8-1-2016	411-345-0130	6-29-2016	Amend	8-1-2016
411-330-0080	1-1-2016	Amend(T)	2-1-2016	411-345-0140	6-29-2016	Amend	8-1-2016
411-330-0080	6-29-2016	Repeal	8-1-2016	411-345-0160	1-1-2016	Amend(T)	2-1-2016
411-330-0090	6-29-2016	Repeal	8-1-2016	411-345-0160	6-29-2016	Amend	8-1-2016
411-330-0100	6-29-2016	Repeal	8-1-2016	411-345-0170	6-29-2016	Amend	8-1-2016
411-330-0110	1-1-2016	Amend(T)	2-1-2016	411-345-0180	6-29-2016	Amend	8-1-2016
411-330-0110	6-29-2016	Repeal	8-1-2016	411-345-0190	6-29-2016	Amend	8-1-2016
411-330-0120	6-29-2016	Repeal	8-1-2016	411-345-0200	6-29-2016	Amend	8-1-2016
411-330-0130	6-29-2016	Repeal	8-1-2016	411-345-0230	6-29-2016	Amend	8-1-2016
411-330-0140	6-29-2016	Repeal	8-1-2016	411-345-0240	6-29-2016	Amend	8-1-2016
411-330-0150	6-29-2016	Repeal	8-1-2016	411-345-0250	6-29-2016	Amend	8-1-2016
411-330-0160	6-29-2016	Repeal	8-1-2016	411-345-0260	6-29-2016	Amend	8-1-2016
411-330-0170	6-29-2016	Repeal	8-1-2016	411-345-0270	6-29-2016	Amend	8-1-2016
411-340-0010	6-29-2016	Amend	8-1-2016	411-346-0100	2-23-2016	Amend(T)	4-1-2016

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411-346-0100(T)	8-20-2016	Repeal	10-1-2016	411-355-0060	12-28-2015	Repeal	1-1-2016
411-346-0110	2-23-2016	Amend(T)	4-1-2016	411-355-0070	12-28-2015	Repeal	1-1-2016
411-346-0110	8-20-2016	Amend	10-1-2016	411-355-0075	12-28-2015	Adopt	1-1-2016
411-346-0110(T)	8-20-2016	Repeal	10-1-2016	411-355-0075	6-29-2016	Repeal	8-1-2016
411-346-0170	2-23-2016	Amend(T)	4-1-2016	411-355-0075(T)	12-28-2015	Repeal	1-1-2016
411-346-0170	8-20-2016	Amend	10-1-2016	411-355-0080	12-28-2015	Amend	1-1-2016
411-346-0170(T)	8-20-2016	Repeal	10-1-2016	411-355-0080	6-29-2016	Repeal	8-1-2016
411-346-0190	2-23-2016	Amend(T)	4-1-2016	411-355-0080(T)	12-28-2015	Repeal	1-1-2016
411-346-0190	8-20-2016	Amend	10-1-2016	411-355-0090	12-28-2015	Amend	1-1-2016
411-346-0190(T)	8-20-2016	Repeal	10-1-2016	411-355-0090	6-29-2016	Repeal	8-1-2016
411-346-0200	2-23-2016	Amend(T)	4-1-2016	411-355-0090(T)	12-28-2015	Repeal	1-1-2016
411-346-0200	8-20-2016	Amend	10-1-2016	411-355-0100	12-28-2015	Amend	1-1-2016
411-346-0200(T)	8-20-2016	Repeal	10-1-2016	411-355-0100	6-29-2016	Repeal	8-1-2016
411-350-0010	6-29-2016	Repeal	8-1-2016	411-355-0100(T)	12-28-2015	Repeal	1-1-2016
411-350-0020	1-1-2016	Amend(T)	2-1-2016	411-355-0110	12-28-2015	Repeal	1-1-2016
411-350-0020	6-29-2016	Repeal	8-1-2016	411-355-0120	12-28-2015	Repeal	1-1-2016
411-350-0030	1-1-2016	Amend(T)	2-1-2016	411-360-0010	1-1-2016	Amend(T)	2-1-2016
411-350-0030	6-29-2016	Repeal	8-1-2016	411-360-0010	6-29-2016	Amend	8-1-2016
411-350-0040	1-1-2016	Amend(T)	2-1-2016	411-360-0020	1-1-2016	Amend(T)	2-1-2016
411-350-0040	6-29-2016	Repeal	8-1-2016	411-360-0020	6-29-2016	Amend	8-1-2016
411-350-0050	1-1-2016	Amend(T)	2-1-2016	411-360-0020	9-1-2016	Amend(T)	10-1-2016
411-350-0050	6-29-2016	Repeal	8-1-2016	411-360-0050	1-1-2016	Amend(T)	2-1-2016
411-350-0055	1-1-2016	Adopt(T)	2-1-2016	411-360-0050	6-29-2016	Amend	8-1-2016
411-350-0075	6-29-2016	Repeal	8-1-2016	411-360-0055	1-1-2016	Amend(T)	2-1-2016
411-350-0080	1-1-2016	Amend(T)	2-1-2016	411-360-0055	6-29-2016	Amend	8-1-2016
411-350-0080	6-29-2016	Repeal	8-1-2016	411-360-0060	1-1-2016	Amend(T)	2-1-2016
411-350-0085	6-29-2016	Repeal	8-1-2016	411-360-0060	6-29-2016	Amend	8-1-2016
411-350-0100	1-1-2016	Amend(T)	2-1-2016	411-360-0110	6-29-2016	Amend	8-1-2016
411-350-0100	6-29-2016	Repeal	8-1-2016	411-360-0130	1-1-2016	Amend(T)	2-1-2016
411-350-0110	6-29-2016	Repeal	8-1-2016	411-360-0130	6-29-2016	Amend	8-1-2016
411-350-0115	6-29-2016	Repeal	8-1-2016	411-360-0140	1-1-2016	Amend(T)	2-1-2016
411-355-0000	12-28-2015	Amend	1-1-2016	411-360-0140	6-29-2016	Amend	8-1-2016
411-355-0000	6-29-2016	Repeal	8-1-2016	411-360-0160	6-29-2016	Amend	8-1-2016
411-355-0000(T)	12-28-2015	Repeal	1-1-2016	411-360-0170	1-1-2016	Amend(T)	2-1-2016
411-355-0010	12-28-2015	Amend	1-1-2016	411-360-0170	6-29-2016	Amend	8-1-2016
411-355-0010	1-1-2016	Amend(T)	2-1-2016	411-360-0180	6-29-2016	Amend	8-1-2016
411-355-0010	6-29-2016	Repeal	8-1-2016	411-360-0190	1-1-2016	Amend(T)	2-1-2016
411-355-0010(T)	12-28-2015	Repeal	1-1-2016	411-360-0190	6-29-2016	Amend	8-1-2016
411-355-0020	12-28-2015	Amend	1-1-2016	411-360-0200	6-29-2016	Amend	8-1-2016
411-355-0020	6-29-2016	Repeal	8-1-2016	411-360-0260	6-29-2016	Amend	8-1-2016
411-355-0020(T)	12-28-2015	Repeal	1-1-2016	411-370-0010	1-1-2016	Amend(T)	2-1-2016
411-355-0030	12-28-2015	Amend	1-1-2016	411-370-0010	6-29-2016	Amend	8-1-2016
411-355-0030	1-1-2016	Amend(T)	2-1-2016	411-370-0020	6-29-2016	Amend	8-1-2016
411-355-0030	6-29-2016	Repeal	8-1-2016	411-370-0030	6-29-2016	Amend	8-1-2016
411-355-0030(T)	12-28-2015	Repeal	1-1-2016	411-370-0040	6-29-2016	Amend	8-1-2016
411-355-0040	12-28-2015	Amend	1-1-2016	411-375-0000	6-29-2016	Amend	8-1-2016
411-355-0040	1-1-2016	Amend(T)	2-1-2016	411-375-0010	1-1-2016	Amend(T)	2-1-2016
411-355-0040	6-29-2016	Repeal	8-1-2016	411-375-0010	6-29-2016	Amend	8-1-2016
411-355-0040(T)	12-28-2015	Repeal	1-1-2016	411-375-0010	9-1-2016	Amend(T)	10-1-2016
411-355-0045	12-28-2015	Adopt	1-1-2016	411-375-0020	6-29-2016	Amend	8-1-2016
411-355-0045	6-29-2016	Repeal	8-1-2016	411-375-0020	9-1-2016	Amend(T)	10-1-2016
411-355-0045(T)	12-28-2015	Repeal	1-1-2016	411-375-0030	6-29-2016	Repeal	8-1-2016
411-355-0050	12-28-2015	Amend	1-1-2016	411-375-0035	6-29-2016	Adopt	8-1-2016
411-355-0050	1-1-2016	Amend(T)	2-1-2016	411-375-0035	9-1-2016	Amend(T)	10-1-2016
411-355-0050	6-29-2016	Repeal	8-1-2016	411-375-0040	6-29-2016	Amend	8-1-2016



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411-375-0050	1-1-2016	Amend(T)	2-1-2016	411-435-0060	6-29-2016	Adopt	8-1-2016
411-375-0050	6-29-2016	Amend	8-1-2016	411-435-0060	9-1-2016	Amend(T)	10-1-2016
411-375-0050	9-1-2016	Amend(T)	10-1-2016	411-435-0070	6-29-2016	Adopt	8-1-2016
411-375-0055	1-1-2016	Adopt(T)	2-1-2016	411-435-0070	9-1-2016	Amend(T)	10-1-2016
411-375-0055	6-29-2016	Adopt	8-1-2016	411-435-0080	6-29-2016	Adopt	8-1-2016
411-375-0055	9-1-2016	Amend(T)	10-1-2016	411-450-0010	6-29-2016	Adopt	8-1-2016
411-375-0060	6-29-2016	Am. & Ren.	8-1-2016	411-450-0020	6-29-2016	Adopt	8-1-2016
411-375-0070	1-1-2016	Amend(T)	2-1-2016	411-450-0020	9-1-2016	Amend(T)	10-1-2016
411-375-0070	6-29-2016	Amend	8-1-2016	411-450-0030	6-29-2016	Adopt	8-1-2016
411-375-0070	9-1-2016	Amend(T)	10-1-2016	411-450-0030	9-1-2016	Amend(T)	10-1-2016
411-375-0080	1-1-2016	Amend(T)	2-1-2016	411-450-0040	6-29-2016	Adopt	8-1-2016
411-375-0080	6-29-2016	Amend	8-1-2016	411-450-0050	6-29-2016	Adopt	8-1-2016
411-380-0010	1-1-2016	Adopt(T)	2-1-2016	411-450-0060	6-29-2016	Adopt	8-1-2016
411-380-0010	6-29-2016	Adopt	8-1-2016	411-450-0060	9-1-2016	Amend(T)	10-1-2016
411-380-0020	1-1-2016	Adopt(T)	2-1-2016	411-450-0060	9-15-2016	Amend(T)	10-1-2016
411-380-0020	6-29-2016	Adopt	8-1-2016	411-450-0060(T)	9-15-2016	Suspend	10-1-2016
411-380-0020	9-1-2016	Amend(T)	10-1-2016	411-450-0070	6-29-2016	Adopt	8-1-2016
411-380-0030	1-1-2016	Adopt(T)	2-1-2016	411-450-0080	6-29-2016	Adopt	8-1-2016
411-380-0030	6-29-2016	Adopt	8-1-2016	411-450-0100	6-29-2016	Adopt	8-1-2016
411-380-0030	9-1-2016	Amend(T)	10-1-2016	413-010-0000	2-1-2016	Amend	3-1-2016
411-380-0040	1-1-2016	Adopt(T)	2-1-2016	413-010-0035	2-1-2016	Amend	3-1-2016
411-380-0040	6-29-2016	Adopt	8-1-2016	413-010-0035	8-25-2016	Amend(T)	10-1-2016
411-380-0050	1-1-2016	Adopt(T)	2-1-2016	413-010-0180	5-17-2016	Amend(T)	7-1-2016
411-380-0050	6-29-2016	Adopt	8-1-2016	413-015-0100	7-1-2016	Amend(T)	8-1-2016
411-380-0060	1-1-2016	Adopt(T)	2-1-2016	413-015-0115	1-1-2016	Amend	2-1-2016
411-380-0060	6-29-2016	Adopt	8-1-2016	413-015-0115	7-1-2016	Amend(T)	8-1-2016
411-380-0060	9-1-2016	Amend(T)	10-1-2016	413-015-0115(T)	1-1-2016	Repeal	2-1-2016
411-380-0070	1-1-2016	Adopt(T)	2-1-2016	413-015-0125	7-1-2016	Amend(T)	8-1-2016
411-380-0070	6-29-2016	Adopt	8-1-2016	413-015-0205	1-1-2016	Amend	2-1-2016
411-380-0080	1-1-2016	Adopt(T)	2-1-2016	413-015-0205	7-1-2016	Amend(T)	8-1-2016
411-380-0080	6-29-2016	Adopt	8-1-2016	413-015-0210	7-1-2016	Amend(T)	8-1-2016
411-380-0090	1-1-2016	Adopt(T)	2-1-2016	413-015-0211	1-1-2016	Amend	2-1-2016
411-380-0090	6-29-2016	Adopt	8-1-2016	413-015-0211	7-1-2016	Amend(T)	8-1-2016
411-380-0090	9-1-2016	Amend(T)	10-1-2016	413-015-0211(T)	1-1-2016	Repeal	2-1-2016
411-415-0010	6-29-2016	Adopt	8-1-2016	413-015-0212	7-1-2016	Amend(T)	8-1-2016
411-415-0020	6-29-2016	Adopt	8-1-2016	413-015-0215	4-11-2016	Amend(T)	5-1-2016
411-415-0020	9-1-2016	Amend(T)	10-1-2016	413-015-0215	7-1-2016	Amend(T)	8-1-2016
411-415-0030	6-29-2016	Adopt	8-1-2016	413-015-0215(T)	7-1-2016	Suspend	8-1-2016
411-415-0040	6-29-2016	Adopt	8-1-2016	413-015-0300	7-1-2016	Amend(T)	8-1-2016
411-415-0050	6-29-2016	Adopt	8-1-2016	413-015-0409	7-1-2016	Amend(T)	8-1-2016
411-415-0060	6-29-2016	Adopt	8-1-2016	413-015-0415	1-1-2016	Amend	2-1-2016
411-415-0060	9-1-2016	Amend(T)	10-1-2016	413-015-0415	7-1-2016	Amend(T)	8-1-2016
411-415-0070	6-29-2016	Adopt	8-1-2016	413-015-0415(T)	1-1-2016	Repeal	2-1-2016
411-415-0070	9-1-2016	Amend(T)	10-1-2016	413-015-0420	7-1-2016	Amend(T)	8-1-2016
411-415-0080	6-29-2016	Adopt	8-1-2016	413-015-0440	7-1-2016	Amend(T)	8-1-2016
411-415-0090	6-29-2016	Adopt	8-1-2016	413-015-0445	7-1-2016	Amend(T)	8-1-2016
411-415-0100	6-29-2016	Adopt	8-1-2016	413-015-0450	7-1-2016	Amend(T)	8-1-2016
411-415-0110	6-29-2016	Adopt	8-1-2016	413-015-0460	1-1-2016	Amend	2-1-2016
411-415-0120	6-29-2016	Adopt	8-1-2016	413-015-0470	1-1-2016	Amend	2-1-2016
411-435-0010	6-29-2016	Adopt	8-1-2016	413-015-0470	7-1-2016	Amend(T)	8-1-2016
411-435-0020	6-29-2016	Adopt	8-1-2016	413-015-0620	7-1-2016	Adopt(T)	8-1-2016
411-435-0020	9-1-2016	Amend(T)	10-1-2016	413-015-0625	7-1-2016	Adopt(T)	8-1-2016
411-435-0030	6-29-2016	Adopt	8-1-2016	413-015-0630	7-1-2016	Adopt(T)	8-1-2016
411-435-0040	6-29-2016	Adopt	8-1-2016	413-015-0640	7-1-2016	Adopt(T)	8-1-2016
411-435-0050	6-29-2016	Adopt	8-1-2016	413-015-1000	7-1-2016	Amend(T)	8-1-2016

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413-015-1220	1-1-2016	Amend	2-1-2016	413-090-0090	7-1-2016	Amend(T)	8-1-2016
413-015-9000	1-1-2016	Amend	2-1-2016	413-090-0400	2-1-2016	Amend	3-1-2016
413-015-9000(T)	1-1-2016	Repeal	2-1-2016	413-090-0410	2-1-2016	Repeal	3-1-2016
413-015-9030	7-1-2016	Amend(T)	8-1-2016	413-090-0420	2-1-2016	Repeal	3-1-2016
413-015-9040	7-1-2016	Amend(T)	8-1-2016	413-090-0430	2-1-2016	Repeal	3-1-2016
413-030-0400	11-24-2015	Amend(T)	1-1-2016	413-090-0500	6-1-2016	Repeal	7-1-2016
413-030-0400	2-1-2016	Amend	3-1-2016	413-090-0510	6-1-2016	Repeal	7-1-2016
413-030-0400(T)	2-1-2016	Repeal	3-1-2016	413-090-0520	6-1-2016	Repeal	7-1-2016
413-040-0000	1-1-2016	Amend(T)	2-1-2016	413-090-0530	6-1-2016	Repeal	7-1-2016
413-040-0000	6-1-2016	Amend	7-1-2016	413-090-0540	6-1-2016	Repeal	7-1-2016
413-040-0000(T)	6-1-2016	Repeal	7-1-2016	413-090-0550	6-1-2016	Repeal	7-1-2016
413-040-0010	11-24-2015	Amend(T)	1-1-2016	413-100-0400	12-21-2015	Amend	2-1-2016
413-040-0010	2-1-2016	Amend	3-1-2016	413-100-0410	12-21-2015	Amend	2-1-2016
413-040-0010(T)	2-1-2016	Repeal	3-1-2016	413-100-0420	12-21-2015	Amend	2-1-2016
413-040-0013	5-17-2016	Amend(T)	7-1-2016	413-100-0435	12-21-2015	Amend	2-1-2016
413-040-0145	1-1-2016	Amend(T)	2-1-2016	413-100-0457	12-21-2015	Repeal	2-1-2016
413-040-0145	6-1-2016	Amend	7-1-2016	413-100-0800	4-1-2016	Amend	5-1-2016
413-040-0145(T)	6-1-2016	Repeal	7-1-2016	413-100-0810	4-1-2016	Amend	5-1-2016
413-040-0150	1-1-2016	Amend(T)	2-1-2016	413-100-0820	4-1-2016	Amend	5-1-2016
413-040-0150	6-1-2016	Amend	7-1-2016	413-100-0830	4-1-2016	Amend	5-1-2016
413-040-0150(T)	6-1-2016	Repeal	7-1-2016	413-100-0840	4-1-2016	Repeal	5-1-2016
413-070-0551	11-24-2015	Amend(T)	1-1-2016	413-100-0850	4-1-2016	Repeal	5-1-2016
413-070-0551	2-1-2016	Amend	3-1-2016	413-120-0000	6-1-2016	Amend	7-1-2016
413-070-0551(T)	2-1-2016	Repeal	3-1-2016	413-120-0025	6-1-2016	Amend	7-1-2016
413-070-0670	8-1-2016	Amend	9-1-2016	413-120-0730	2-24-2016	Amend(T)	4-1-2016
413-070-0900	9-2-2016	Amend(T)	10-1-2016	413-120-0730	6-1-2016	Amend	7-1-2016
413-070-0917	9-2-2016	Amend(T)	10-1-2016	413-120-0730(T)	6-1-2016	Repeal	7-1-2016
413-070-0959	9-2-2016	Amend(T)	10-1-2016	413-120-0925	1-1-2016	Amend(T)	2-1-2016
413-080-0050	11-24-2015	Amend(T)	1-1-2016	413-120-0925	6-1-2016	Amend	7-1-2016
413-080-0050	1-1-2016	Amend	2-1-2016	413-120-0925(T)	6-1-2016	Repeal	7-1-2016
413-080-0050	7-1-2016	Amend(T)	8-1-2016	413-130-0000	1-1-2016	Amend(T)	2-1-2016
413-080-0050(T)	11-24-2015	Suspend	1-1-2016	413-130-0000	6-29-2016	Amend	8-1-2016
413-080-0050(T)	1-1-2016	Repeal	2-1-2016	413-130-0300	1-1-2016	Amend(T)	2-1-2016
413-080-0051	7-1-2016	Adopt(T)	8-1-2016	413-130-0300	6-29-2016	Amend	8-1-2016
413-080-0052	7-1-2016	Amend(T)	8-1-2016	413-130-0310	1-1-2016	Amend(T)	2-1-2016
413-080-0053	1-1-2016	Adopt	2-1-2016	413-130-0310	6-29-2016	Amend	8-1-2016
413-080-0053(T)	1-1-2016	Repeal	2-1-2016	413-130-0320	1-1-2016	Amend(T)	2-1-2016
413-080-0054	1-1-2016	Amend	2-1-2016	413-130-0320	6-29-2016	Amend	8-1-2016
413-080-0054	7-1-2016	Amend(T)	8-1-2016	413-130-0330	1-1-2016	Amend(T)	2-1-2016
413-080-0054(T)	1-1-2016	Repeal	2-1-2016	413-130-0330	6-29-2016	Amend	8-1-2016
413-080-0059	7-1-2016	Amend(T)	8-1-2016	413-130-0340	1-1-2016	Amend(T)	2-1-2016
413-080-0070	7-1-2016	Adopt(T)	8-1-2016	413-130-0340	6-29-2016	Amend	8-1-2016
413-090-0000	7-1-2016	Amend(T)	8-1-2016	413-130-0350	1-1-2016	Amend(T)	2-1-2016
413-090-0055	7-1-2016	Amend(T)	8-1-2016	413-130-0350	6-29-2016	Amend	8-1-2016
413-090-0065	7-1-2016	Amend(T)	8-1-2016	413-130-0355	1-1-2016	Amend(T)	2-1-2016
413-090-0070	7-1-2016	Amend(T)	8-1-2016	413-130-0355	6-29-2016	Amend	8-1-2016
413-090-0075	7-1-2016	Amend(T)	8-1-2016	413-130-0360	1-1-2016	Amend(T)	2-1-2016
413-090-0080	7-1-2016	Amend(T)	8-1-2016	413-130-0360	6-29-2016	Amend	8-1-2016
413-090-0085	1-1-2016	Amend	2-1-2016	413-130-0365	1-1-2016	Adopt(T)	2-1-2016
413-090-0085	6-14-2016	Amend(T)	7-1-2016	413-130-0365	6-29-2016	Adopt	8-1-2016
413-090-0085	9-1-2016	Amend	10-1-2016	413-130-0400	1-1-2016	Suspend	2-1-2016
413-090-0085(T)	1-1-2016	Repeal	2-1-2016	413-130-0400	6-29-2016	Repeal	8-1-2016
413-090-0085(T)	9-1-2016	Repeal	10-1-2016	413-130-0420	1-1-2016	Suspend	2-1-2016
413-090-0087	1-1-2016	Adopt	2-1-2016	413-130-0420	6-29-2016	Repeal	8-1-2016
413-090-0087	7-1-2016	Amend(T)	8-1-2016	413-130-0430	1-1-2016	Suspend	2-1-2016
413-090-0087(T)	1-1-2016	Repeal	2-1-2016	413-130-0430	6-29-2016	Repeal	8-1-2016

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413-130-0440	6-29-2016	Repeal	8-1-2016	413-215-0251	7-1-2016	Amend(T)	8-1-2016
413-130-0450	1-1-2016	Suspend	2-1-2016	413-215-0256	7-1-2016	Suspend	8-1-2016
413-130-0450	6-29-2016	Repeal	8-1-2016	413-215-0261	7-1-2016	Amend(T)	8-1-2016
413-130-0455	1-1-2016	Suspend	2-1-2016	413-215-0266	7-1-2016	Amend(T)	8-1-2016
413-130-0455	6-29-2016	Repeal	8-1-2016	413-215-0271	7-1-2016	Amend(T)	8-1-2016
413-130-0460	1-1-2016	Suspend	2-1-2016	413-215-0276	7-1-2016	Amend(T)	8-1-2016
413-130-0460	6-29-2016	Repeal	8-1-2016	413-215-0301	7-1-2016	Amend(T)	8-1-2016
413-130-0480	1-1-2016	Suspend	2-1-2016	413-215-0306	7-1-2016	Suspend	8-1-2016
413-130-0480	6-29-2016	Repeal	8-1-2016	413-215-0311	7-1-2016	Amend(T)	8-1-2016
413-130-0490	1-1-2016	Suspend	2-1-2016	413-215-0313	7-1-2016	Amend(T)	8-1-2016
413-130-0490	6-29-2016	Repeal	8-1-2016	413-215-0316	7-1-2016	Amend(T)	8-1-2016
413-130-0500	1-1-2016	Suspend	2-1-2016	413-215-0321	7-1-2016	Amend(T)	8-1-2016
413-130-0500	6-29-2016	Repeal	8-1-2016	413-215-0326	7-1-2016	Amend(T)	8-1-2016
413-130-0510	1-1-2016	Suspend	2-1-2016	413-215-0331	7-1-2016	Amend(T)	8-1-2016
413-130-0510	6-29-2016	Repeal	8-1-2016	413-215-0336	7-1-2016	Amend(T)	8-1-2016
413-130-0520	1-1-2016	Suspend	2-1-2016	413-215-0341	7-1-2016	Amend(T)	8-1-2016
413-130-0520	6-29-2016	Repeal	8-1-2016	413-215-0346	7-1-2016	Suspend	8-1-2016
413-140-0032	4-26-2016	Amend(T)	6-1-2016	413-215-0349	7-1-2016	Amend(T)	8-1-2016
413-215-0000	7-1-2016	Adopt(T)	8-1-2016	413-215-0351	7-1-2016	Amend(T)	8-1-2016
413-215-0001	7-1-2016	Amend(T)	8-1-2016	413-215-0356	7-1-2016	Amend(T)	8-1-2016
413-215-0006	7-1-2016	Suspend	8-1-2016	413-215-0361	7-1-2016	Amend(T)	8-1-2016
413-215-0011	7-1-2016	Amend(T)	8-1-2016	413-215-0366	7-1-2016	Amend(T)	8-1-2016
413-215-0016	7-1-2016	Amend(T)	8-1-2016	413-215-0371	7-1-2016	Amend(T)	8-1-2016
413-215-0021	7-1-2016	Amend(T)	8-1-2016	413-215-0376	7-1-2016	Amend(T)	8-1-2016
413-215-0026	7-1-2016	Amend(T)	8-1-2016	413-215-0381	7-1-2016	Amend(T)	8-1-2016
413-215-0031	7-1-2016	Amend(T)	8-1-2016	413-215-0386	7-1-2016	Amend(T)	8-1-2016
413-215-0036	7-1-2016	Amend(T)	8-1-2016	413-215-0391	7-1-2016	Amend(T)	8-1-2016
413-215-0041	7-1-2016	Amend(T)	8-1-2016	413-215-0396	7-1-2016	Amend(T)	8-1-2016
413-215-0046	7-1-2016	Amend(T)	8-1-2016	413-215-0401	7-1-2016	Amend(T)	8-1-2016
413-215-0051	7-1-2016	Amend(T)	8-1-2016	413-215-0406	7-1-2016	Suspend	8-1-2016
413-215-0056	7-1-2016	Amend(T)	8-1-2016	413-215-0411	7-1-2016	Amend(T)	8-1-2016
413-215-0061	7-1-2016	Amend(T)	8-1-2016	413-215-0416	7-1-2016	Amend(T)	8-1-2016
413-215-0066	7-1-2016	Amend(T)	8-1-2016	413-215-0421	7-1-2016	Amend(T)	8-1-2016
413-215-0071	7-1-2016	Amend(T)	8-1-2016	413-215-0426	7-1-2016	Amend(T)	8-1-2016
413-215-0076	7-1-2016	Amend(T)	8-1-2016	413-215-0431	7-1-2016	Amend(T)	8-1-2016
413-215-0081	7-1-2016	Amend(T)	8-1-2016	413-215-0436	7-1-2016	Amend(T)	8-1-2016
413-215-0086	7-1-2016	Amend(T)	8-1-2016	413-215-0441	7-1-2016	Amend(T)	8-1-2016
413-215-0091	7-1-2016	Amend(T)	8-1-2016	413-215-0446	7-1-2016	Amend(T)	8-1-2016
413-215-0096	7-1-2016	Amend(T)	8-1-2016	413-215-0451	7-1-2016	Amend(T)	8-1-2016
413-215-0101	7-1-2016	Amend(T)	8-1-2016	413-215-0456	7-1-2016	Amend(T)	8-1-2016
413-215-0106	7-1-2016	Amend(T)	8-1-2016	413-215-0461	7-1-2016	Amend(T)	8-1-2016
413-215-0111	7-1-2016	Amend(T)	8-1-2016	413-215-0466	7-1-2016	Amend(T)	8-1-2016
413-215-0116	7-1-2016	Amend(T)	8-1-2016	413-215-0471	7-1-2016	Amend(T)	8-1-2016
413-215-0121	7-1-2016	Amend(T)	8-1-2016	413-215-0476	7-1-2016	Amend(T)	8-1-2016
413-215-0126	7-1-2016	Amend(T)	8-1-2016	413-215-0481	7-1-2016	Amend(T)	8-1-2016
413-215-0131	7-1-2016	Amend(T)	8-1-2016	413-215-0501	7-1-2016	Amend(T)	8-1-2016
413-215-0201	7-1-2016	Amend(T)	8-1-2016	413-215-0506	7-1-2016	Suspend	8-1-2016
413-215-0206	7-1-2016	Suspend	8-1-2016	413-215-0511	7-1-2016	Amend(T)	8-1-2016
413-215-0211	7-1-2016	Amend(T)	8-1-2016	413-215-0516	7-1-2016	Amend(T)	8-1-2016
413-215-0216	7-1-2016	Amend(T)	8-1-2016	413-215-0521	7-1-2016	Amend(T)	8-1-2016
413-215-0221	7-1-2016	Amend(T)	8-1-2016	413-215-0526	7-1-2016	Amend(T)	8-1-2016
413-215-0226	7-1-2016	Amend(T)	8-1-2016	413-215-0531	7-1-2016	Amend(T)	8-1-2016
413-215-0231	7-1-2016	Amend(T)	8-1-2016	413-215-0536	7-1-2016	Amend(T)	8-1-2016
413-215-0236	7-1-2016	Amend(T)	8-1-2016	413-215-0541	7-1-2016	Amend(T)	8-1-2016
413-215-0241	7-1-2016	Amend(T)	8-1-2016	413-215-0546	7-1-2016	Amend(T)	8-1-2016

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413-215-0554	7-1-2016	Amend(T)	8-1-2016	413-215-0921	7-1-2016	Amend(T)	8-1-2016
413-215-0556	7-1-2016	Amend(T)	8-1-2016	413-215-0926	7-1-2016	Amend(T)	8-1-2016
413-215-0561	7-1-2016	Amend(T)	8-1-2016	413-215-0931	7-1-2016	Amend(T)	8-1-2016
413-215-0566	7-1-2016	Amend(T)	8-1-2016	413-215-0936	7-1-2016	Amend(T)	8-1-2016
413-215-0571	7-1-2016	Amend(T)	8-1-2016	413-215-0941	7-1-2016	Amend(T)	8-1-2016
413-215-0576	7-1-2016	Amend(T)	8-1-2016	413-215-0946	7-1-2016	Amend(T)	8-1-2016
413-215-0581	7-1-2016	Amend(T)	8-1-2016	413-215-0951	7-1-2016	Amend(T)	8-1-2016
413-215-0586	7-1-2016	Amend(T)	8-1-2016	413-215-0956	7-1-2016	Amend(T)	8-1-2016
413-215-0601	7-1-2016	Amend(T)	8-1-2016	413-215-0961	7-1-2016	Amend(T)	8-1-2016
413-215-0606	7-1-2016	Suspend	8-1-2016	413-215-0966	7-1-2016	Amend(T)	8-1-2016
413-215-0611	7-1-2016	Amend(T)	8-1-2016	413-215-0971	7-1-2016	Amend(T)	8-1-2016
413-215-0616	7-1-2016	Amend(T)	8-1-2016	413-215-0976	7-1-2016	Amend(T)	8-1-2016
413-215-0621	7-1-2016	Amend(T)	8-1-2016	413-215-0981	7-1-2016	Amend(T)	8-1-2016
413-215-0626	7-1-2016	Amend(T)	8-1-2016	413-215-0986	7-1-2016	Amend(T)	8-1-2016
413-215-0631	7-1-2016	Amend(T)	8-1-2016	413-215-0991	7-1-2016	Amend(T)	8-1-2016
413-215-0636	7-1-2016	Amend(T)	8-1-2016	413-215-0992	7-1-2016	Amend(T)	8-1-2016
413-215-0641	7-1-2016	Amend(T)	8-1-2016	413-215-0996	7-1-2016	Amend(T)	8-1-2016
413-215-0646	7-1-2016	Amend(T)	8-1-2016	413-215-1001	7-1-2016	Amend(T)	8-1-2016
413-215-0651	7-1-2016	Amend(T)	8-1-2016	413-215-1006	7-1-2016	Amend(T)	8-1-2016
413-215-0656	7-1-2016	Amend(T)	8-1-2016	413-215-1011	7-1-2016	Amend(T)	8-1-2016
413-215-0661	7-1-2016	Amend(T)	8-1-2016	413-215-1016	7-1-2016	Amend(T)	8-1-2016
413-215-0666	7-1-2016	Amend(T)	8-1-2016	413-215-1021	7-1-2016	Amend(T)	8-1-2016
413-215-0671	7-1-2016	Amend(T)	8-1-2016	413-215-1026	7-1-2016	Amend(T)	8-1-2016
413-215-0676	7-1-2016	Amend(T)	8-1-2016	413-215-1031	7-1-2016	Amend(T)	8-1-2016
413-215-0681	7-1-2016	Amend(T)	8-1-2016	414-150-0050	1-25-2016	Amend	3-1-2016
413-215-0701	7-1-2016	Amend(T)	8-1-2016	414-150-0055	1-25-2016	Amend	3-1-2016
413-215-0706	7-1-2016	Suspend	8-1-2016	414-150-0060	1-25-2016	Amend	3-1-2016
413-215-0711	7-1-2016	Amend(T)	8-1-2016	414-150-0070	1-25-2016	Amend	3-1-2016
413-215-0716	7-1-2016	Amend(T)	8-1-2016	414-150-0080	1-25-2016	Repeal	3-1-2016
413-215-0721	7-1-2016	Amend(T)	8-1-2016	414-150-0090	1-25-2016	Repeal	3-1-2016
413-215-0726	7-1-2016	Amend(T)	8-1-2016	414-150-0100	1-25-2016	Repeal	3-1-2016
413-215-0731	7-1-2016	Amend(T)	8-1-2016	414-150-0110	1-25-2016	Amend	3-1-2016
413-215-0736	7-1-2016	Amend(T)	8-1-2016	414-150-0120	1-25-2016	Amend	3-1-2016
413-215-0741	7-1-2016	Amend(T)	8-1-2016	414-150-0130	1-25-2016	Amend	3-1-2016
413-215-0746	7-1-2016	Amend(T)	8-1-2016	414-150-0140	1-25-2016	Adopt	3-1-2016
413-215-0751	7-1-2016	Amend(T)	8-1-2016	414-150-0150	1-25-2016	Adopt	3-1-2016
413-215-0756	7-1-2016	Amend(T)	8-1-2016	414-150-0160	1-25-2016	Adopt	3-1-2016
413-215-0761	7-1-2016	Amend(T)	8-1-2016	414-150-0170	1-25-2016	Adopt	3-1-2016
413-215-0766	7-1-2016	Amend(T)	8-1-2016	414-180-0005	6-29-2016	Adopt	8-1-2016
413-215-0801	7-1-2016	Amend(T)	8-1-2016	414-180-0010	6-29-2016	Adopt	8-1-2016
413-215-0806	7-1-2016	Suspend	8-1-2016	414-180-0015	6-29-2016	Adopt	8-1-2016
413-215-0811	7-1-2016	Amend(T)	8-1-2016	414-180-0020	6-29-2016	Adopt	8-1-2016
413-215-0816	7-1-2016	Amend(T)	8-1-2016	414-180-0025	6-29-2016	Adopt	8-1-2016
413-215-0821	7-1-2016	Amend(T)	8-1-2016	414-180-0030	6-29-2016	Adopt	8-1-2016
413-215-0826	7-1-2016	Amend(T)	8-1-2016	414-180-0035	6-29-2016	Adopt	8-1-2016
413-215-0831	7-1-2016	Amend(T)	8-1-2016	414-180-0040	6-29-2016	Adopt	8-1-2016
413-215-0836	7-1-2016	Amend(T)	8-1-2016	414-180-0045	6-29-2016	Adopt	8-1-2016
413-215-0841	7-1-2016	Amend(T)	8-1-2016	414-180-0050	6-29-2016	Adopt	8-1-2016
413-215-0846	7-1-2016	Amend(T)	8-1-2016	414-180-0055	6-29-2016	Adopt	8-1-2016
413-215-0851	7-1-2016	Amend(T)	8-1-2016	414-180-0090	6-29-2016	Adopt	8-1-2016
413-215-0856	7-1-2016	Amend(T)	8-1-2016	414-180-0100	6-29-2016	Adopt	8-1-2016
413-215-0901	7-1-2016	Amend(T)	8-1-2016	415-012-0000	7-1-2016	Amend(T)	8-1-2016
413-215-0906	7-1-2016	Suspend	8-1-2016	415-012-0010	7-1-2016	Amend(T)	8-1-2016
413-215-0911	7-1-2016	Suspend	8-1-2016	415-012-0020	7-1-2016	Amend(T)	8-1-2016
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415-012-0040	7-1-2016	Amend(T)	8-1-2016	418-040-0010	1-1-2016	Adopt(T)	2-1-2016
415-012-0050	7-1-2016	Amend(T)	8-1-2016	418-040-0010	6-20-2016	Adopt	7-1-2016
415-012-0055	7-1-2016	Amend(T)	8-1-2016	418-040-0010(T)	6-20-2016	Repeal	7-1-2016
415-012-0060	7-1-2016	Amend(T)	8-1-2016	418-040-0020	1-1-2016	Adopt(T)	2-1-2016
415-012-0065	7-1-2016	Amend(T)	8-1-2016	418-040-0020	6-20-2016	Adopt	7-1-2016
415-012-0067	7-1-2016	Amend(T)	8-1-2016	418-040-0020(T)	6-20-2016	Repeal	7-1-2016
415-012-0070	7-1-2016	Amend(T)	8-1-2016	418-040-0030	1-1-2016	Adopt(T)	2-1-2016
415-012-0090	7-1-2016	Amend(T)	8-1-2016	418-040-0030	6-20-2016	Adopt	7-1-2016
415-020-0000	8-10-2016	Amend(T)	9-1-2016	418-040-0030(T)	6-20-2016	Repeal	7-1-2016
415-020-0005	8-10-2016	Amend(T)	9-1-2016	418-040-0040	1-1-2016	Adopt(T)	2-1-2016
415-020-0010	8-10-2016	Amend(T)	9-1-2016	418-040-0040	6-20-2016	Adopt	7-1-2016
415-020-0090	8-10-2016	Amend(T)	9-1-2016	418-040-0040(T)	6-20-2016	Repeal	7-1-2016
415-055-0000	8-10-2016	Amend(T)	9-1-2016	418-040-0050	1-1-2016	Adopt(T)	2-1-2016
415-055-0010	8-10-2016	Amend(T)	9-1-2016	418-040-0050	6-20-2016	Adopt	7-1-2016
415-055-0035	8-10-2016	Amend(T)	9-1-2016	418-040-0050(T)	6-20-2016	Repeal	7-1-2016
415-057-0020	8-10-2016	Amend(T)	9-1-2016	418-040-0060	1-1-2016	Adopt(T)	2-1-2016
415-060-0010	1-5-2016	Suspend	2-1-2016	418-040-0060	6-20-2016	Adopt	7-1-2016
415-060-0010	7-13-2016	Repeal	8-1-2016	418-040-0060(T)	6-20-2016	Repeal	7-1-2016
415-060-0020	1-5-2016	Suspend	2-1-2016	418-040-0070	1-1-2016	Adopt(T)	2-1-2016
415-060-0020	7-13-2016	Repeal	8-1-2016	418-040-0070	6-20-2016	Adopt	7-1-2016
415-060-0030	1-5-2016	Suspend	2-1-2016	418-040-0070(T)	6-20-2016	Repeal	7-1-2016
415-060-0030	7-13-2016	Repeal	8-1-2016	418-040-0080	1-1-2016	Adopt(T)	2-1-2016
415-060-0040	1-5-2016	Suspend	2-1-2016	418-040-0080	6-20-2016	Adopt	7-1-2016
415-060-0040	7-13-2016	Repeal	8-1-2016	418-040-0080(T)	6-20-2016	Repeal	7-1-2016
415-060-0050	1-5-2016	Suspend	2-1-2016	418-040-0090	1-1-2016	Adopt(T)	2-1-2016
415-060-0050	7-13-2016	Repeal	8-1-2016	418-040-0090	6-20-2016	Adopt	7-1-2016
416-115-0025	4-1-2016	Amend	5-1-2016	418-040-0090(T)	6-20-2016	Repeal	7-1-2016
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416-300-0010	7-18-2016	Amend	9-1-2016	436-001-0003	1-1-2016	Amend	1-1-2016
416-300-0020	7-18-2016	Amend	9-1-2016	436-001-0004	1-1-2016	Amend	1-1-2016
416-300-0030	7-18-2016	Amend	9-1-2016	436-001-0009	1-1-2016	Amend	1-1-2016
416-300-0040	7-18-2016	Amend	9-1-2016	436-001-0019	1-1-2016	Amend	1-1-2016
416-300-0050	7-18-2016	Amend	9-1-2016	436-001-0027	1-1-2016	Amend	1-1-2016
416-300-0060	7-18-2016	Amend	9-1-2016	436-001-0030	1-1-2016	Amend	1-1-2016
416-300-0080	7-18-2016	Amend	9-1-2016	436-001-0170	1-1-2016	Amend	1-1-2016
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416-335-0090	5-2-2016	Amend	6-1-2016	436-001-0246	1-1-2016	Amend	1-1-2016
416-335-0090	6-3-2016	Amend(T)	7-1-2016	436-001-0259	1-1-2016	Amend	1-1-2016
416-530-0010	3-2-2016	Amend	4-1-2016	436-001-0410	1-1-2016	Amend	1-1-2016
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416-530-0020	3-2-2016	Amend	4-1-2016	436-001-0435	1-1-2016	Adopt	1-1-2016
416-530-0030	3-2-2016	Amend	4-1-2016	436-001-0500	1-1-2016	Adopt	1-1-2016
416-530-0030	8-5-2016	Amend	9-1-2016	436-009-0001	4-1-2016	Amend	4-1-2016
416-530-0035	3-2-2016	Amend	4-1-2016	436-009-0004	1-1-2016	Amend(T)	1-1-2016
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436-009-0090	4-1-2016	Amend	4-1-2016	441-175-0041	3-7-2016	Amend	4-1-2016
436-009-0110	4-1-2016	Amend	4-1-2016	441-175-0046	3-7-2016	Amend	4-1-2016
436-010-0001	4-1-2016	Amend	4-1-2016	441-175-0050	3-7-2016	Amend	4-1-2016
436-010-0005	4-1-2016	Amend	4-1-2016	441-175-0055	3-7-2016	Amend	4-1-2016
436-010-0008	4-1-2016	Amend	4-1-2016	441-175-0060	3-7-2016	Amend	4-1-2016
436-010-0240	4-1-2016	Amend	4-1-2016	441-175-0070	3-7-2016	Amend	4-1-2016
436-010-0265	4-1-2016	Amend	4-1-2016	441-175-0085	3-7-2016	Amend	4-1-2016
436-010-0270	4-1-2016	Amend	4-1-2016	441-175-0100	3-7-2016	Amend	4-1-2016
436-010-0330	4-1-2016	Amend	4-1-2016	441-175-0110	3-7-2016	Amend	4-1-2016
436-010-0340	4-1-2016	Amend	4-1-2016	441-175-0120	3-7-2016	Amend	4-1-2016
436-050-0003	1-1-2016	Amend	2-1-2016	441-175-0130	3-7-2016	Amend	4-1-2016
436-050-0175	1-1-2016	Amend	2-1-2016	441-175-0140	3-7-2016	Amend	4-1-2016
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437-002-0134	8-19-2016	Amend	10-1-2016	441-175-0165	3-7-2016	Amend	4-1-2016
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437-002-0182	8-19-2016	Amend	10-1-2016	441-175-0175	3-7-2016	Amend	4-1-2016
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437-003-0001	9-7-2016	Amend	10-1-2016	441-855-0114	1-1-2016	Adopt	1-1-2016
437-003-0001	1-1-2017	Amend	4-1-2016	441-865-0060	12-14-2015	Amend	1-1-2016
437-003-0134	8-19-2016	Amend	10-1-2016	441-880-0009	9-9-2016	Adopt	10-1-2016
437-003-0134	9-7-2016	Amend	10-1-2016	459-001-0000	1-29-2016	Amend	3-1-2016
437-003-0134	1-1-2017	Amend	4-1-2016	459-005-0001	11-20-2015	Amend	1-1-2016
437-003-0503	10-1-2017	Amend	4-1-2016	459-005-0001	5-27-2016	Amend	7-1-2016
437-003-1500	10-1-2017	Amend	4-1-2016	459-005-0220	7-29-2016	Amend	9-1-2016
437-003-1501	1-1-2017	Amend	4-1-2016	459-005-0310	11-20-2015	Amend	1-1-2016
437-003-2501	1-1-2017	Adopt	4-1-2016	459-005-0350	11-20-2015	Amend	1-1-2016
437-003-3502	10-1-2017	Repeal	4-1-2016	459-005-0605	1-29-2016	Adopt	3-1-2016
437-005-0001	8-19-2016	Amend	10-1-2016	459-010-0012	11-20-2015	Amend	1-1-2016
437-005-0001	9-7-2016	Amend	10-1-2016	459-011-0500	11-20-2015	Amend	1-1-2016
437-005-0002	8-19-2016	Amend	10-1-2016	459-013-0060	11-20-2015	Amend	1-1-2016
437-005-0002	9-7-2016	Amend	10-1-2016	459-013-0310	11-20-2015	Amend	1-1-2016
437-005-0003	8-19-2016	Amend	10-1-2016	459-075-0020	5-27-2016	Amend	7-1-2016
437-005-0003	9-7-2016	Amend	10-1-2016	459-080-0020	5-27-2016	Amend	7-1-2016
438-005-0035	1-1-2016	Amend	2-1-2016	459-080-0150	1-1-2016	Amend	1-1-2016
438-005-0046	11-1-2016	Amend	10-1-2016	461-001-0000	1-1-2016	Amend	2-1-2016
438-006-0100	11-1-2016	Amend	10-1-2016	461-001-0000	4-1-2016	Amend	5-1-2016
438-015-0010	1-1-2016	Amend	2-1-2016	461-001-0000	7-1-2016	Amend(T)	8-1-2016
438-015-0019	1-1-2016	Amend	2-1-2016	461-001-0000	9-1-2016	Amend	10-1-2016
438-015-0025	1-1-2016	Amend	2-1-2016	461-001-0000(T)	1-1-2016	Repeal	2-1-2016
438-015-0033	1-1-2016	Adopt	2-1-2016	461-001-0000(T)	9-1-2016	Repeal	10-1-2016
438-015-0045	1-1-2016	Amend	2-1-2016	461-001-0020	4-1-2016	Amend	5-1-2016
438-015-0048	1-1-2016	Adopt	2-1-2016	461-001-0025	12-28-2015	Amend	2-1-2016
438-015-0055	1-1-2016	Amend	2-1-2016	461-001-0025	4-1-2016	Amend	5-1-2016
438-015-0065	1-1-2016	Amend	2-1-2016	461-101-0010	7-1-2016	Amend(T)	8-1-2016
438-015-0070	1-1-2016	Amend	2-1-2016	461-101-0010	9-1-2016	Amend	10-1-2016
438-015-0110	1-1-2016	Amend	2-1-2016	461-101-0010(T)	9-1-2016	Repeal	10-1-2016
440-001-9000	1-1-2016	Adopt(T)	2-1-2016	461-110-0210	4-1-2016	Amend	5-1-2016
440-001-9001	6-29-2016	Adopt(T)	8-1-2016	461-110-0390	7-1-2016	Suspend	8-1-2016
441-175-0002	3-7-2016	Amend	4-1-2016	461-110-0390	9-1-2016	Repeal	10-1-2016
441-175-0010	3-7-2016	Amend	4-1-2016	461-110-0530	9-1-2016	Amend(T)	10-1-2016
441-175-0015	3-7-2016	Amend	4-1-2016	461-110-0630	4-1-2016	Amend	5-1-2016
441-175-0020	3-7-2016	Amend	4-1-2016	461-110-0630	7-1-2016	Amend(T)	8-1-2016

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461-110-0630(T)	9-1-2016	Repeal	10-1-2016	461-125-0060	4-1-2016	Repeal	5-1-2016
461-110-0750	4-1-2016	Amend	5-1-2016	461-125-0090	4-1-2016	Repeal	5-1-2016
461-110-0750	7-1-2016	Amend(T)	8-1-2016	461-125-0110	4-1-2016	Repeal	5-1-2016
461-110-0750	9-1-2016	Amend	10-1-2016	461-125-0120	4-1-2016	Repeal	5-1-2016
461-110-0750(T)	9-1-2016	Repeal	10-1-2016	461-125-0130	4-1-2016	Repeal	5-1-2016
461-115-0016	1-1-2016	Amend(T)	2-1-2016	461-125-0170	4-1-2016	Repeal	5-1-2016
461-115-0016	4-1-2016	Amend	5-1-2016	461-125-0230	4-1-2016	Repeal	5-1-2016
461-115-0016(T)	4-1-2016	Repeal	5-1-2016	461-125-0250	4-1-2016	Repeal	5-1-2016
461-115-0030	7-1-2016	Amend(T)	8-1-2016	461-125-0255	4-1-2016	Repeal	5-1-2016
461-115-0030	9-1-2016	Amend	10-1-2016	461-125-0370	3-1-2016	Amend(T)	4-1-2016
461-115-0030(T)	9-1-2016	Repeal	10-1-2016	461-125-0370	4-1-2016	Amend	5-1-2016
461-115-0050	7-1-2016	Amend(T)	8-1-2016	461-125-0370	5-10-2016	Amend	6-1-2016
461-115-0050	9-1-2016	Amend	10-1-2016	461-125-0370	5-13-2016	Amend(T)	6-1-2016
461-115-0050(T)	9-1-2016	Repeal	10-1-2016	461-125-0370	7-1-2016	Amend	8-1-2016
461-115-0071	7-1-2016	Amend(T)	8-1-2016	461-125-0370(T)	3-1-2016	Suspend	4-1-2016
461-115-0071	9-1-2016	Amend	10-1-2016	461-125-0370(T)	4-1-2016	Repeal	5-1-2016
461-115-0071(T)	9-1-2016	Repeal	10-1-2016	461-125-0370(T)	7-1-2016	Repeal	8-1-2016
461-115-0430	7-1-2016	Amend(T)	8-1-2016	461-125-0510	7-1-2016	Suspend	8-1-2016
461-115-0430	9-1-2016	Amend	10-1-2016	461-125-0510	9-1-2016	Repeal	10-1-2016
461-115-0430(T)	9-1-2016	Repeal	10-1-2016	461-125-0810	7-1-2016	Amend(T)	8-1-2016
461-115-0651	1-1-2016	Amend	2-1-2016	461-125-0810	9-1-2016	Amend	10-1-2016
461-115-0700	1-1-2016	Amend	2-1-2016	461-125-0810(T)	9-1-2016	Repeal	10-1-2016
461-115-0700	7-1-2016	Amend(T)	8-1-2016	461-125-0830(T)	1-1-2016	Repeal	2-1-2016
461-115-0700	9-1-2016	Amend	10-1-2016	461-130-0310	1-1-2016	Amend	2-1-2016
461-115-0700(T)	9-1-2016	Repeal	10-1-2016	461-130-0310	1-1-2016	Amend(T)	2-1-2016
461-120-0030	7-1-2016	Amend(T)	8-1-2016	461-130-0310	4-1-2016	Amend	5-1-2016
461-120-0030	9-1-2016	Amend	10-1-2016	461-130-0310(T)	4-1-2016	Repeal	5-1-2016
461-120-0030(T)	9-1-2016	Repeal	10-1-2016	461-130-0315	4-1-2016	Amend	5-1-2016
461-120-0110	3-4-2016	Amend(T)	4-1-2016	461-130-0327	4-1-2016	Amend	5-1-2016
461-120-0110	5-1-2016	Amend	6-1-2016	461-130-0327	7-1-2016	Amend	8-1-2016
461-120-0110(T)	5-1-2016	Repeal	6-1-2016	461-130-0330	1-1-2016	Amend	2-1-2016
461-120-0125	1-1-2016	Amend	2-1-2016	461-130-0330	4-1-2016	Amend	5-1-2016
461-120-0125	7-1-2016	Amend(T)	8-1-2016	461-130-0330	7-1-2016	Amend	8-1-2016
461-120-0125	9-1-2016	Amend	10-1-2016	461-130-0335	4-1-2016	Amend	5-1-2016
461-120-0125(T)	9-1-2016	Repeal	10-1-2016	461-130-0335	7-1-2016	Amend	8-1-2016
461-120-0210	4-1-2016	Amend	5-1-2016	461-135-0070	4-1-2016	Amend	5-1-2016
461-120-0210	7-1-2016	Amend(T)	8-1-2016	461-135-0071	4-1-2016	Adopt	5-1-2016
461-120-0210	9-1-2016	Amend	10-1-2016	461-135-0073	4-1-2016	Adopt	5-1-2016
461-120-0210(T)	9-1-2016	Repeal	10-1-2016	461-135-0075	4-1-2016	Amend	5-1-2016
461-120-0315	7-1-2016	Amend(T)	8-1-2016	461-135-0087	4-1-2016	Repeal	5-1-2016
461-120-0315	9-1-2016	Amend	10-1-2016	461-135-0089	7-1-2016	Amend	8-1-2016
461-120-0315(T)	9-1-2016	Repeal	10-1-2016	461-135-0400	1-1-2016	Amend	2-1-2016
461-120-0330	7-1-2016	Amend	8-1-2016	461-135-0400	7-1-2016	Amend	8-1-2016
461-120-0340	4-1-2016	Amend	5-1-2016	461-135-0405	1-1-2016	Amend	2-1-2016
461-120-0345	7-1-2016	Amend(T)	8-1-2016	461-135-0405(T)	1-1-2016	Repeal	2-1-2016
461-120-0345	9-1-2016	Amend	10-1-2016	461-135-0407	1-1-2016	Amend	2-1-2016
461-120-0345(T)	9-1-2016	Repeal	10-1-2016	461-135-0407(T)	1-1-2016	Repeal	2-1-2016
461-120-0350	7-1-2016	Amend(T)	8-1-2016	461-135-0475	4-1-2016	Amend	5-1-2016
461-120-0350	9-1-2016	Amend	10-1-2016	461-135-0485	4-1-2016	Amend	5-1-2016
461-120-0350(T)	9-1-2016	Repeal	10-1-2016	461-135-0506	1-1-2016	Amend(T)	2-1-2016
461-120-0510	7-1-2016	Amend(T)	8-1-2016	461-135-0506	4-1-2016	Amend	5-1-2016
461-120-0510	9-1-2016	Amend	10-1-2016	461-135-0506(T)	4-1-2016	Repeal	5-1-2016
461-120-0510(T)	9-1-2016	Repeal	10-1-2016	461-135-0520	1-1-2016	Amend	2-1-2016
461-125-0010	4-1-2016	Repeal	5-1-2016	461-135-0520	2-5-2016	Amend(T)	3-1-2016
461-125-0030	4-1-2016	Repeal	5-1-2016	461-135-0520	3-2-2016	Amend(T)	4-1-2016

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461-135-0520	4-5-2016	Amend(T)	5-1-2016	461-140-0296	7-1-2016	Amend(T)	8-1-2016
461-135-0520	5-1-2016	Amend(T)	6-1-2016	461-140-0296	9-1-2016	Amend	10-1-2016
461-135-0520(T)	3-2-2016	Suspend	4-1-2016	461-140-0296(T)	9-1-2016	Repeal	10-1-2016
461-135-0520(T)	4-1-2016	Repeal	5-1-2016	461-140-0300	7-1-2016	Amend(T)	8-1-2016
461-135-0521	4-1-2016	Amend(T)	5-1-2016	461-140-0300	9-1-2016	Amend	10-1-2016
461-135-0521	7-1-2016	Amend	8-1-2016	461-140-0300(T)	9-1-2016	Repeal	10-1-2016
461-135-0521(T)	7-1-2016	Repeal	8-1-2016	461-145-0000	7-1-2016	Adopt(T)	8-1-2016
461-135-0560	7-1-2016	Amend(T)	8-1-2016	461-145-0005	7-1-2016	Amend(T)	8-1-2016
461-135-0560	9-1-2016	Amend	10-1-2016	461-145-0005	9-1-2016	Amend	10-1-2016
461-135-0560(T)	9-1-2016	Repeal	10-1-2016	461-145-0005(T)	9-1-2016	Repeal	10-1-2016
461-135-0700	7-1-2016	Amend(T)	8-1-2016	461-145-0010	1-1-2016	Amend	2-1-2016
461-135-0700	9-1-2016	Amend	10-1-2016	461-145-0020	1-1-2016	Amend	2-1-2016
461-135-0700(T)	9-1-2016	Repeal	10-1-2016	461-145-0040	1-1-2016	Amend	2-1-2016
461-135-0701	7-1-2016	Amend(T)	8-1-2016	461-145-0040	7-1-2016	Amend(T)	8-1-2016
461-135-0701	9-1-2016	Amend	10-1-2016	461-145-0040	9-1-2016	Amend	10-1-2016
461-135-0701(T)	9-1-2016	Repeal	10-1-2016	461-145-0040(T)	9-1-2016	Repeal	10-1-2016
461-135-0705	7-1-2016	Suspend	8-1-2016	461-145-0050	1-1-2016	Amend	2-1-2016
461-135-0705	9-1-2016	Repeal	10-1-2016	461-145-0050	7-1-2016	Amend(T)	8-1-2016
461-135-0708	7-1-2016	Amend(T)	8-1-2016	461-145-0050	9-1-2016	Amend	10-1-2016
461-135-0708	9-1-2016	Amend	10-1-2016	461-145-0050(T)	9-1-2016	Repeal	10-1-2016
461-135-0708(T)	9-1-2016	Repeal	10-1-2016	461-145-0080	1-1-2016	Amend	2-1-2016
461-135-0750	12-15-2015	Amend(T)	1-1-2016	461-145-0089	1-1-2016	Amend	2-1-2016
461-135-0750	4-1-2016	Amend	5-1-2016	461-145-0110	7-1-2016	Amend(T)	8-1-2016
461-135-0750(T)	4-1-2016	Repeal	5-1-2016	461-145-0110	9-1-2016	Amend	10-1-2016
461-135-0780	2-3-2016	Amend	3-1-2016	461-145-0110(T)	9-1-2016	Repeal	10-1-2016
461-135-0834	8-1-2016	Amend	9-1-2016	461-145-0220	1-1-2016	Amend	2-1-2016
461-135-0835	7-1-2016	Amend	8-1-2016	461-145-0220	7-1-2016	Amend(T)	8-1-2016
461-135-0950	7-1-2016	Amend(T)	8-1-2016	461-145-0220	9-1-2016	Amend	10-1-2016
461-135-0950	9-1-2016	Amend	10-1-2016	461-145-0220(T)	9-1-2016	Repeal	10-1-2016
461-135-0950(T)	9-1-2016	Repeal	10-1-2016	461-145-0230	7-1-2016	Amend(T)	8-1-2016
461-135-0990	7-1-2016	Amend(T)	8-1-2016	461-145-0230	9-1-2016	Amend	10-1-2016
461-135-0990	9-1-2016	Amend	10-1-2016	461-145-0230(T)	9-1-2016	Repeal	10-1-2016
461-135-0990(T)	9-1-2016	Repeal	10-1-2016	461-145-0240	1-1-2016	Amend	2-1-2016
461-135-1250	4-1-2016	Amend	5-1-2016	461-145-0240	7-1-2016	Amend(T)	8-1-2016
461-135-1270	4-1-2016	Adopt	5-1-2016	461-145-0240	9-1-2016	Amend	10-1-2016
461-140-0010	7-1-2016	Amend(T)	8-1-2016	461-145-0240(T)	9-1-2016	Repeal	10-1-2016
461-140-0010	9-1-2016	Amend	10-1-2016	461-145-0250	7-1-2016	Amend(T)	8-1-2016
461-140-0010(T)	9-1-2016	Repeal	10-1-2016	461-145-0250	9-1-2016	Amend	10-1-2016
461-140-0020	1-1-2016	Amend	2-1-2016	461-145-0250(T)	9-1-2016	Repeal	10-1-2016
461-140-0040	7-1-2016	Amend(T)	8-1-2016	461-145-0252	1-1-2016	Amend	2-1-2016
461-140-0040	9-1-2016	Amend	10-1-2016	461-145-0259	1-1-2016	Adopt	2-1-2016
461-140-0040(T)	9-1-2016	Repeal	10-1-2016	461-145-0259	7-1-2016	Amend(T)	8-1-2016
461-140-0120	1-1-2016	Amend	2-1-2016	461-145-0259	9-1-2016	Amend	10-1-2016
461-140-0120	7-1-2016	Amend(T)	8-1-2016	461-145-0259(T)	9-1-2016	Repeal	10-1-2016
461-140-0120	9-1-2016	Amend	10-1-2016	461-145-0260	1-1-2016	Amend	2-1-2016
461-140-0120(T)	9-1-2016	Repeal	10-1-2016	461-145-0260	7-1-2016	Amend(T)	8-1-2016
461-140-0210	7-1-2016	Amend(T)	8-1-2016	461-145-0260	9-1-2016	Amend	10-1-2016
461-140-0210	9-1-2016	Amend	10-1-2016	461-145-0260(T)	9-1-2016	Repeal	10-1-2016
461-140-0210(T)	9-1-2016	Repeal	10-1-2016	461-145-0280	1-1-2016	Amend	2-1-2016
461-140-0242	7-1-2016	Amend(T)	8-1-2016	461-145-0300	1-1-2016	Amend	2-1-2016
461-140-0242	9-1-2016	Amend	10-1-2016	461-145-0310	1-1-2016	Amend	2-1-2016
461-140-0242(T)	9-1-2016	Repeal	10-1-2016	461-145-0320	1-1-2016	Amend	2-1-2016
461-140-0250	1-1-2016	Amend	2-1-2016	461-145-0320	7-1-2016	Amend(T)	8-1-2016
461-140-0250	7-1-2016	Amend(T)	8-1-2016	461-145-0320	9-1-2016	Amend	10-1-2016
461-140-0250	9-1-2016	Amend	10-1-2016	461-145-0320(T)	9-1-2016	Repeal	10-1-2016



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461-145-0330	7-1-2016	Amend(T)	8-1-2016	461-145-0910(T)	1-1-2016	Repeal	2-1-2016
461-145-0330	9-1-2016	Amend	10-1-2016	461-145-0910(T)	9-1-2016	Repeal	10-1-2016
461-145-0330(T)	9-1-2016	Repeal	10-1-2016	461-145-0920	7-1-2016	Amend(T)	8-1-2016
461-145-0340	7-1-2016	Amend(T)	8-1-2016	461-145-0920	9-1-2016	Amend	10-1-2016
461-145-0340	9-1-2016	Amend	10-1-2016	461-145-0920(T)	9-1-2016	Repeal	10-1-2016
461-145-0340(T)	9-1-2016	Repeal	10-1-2016	461-145-0930	7-1-2016	Amend(T)	8-1-2016
461-145-0360	1-1-2016	Amend	2-1-2016	461-145-0930	9-1-2016	Amend	10-1-2016
461-145-0360	7-1-2016	Amend	8-1-2016	461-145-0930(T)	9-1-2016	Repeal	10-1-2016
461-145-0360	7-1-2016	Amend(T)	8-1-2016	461-150-0050	1-1-2016	Amend	2-1-2016
461-145-0360	9-1-2016	Amend	10-1-2016	461-150-0050	7-1-2016	Amend(T)	8-1-2016
461-145-0360(T)	9-1-2016	Repeal	10-1-2016	461-150-0050	9-1-2016	Amend	10-1-2016
461-145-0365	1-1-2016	Amend	2-1-2016	461-150-0050(T)	9-1-2016	Repeal	10-1-2016
461-145-0365	7-1-2016	Amend(T)	8-1-2016	461-150-0090	1-1-2016	Amend	2-1-2016
461-145-0365	9-1-2016	Amend	10-1-2016	461-155-0010	7-1-2016	Amend(T)	8-1-2016
461-145-0365(T)	9-1-2016	Repeal	10-1-2016	461-155-0010	9-1-2016	Amend	10-1-2016
461-145-0370	7-1-2016	Amend(T)	8-1-2016	461-155-0010(T)	9-1-2016	Repeal	10-1-2016
461-145-0370	9-1-2016	Amend	10-1-2016	461-155-0020	4-1-2016	Amend	5-1-2016
461-145-0370(T)	9-1-2016	Repeal	10-1-2016	461-155-0020	7-1-2016	Amend(T)	8-1-2016
461-145-0380	1-1-2016	Amend	2-1-2016	461-155-0020	9-1-2016	Amend	10-1-2016
461-145-0380	7-1-2016	Amend	8-1-2016	461-155-0020(T)	9-1-2016	Repeal	10-1-2016
461-145-0410	1-1-2016	Amend	2-1-2016	461-155-0030	1-1-2016	Amend	2-1-2016
461-145-0410	4-1-2016	Amend	5-1-2016	461-155-0030	4-1-2016	Amend	5-1-2016
461-145-0410	7-1-2016	Amend(T)	8-1-2016	461-155-0030	5-12-2016	Amend(T)	6-1-2016
461-145-0410	9-1-2016	Amend	10-1-2016	461-155-0035	1-1-2016	Amend	2-1-2016
461-145-0410(T)	9-1-2016	Repeal	10-1-2016	461-155-0150	1-1-2016	Amend(T)	2-1-2016
461-145-0420	1-1-2016	Amend	2-1-2016	461-155-0150	3-1-2016	Amend(T)	4-1-2016
461-145-0420	7-1-2016	Amend(T)	8-1-2016	461-155-0150	4-1-2016	Amend	5-1-2016
461-145-0420	9-1-2016	Amend	10-1-2016	461-155-0150	7-1-2016	Amend	8-1-2016
461-145-0420(T)	9-1-2016	Repeal	10-1-2016	461-155-0150	9-1-2016	Amend	10-1-2016
461-145-0430	1-1-2016	Amend	2-1-2016	461-155-0150(T)	3-1-2016	Suspend	4-1-2016
461-145-0455	7-1-2016	Amend(T)	8-1-2016	461-155-0150(T)	4-1-2016	Repeal	5-1-2016
461-145-0455	9-1-2016	Amend	10-1-2016	461-155-0180	4-1-2016	Amend	5-1-2016
461-145-0455(T)	9-1-2016	Repeal	10-1-2016	461-155-0210	7-1-2016	Amend(T)	8-1-2016
461-145-0460	1-1-2016	Amend	2-1-2016	461-155-0210	9-1-2016	Amend	10-1-2016
461-145-0460	7-1-2016	Amend(T)	8-1-2016	461-155-0210(T)	9-1-2016	Repeal	10-1-2016
461-145-0460	9-1-2016	Amend	10-1-2016	461-155-0290	3-1-2016	Amend	4-1-2016
461-145-0460(T)	9-1-2016	Repeal	10-1-2016	461-155-0291	3-1-2016	Amend	4-1-2016
461-145-0470	7-1-2016	Amend(T)	8-1-2016	461-155-0295	3-1-2016	Amend	4-1-2016
461-145-0470	9-1-2016	Amend	10-1-2016	461-155-0360	7-1-2016	Amend(T)	8-1-2016
461-145-0470(T)	9-1-2016	Repeal	10-1-2016	461-155-0360	9-1-2016	Amend	10-1-2016
461-145-0490	1-1-2016	Amend	2-1-2016	461-155-0360(T)	9-1-2016	Repeal	10-1-2016
461-145-0510	1-1-2016	Amend	2-1-2016	461-155-0575	1-1-2016	Amend	2-1-2016
461-145-0510	7-1-2016	Amend(T)	8-1-2016	461-155-0580	7-1-2016	Amend(T)	8-1-2016
461-145-0510	9-1-2016	Amend	10-1-2016	461-155-0580	9-1-2016	Amend	10-1-2016
461-145-0510(T)	9-1-2016	Repeal	10-1-2016	461-155-0580(T)	9-1-2016	Repeal	10-1-2016
461-145-0540	1-1-2016	Amend	2-1-2016	461-155-0600	7-1-2016	Amend(T)	8-1-2016
461-145-0540	7-1-2016	Amend(T)	8-1-2016	461-155-0600	9-1-2016	Amend	10-1-2016
461-145-0540	9-1-2016	Amend	10-1-2016	461-155-0600(T)	9-1-2016	Repeal	10-1-2016
461-145-0540(T)	9-1-2016	Repeal	10-1-2016	461-155-0610	7-1-2016	Amend(T)	8-1-2016
461-145-0600	1-1-2016	Amend	2-1-2016	461-155-0610	9-1-2016	Amend	10-1-2016
461-145-0600	7-1-2016	Amend(T)	8-1-2016	461-155-0610(T)	9-1-2016	Repeal	10-1-2016
461-145-0600	9-1-2016	Amend	10-1-2016	461-155-0620	7-1-2016	Amend(T)	8-1-2016
461-145-0600(T)	9-1-2016	Repeal	10-1-2016	461-155-0620	9-1-2016	Amend	10-1-2016
461-145-0910	1-1-2016	Amend	2-1-2016	461-155-0620(T)	9-1-2016	Repeal	10-1-2016
461-145-0910	7-1-2016	Amend(T)	8-1-2016	461-155-0640	7-1-2016	Amend(T)	8-1-2016

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461-155-0640(T)	9-1-2016	Repeal	10-1-2016	461-165-0180(T)	3-14-2016	Suspend	4-1-2016
461-155-0670	7-1-2016	Amend(T)	8-1-2016	461-165-0180(T)	5-23-2016	Suspend	7-1-2016
461-155-0670	9-1-2016	Amend	10-1-2016	461-165-0180(T)	7-1-2016	Repeal	8-1-2016
461-155-0670(T)	9-1-2016	Repeal	10-1-2016	461-165-0180(T)	8-1-2016	Repeal	9-1-2016
461-160-0010	1-1-2016	Amend	2-1-2016	461-170-0011	1-1-2016	Amend	2-1-2016
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461-160-0010	9-1-2016	Amend	10-1-2016	461-170-0011	9-1-2016	Amend	10-1-2016
461-160-0010(T)	9-1-2016	Repeal	10-1-2016	461-170-0011(T)	9-1-2016	Repeal	10-1-2016
461-160-0015	1-1-2016	Amend	2-1-2016	461-170-0101	1-1-2016	Amend	2-1-2016
461-160-0015	7-1-2016	Amend	8-1-2016	461-170-0103	1-1-2016	Amend	2-1-2016
461-160-0015	7-1-2016	Amend(T)	8-1-2016	461-170-0103(T)	1-1-2016	Repeal	2-1-2016
461-160-0015	9-1-2016	Amend	10-1-2016	461-170-0150	1-1-2016	Amend	2-1-2016
461-160-0015(T)	9-1-2016	Repeal	10-1-2016	461-170-0150(T)	1-1-2016	Repeal	2-1-2016
461-160-0040	1-1-2016	Amend	2-1-2016	461-170-0160	1-1-2016	Amend	2-1-2016
461-160-0040(T)	1-1-2016	Repeal	2-1-2016	461-170-0160(T)	1-1-2016	Repeal	2-1-2016
461-160-0055	7-1-2016	Amend(T)	8-1-2016	461-175-0200	1-1-2016	Amend	2-1-2016
461-160-0055	9-1-2016	Amend	10-1-2016	461-175-0200	4-1-2016	Amend	5-1-2016
461-160-0055(T)	9-1-2016	Repeal	10-1-2016	461-175-0200	7-1-2016	Amend	8-1-2016
461-160-0060	7-1-2016	Amend(T)	8-1-2016	461-175-0200(T)	1-1-2016	Repeal	2-1-2016
461-160-0060	9-1-2016	Amend	10-1-2016	461-175-0210	4-1-2016	Amend	5-1-2016
461-160-0060(T)	9-1-2016	Repeal	10-1-2016	461-175-0210	7-1-2016	Amend(T)	8-1-2016
461-160-0100	4-1-2016	Amend	5-1-2016	461-175-0210	9-1-2016	Amend	10-1-2016
461-160-0300	1-1-2016	Amend	2-1-2016	461-175-0210(T)	9-1-2016	Repeal	10-1-2016
461-160-0300(T)	1-1-2016	Repeal	2-1-2016	461-175-0220	1-1-2016	Amend	2-1-2016
461-160-0410	4-1-2016	Amend(T)	5-1-2016	461-175-0220	7-1-2016	Amend	8-1-2016
461-160-0410	7-1-2016	Amend	8-1-2016	461-175-0222	1-1-2016	Amend	2-1-2016
461-160-0410(T)	7-1-2016	Repeal	8-1-2016	461-175-0222(T)	1-1-2016	Repeal	2-1-2016
461-160-0500	7-1-2016	Amend(T)	8-1-2016	461-175-0240	7-1-2016	Amend(T)	8-1-2016
461-160-0500	9-1-2016	Amend	10-1-2016	461-175-0240	9-1-2016	Amend	10-1-2016
461-160-0500(T)	9-1-2016	Repeal	10-1-2016	461-175-0240(T)	9-1-2016	Repeal	10-1-2016
461-160-0550	1-1-2016	Amend	2-1-2016	461-175-0250	1-1-2016	Amend	2-1-2016
461-160-0551	1-1-2016	Amend	2-1-2016	461-175-0300	1-1-2016	Amend	2-1-2016
461-160-0552	1-1-2016	Amend	2-1-2016	461-175-0300	4-1-2016	Amend	5-1-2016
461-160-0620	7-1-2016	Amend	8-1-2016	461-175-0300(T)	1-1-2016	Repeal	2-1-2016
461-160-0620	7-1-2016	Amend(T)	8-1-2016	461-175-0305	1-1-2016	Amend	2-1-2016
461-160-0620	9-1-2016	Amend	10-1-2016	461-175-0310	1-1-2016	Amend	2-1-2016
461-160-0620(T)	9-1-2016	Repeal	10-1-2016	461-175-0310	7-1-2016	Amend(T)	8-1-2016
461-165-0010	7-1-2016	Amend	8-1-2016	461-175-0310	9-1-2016	Amend	10-1-2016
461-165-0030	1-1-2016	Amend	2-1-2016	461-175-0310(T)	9-1-2016	Repeal	10-1-2016
461-165-0030	4-1-2016	Amend	5-1-2016	461-175-0340	1-1-2016	Amend	2-1-2016
461-165-0030	7-1-2016	Amend(T)	8-1-2016	461-180-0010	12-15-2015	Amend(T)	1-1-2016
461-165-0030	9-1-2016	Amend	10-1-2016	461-180-0010	1-22-2016	Amend(T)	3-1-2016
461-165-0030(T)	9-1-2016	Repeal	10-1-2016	461-180-0010	4-1-2016	Amend	5-1-2016
461-165-0050	7-1-2016	Amend(T)	8-1-2016	461-180-0010	7-1-2016	Amend(T)	8-1-2016
461-165-0050	9-1-2016	Amend	10-1-2016	461-180-0010	9-1-2016	Amend	10-1-2016
461-165-0050(T)	9-1-2016	Repeal	10-1-2016	461-180-0010(T)	1-22-2016	Suspend	3-1-2016
461-165-0120	7-1-2016	Amend(T)	8-1-2016	461-180-0010(T)	4-1-2016	Repeal	5-1-2016
461-165-0120	9-1-2016	Amend	10-1-2016	461-180-0010(T)	9-1-2016	Repeal	10-1-2016
461-165-0120(T)	9-1-2016	Repeal	10-1-2016	461-180-0050	4-1-2016	Amend	5-1-2016
461-165-0180	1-20-2016	Amend(T)	3-1-2016	461-180-0065	7-1-2016	Amend(T)	8-1-2016
461-165-0180	3-14-2016	Amend(T)	4-1-2016	461-180-0065	9-1-2016	Amend	10-1-2016
461-165-0180	5-23-2016	Amend(T)	7-1-2016	461-180-0065(T)	9-1-2016	Repeal	10-1-2016
461-165-0180	7-1-2016	Amend	8-1-2016	461-180-0070	7-1-2016	Amend(T)	8-1-2016
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461-180-0090	12-15-2015	Amend(T)	1-1-2016	543-010-0016	6-13-2016	Amend	7-1-2016
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461-180-0090	4-1-2016	Amend	5-1-2016	543-010-0021	6-13-2016	Amend	7-1-2016
461-180-0090	7-1-2016	Amend(T)	8-1-2016	543-010-0022	1-11-2016	Suspend	2-1-2016
461-180-0090	9-1-2016	Amend	10-1-2016	543-010-0022	6-13-2016	Repeal	7-1-2016
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461-180-0090(T)	4-1-2016	Repeal	5-1-2016	543-010-0026	6-13-2016	Adopt	7-1-2016
461-180-0090(T)	9-1-2016	Repeal	10-1-2016	543-010-0030	1-11-2016	Amend(T)	2-1-2016
461-180-0135	4-1-2016	Adopt(T)	5-1-2016	543-010-0030	6-13-2016	Amend	7-1-2016
461-180-0135	7-1-2016	Adopt	8-1-2016	543-010-0032	1-11-2016	Suspend	2-1-2016
461-180-0135(T)	7-1-2016	Repeal	8-1-2016	543-010-0032	6-13-2016	Repeal	7-1-2016
461-180-0140	12-15-2015	Amend(T)	1-1-2016	543-020-0010	1-11-2016	Suspend	2-1-2016
461-180-0140	1-22-2016	Amend(T)	3-1-2016	543-020-0010	6-13-2016	Repeal	7-1-2016
461-180-0140	4-1-2016	Amend	5-1-2016	543-020-0025	1-11-2016	Suspend	2-1-2016
461-180-0140(T)	1-22-2016	Suspend	3-1-2016	543-020-0025	6-13-2016	Repeal	7-1-2016
461-180-0140(T)	4-1-2016	Repeal	5-1-2016	543-020-0026	1-11-2016	Suspend	2-1-2016
461-190-0211	12-28-2015	Amend	2-1-2016	543-020-0026	6-13-2016	Repeal	7-1-2016
461-190-0211	7-1-2016	Amend	8-1-2016	543-020-0030	1-11-2016	Suspend	2-1-2016
461-190-0231	7-1-2016	Amend	8-1-2016	543-020-0030	6-13-2016	Repeal	7-1-2016
461-190-0310	4-1-2016	Amend	5-1-2016	543-020-0050	1-11-2016	Adopt(T)	2-1-2016
461-190-0360	11-30-2015	Amend(T)	1-1-2016	543-020-0050	6-13-2016	Adopt	7-1-2016
461-190-0360	4-1-2016	Amend	5-1-2016	543-020-0055	1-11-2016	Adopt(T)	2-1-2016
461-190-0360(T)	4-1-2016	Repeal	5-1-2016	543-020-0055	6-13-2016	Adopt	7-1-2016
461-190-0406	4-1-2016	Amend	5-1-2016	543-020-0060	1-11-2016	Adopt(T)	2-1-2016
461-190-0500	2-5-2016	Adopt(T)	3-1-2016	543-020-0060	6-13-2016	Adopt	7-1-2016
461-190-0500	4-1-2016	Adopt	5-1-2016	543-020-0070	1-11-2016	Adopt(T)	2-1-2016
461-190-0500(T)	4-1-2016	Repeal	5-1-2016	543-020-0070	6-13-2016	Adopt	7-1-2016
461-193-0010	7-1-2016	Repeal	8-1-2016	543-020-0080	1-11-2016	Adopt(T)	2-1-2016
461-193-0320	7-1-2016	Amend	8-1-2016	543-020-0080	6-13-2016	Adopt	7-1-2016
461-193-0890	7-1-2016	Repeal	8-1-2016	543-060-0020	1-11-2016	Amend(T)	2-1-2016
461-193-0940	7-1-2016	Repeal	8-1-2016	543-060-0020	6-13-2016	Amend	7-1-2016
461-193-0960	7-1-2016	Repeal	8-1-2016	543-060-0030	1-11-2016	Amend(T)	2-1-2016
461-193-1230	7-1-2016	Repeal	8-1-2016	543-060-0030	6-13-2016	Amend	7-1-2016
461-195-0501	7-1-2016	Amend	8-1-2016	543-060-0040	1-11-2016	Amend(T)	2-1-2016
461-195-0521	1-1-2016	Amend	2-1-2016	543-060-0040	6-13-2016	Amend	7-1-2016
461-195-0521	7-1-2016	Amend(T)	8-1-2016	543-060-0070	1-11-2016	Amend(T)	2-1-2016
461-195-0521	9-1-2016	Amend	10-1-2016	543-060-0070	6-13-2016	Amend	7-1-2016
461-195-0521(T)	9-1-2016	Repeal	10-1-2016	573-001-0000	9-1-2016	Repeal	10-1-2016
461-195-0541	7-1-2016	Amend(T)	8-1-2016	573-001-0010	9-1-2016	Repeal	10-1-2016
461-195-0541	9-1-2016	Amend	10-1-2016	573-001-0015	9-1-2016	Repeal	10-1-2016
461-195-0541(T)	9-1-2016	Repeal	10-1-2016	573-001-0020	9-1-2016	Repeal	10-1-2016
461-195-0621	1-1-2016	Amend	2-1-2016	573-001-0030	9-1-2016	Repeal	10-1-2016
462-160-0130	6-17-2016	Amend	8-1-2016	573-001-0040	9-1-2016	Repeal	10-1-2016
462-200-0660	6-6-2016	Adopt	7-1-2016	573-001-0050	9-1-2016	Repeal	10-1-2016
462-200-0670	6-6-2016	Adopt	7-1-2016	573-001-0055	9-1-2016	Repeal	10-1-2016
462-220-0040	5-9-2016	Amend	6-1-2016	573-001-0060	9-1-2016	Repeal	10-1-2016
462-220-0080	1-27-2016	Amend	3-1-2016	573-001-0070	9-1-2016	Repeal	10-1-2016
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471-030-0017	7-1-2016	Amend	8-1-2016	573-005-0015	9-1-2016	Repeal	10-1-2016
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543-001-0010	1-11-2016	Amend(T)	2-1-2016	573-005-0035	9-1-2016	Repeal	10-1-2016
543-001-0010	6-13-2016	Amend	7-1-2016	573-005-0045	9-1-2016	Repeal	10-1-2016
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573-095-0000	9-1-2016	Repeal	10-1-2016	575-038-0030	12-18-2015	Amend	2-1-2016
573-095-0005	9-1-2016	Repeal	10-1-2016	575-038-0040	12-18-2015	Amend	2-1-2016
573-095-0010	9-1-2016	Repeal	10-1-2016	575-039-0010	4-21-2016	Adopt	6-1-2016
575-001-0000	12-18-2015	Amend	2-1-2016	575-039-0020	4-21-2016	Adopt	6-1-2016
575-001-0005	12-18-2015	Amend	2-1-2016	575-039-0030	4-21-2016	Adopt	6-1-2016
575-001-0010	12-18-2015	Amend	2-1-2016	575-039-0040	4-21-2016	Adopt	6-1-2016
575-001-0015	12-18-2015	Amend	2-1-2016	575-039-0050	4-21-2016	Adopt	6-1-2016
575-001-0030	12-18-2015	Amend	2-1-2016	575-039-0060	4-21-2016	Adopt	6-1-2016
575-001-0035	12-18-2015	Amend	2-1-2016	575-039-0070	4-21-2016	Adopt	6-1-2016
575-007-0210	12-18-2015	Amend	2-1-2016	575-039-0080	4-21-2016	Adopt	6-1-2016
575-007-0240	12-18-2015	Amend	2-1-2016	575-039-0090	4-21-2016	Adopt	6-1-2016
575-007-0280	12-18-2015	Amend	2-1-2016	575-039-0100	4-21-2016	Adopt	6-1-2016
575-007-0310	12-18-2015	Amend	2-1-2016	575-039-0110	4-21-2016	Adopt	6-1-2016
575-007-0330	12-18-2015	Amend	2-1-2016	575-039-0120	4-21-2016	Adopt	6-1-2016
575-007-0340	12-18-2015	Amend	2-1-2016	575-039-0140	4-21-2016	Adopt	6-1-2016
575-007-0380	12-18-2015	Amend	2-1-2016	575-039-0150	4-21-2016	Adopt	6-1-2016
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575-030-0005	4-21-2016	Amend	6-1-2016	575-050-0005	12-18-2015	Amend	2-1-2016
575-031-0005	12-18-2015	Amend	2-1-2016	575-050-0010	12-18-2015	Amend	2-1-2016
575-031-0005	4-21-2016	Amend	6-1-2016	575-050-0015	12-18-2015	Amend	2-1-2016
575-031-0010	12-18-2015	Amend	2-1-2016	575-050-0020	12-18-2015	Amend	2-1-2016
575-031-0010	4-21-2016	Amend	6-1-2016	575-050-0025	12-18-2015	Amend	2-1-2016
575-031-0015	4-21-2016	Amend	6-1-2016	575-050-0030	12-18-2015	Amend	2-1-2016
575-031-0016	4-21-2016	Amend	6-1-2016	575-050-0035	12-18-2015	Amend	2-1-2016
575-031-0020	12-18-2015	Amend	2-1-2016	575-050-0040	12-18-2015	Amend	2-1-2016
575-031-0022	12-18-2015	Amend	2-1-2016	575-050-0042	12-18-2015	Amend	2-1-2016
575-031-0022	4-21-2016	Amend	6-1-2016	575-050-0045	12-18-2015	Amend	2-1-2016
575-031-0023	12-18-2015	Amend	2-1-2016	575-050-0050	12-18-2015	Amend	2-1-2016
575-031-0023	4-21-2016	Amend	6-1-2016	575-060-0005	12-18-2015	Amend	2-1-2016
575-031-0025	12-18-2015	Amend	2-1-2016	575-060-0020	12-18-2015	Amend	2-1-2016
575-031-0025	4-21-2016	Amend	6-1-2016	575-063-0010	12-18-2015	Amend	2-1-2016
575-031-0030	4-21-2016	Amend	6-1-2016	575-065-0001	12-18-2015	Amend	2-1-2016
575-031-0045	12-18-2015	Amend	2-1-2016	575-065-0045	12-18-2015	Amend	2-1-2016
575-031-0045	4-21-2016	Amend	6-1-2016	575-065-0055	12-18-2015	Amend	2-1-2016
575-031-0046	4-21-2016	Amend	6-1-2016	575-070-0005	12-18-2015	Amend	2-1-2016
575-031-0060	4-21-2016	Adopt	6-1-2016	575-070-0010	12-18-2015	Amend	2-1-2016
575-035-0005	12-18-2015	Amend	2-1-2016	575-070-0020	12-18-2015	Amend	2-1-2016
575-035-0010	12-18-2015	Amend	2-1-2016	575-070-0030	12-18-2015	Amend	2-1-2016
575-035-0015	12-18-2015	Amend	2-1-2016	575-070-0040	12-18-2015	Amend	2-1-2016
575-035-0020	12-18-2015	Amend	2-1-2016	575-070-0045	12-18-2015	Amend	2-1-2016
575-035-0025	12-18-2015	Amend	2-1-2016	575-070-0050	12-18-2015	Amend	2-1-2016
575-035-0030	12-18-2015	Amend	2-1-2016	575-070-0060	12-18-2015	Amend	2-1-2016
575-035-0040	12-18-2015	Amend	2-1-2016	575-070-0070	12-18-2015	Amend	2-1-2016
575-035-0045	12-18-2015	Amend	2-1-2016	575-070-0080	12-18-2015	Amend	2-1-2016
575-035-0046	12-18-2015	Amend	2-1-2016	575-070-0090	12-18-2015	Amend	2-1-2016
575-035-0050	12-18-2015	Amend	2-1-2016	575-071-0000	12-18-2015	Amend	2-1-2016
575-035-0051	12-18-2015	Amend	2-1-2016	575-071-0040	12-18-2015	Amend	2-1-2016
575-035-0055	12-18-2015	Amend	2-1-2016	575-072-0000	12-18-2015	Amend	2-1-2016
575-037-0005	12-18-2015	Amend	2-1-2016	575-072-0010	12-18-2015	Amend	2-1-2016
575-037-0010	12-18-2015	Amend	2-1-2016	575-072-0040	12-18-2015	Amend	2-1-2016
575-037-0020	12-18-2015	Amend	2-1-2016	575-072-0050	12-18-2015	Amend	2-1-2016
575-037-0030	12-18-2015	Amend	2-1-2016	575-072-0060	12-18-2015	Amend	2-1-2016
575-037-0040	12-18-2015	Amend	2-1-2016	575-072-0080	12-18-2015	Amend	2-1-2016
575-038-0000	12-18-2015	Amend	2-1-2016	575-072-0090	12-18-2015	Amend	2-1-2016

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575-074-0000	12-18-2015	Amend	2-1-2016	581-017-0330	3-22-2016	Amend	5-1-2016
575-075-0001	12-18-2015	Amend	2-1-2016	581-017-0333	12-28-2015	Amend(T)	2-1-2016
575-075-0005	12-18-2015	Amend	2-1-2016	581-017-0333	3-22-2016	Amend	5-1-2016
575-075-0007	12-18-2015	Amend	2-1-2016	581-017-0335	5-17-2016	Amend	7-1-2016
575-075-0008	12-18-2015	Amend	2-1-2016	581-017-0347	5-17-2016	Amend	7-1-2016
575-075-0010	12-18-2015	Amend	2-1-2016	581-017-0350	2-5-2016	Amend	3-1-2016
575-075-0030	12-18-2015	Amend	2-1-2016	581-017-0353	2-5-2016	Amend	3-1-2016
575-075-0040	12-18-2015	Amend	2-1-2016	581-017-0356	2-5-2016	Amend	3-1-2016
575-075-0043	12-18-2015	Amend	2-1-2016	581-017-0359	2-5-2016	Amend	3-1-2016
575-075-0044	12-18-2015	Amend	2-1-2016	581-017-0362	2-5-2016	Amend	3-1-2016
575-075-0045	12-18-2015	Amend	2-1-2016	581-017-0365	4-7-2016	Adopt	5-1-2016
575-075-0046	12-18-2015	Amend	2-1-2016	581-017-0367	4-7-2016	Adopt	5-1-2016
575-075-0047	12-18-2015	Amend	2-1-2016	581-017-0369	4-7-2016	Adopt	5-1-2016
575-075-0049	12-18-2015	Amend	2-1-2016	581-017-0371	4-7-2016	Adopt	5-1-2016
575-075-0050	12-18-2015	Amend	2-1-2016	581-017-0373	4-7-2016	Adopt	5-1-2016
575-075-0055	12-18-2015	Amend	2-1-2016	581-017-0375	4-7-2016	Adopt	5-1-2016
575-076-0010	12-18-2015	Amend	2-1-2016	581-017-0380	2-5-2016	Adopt	3-1-2016
575-080-0100	12-18-2015	Amend	2-1-2016	581-017-0383	2-5-2016	Adopt	3-1-2016
575-085-0000	12-18-2015	Amend	2-1-2016	581-017-0386	2-5-2016	Adopt	3-1-2016
575-085-0020	12-18-2015	Amend	2-1-2016	581-017-0389	2-5-2016	Adopt	3-1-2016
575-085-0030	12-18-2015	Amend	2-1-2016	581-017-0392	2-5-2016	Adopt	3-1-2016
575-085-0040	12-18-2015	Amend	2-1-2016	581-017-0395	2-5-2016	Adopt	3-1-2016
575-085-0050	12-18-2015	Amend	2-1-2016	581-017-0432	2-5-2016	Adopt	3-1-2016
575-085-0060	12-18-2015	Amend	2-1-2016	581-017-0435	2-5-2016	Adopt	3-1-2016
575-085-0070	12-18-2015	Amend	2-1-2016	581-017-0438	2-5-2016	Adopt	3-1-2016
575-090-0020	12-18-2015	Amend	2-1-2016	581-017-0441	2-5-2016	Adopt	3-1-2016
575-090-0030	12-18-2015	Amend	2-1-2016	581-017-0444	2-5-2016	Adopt	3-1-2016
575-090-0040	12-18-2015	Amend	2-1-2016	581-017-0447	2-5-2016	Adopt	3-1-2016
575-090-0050	12-18-2015	Amend	2-1-2016	581-017-0450	2-5-2016	Adopt	3-1-2016
575-095-0005	12-18-2015	Amend	2-1-2016	581-017-0453	2-5-2016	Adopt	3-1-2016
581-001-0002	4-7-2016	Amend	5-1-2016	581-017-0456	2-5-2016	Adopt	3-1-2016
581-005-0001	4-7-2016	Repeal	5-1-2016	581-017-0459	2-5-2016	Adopt	3-1-2016
581-011-0080	7-18-2016	Amend	9-1-2016	581-017-0462	2-5-2016	Adopt	3-1-2016
581-015-2200	12-21-2015	Amend	2-1-2016	581-017-0465	12-28-2015	Adopt(T)	2-1-2016
581-015-2595	12-18-2015	Amend	2-1-2016	581-017-0466	3-22-2016	Adopt	5-1-2016
581-015-2930	12-22-2015	Amend	2-1-2016	581-017-0469	12-28-2015	Adopt(T)	2-1-2016
581-017-0010	5-17-2016	Amend	7-1-2016	581-017-0470	3-22-2016	Adopt	5-1-2016
581-017-0020	5-17-2016	Amend	7-1-2016	581-017-0473	12-28-2015	Adopt(T)	2-1-2016
581-017-0215	5-17-2016	Amend	7-1-2016	581-017-0474	3-22-2016	Adopt	5-1-2016
581-017-0287	12-18-2015	Adopt	2-1-2016	581-017-0477	12-28-2015	Adopt(T)	2-1-2016
581-017-0291	12-18-2015	Adopt	2-1-2016	581-017-0478	3-22-2016	Adopt	5-1-2016
581-017-0294	12-18-2015	Adopt	2-1-2016	581-017-0481	12-28-2015	Adopt(T)	2-1-2016
581-017-0297	12-18-2015	Adopt	2-1-2016	581-017-0482	3-22-2016	Adopt	5-1-2016
581-017-0301	12-28-2015	Amend(T)	2-1-2016	581-017-0485	12-28-2015	Adopt(T)	2-1-2016
581-017-0301	5-17-2016	Amend	7-1-2016	581-017-0486	3-22-2016	Adopt	5-1-2016
581-017-0309	12-28-2015	Amend(T)	2-1-2016	581-017-0550	6-15-2016	Adopt	7-1-2016
581-017-0312	5-17-2016	Amend	7-1-2016	581-017-0553	6-15-2016	Adopt	7-1-2016
581-017-0318	12-28-2015	Amend(T)	2-1-2016	581-017-0556	6-15-2016	Adopt	7-1-2016
581-017-0318	5-17-2016	Amend	7-1-2016	581-017-0559	6-15-2016	Adopt	7-1-2016
581-017-0321	12-28-2015	Amend(T)	2-1-2016	581-017-0562	6-15-2016	Adopt	7-1-2016
581-017-0321	3-22-2016	Amend	5-1-2016	581-017-0565	6-15-2016	Adopt	7-1-2016
581-017-0324	12-28-2015	Amend(T)	2-1-2016	581-018-0010	5-17-2016	Amend	7-1-2016
581-017-0324	3-22-2016	Amend	5-1-2016	581-018-0020	5-17-2016	Amend	7-1-2016
581-017-0327	12-28-2015	Amend(T)	2-1-2016	581-018-0110	2-5-2016	Amend	3-1-2016
581-017-0327	3-22-2016	Amend	5-1-2016	581-018-0110	5-17-2016	Amend	7-1-2016

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581-018-0125	5-17-2016	Amend	7-1-2016	581-021-0578	7-18-2016	Adopt	9-1-2016
581-018-0130	12-18-2015	Amend	2-1-2016	581-021-0579	7-18-2016	Adopt	9-1-2016
581-018-0145	12-18-2015	Amend	2-1-2016	581-021-0580	4-28-2016	Adopt	6-1-2016
581-018-0148	12-18-2015	Amend	2-1-2016	581-021-0582	4-28-2016	Adopt	6-1-2016
581-018-0215	5-17-2016	Amend	7-1-2016	581-021-0584	4-28-2016	Adopt	6-1-2016
581-018-0265	5-17-2016	Amend	7-1-2016	581-022-0102	12-18-2015	Amend	2-1-2016
581-018-0325	5-17-2016	Amend	7-1-2016	581-022-0421	12-22-2015	Amend	2-1-2016
581-018-0336	5-17-2016	Amend	7-1-2016	581-022-0610	12-21-2015	Amend	2-1-2016
581-018-0509	5-17-2016	Amend	7-1-2016	581-022-0617	3-22-2016	Amend	5-1-2016
581-018-0529	5-17-2016	Amend	7-1-2016	581-022-1133	4-28-2016	Amend	6-1-2016
581-018-0575	5-17-2016	Amend	7-1-2016	581-022-1133	9-6-2016	Amend	10-1-2016
581-018-0584	5-17-2016	Amend	7-1-2016	581-022-1310	4-7-2016	Amend	5-1-2016
581-018-0590	5-17-2016	Amend	7-1-2016	581-022-1420	12-22-2015	Amend	2-1-2016
581-019-0036	5-3-2016	Adopt	6-1-2016	581-022-1440	3-22-2016	Amend	5-1-2016
581-019-0037	5-3-2016	Adopt	6-1-2016	581-022-1723	5-5-2016	Amend	6-1-2016
581-019-0038	5-3-2016	Adopt	6-1-2016	581-022-1910	12-18-2015	Amend	2-1-2016
581-019-0039	5-3-2016	Adopt	6-1-2016	581-022-2130	5-17-2016	Amend	7-1-2016
581-019-0040	5-3-2016	Adopt	6-1-2016	581-022-2223	8-19-2016	Adopt	10-1-2016
581-019-0041	5-3-2016	Adopt	6-1-2016	581-023-0006	2-5-2016	Amend	3-1-2016
581-019-0042	5-3-2016	Adopt	6-1-2016	581-023-0040	2-5-2016	Amend	3-1-2016
581-019-0043	5-3-2016	Adopt	6-1-2016	581-023-0102	2-5-2016	Amend	3-1-2016
581-019-0044	5-3-2016	Adopt	6-1-2016	581-023-0106	3-22-2016	Amend	5-1-2016
581-019-0045	5-3-2016	Adopt	6-1-2016	581-023-0250	2-5-2016	Adopt	3-1-2016
581-019-0046	5-3-2016	Adopt	6-1-2016	581-024-0275	12-22-2015	Amend	2-1-2016
581-019-0047	5-3-2016	Adopt	6-1-2016	581-024-0275	8-19-2016	Amend	10-1-2016
581-019-0048	5-3-2016	Adopt	6-1-2016	581-026-0210	12-18-2015	Amend	2-1-2016
581-019-0049	5-3-2016	Adopt	6-1-2016	581-026-0600	7-18-2016	Adopt	9-1-2016
581-020-0530	12-28-2015	Adopt(T)	2-1-2016	581-027-0005	4-28-2016	Adopt	6-1-2016
581-020-0531	3-22-2016	Adopt	5-1-2016	581-027-0005	7-20-2016	Amend	9-1-2016
581-020-0533	12-28-2015	Adopt(T)	2-1-2016	581-027-0010	4-28-2016	Adopt	6-1-2016
581-020-0534	3-22-2016	Adopt	5-1-2016	581-027-0015	4-28-2016	Adopt	6-1-2016
581-020-0536	12-28-2015	Adopt(T)	2-1-2016	581-027-0020	4-28-2016	Adopt	6-1-2016
581-020-0537	3-22-2016	Adopt	5-1-2016	581-027-0025	4-28-2016	Adopt	6-1-2016
581-020-0539	12-28-2015	Adopt(T)	2-1-2016	581-027-0030	7-20-2016	Adopt	9-1-2016
581-020-0540	3-22-2016	Adopt	5-1-2016	581-027-0035	7-20-2016	Adopt	9-1-2016
581-020-0541	12-28-2015	Adopt(T)	2-1-2016	581-027-0040	7-20-2016	Adopt	9-1-2016
581-020-0542	3-22-2016	Adopt	5-1-2016	581-027-0045	7-20-2016	Adopt	9-1-2016
581-020-0600	2-5-2016	Adopt	3-1-2016	581-027-0050	7-20-2016	Adopt	9-1-2016
581-020-0603	2-5-2016	Adopt	3-1-2016	581-044-0250	12-18-2015	Amend	2-1-2016
581-020-0606	2-5-2016	Adopt	3-1-2016	583-001-0000	2-19-2016	Amend	4-1-2016
581-020-0609	2-5-2016	Adopt	3-1-2016	583-001-0000(T)	2-19-2016	Repeal	4-1-2016
581-020-0612	2-5-2016	Adopt	3-1-2016	583-001-0005	2-19-2016	Amend	4-1-2016
581-020-0615	2-5-2016	Adopt	3-1-2016	583-001-0005(T)	2-19-2016	Repeal	4-1-2016
581-021-0017	6-15-2016	Adopt	7-1-2016	583-001-0015	2-19-2016	Amend	4-1-2016
581-021-0019	9-6-2016	Amend	10-1-2016	583-001-0015(T)	2-19-2016	Repeal	4-1-2016
581-021-0026	7-18-2016	Amend	9-1-2016	583-030-0005	2-19-2016	Amend	4-1-2016
581-021-0029	7-18-2016	Amend	9-1-2016	583-030-0005(T)	2-19-2016	Repeal	4-1-2016
581-021-0037	3-22-2016	Amend	5-1-2016	583-030-0009	2-19-2016	Amend	4-1-2016
581-021-0043	2-5-2016	Adopt	3-1-2016	583-030-0009(T)	2-19-2016	Repeal	4-1-2016
581-021-0043	4-28-2016	Amend	6-1-2016	583-030-0010	2-19-2016	Amend	4-1-2016
581-021-0047	3-22-2016	Amend	5-1-2016	583-030-0010(T)	2-19-2016	Repeal	4-1-2016
581-021-0065	2-5-2016	Amend	3-1-2016	583-030-0011	2-19-2016	Repeal	4-1-2016
581-021-0070	2-5-2016	Amend	3-1-2016	583-030-0015	2-19-2016	Amend	4-1-2016
581-021-0077	2-5-2016	Amend	3-1-2016	583-030-0015(T)	2-19-2016	Repeal	4-1-2016
581-021-0505	4-7-2016	Adopt	5-1-2016	583-030-0016	2-19-2016	Amend	4-1-2016

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583-030-0020	2-19-2016	Amend	4-1-2016	584-018-0110	1-1-2016	Suspend	2-1-2016
583-030-0020(T)	2-19-2016	Repeal	4-1-2016	584-018-0110	4-15-2016	Repeal	5-1-2016
583-030-0025	2-19-2016	Amend	4-1-2016	584-020-0060	7-1-2016	Amend(T)	8-1-2016
583-030-0025(T)	2-19-2016	Repeal	4-1-2016	584-040-0005	2-10-2016	Repeal	3-1-2016
583-030-0030	2-19-2016	Amend	4-1-2016	584-040-0008	2-10-2016	Repeal	3-1-2016
583-030-0030(T)	2-19-2016	Repeal	4-1-2016	584-040-0010	2-10-2016	Repeal	3-1-2016
583-030-0032	2-19-2016	Amend	4-1-2016	584-040-0030	2-10-2016	Repeal	3-1-2016
583-030-0032(T)	2-19-2016	Repeal	4-1-2016	584-040-0040	2-10-2016	Repeal	3-1-2016
583-030-0035	2-19-2016	Amend	4-1-2016	584-040-0050	2-10-2016	Repeal	3-1-2016
583-030-0035(T)	2-19-2016	Repeal	4-1-2016	584-040-0060	2-10-2016	Repeal	3-1-2016
583-030-0036	2-19-2016	Amend	4-1-2016	584-040-0080	2-10-2016	Repeal	3-1-2016
583-030-0036(T)	2-19-2016	Repeal	4-1-2016	584-040-0090	2-10-2016	Repeal	3-1-2016
583-030-0041	2-19-2016	Amend	4-1-2016	584-040-0100	2-10-2016	Repeal	3-1-2016
583-030-0041(T)	2-19-2016	Repeal	4-1-2016	584-040-0120	2-10-2016	Repeal	3-1-2016
583-030-0042	2-19-2016	Amend	4-1-2016	584-040-0130	2-10-2016	Repeal	3-1-2016
583-030-0042(T)	2-19-2016	Repeal	4-1-2016	584-040-0150	2-10-2016	Repeal	3-1-2016
583-030-0043	2-19-2016	Amend	4-1-2016	584-040-0160	2-10-2016	Repeal	3-1-2016
583-030-0043(T)	2-19-2016	Repeal	4-1-2016	584-040-0165	2-10-2016	Repeal	3-1-2016
583-030-0045	2-19-2016	Amend	4-1-2016	584-040-0170	2-10-2016	Repeal	3-1-2016
583-030-0045(T)	2-19-2016	Repeal	4-1-2016	584-040-0180	2-10-2016	Repeal	3-1-2016
583-030-0046	2-19-2016	Amend	4-1-2016	584-040-0200	2-10-2016	Repeal	3-1-2016
583-030-0046(T)	2-19-2016	Repeal	4-1-2016	584-040-0210	2-10-2016	Repeal	3-1-2016
583-030-0049	2-19-2016	Amend	4-1-2016	584-040-0230	2-10-2016	Repeal	3-1-2016
583-030-0049(T)	2-19-2016	Repeal	4-1-2016	584-040-0240	2-10-2016	Repeal	3-1-2016
583-030-0051	2-19-2016	Adopt	4-1-2016	584-040-0241	2-10-2016	Repeal	3-1-2016
583-030-0051(T)	2-19-2016	Repeal	4-1-2016	584-040-0242	2-10-2016	Repeal	3-1-2016
583-030-0052	2-19-2016	Adopt	4-1-2016	584-040-0243	2-10-2016	Repeal	3-1-2016
583-030-0052(T)	2-19-2016	Repeal	4-1-2016	584-040-0250	2-10-2016	Repeal	3-1-2016
583-030-0053	2-19-2016	Adopt	4-1-2016	584-040-0260	2-10-2016	Repeal	3-1-2016
583-030-0053(T)	2-19-2016	Repeal	4-1-2016	584-040-0265	2-10-2016	Repeal	3-1-2016
583-030-0054	2-19-2016	Adopt	4-1-2016	584-040-0270	2-10-2016	Repeal	3-1-2016
583-030-0054(T)	2-19-2016	Repeal	4-1-2016	584-040-0280	2-10-2016	Repeal	3-1-2016
583-030-0056	2-19-2016	Adopt	4-1-2016	584-040-0290	2-10-2016	Repeal	3-1-2016
583-030-0056(T)	2-19-2016	Repeal	4-1-2016	584-040-0300	2-10-2016	Repeal	3-1-2016
583-050-0006	2-19-2016	Amend	4-1-2016	584-040-0310	2-10-2016	Repeal	3-1-2016
583-050-0006(T)	2-19-2016	Repeal	4-1-2016	584-040-0315	2-10-2016	Repeal	3-1-2016
583-050-0011	2-19-2016	Amend	4-1-2016	584-040-0350	2-10-2016	Repeal	3-1-2016
583-050-0011(T)	2-19-2016	Repeal	4-1-2016	584-050-0150	2-10-2016	Adopt	3-1-2016
583-050-0014	2-19-2016	Amend	4-1-2016	584-052-0005	2-10-2016	Repeal	3-1-2016
583-050-0014(T)	2-19-2016	Repeal	4-1-2016	584-052-0010	2-10-2016	Repeal	3-1-2016
583-050-0016	2-19-2016	Amend	4-1-2016	584-052-0015	2-10-2016	Repeal	3-1-2016
583-050-0016(T)	2-19-2016	Repeal	4-1-2016	584-052-0021	2-10-2016	Repeal	3-1-2016
583-050-0026	2-19-2016	Amend	4-1-2016	584-052-0025	2-10-2016	Repeal	3-1-2016
583-050-0026(T)	2-19-2016	Repeal	4-1-2016	584-052-0027	2-10-2016	Repeal	3-1-2016
583-050-0027	2-19-2016	Amend	4-1-2016	584-065-0001	2-10-2016	Repeal	3-1-2016
583-050-0027(T)	2-19-2016	Repeal	4-1-2016	584-065-0060	2-10-2016	Repeal	3-1-2016
583-050-0028	2-19-2016	Amend	4-1-2016	584-065-0070	2-10-2016	Repeal	3-1-2016
583-050-0028(T)	2-19-2016	Repeal	4-1-2016	584-065-0080	2-10-2016	Repeal	3-1-2016
583-050-0036	2-19-2016	Amend	4-1-2016	584-065-0090	2-10-2016	Repeal	3-1-2016
583-050-0036(T)	2-19-2016	Repeal	4-1-2016	584-065-0120	2-10-2016	Repeal	3-1-2016
583-050-0040	2-19-2016	Amend	4-1-2016	584-065-0125	2-10-2016	Repeal	3-1-2016
583-050-0040(T)	2-19-2016	Repeal	4-1-2016	584-066-0001	2-10-2016	Repeal	3-1-2016
584-010-0004	7-1-2016	Adopt(T)	8-1-2016	584-066-0010	2-10-2016	Repeal	3-1-2016
584-010-0090	1-1-2016	Suspend	2-1-2016	584-066-0015	2-10-2016	Repeal	3-1-2016
584-010-0125	7-1-2016	Adopt(T)	8-1-2016	584-066-0020	2-10-2016	Repeal	3-1-2016



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584-066-0030	2-10-2016	Repeal	3-1-2016	584-210-0165	2-10-2016	Adopt	3-1-2016
584-070-0012	2-10-2016	Amend	3-1-2016	584-210-0190	2-10-2016	Amend	3-1-2016
584-070-0014	2-10-2016	Repeal	3-1-2016	584-220-0010	2-10-2016	Amend	3-1-2016
584-070-0510	2-10-2016	Adopt	3-1-2016	584-220-0015	2-10-2016	Amend	3-1-2016
584-100-0002	4-15-2016	Repeal	5-1-2016	584-220-0020	2-10-2016	Amend	3-1-2016
584-100-0006	4-15-2016	Repeal	5-1-2016	584-220-0025	2-10-2016	Amend	3-1-2016
584-100-0007	4-15-2016	Repeal	5-1-2016	584-220-0030	2-10-2016	Amend	3-1-2016
584-100-0008	4-15-2016	Repeal	5-1-2016	584-220-0035	2-10-2016	Amend	3-1-2016
584-100-0011	4-15-2016	Repeal	5-1-2016	584-220-0040	2-10-2016	Amend	3-1-2016
584-100-0016	4-15-2016	Repeal	5-1-2016	584-220-0045	2-10-2016	Amend	3-1-2016
584-100-0017	4-15-2016	Repeal	5-1-2016	584-220-0050	2-10-2016	Amend	3-1-2016
584-100-0021	4-15-2016	Repeal	5-1-2016	584-220-0055	2-10-2016	Amend	3-1-2016
584-100-0026	4-15-2016	Repeal	5-1-2016	584-220-0060	2-10-2016	Amend	3-1-2016
584-100-0031	4-15-2016	Repeal	5-1-2016	584-220-0065	2-10-2016	Amend	3-1-2016
584-100-0036	4-15-2016	Repeal	5-1-2016	584-220-0070	2-10-2016	Amend	3-1-2016
584-100-0038	4-15-2016	Repeal	5-1-2016	584-220-0075	2-10-2016	Amend	3-1-2016
584-100-0041	4-15-2016	Repeal	5-1-2016	584-220-0080	2-10-2016	Amend	3-1-2016
584-100-0051	4-15-2016	Repeal	5-1-2016	584-220-0085	2-10-2016	Amend	3-1-2016
584-100-0056	4-15-2016	Repeal	5-1-2016	584-220-0090	2-10-2016	Amend	3-1-2016
584-100-0061	4-15-2016	Repeal	5-1-2016	584-220-0095	2-10-2016	Amend	3-1-2016
584-100-0066	4-15-2016	Repeal	5-1-2016	584-220-0100	2-10-2016	Amend	3-1-2016
584-100-0071	4-15-2016	Repeal	5-1-2016	584-220-0105	2-10-2016	Amend	3-1-2016
584-100-0091	4-15-2016	Repeal	5-1-2016	584-220-0110	2-10-2016	Amend	3-1-2016
584-100-0096	4-15-2016	Repeal	5-1-2016	584-220-0120	2-10-2016	Amend	3-1-2016
584-100-0111	4-15-2016	Repeal	5-1-2016	584-220-0130	2-10-2016	Amend	3-1-2016
584-200-0004	1-1-2016	Adopt(T)	2-1-2016	584-220-0140	2-10-2016	Amend	3-1-2016
584-200-0005	2-10-2016	Adopt	3-1-2016	584-220-0145	2-10-2016	Amend	3-1-2016
584-200-0005	7-1-2016	Amend(T)	8-1-2016	584-220-0150	2-10-2016	Amend	3-1-2016
584-200-0010	1-1-2016	Amend(T)	2-1-2016	584-220-0155	2-10-2016	Amend	3-1-2016
584-200-0010	2-10-2016	Adopt	3-1-2016	584-220-0160	2-10-2016	Amend	3-1-2016
584-200-0020	2-10-2016	Adopt	3-1-2016	584-220-0165	2-10-2016	Amend	3-1-2016
584-200-0030	2-10-2016	Adopt	3-1-2016	584-220-0170	2-10-2016	Amend	3-1-2016
584-200-0030	7-1-2016	Amend(T)	8-1-2016	584-220-0175	2-10-2016	Amend	3-1-2016
584-200-0040	2-10-2016	Adopt	3-1-2016	584-220-0180	2-10-2016	Amend	3-1-2016
584-200-0050	1-1-2016	Amend(T)	2-1-2016	584-220-0185	2-10-2016	Amend	3-1-2016
584-200-0050	2-10-2016	Adopt	3-1-2016	584-220-0190	2-10-2016	Amend	3-1-2016
584-200-0060	2-10-2016	Adopt	3-1-2016	584-220-0195	2-10-2016	Amend	3-1-2016
584-200-0070	2-10-2016	Adopt	3-1-2016	584-220-0200	2-10-2016	Amend	3-1-2016
584-200-0080	2-10-2016	Adopt	3-1-2016	584-220-0205	2-10-2016	Amend	3-1-2016
584-200-0090	2-10-2016	Adopt	3-1-2016	584-220-0210	2-10-2016	Amend	3-1-2016
584-200-0100	2-10-2016	Adopt	3-1-2016	584-220-0215	2-10-2016	Amend	3-1-2016
584-210-0030	2-10-2016	Amend	3-1-2016	584-220-0220	2-10-2016	Amend	3-1-2016
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584-210-0060	2-10-2016	Amend	3-1-2016	584-225-0020	2-10-2016	Adopt	3-1-2016
584-210-0070	2-10-2016	Amend	3-1-2016	584-225-0030	2-10-2016	Adopt	3-1-2016
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584-210-0090	2-10-2016	Amend	3-1-2016	584-225-0050	2-10-2016	Adopt	3-1-2016
584-210-0100	2-10-2016	Amend	3-1-2016	584-225-0070	2-10-2016	Adopt	3-1-2016
584-210-0110	2-10-2016	Amend	3-1-2016	584-225-0090	2-10-2016	Adopt	3-1-2016
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584-210-0140	2-10-2016	Amend	3-1-2016	584-255-0030	2-10-2016	Amend	3-1-2016
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584-420-0016	9-1-2016	Adopt(T)	10-1-2016	603-048-0100	5-3-2016	Amend(T)	6-1-2016
584-420-0020	2-10-2016	Adopt	3-1-2016	603-048-0110	5-3-2016	Suspend	6-1-2016
584-420-0030	2-10-2016	Adopt	3-1-2016	603-048-0200	1-29-2016	Amend(T)	3-1-2016
584-420-0040	2-10-2016	Adopt	3-1-2016	603-048-0200	5-3-2016	Amend(T)	6-1-2016
584-420-0300	2-10-2016	Adopt	3-1-2016	603-048-0250	5-3-2016	Suspend	6-1-2016
584-420-0310	2-10-2016	Adopt	3-1-2016	603-048-0300	5-3-2016	Amend(T)	6-1-2016
584-420-0345	2-10-2016	Adopt	3-1-2016	603-048-0400	5-3-2016	Amend(T)	6-1-2016
584-420-0345	9-1-2016	Amend(T)	10-1-2016	603-048-0500	5-3-2016	Amend(T)	6-1-2016
584-420-0360	2-10-2016	Adopt	3-1-2016	603-048-0600	1-29-2016	Amend(T)	3-1-2016
584-420-0365	2-10-2016	Adopt	3-1-2016	603-048-0600	5-3-2016	Amend(T)	6-1-2016
584-420-0375	2-10-2016	Adopt	3-1-2016	603-048-0650	5-3-2016	Adopt(T)	6-1-2016
584-420-0390	2-10-2016	Adopt	3-1-2016	603-048-0700	5-3-2016	Amend(T)	6-1-2016
584-420-0415	2-10-2016	Adopt	3-1-2016	603-048-0800	5-3-2016	Amend(T)	6-1-2016
584-420-0420	2-10-2016	Adopt	3-1-2016	603-048-0900	5-3-2016	Amend(T)	6-1-2016
584-420-0425	2-10-2016	Adopt	3-1-2016	603-048-1000	5-3-2016	Amend(T)	6-1-2016
584-420-0440	2-10-2016	Adopt	3-1-2016	603-052-0052	11-18-2015	Adopt(T)	1-1-2016
584-420-0440	9-1-2016	Amend(T)	10-1-2016	603-052-0347	2-12-2016	Amend	3-1-2016
584-420-0460	2-10-2016	Adopt	3-1-2016	603-052-0385	2-12-2016	Amend	3-1-2016
584-420-0460	9-1-2016	Amend(T)	10-1-2016	603-052-0862	8-16-2016	Amend	10-1-2016
584-420-0475	2-10-2016	Adopt	3-1-2016	603-052-0870	8-16-2016	Amend	10-1-2016
584-420-0490	2-10-2016	Adopt	3-1-2016	603-052-1200	7-26-2016	Amend	9-1-2016
584-420-0600	2-10-2016	Adopt	3-1-2016	603-054-0014	4-29-2016	Adopt	6-1-2016
584-420-0610	2-10-2016	Adopt	3-1-2016	603-054-0016	4-29-2016	Amend	6-1-2016
584-420-0620	2-10-2016	Adopt	3-1-2016	603-054-0017	4-29-2016	Amend	6-1-2016
584-420-0630	2-10-2016	Adopt	3-1-2016	603-054-0018	4-29-2016	Amend	6-1-2016
584-420-0640	2-10-2016	Adopt	3-1-2016	603-055-0100	4-5-2016	Amend	5-1-2016
584-420-0650	2-10-2016	Adopt	3-1-2016	603-055-0200	4-5-2016	Adopt	5-1-2016
584-420-0660	2-10-2016	Adopt	3-1-2016	603-056-0095	4-15-2016	Amend	5-1-2016
589-002-0120	2-12-2016	Amend	3-1-2016	603-057-0107	1-1-2016	Adopt(T)	1-1-2016
603-011-0212	4-5-2016	Amend	5-1-2016	603-057-0108	6-28-2016	Adopt	8-1-2016
603-012-0210	4-29-2016	Amend	6-1-2016	603-057-0155	1-1-2016	Adopt(T)	1-1-2016
603-012-0220	4-29-2016	Amend	6-1-2016	603-057-0157	1-1-2016	Adopt(T)	1-1-2016
603-012-0230	4-29-2016	Amend	6-1-2016	603-057-0502	2-26-2016	Amend	4-1-2016
603-012-0240	4-29-2016	Amend	6-1-2016	603-057-0529	2-26-2016	Adopt	4-1-2016
603-012-0250	4-29-2016	Adopt	6-1-2016	603-057-0530	2-26-2016	Amend	4-1-2016
603-024-0017	6-20-2016	Amend	8-1-2016	603-057-0531	2-26-2016	Adopt	4-1-2016
603-024-0041	6-20-2016	Amend	8-1-2016	603-057-0532	2-26-2016	Amend	4-1-2016
603-024-0211	6-20-2016	Amend	8-1-2016	603-059-0020	7-1-2016	Amend	8-1-2016
603-024-0594	6-20-2016	Amend	8-1-2016	603-059-0030	7-1-2016	Amend	8-1-2016
603-024-0641	6-20-2016	Amend	8-1-2016	603-059-0050	7-1-2016	Amend	8-1-2016
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603-025-0151	2-9-2016	Adopt	3-1-2016	603-059-0060	7-1-2016	Adopt	8-1-2016
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603-025-0315	5-19-2016	Adopt	7-1-2016	611-030-0010	5-9-2016	Amend	6-1-2016
603-025-0320	5-19-2016	Adopt	7-1-2016	623-010-0010	9-1-2016	Amend	7-1-2016
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603-025-0330	5-19-2016	Adopt	7-1-2016	629-025-0005	3-11-2016	Amend	4-1-2016
603-027-0410	8-4-2016	Amend	9-1-2016	629-025-0011	3-11-2016	Amend	4-1-2016
603-027-0420	8-4-2016	Amend	9-1-2016	629-025-0020	3-11-2016	Amend	4-1-2016
603-027-0430	8-4-2016	Amend	9-1-2016	629-025-0021	3-11-2016	Adopt	4-1-2016
603-027-0450	8-4-2016	Amend	9-1-2016	629-025-0022	3-11-2016	Adopt	4-1-2016
603-027-0470	8-4-2016	Amend	9-1-2016	629-025-0030	3-11-2016	Amend	4-1-2016
603-027-0490	8-4-2016	Amend	9-1-2016	629-025-0040	3-11-2016	Amend	4-1-2016
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629-025-0070	3-11-2016	Amend	4-1-2016	635-005-0355	1-1-2016	Amend	1-1-2016
629-025-0080	3-11-2016	Amend	4-1-2016	635-005-0355	2-23-2016	Amend(T)	4-1-2016
629-025-0090	3-11-2016	Adopt	4-1-2016	635-005-0385	1-1-2016	Amend	1-1-2016
629-025-0098	3-11-2016	Adopt	4-1-2016	635-005-0387	1-1-2016	Adopt	1-1-2016
629-025-0099	3-11-2016	Adopt	4-1-2016	635-005-0387	9-16-2016	Amend(T)	10-1-2016
629-170-0001	7-1-2016	Adopt	7-1-2016	635-005-0465	11-20-2015	Amend(T)	1-1-2016
629-170-0005	7-1-2016	Adopt	7-1-2016	635-005-0465	1-1-2016	Amend(T)	2-1-2016
629-170-0010	7-1-2016	Adopt	7-1-2016	635-005-0465(T)	1-1-2016	Suspend	2-1-2016
629-170-0015	7-1-2016	Adopt	7-1-2016	635-005-0790	4-1-2016	Amend	5-1-2016
629-170-0020	7-1-2016	Adopt	7-1-2016	635-005-0795	4-1-2016	Amend	5-1-2016
629-170-0025	7-1-2016	Adopt	7-1-2016	635-005-0800	4-1-2016	Amend	5-1-2016
629-170-0030	7-1-2016	Adopt	7-1-2016	635-005-0805	4-1-2016	Amend	5-1-2016
629-170-0035	7-1-2016	Adopt	7-1-2016	635-005-0810	4-1-2016	Amend	5-1-2016
629-170-0040	7-1-2016	Adopt	7-1-2016	635-005-0815	4-1-2016	Amend	5-1-2016
632-030-0016	1-14-2016	Amend(T)	2-1-2016	635-005-0820	4-1-2016	Amend	5-1-2016
632-030-0016	6-27-2016	Amend	8-1-2016	635-005-0825	4-1-2016	Amend	5-1-2016
632-030-0016(T)	6-27-2016	Repeal	8-1-2016	635-005-0830	4-1-2016	Amend	5-1-2016
632-030-0022	1-14-2016	Amend(T)	2-1-2016	635-005-0835	4-1-2016	Amend	5-1-2016
632-030-0022	6-27-2016	Amend	8-1-2016	635-005-0840	4-1-2016	Amend	5-1-2016
632-030-0022(T)	6-27-2016	Repeal	8-1-2016	635-005-0845	4-1-2016	Amend	5-1-2016
635-001-0030	12-9-2015	Adopt	1-1-2016	635-005-0920	6-3-2016	Amend(T)	7-1-2016
635-001-0210	4-27-2016	Amend	6-1-2016	635-005-0931	6-13-2016	Adopt	7-1-2016
635-001-0341	1-6-2016	Adopt	2-1-2016	635-005-0932	6-13-2016	Adopt	7-1-2016
635-003-0003	4-25-2016	Amend	6-1-2016	635-005-0933	6-13-2016	Adopt	7-1-2016
635-003-0085	4-25-2016	Amend	6-1-2016	635-006-0136	6-13-2016	Adopt	7-1-2016
635-004-0215	1-19-2016	Amend	3-1-2016	635-006-0210	2-1-2016	Amend(T)	3-1-2016
635-004-0275	11-25-2015	Amend(T)	1-1-2016	635-006-0210	7-29-2016	Amend(T)	8-1-2016
635-004-0275	1-19-2016	Amend	3-1-2016	635-006-0210(T)	7-29-2016	Suspend	8-1-2016
635-004-0275	7-5-2016	Amend(T)	8-1-2016	635-006-0212	5-18-2016	Amend(T)	7-1-2016
635-004-0275	9-15-2016	Amend(T)	10-1-2016	635-006-0215	5-18-2016	Amend(T)	7-1-2016
635-004-0275(T)	11-25-2015	Suspend	1-1-2016	635-006-0225	5-18-2016	Amend(T)	7-1-2016
635-004-0275(T)	9-15-2016	Suspend	10-1-2016	635-006-0232	1-19-2016	Amend	3-1-2016
635-004-0295	1-19-2016	Amend	3-1-2016	635-007-0605	2-23-2016	Amend(T)	4-1-2016
635-004-0300	1-19-2016	Amend	3-1-2016	635-008-0053	4-27-2016	Amend	6-1-2016
635-004-0340	1-19-2016	Amend	3-1-2016	635-008-0068	4-27-2016	Amend	6-1-2016
635-004-0350	1-19-2016	Amend	3-1-2016	635-008-0080	4-27-2016	Amend	6-1-2016
635-004-0355	1-19-2016	Amend	3-1-2016	635-008-0095	4-27-2016	Amend	6-1-2016
635-004-0355	7-5-2016	Amend(T)	8-1-2016	635-008-0112	6-27-2016	Amend	8-1-2016
635-004-0355	9-15-2016	Amend(T)	10-1-2016	635-008-0115	4-27-2016	Amend	6-1-2016
635-004-0355(T)	9-15-2016	Suspend	10-1-2016	635-008-0120	4-27-2016	Amend	6-1-2016
635-004-0360	1-19-2016	Amend	3-1-2016	635-008-0123	11-25-2015	Amend	1-1-2016
635-004-0370	6-13-2016	Amend	7-1-2016	635-008-0123(T)	11-25-2015	Repeal	1-1-2016
635-004-0375	7-1-2016	Amend(T)	8-1-2016	635-008-0147	4-27-2016	Amend	6-1-2016
635-004-0377	6-13-2016	Adopt	7-1-2016	635-008-0155	4-27-2016	Amend	6-1-2016
635-004-0378	6-13-2016	Adopt	7-1-2016	635-008-0190	4-27-2016	Amend	6-1-2016
635-004-0379	6-13-2016	Adopt	7-1-2016	635-010-0015	11-25-2015	Amend	1-1-2016
635-004-0425	6-13-2016	Repeal	7-1-2016	635-011-0100	1-1-2016	Amend	2-1-2016
635-004-0430	6-13-2016	Amend	7-1-2016	635-011-0100	4-1-2016	Amend(T)	5-1-2016
635-004-0435	6-13-2016	Repeal	7-1-2016	635-011-0100	8-10-2016	Amend	9-1-2016
635-004-0440	6-13-2016	Repeal	7-1-2016	635-011-0100(T)	8-10-2016	Repeal	9-1-2016
635-004-0555	6-13-2016	Amend	7-1-2016	635-012-0090	6-13-2016	Amend	7-1-2016
635-004-0585	4-26-2016	Amend	6-1-2016	635-012-0100	6-13-2016	Amend	7-1-2016
635-005-0290	1-1-2016	Amend	1-1-2016	635-013-0003	4-25-2016	Amend	6-1-2016
635-005-0305	1-1-2016	Amend	1-1-2016	635-013-0004	1-1-2016	Amend	2-1-2016
635-005-0310	1-1-2016	Amend	1-1-2016	635-013-0007	4-25-2016	Amend	6-1-2016

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635-014-0080	1-1-2016	Amend	2-1-2016	635-021-0090(T)	8-10-2016	Repeal	9-1-2016
635-014-0090	1-1-2016	Amend	2-1-2016	635-023-0080	1-1-2016	Amend	2-1-2016
635-014-0090	4-1-2016	Amend(T)	5-1-2016	635-023-0090	1-1-2016	Amend	2-1-2016
635-014-0090	5-1-2016	Amend(T)	6-1-2016	635-023-0095	1-1-2016	Amend	2-1-2016
635-014-0090	8-1-2016	Amend(T)	9-1-2016	635-023-0095	2-8-2016	Amend(T)	3-1-2016
635-014-0090	8-4-2016	Amend(T)	9-1-2016	635-023-0095	4-30-2016	Amend(T)	6-1-2016
635-014-0090	8-10-2016	Amend	9-1-2016	635-023-0095	5-1-2016	Amend(T)	6-1-2016
635-014-0090(T)	5-1-2016	Suspend	6-1-2016	635-023-0095	5-29-2016	Amend(T)	7-1-2016
635-014-0090(T)	8-1-2016	Suspend	9-1-2016	635-023-0095	6-30-2016	Amend(T)	8-1-2016
635-014-0090(T)	8-4-2016	Suspend	9-1-2016	635-023-0095(T)	4-30-2016	Suspend	6-1-2016
635-014-0090(T)	8-10-2016	Repeal	9-1-2016	635-023-0095(T)	5-1-2016	Suspend	6-1-2016
635-016-0080	1-1-2016	Amend	2-1-2016	635-023-0095(T)	5-29-2016	Suspend	7-1-2016
635-016-0090	1-1-2016	Amend	2-1-2016	635-023-0095(T)	6-30-2016	Suspend	8-1-2016
635-016-0090	4-1-2016	Amend(T)	5-1-2016	635-023-0125	1-1-2016	Amend	2-1-2016
635-016-0090	5-11-2016	Amend(T)	6-1-2016	635-023-0125	3-1-2016	Amend(T)	3-1-2016
635-016-0090	8-4-2016	Amend(T)	9-1-2016	635-023-0125	4-8-2016	Amend(T)	5-1-2016
635-016-0090	8-10-2016	Amend	9-1-2016	635-023-0125	5-6-2016	Amend(T)	6-1-2016
635-016-0090(T)	5-11-2016	Suspend	6-1-2016	635-023-0125	5-13-2016	Amend(T)	6-1-2016
635-016-0090(T)	8-4-2016	Suspend	9-1-2016	635-023-0125	5-20-2016	Amend(T)	7-1-2016
635-016-0090(T)	8-10-2016	Repeal	9-1-2016	635-023-0125	5-28-2016	Amend(T)	7-1-2016
635-017-0080	1-1-2016	Amend	2-1-2016	635-023-0125	6-10-2016	Amend(T)	7-1-2016
635-017-0090	1-1-2016	Amend	2-1-2016	635-023-0125	6-10-2016	Suspend	7-1-2016
635-017-0090	4-1-2016	Amend(T)	5-1-2016	635-023-0125(T)	4-8-2016	Suspend	5-1-2016
635-017-0090	4-8-2016	Amend(T)	5-1-2016	635-023-0125(T)	5-6-2016	Suspend	6-1-2016
635-017-0090	6-9-2016	Amend(T)	7-1-2016	635-023-0125(T)	5-13-2016	Suspend	6-1-2016
635-017-0090	6-16-2016	Amend(T)	7-1-2016	635-023-0125(T)	5-20-2016	Suspend	7-1-2016
635-017-0090	8-10-2016	Amend	9-1-2016	635-023-0125(T)	5-28-2016	Suspend	7-1-2016
635-017-0090(T)	4-8-2016	Suspend	5-1-2016	635-023-0128	1-1-2016	Amend	2-1-2016
635-017-0090(T)	6-9-2016	Suspend	7-1-2016	635-023-0128	6-16-2016	Amend(T)	7-1-2016
635-017-0090(T)	6-16-2016	Suspend	7-1-2016	635-023-0130	1-1-2016	Amend	2-1-2016
635-017-0090(T)	8-10-2016	Repeal	9-1-2016	635-023-0130	8-1-2016	Amend(T)	9-1-2016
635-017-0095	1-1-2016	Amend	2-1-2016	635-023-0130	9-1-2016	Amend(T)	10-1-2016
635-018-0080	1-1-2016	Amend	2-1-2016	635-023-0130	9-6-2016	Amend(T)	10-1-2016
635-018-0090	1-1-2016	Amend	2-1-2016	635-023-0130	9-15-2016	Amend(T)	10-1-2016
635-018-0090	4-15-2016	Amend(T)	5-1-2016	635-023-0130	9-15-2016	Amend(T)	10-1-2016
635-019-0080	1-1-2016	Amend	2-1-2016	635-023-0130(T)	9-1-2016	Suspend	10-1-2016
635-019-0090	1-1-2016	Amend	2-1-2016	635-023-0130(T)	9-6-2016	Suspend	10-1-2016
635-019-0090	5-10-2016	Amend(T)	6-1-2016	635-023-0130(T)	9-15-2016	Suspend	10-1-2016
635-019-0090	5-28-2016	Amend(T)	7-1-2016	635-023-0130(T)	9-15-2016	Suspend	10-1-2016
635-019-0090	6-15-2016	Amend(T)	7-1-2016	635-023-0134	1-1-2016	Amend	2-1-2016
635-019-0090	7-2-2016	Amend(T)	8-1-2016	635-023-0134	4-23-2016	Amend(T)	5-1-2016
635-019-0090	7-3-2016	Amend(T)	8-1-2016	635-023-0134	6-2-2016	Amend(T)	7-1-2016
635-019-0090	7-18-2016	Amend(T)	9-1-2016	635-023-0134	9-1-2016	Amend(T)	9-1-2016
635-019-0090(T)	5-28-2016	Suspend	7-1-2016	635-023-0134(T)	6-2-2016	Suspend	7-1-2016
635-019-0090(T)	6-15-2016	Suspend	7-1-2016	635-023-0140	1-1-2016	Amend	2-1-2016
635-019-0090(T)	7-2-2016	Suspend	8-1-2016	635-039-0080	1-1-2016	Amend	2-1-2016
635-019-0090(T)	7-3-2016	Suspend	8-1-2016	635-039-0080	1-19-2016	Amend	3-1-2016
635-019-0090(T)	7-18-2016	Suspend	9-1-2016	635-039-0085	4-26-2016	Amend	6-1-2016
635-021-0080	1-1-2016	Amend	2-1-2016	635-039-0085	6-2-2016	Amend(T)	7-1-2016
635-021-0090	1-1-2016	Amend	2-1-2016	635-039-0085	6-8-2016	Amend(T)	7-1-2016
635-021-0090	4-1-2016	Amend(T)	5-1-2016	635-039-0085(T)	6-8-2016	Suspend	7-1-2016
635-021-0090	5-1-2016	Amend(T)	6-1-2016	635-039-0090	1-1-2016	Amend	2-1-2016
635-021-0090	6-8-2016	Amend(T)	7-1-2016	635-039-0090	1-19-2016	Amend	3-1-2016
635-021-0090	8-10-2016	Amend	9-1-2016	635-039-0090	4-1-2016	Amend(T)	5-1-2016
635-021-0090(T)	5-1-2016	Suspend	6-1-2016	635-039-0090	4-26-2016	Amend	6-1-2016
635-021-0090(T)	6-8-2016	Suspend	7-1-2016	635-039-0090	4-26-2016	Amend(T)	6-1-2016

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635-039-0090	7-14-2016	Amend(T)	8-1-2016	635-042-0031	8-7-2016	Amend(T)	9-1-2016
635-039-0090	8-10-2016	Amend	9-1-2016	635-042-0031	8-22-2016	Amend(T)	10-1-2016
635-039-0090	10-1-2016	Amend(T)	10-1-2016	635-042-0031	8-28-2016	Amend(T)	10-1-2016
635-039-0090(T)	4-26-2016	Repeal	6-1-2016	635-042-0031	9-7-2016	Amend(T)	10-1-2016
635-039-0090(T)	7-14-2016	Suspend	8-1-2016	635-042-0031	9-16-2016	Amend(T)	10-1-2016
635-039-0090(T)	8-10-2016	Repeal	9-1-2016	635-042-0031(T)	8-22-2016	Suspend	10-1-2016
635-041-0030	9-15-2016	Amend(T)	10-1-2016	635-042-0031(T)	8-28-2016	Suspend	10-1-2016
635-041-0045	6-16-2016	Amend(T)	7-1-2016	635-042-0031(T)	9-7-2016	Suspend	10-1-2016
635-041-0045	8-1-2016	Amend(T)	9-1-2016	635-042-0031(T)	9-16-2016	Suspend	10-1-2016
635-041-0045	9-16-2016	Amend(T)	10-1-2016	635-042-0130	2-1-2016	Amend(T)	3-1-2016
635-041-0045(T)	8-1-2016	Suspend	9-1-2016	635-042-0145	2-8-2016	Amend(T)	3-1-2016
635-041-0045(T)	9-16-2016	Suspend	10-1-2016	635-042-0145	3-28-2016	Amend(T)	5-1-2016
635-041-0061	9-15-2016	Amend(T)	10-1-2016	635-042-0145	4-6-2016	Amend(T)	5-1-2016
635-041-0063	8-1-2016	Amend(T)	9-1-2016	635-042-0145	4-13-2016	Amend(T)	5-1-2016
635-041-0065	2-1-2016	Amend(T)	3-1-2016	635-042-0145	4-21-2016	Amend(T)	6-1-2016
635-041-0065	2-12-2016	Amend(T)	3-1-2016	635-042-0145	5-11-2016	Amend(T)	6-1-2016
635-041-0065	2-19-2016	Amend(T)	4-1-2016	635-042-0145	5-23-2016	Amend(T)	7-1-2016
635-041-0065	2-26-2016	Amend(T)	4-1-2016	635-042-0145	5-31-2016	Amend(T)	7-1-2016
635-041-0065	3-5-2016	Amend(T)	4-1-2016	635-042-0145	6-7-2016	Amend(T)	7-1-2016
635-041-0065	5-16-2016	Amend(T)	6-1-2016	635-042-0145	8-1-2016	Amend(T)	9-1-2016
635-041-0065	5-25-2016	Amend(T)	7-1-2016	635-042-0145(T)	3-28-2016	Suspend	5-1-2016
635-041-0065	6-6-2016	Amend(T)	7-1-2016	635-042-0145(T)	4-6-2016	Suspend	5-1-2016
635-041-0065(T)	2-12-2016	Suspend	3-1-2016	635-042-0145(T)	4-13-2016	Suspend	5-1-2016
635-041-0065(T)	2-19-2016	Suspend	4-1-2016	635-042-0145(T)	4-21-2016	Suspend	6-1-2016
635-041-0065(T)	2-26-2016	Suspend	4-1-2016	635-042-0145(T)	5-11-2016	Suspend	6-1-2016
635-041-0065(T)	3-5-2016	Suspend	4-1-2016	635-042-0145(T)	5-23-2016	Suspend	7-1-2016
635-041-0065(T)	5-25-2016	Suspend	7-1-2016	635-042-0145(T)	5-31-2016	Suspend	7-1-2016
635-041-0065(T)	6-6-2016	Suspend	7-1-2016	635-042-0145(T)	6-7-2016	Suspend	7-1-2016
635-041-0075	8-1-2016	Amend(T)	9-1-2016	635-042-0145(T)	8-1-2016	Suspend	9-1-2016
635-041-0075	8-22-2016	Amend(T)	9-1-2016	635-042-0160	2-8-2016	Amend(T)	3-1-2016
635-041-0075	9-16-2016	Amend(T)	10-1-2016	635-042-0160	3-28-2016	Amend(T)	5-1-2016
635-041-0075(T)	8-22-2016	Suspend	9-1-2016	635-042-0160	4-21-2016	Amend(T)	6-1-2016
635-041-0075(T)	9-16-2016	Suspend	10-1-2016	635-042-0160	6-16-2016	Amend(T)	7-1-2016
635-041-0076	6-16-2016	Amend(T)	7-1-2016	635-042-0160	6-23-2016	Amend(T)	8-1-2016
635-041-0076	7-5-2016	Amend(T)	8-1-2016	635-042-0160	6-30-2016	Amend(T)	8-1-2016
635-041-0076	7-11-2016	Amend(T)	8-1-2016	635-042-0160	7-7-2016	Amend(T)	8-1-2016
635-041-0076	7-18-2016	Amend(T)	8-1-2016	635-042-0160	7-14-2016	Amend(T)	8-1-2016
635-041-0076(T)	7-5-2016	Suspend	8-1-2016	635-042-0160	8-24-2016	Amend(T)	9-1-2016
635-041-0076(T)	7-11-2016	Suspend	8-1-2016	635-042-0160(T)	3-28-2016	Suspend	5-1-2016
635-041-0076(T)	7-18-2016	Suspend	8-1-2016	635-042-0160(T)	4-21-2016	Suspend	6-1-2016
635-041-0610	4-25-2016	Adopt	6-1-2016	635-042-0160(T)	6-16-2016	Suspend	7-1-2016
635-042-0010	8-22-2016	Amend(T)	10-1-2016	635-042-0160(T)	6-23-2016	Suspend	8-1-2016
635-042-0022	3-28-2016	Amend(T)	5-1-2016	635-042-0160(T)	6-30-2016	Suspend	8-1-2016
635-042-0022	4-5-2016	Amend(T)	5-1-2016	635-042-0160(T)	7-7-2016	Suspend	8-1-2016
635-042-0022	5-11-2016	Amend(T)	6-1-2016	635-042-0160(T)	7-14-2016	Suspend	8-1-2016
635-042-0022	5-23-2016	Amend(T)	7-1-2016	635-042-0160(T)	8-24-2016	Suspend	9-1-2016
635-042-0022	5-31-2016	Amend(T)	7-1-2016	635-042-0170	2-8-2016	Amend(T)	3-1-2016
635-042-0022	6-7-2016	Amend(T)	7-1-2016	635-042-0170	4-21-2016	Amend(T)	6-1-2016
635-042-0022(T)	4-5-2016	Suspend	5-1-2016	635-042-0170	6-16-2016	Amend(T)	7-1-2016
635-042-0022(T)	5-11-2016	Suspend	6-1-2016	635-042-0170	6-23-2016	Amend(T)	8-1-2016
635-042-0022(T)	5-23-2016	Suspend	7-1-2016	635-042-0170	6-30-2016	Amend(T)	8-1-2016
635-042-0022(T)	5-31-2016	Suspend	7-1-2016	635-042-0170	7-7-2016	Amend(T)	8-1-2016
635-042-0022(T)	6-7-2016	Suspend	7-1-2016	635-042-0170	7-14-2016	Amend(T)	8-1-2016
635-042-0027	6-16-2016	Amend(T)	7-1-2016	635-042-0170	8-24-2016	Amend(T)	9-1-2016
635-042-0027	7-11-2016	Amend(T)	8-1-2016	635-042-0170(T)	4-21-2016	Suspend	6-1-2016
635-042-0027(T)	7-11-2016	Suspend	8-1-2016	635-042-0170(T)	6-16-2016	Suspend	7-1-2016

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635-042-0170(T)	6-23-2016	Suspend	8-1-2016	635-062-0025	12-9-2015	Adopt	1-1-2016
635-042-0170(T)	6-30-2016	Suspend	8-1-2016	635-062-0030	12-9-2015	Adopt	1-1-2016
635-042-0170(T)	7-7-2016	Suspend	8-1-2016	635-062-0035	12-9-2015	Adopt	1-1-2016
635-042-0170(T)	7-14-2016	Suspend	8-1-2016	635-062-0040	12-9-2015	Adopt	1-1-2016
635-042-0170(T)	8-24-2016	Suspend	9-1-2016	635-062-0045	12-9-2015	Adopt	1-1-2016
635-042-0180	2-8-2016	Amend(T)	3-1-2016	635-062-0050	12-9-2015	Adopt	1-1-2016
635-042-0180	3-28-2016	Amend(T)	5-1-2016	635-062-0055	12-9-2015	Adopt	1-1-2016
635-042-0180	4-21-2016	Amend(T)	6-1-2016	635-062-0060	12-9-2015	Adopt	1-1-2016
635-042-0180	8-1-2016	Amend(T)	9-1-2016	635-065-0001	3-21-2016	Amend	5-1-2016
635-042-0180(T)	3-28-2016	Suspend	5-1-2016	635-065-0001	3-25-2016	Amend(T)	5-1-2016
635-042-0180(T)	4-21-2016	Suspend	6-1-2016	635-065-0001	6-27-2016	Amend	8-1-2016
635-042-0180(T)	8-1-2016	Suspend	9-1-2016	635-065-0001(T)	6-27-2016	Repeal	8-1-2016
635-043-0155	9-1-2016	Adopt(T)	10-1-2016	635-065-0011	3-21-2016	Amend	5-1-2016
635-044-0200	12-9-2015	Repeal	1-1-2016	635-065-0015	3-21-2016	Amend	5-1-2016
635-044-0205	12-9-2015	Repeal	1-1-2016	635-065-0090	3-21-2016	Amend	5-1-2016
635-044-0210	12-9-2015	Repeal	1-1-2016	635-065-0401	3-21-2016	Amend	5-1-2016
635-044-0215	12-9-2015	Repeal	1-1-2016	635-065-0625	3-21-2016	Amend	5-1-2016
635-044-0240	12-9-2015	Repeal	1-1-2016	635-065-0720	3-21-2016	Amend	5-1-2016
635-044-0245	12-9-2015	Repeal	1-1-2016	635-065-0735	3-21-2016	Amend	5-1-2016
635-044-0250	12-9-2015	Repeal	1-1-2016	635-065-0740	3-21-2016	Amend	5-1-2016
635-044-0255	12-9-2015	Repeal	1-1-2016	635-065-0760	3-21-2016	Amend	5-1-2016
635-044-0280	12-9-2015	Repeal	1-1-2016	635-065-0760	6-27-2016	Amend	8-1-2016
635-044-0300	12-9-2015	Repeal	1-1-2016	635-065-0765	2-25-2016	Amend(T)	4-1-2016
635-044-0305	12-9-2015	Repeal	1-1-2016	635-065-0765	3-21-2016	Amend	5-1-2016
635-044-0310	12-9-2015	Repeal	1-1-2016	635-065-0765	6-27-2016	Amend	8-1-2016
635-045-0000	11-25-2015	Amend	1-1-2016	635-065-0765(T)	6-27-2016	Repeal	8-1-2016
635-045-0000	4-27-2016	Amend	6-1-2016	635-066-0000	3-21-2016	Amend	5-1-2016
635-045-0002	11-25-2015	Amend	1-1-2016	635-066-0010	6-27-2016	Amend	8-1-2016
635-047-0010	4-27-2016	Amend	6-1-2016	635-067-0000	3-21-2016	Amend	5-1-2016
635-050-0047	6-14-2016	Amend	7-1-2016	635-067-0000	6-27-2016	Amend	8-1-2016
635-050-0070	6-14-2016	Amend	7-1-2016	635-067-0027	12-1-2015	Amend(T)	1-1-2016
635-050-0080	6-14-2016	Amend	7-1-2016	635-067-0030	3-21-2016	Amend	5-1-2016
635-050-0090	6-14-2016	Amend	7-1-2016	635-067-0036	3-21-2016	Adopt	5-1-2016
635-050-0100	6-14-2016	Amend	7-1-2016	635-068-0000	3-21-2016	Amend	5-1-2016
635-050-0110	6-14-2016	Amend	7-1-2016	635-068-0000	6-27-2016	Amend	8-1-2016
635-050-0120	6-14-2016	Amend	7-1-2016	635-069-0000	3-21-2016	Amend	5-1-2016
635-050-0130	6-14-2016	Amend	7-1-2016	635-069-0000	6-27-2016	Amend	8-1-2016
635-050-0140	6-14-2016	Amend	7-1-2016	635-070-0000	4-6-2016	Amend	5-1-2016
635-050-0150	6-14-2016	Amend	7-1-2016	635-070-0000	6-27-2016	Amend	8-1-2016
635-050-0170	6-14-2016	Amend	7-1-2016	635-071-0000	4-6-2016	Amend	5-1-2016
635-050-0183	6-14-2016	Amend	7-1-2016	635-071-0000	6-27-2016	Amend	8-1-2016
635-050-0189	6-14-2016	Amend	7-1-2016	635-072-0000	3-21-2016	Amend	5-1-2016
635-051-0000	4-27-2016	Amend	6-1-2016	635-073-0000	3-21-2016	Amend	5-1-2016
635-052-0000	4-27-2016	Amend	6-1-2016	635-073-0000	5-10-2016	Amend(T)	6-1-2016
635-053-0000	4-27-2016	Amend	6-1-2016	635-073-0000	6-27-2016	Amend	8-1-2016
635-053-0005	8-8-2016	Amend(T)	9-1-2016	635-073-0000	6-27-2016	Repeal	8-1-2016
635-054-0000	4-27-2016	Amend	6-1-2016	635-073-0100	3-21-2016	Adopt	5-1-2016
635-060-0000	11-25-2015	Amend	1-1-2016	635-073-0100	6-27-2016	Amend	8-1-2016
635-060-0000	4-27-2016	Amend	6-1-2016	635-075-0020	3-21-2016	Amend	5-1-2016
635-060-0005	11-25-2015	Amend	1-1-2016	635-075-0022	6-27-2016	Amend	8-1-2016
635-060-0018	11-25-2015	Amend	1-1-2016	635-075-0025	3-21-2016	Amend	5-1-2016
635-062-0000	12-9-2015	Adopt	1-1-2016	635-075-0026	3-21-2016	Amend	5-1-2016
635-062-0005	12-9-2015	Adopt	1-1-2016	635-160-0010	8-9-2016	Amend	9-1-2016
635-062-0010	12-9-2015	Adopt	1-1-2016	635-190-0000	8-9-2016	Amend	9-1-2016
635-062-0015	12-9-2015	Adopt	1-1-2016	635-190-0010	8-9-2016	Amend	9-1-2016
635-062-0020	12-9-2015	Adopt	1-1-2016	635-200-0020	6-13-2016	Amend	7-1-2016

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635-200-0120	6-13-2016	Amend	7-1-2016	660-038-0000	1-1-2016	Adopt	2-1-2016
635-415-0025	3-25-2016	Amend	5-1-2016	660-038-0010	1-1-2016	Adopt	2-1-2016
635-435-0000	12-9-2015	Amend	1-1-2016	660-038-0020	1-1-2016	Adopt	2-1-2016
635-435-0005	12-9-2015	Amend	1-1-2016	660-038-0030	1-1-2016	Adopt	2-1-2016
635-435-0010	12-9-2015	Amend	1-1-2016	660-038-0040	1-1-2016	Adopt	2-1-2016
635-435-0010	12-9-2015	Amend(T)	1-1-2016	660-038-0050	1-1-2016	Adopt	2-1-2016
635-435-0010	6-14-2016	Amend	7-1-2016	660-038-0060	1-1-2016	Adopt	2-1-2016
635-435-0015	12-9-2015	Amend	1-1-2016	660-038-0070	1-1-2016	Adopt	2-1-2016
635-435-0020	12-9-2015	Amend	1-1-2016	660-038-0080	1-1-2016	Adopt	2-1-2016
635-435-0025	12-9-2015	Amend	1-1-2016	660-038-0090	1-1-2016	Adopt	2-1-2016
635-435-0030	12-9-2015	Repeal	1-1-2016	660-038-0100	1-1-2016	Adopt	2-1-2016
635-435-0035	12-9-2015	Repeal	1-1-2016	660-038-0110	1-1-2016	Adopt	2-1-2016
635-435-0040	12-9-2015	Amend	1-1-2016	660-038-0120	1-1-2016	Adopt	2-1-2016
635-435-0045	12-9-2015	Amend	1-1-2016	660-038-0130	1-1-2016	Adopt	2-1-2016
635-435-0050	12-9-2015	Amend	1-1-2016	660-038-0140	1-1-2016	Adopt	2-1-2016
635-435-0055	12-9-2015	Amend	1-1-2016	660-038-0150	1-1-2016	Adopt	2-1-2016
635-435-0060	12-9-2015	Amend	1-1-2016	660-038-0160	1-1-2016	Adopt	2-1-2016
647-010-0010	7-1-2016	Amend	6-1-2016	660-038-0170	1-1-2016	Adopt	2-1-2016
657-010-0015	7-1-2016	Amend	7-1-2016	660-038-0180	1-1-2016	Adopt	2-1-2016
660-004-0018	2-10-2016	Amend	3-1-2016	660-038-0190	1-1-2016	Adopt	2-1-2016
660-006-0005	2-10-2016	Amend	3-1-2016	660-038-0200	1-1-2016	Adopt	2-1-2016
660-006-0010	2-10-2016	Amend	3-1-2016	668-010-0010	3-9-2016	Amend	4-1-2016
660-006-0025	2-10-2016	Amend	3-1-2016	690-051-0000	1-1-2016	Amend	2-1-2016
660-006-0026	2-10-2016	Amend	3-1-2016	690-051-0010	1-1-2016	Amend	2-1-2016
660-006-0027	2-10-2016	Amend	3-1-2016	690-051-0020	1-1-2016	Amend	2-1-2016
660-012-0060	8-1-2016	Amend	9-1-2016	690-051-0030	1-1-2016	Amend	2-1-2016
660-015-0000	1-1-2016	Amend	2-1-2016	690-051-0050	1-1-2016	Amend	2-1-2016
660-023-0115	2-10-2016	Amend	3-1-2016	690-051-0060	1-1-2016	Amend	2-1-2016
660-024-0000	1-1-2016	Amend	2-1-2016	690-051-0090	1-1-2016	Amend	2-1-2016
660-024-0050	1-1-2016	Amend	2-1-2016	690-051-0095	1-1-2016	Amend	2-1-2016
660-024-0060	1-1-2016	Amend	2-1-2016	690-051-0130	1-1-2016	Amend	2-1-2016
660-024-0065	1-1-2016	Adopt	2-1-2016	690-051-0140	1-1-2016	Amend	2-1-2016
660-024-0067	1-1-2016	Adopt	2-1-2016	690-051-0150	1-1-2016	Amend	2-1-2016
660-024-0070	1-1-2016	Amend	2-1-2016	690-051-0160	1-1-2016	Amend	2-1-2016
660-025-0020	2-10-2016	Amend	3-1-2016	690-051-0170	1-1-2016	Amend	2-1-2016
660-025-0035	2-10-2016	Amend	3-1-2016	690-051-0180	1-1-2016	Amend	2-1-2016
660-025-0040	2-10-2016	Amend	3-1-2016	690-051-0190	1-1-2016	Amend	2-1-2016
660-025-0060	2-10-2016	Amend	3-1-2016	690-051-0200	1-1-2016	Amend	2-1-2016
660-025-0085	2-10-2016	Amend	3-1-2016	690-051-0210	1-1-2016	Amend	2-1-2016
660-025-0090	2-10-2016	Amend	3-1-2016	690-051-0220	1-1-2016	Amend	2-1-2016
660-025-0130	2-10-2016	Amend	3-1-2016	690-051-0230	1-1-2016	Amend	2-1-2016
660-025-0140	2-10-2016	Amend	3-1-2016	690-051-0240	1-1-2016	Amend	2-1-2016
660-025-0150	2-10-2016	Amend	3-1-2016	690-051-0250	1-1-2016	Amend	2-1-2016
660-025-0160	2-10-2016	Amend	3-1-2016	690-051-0270	1-1-2016	Repeal	2-1-2016
660-025-0175	2-10-2016	Amend	3-1-2016	690-051-0280	1-1-2016	Amend	2-1-2016
660-027-0070	2-10-2016	Amend	3-1-2016	690-051-0290	1-1-2016	Amend	2-1-2016
660-033-0020	3-24-2016	Amend	5-1-2016	690-051-0310	1-1-2016	Repeal	2-1-2016
660-033-0030	2-10-2016	Amend	3-1-2016	690-051-0320	1-1-2016	Amend	2-1-2016
660-033-0030	3-24-2016	Amend	5-1-2016	690-051-0330	1-1-2016	Repeal	2-1-2016
660-033-0045	2-10-2016	Amend	3-1-2016	690-051-0340	1-1-2016	Repeal	2-1-2016
660-033-0100	3-24-2016	Amend	5-1-2016	690-051-0350	1-1-2016	Amend	2-1-2016
660-033-0120	2-10-2016	Amend	3-1-2016	690-051-0360	1-1-2016	Repeal	2-1-2016
660-033-0120	8-26-2016	Amend	10-1-2016	690-051-0370	1-1-2016	Repeal	2-1-2016
660-033-0130	2-10-2016	Amend	3-1-2016	690-051-0380	1-1-2016	Amend	2-1-2016
660-033-0135	2-10-2016	Amend	3-1-2016	690-051-0400	1-1-2016	Amend	2-1-2016
660-033-0150	2-10-2016	Repeal	3-1-2016	690-079-0010	12-2-2015	Amend(T)	1-1-2016

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690-079-0160	12-2-2015	Adopt(T)	1-1-2016	731-035-0040	12-17-2015	Amend	2-1-2016
690-079-0160	4-19-2016	Amend	6-1-2016	731-035-0050	12-17-2015	Amend	2-1-2016
690-079-0170	4-19-2016	Adopt	6-1-2016	731-035-0060	12-17-2015	Amend	2-1-2016
690-200-0005	9-6-2016	Amend	10-1-2016	731-035-0070	12-17-2015	Amend	2-1-2016
690-200-0028	9-6-2016	Amend	10-1-2016	731-035-0080	12-17-2015	Amend	2-1-2016
690-200-0048	9-6-2016	Amend	10-1-2016	731-070-0010	3-22-2016	Amend	5-1-2016
690-200-0050	9-6-2016	Amend	10-1-2016	731-070-0020	3-22-2016	Amend	5-1-2016
690-205-0210	9-6-2016	Amend	10-1-2016	731-070-0030	3-22-2016	Repeal	5-1-2016
690-210-0030	9-6-2016	Amend	10-1-2016	731-070-0050	3-22-2016	Amend	5-1-2016
690-210-0140	9-6-2016	Amend	10-1-2016	731-070-0055	3-22-2016	Amend	5-1-2016
690-210-0150	9-6-2016	Amend	10-1-2016	731-070-0060	3-22-2016	Amend	5-1-2016
690-210-0155	9-6-2016	Amend	10-1-2016	731-070-0080	3-22-2016	Amend	5-1-2016
690-210-0280	9-6-2016	Amend	10-1-2016	731-070-0110	3-22-2016	Amend	5-1-2016
690-210-0320	9-6-2016	Amend	10-1-2016	731-070-0130	3-22-2016	Amend	5-1-2016
690-215-0055	9-6-2016	Amend	10-1-2016	731-070-0140	3-22-2016	Amend	5-1-2016
690-215-0060	9-6-2016	Amend	10-1-2016	731-070-0160	3-22-2016	Amend	5-1-2016
690-215-0200	9-6-2016	Repeal	10-1-2016	731-070-0170	3-22-2016	Amend	5-1-2016
690-240-0005	9-6-2016	Amend	10-1-2016	731-070-0190	3-22-2016	Repeal	5-1-2016
690-240-0010	9-6-2016	Amend	10-1-2016	731-070-0195	3-22-2016	Repeal	5-1-2016
690-240-0024	9-6-2016	Amend	10-1-2016	731-070-0240	3-22-2016	Am. & Ren.	5-1-2016
690-240-0035	9-6-2016	Amend	10-1-2016	731-070-0245	3-22-2016	Am. & Ren.	5-1-2016
690-240-0043	9-6-2016	Amend	10-1-2016	731-070-0250	3-22-2016	Am. & Ren.	5-1-2016
690-240-0395	9-6-2016	Amend	10-1-2016	731-070-0260	3-22-2016	Am. & Ren.	5-1-2016
690-240-0440	9-6-2016	Amend	10-1-2016	731-070-0350	3-22-2016	Amend	5-1-2016
690-240-0510	9-6-2016	Amend	10-1-2016	731-070-0360	3-22-2016	Repeal	5-1-2016
690-240-0525	9-6-2016	Amend	10-1-2016	734-010-0200	4-29-2016	Repeal	6-1-2016
690-240-0540	9-6-2016	Amend	10-1-2016	734-010-0210	4-29-2016	Repeal	6-1-2016
690-504-0000	8-23-2016	Amend	10-1-2016	734-010-0220	4-29-2016	Repeal	6-1-2016
690-504-0005	8-23-2016	Adopt	10-1-2016	734-010-0230	4-29-2016	Repeal	6-1-2016
690-504-0020	8-23-2016	Amend	10-1-2016	734-010-0240	4-29-2016	Repeal	6-1-2016
690-504-0100	8-23-2016	Amend	10-1-2016	734-010-0250	4-29-2016	Repeal	6-1-2016
690-509-0000	3-1-2016	Amend	4-1-2016	734-010-0260	4-29-2016	Repeal	6-1-2016
690-509-0100	3-1-2016	Amend	4-1-2016	734-010-0270	4-29-2016	Repeal	6-1-2016
690-512-0010	4-15-2016	Adopt	5-1-2016	734-010-0280	4-29-2016	Repeal	6-1-2016
690-512-0020	4-15-2016	Adopt	5-1-2016	734-020-0018	11-20-2015	Amend	1-1-2016
690-512-0040	4-15-2016	Repeal	5-1-2016	734-020-0019	11-20-2015	Amend	1-1-2016
690-512-0090	4-15-2016	Adopt	5-1-2016	734-031-0001	6-21-2016	Adopt	8-1-2016
710-015-0000	6-20-2016	Adopt	8-1-2016	734-031-0005	6-21-2016	Adopt	8-1-2016
715-013-0005	12-14-2015	Amend(T)	1-1-2016	734-031-0010	6-21-2016	Adopt	8-1-2016
715-013-0005	2-19-2016	Amend	4-1-2016	734-031-0015	6-21-2016	Adopt	8-1-2016
715-013-0005(T)	2-19-2016	Repeal	4-1-2016	734-031-0020	6-21-2016	Adopt	8-1-2016
715-015-0005	6-14-2016	Adopt	7-1-2016	734-031-0025	6-21-2016	Adopt	8-1-2016
715-045-0001	3-9-2016	Amend	4-1-2016	734-031-0030	6-21-2016	Adopt	8-1-2016
715-045-0007	3-9-2016	Amend	4-1-2016	734-074-0027	12-17-2015	Amend	2-1-2016
715-045-0012	3-9-2016	Amend	4-1-2016	734-082-0005	12-17-2015	Amend	2-1-2016
731-007-0500	4-29-2016	Adopt	6-1-2016	734-082-0040	12-17-2015	Amend	2-1-2016
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731-007-0520	4-29-2016	Adopt	6-1-2016	734-082-0070	12-17-2015	Amend	2-1-2016
731-007-0530	4-29-2016	Adopt	6-1-2016	735-032-0070	1-1-2016	Adopt	1-1-2016
731-007-0540	4-29-2016	Adopt	6-1-2016	735-040-0040	7-1-2016	Amend	8-1-2016
731-007-0550	4-29-2016	Adopt	6-1-2016	735-040-0045	7-1-2016	Adopt	8-1-2016
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731-035-0010	12-17-2015	Amend	2-1-2016	735-040-0095	7-1-2016	Repeal	8-1-2016
731-035-0020	12-17-2015	Amend	2-1-2016	735-040-0097	7-1-2016	Repeal	8-1-2016



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735-040-0115	7-1-2016	Adopt	8-1-2016	738-125-0030	5-26-2016	Amend	7-1-2016
735-040-0120	7-1-2016	Adopt	8-1-2016	738-125-0035	5-26-2016	Amend	7-1-2016
735-040-0125	7-1-2016	Adopt	8-1-2016	738-125-0040	5-26-2016	Amend	7-1-2016
735-040-0130	7-1-2016	Adopt	8-1-2016	738-125-0045	5-26-2016	Amend	7-1-2016
735-061-0210	4-29-2016	Amend	6-1-2016	738-125-0050	5-26-2016	Amend	7-1-2016
735-062-0005	1-1-2016	Amend	2-1-2016	738-125-0055	5-26-2016	Amend	7-1-2016
735-062-0007	4-29-2016	Amend	6-1-2016	738-140-0005	12-15-2015	Adopt	1-1-2016
735-062-0035	1-1-2016	Amend	2-1-2016	738-140-0010	12-15-2015	Adopt	1-1-2016
735-062-0110	1-1-2016	Amend	2-1-2016	738-140-0015	12-15-2015	Adopt	1-1-2016
735-062-0120	1-1-2016	Amend	2-1-2016	738-140-0020	12-15-2015	Adopt	1-1-2016
735-064-0070	1-1-2016	Amend	2-1-2016	738-140-0025	12-15-2015	Adopt	1-1-2016
735-070-0080	1-1-2016	Amend	2-1-2016	738-140-0030	12-15-2015	Adopt	1-1-2016
735-070-0082	1-1-2016	Amend	2-1-2016	738-140-0035	12-15-2015	Adopt	1-1-2016
735-118-0000	1-1-2016	Amend	2-1-2016	738-140-0040	12-15-2015	Adopt	1-1-2016
735-118-0050	1-1-2016	Amend	2-1-2016	740-100-0010	7-27-2016	Amend	9-1-2016
735-150-0010	1-1-2016	Amend	2-1-2016	740-100-0065	7-27-2016	Amend	9-1-2016
735-150-0015	1-1-2016	Amend	2-1-2016	740-100-0070	7-27-2016	Amend	9-1-2016
735-150-0017	1-1-2016	Amend	2-1-2016	740-100-0080	7-27-2016	Amend	9-1-2016
735-150-0020	1-1-2016	Amend	2-1-2016	740-100-0085	7-27-2016	Amend	9-1-2016
735-150-0037	1-1-2016	Amend	2-1-2016	740-100-0090	7-27-2016	Amend	9-1-2016
735-150-0047	1-1-2016	Amend	2-1-2016	740-110-0010	7-27-2016	Amend	9-1-2016
735-150-0055	1-1-2016	Amend	1-1-2016	740-200-0010	7-27-2016	Amend	9-1-2016
735-150-0110	1-1-2016	Amend	2-1-2016	740-200-0020	7-27-2016	Amend	9-1-2016
735-150-0110	1-1-2016	Amend	2-1-2016	740-200-0040	7-27-2016	Amend	9-1-2016
735-150-0140	1-1-2016	Amend	1-1-2016	741-520-0010	11-17-2015	Repeal	1-1-2016
736-009-0025	5-2-2016	Amend	6-1-2016	800-020-0025	4-1-2016	Amend	5-1-2016
736-009-0030	5-2-2016	Amend	6-1-2016	801-001-0035	1-1-2016	Amend(T)	2-1-2016
736-015-0010	7-13-2016	Amend	8-1-2016	801-001-0035	6-28-2016	Amend	8-1-2016
736-015-0015	7-13-2016	Amend	8-1-2016	804-025-0000	5-25-2016	Amend	7-1-2016
736-015-0026	7-13-2016	Amend	8-1-2016	804-025-0010	5-25-2016	Amend	7-1-2016
736-015-0035	3-16-2016	Amend	5-1-2016	804-025-0015	5-25-2016	Amend	7-1-2016
736-015-0035	7-13-2016	Amend	8-1-2016	804-025-0020	5-25-2016	Amend	7-1-2016
738-001-0035	12-15-2015	Amend	1-1-2016	804-025-0030	5-25-2016	Amend	7-1-2016
738-010-0025	12-15-2015	Amend	1-1-2016	804-025-0035	5-25-2016	Amend	7-1-2016
738-010-0035	12-15-2015	Amend	1-1-2016	806-010-0010	12-14-2015	Amend	1-1-2016
738-010-0040	12-15-2015	Repeal	1-1-2016	806-010-0020	12-14-2015	Amend	1-1-2016
738-010-0050	12-15-2015	Amend	1-1-2016	806-010-0035	12-14-2015	Amend	1-1-2016
738-010-0060	12-15-2015	Amend	1-1-2016	808-001-0005	5-23-2016	Amend	7-1-2016
738-080-0010	12-15-2015	Amend	1-1-2016	808-001-0008	8-19-2016	Amend	10-1-2016
738-080-0015	12-15-2015	Adopt	1-1-2016	808-002-0020	1-1-2016	Amend	2-1-2016
738-080-0020	12-15-2015	Amend	1-1-2016	808-002-0200	1-1-2016	Amend	2-1-2016
738-080-0030	12-15-2015	Amend	1-1-2016	808-002-0200	5-23-2016	Amend	7-1-2016
738-080-0040	12-15-2015	Repeal	1-1-2016	808-002-0250	1-1-2016	Repeal	2-1-2016
738-080-0045	12-15-2015	Adopt	1-1-2016	808-002-0300	1-1-2016	Amend	2-1-2016
738-124-0010	5-11-2016	Adopt(T)	6-1-2016	808-002-0320	1-1-2016	Amend	2-1-2016
738-124-0015	5-11-2016	Adopt(T)	6-1-2016	808-002-0338	1-1-2016	Amend	2-1-2016
738-124-0020	5-11-2016	Adopt(T)	6-1-2016	808-002-0455	1-1-2016	Amend	2-1-2016
738-124-0025	5-11-2016	Adopt(T)	6-1-2016	808-002-0480	1-1-2016	Amend	2-1-2016
738-124-0030	5-11-2016	Adopt(T)	6-1-2016	808-002-0480	5-23-2016	Amend	7-1-2016
738-124-0035	5-11-2016	Adopt(T)	6-1-2016	808-002-0490	1-1-2016	Amend	2-1-2016
738-124-0040	5-11-2016	Adopt(T)	6-1-2016	808-002-0500	1-1-2016	Amend	2-1-2016
738-124-0045	5-11-2016	Adopt(T)	6-1-2016	808-002-0620	5-23-2016	Amend	7-1-2016
738-125-0010	5-26-2016	Amend	7-1-2016	808-002-0730	1-1-2016	Amend	2-1-2016
738-125-0015	5-26-2016	Amend	7-1-2016	808-002-0780	1-1-2016	Amend	2-1-2016

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808-002-0810	1-1-2016	Repeal	2-1-2016	808-004-0211	1-1-2016	Amend	2-1-2016
808-002-0884	1-1-2016	Repeal	2-1-2016	808-004-0211	5-23-2016	Amend	7-1-2016
808-002-0920	1-1-2016	Amend	2-1-2016	808-004-0240	5-23-2016	Repeal	7-1-2016
808-003-0015	1-1-2016	Amend	2-1-2016	808-004-0250	5-23-2016	Amend	7-1-2016
808-003-0018	1-1-2016	Amend	2-1-2016	808-004-0260	5-23-2016	Amend	7-1-2016
808-003-0025	5-23-2016	Amend	7-1-2016	808-004-0310	5-23-2016	Amend	7-1-2016
808-003-0030	5-23-2016	Amend	7-1-2016	808-004-0320	1-1-2016	Amend	2-1-2016
808-003-0040	1-1-2016	Amend	2-1-2016	808-004-0320	5-23-2016	Amend	7-1-2016
808-003-0045	5-23-2016	Amend	7-1-2016	808-004-0350	5-23-2016	Amend	7-1-2016
808-003-0055	5-23-2016	Repeal	7-1-2016	808-004-0400	5-23-2016	Amend	7-1-2016
808-003-0060	1-1-2016	Amend	2-1-2016	808-004-0440	5-23-2016	Amend	7-1-2016
808-003-0060	5-23-2016	Repeal	7-1-2016	808-004-0450	5-23-2016	Amend	7-1-2016
808-003-0065	5-23-2016	Repeal	7-1-2016	808-004-0460	5-23-2016	Repeal	7-1-2016
808-003-0075	5-23-2016	Repeal	7-1-2016	808-004-0470	5-23-2016	Repeal	7-1-2016
808-003-0080	5-23-2016	Repeal	7-1-2016	808-004-0480	5-23-2016	Amend	7-1-2016
808-003-0081	5-23-2016	Repeal	7-1-2016	808-004-0500	5-23-2016	Amend	7-1-2016
808-003-0085	5-23-2016	Repeal	7-1-2016	808-004-0510	5-23-2016	Amend	7-1-2016
808-003-0095	1-1-2016	Amend	2-1-2016	808-004-0520	5-23-2016	Amend	7-1-2016
808-003-0125	1-1-2016	Amend	2-1-2016	808-004-0530	5-23-2016	Amend	7-1-2016
808-003-0126	1-1-2016	Amend	2-1-2016	808-004-0540	5-23-2016	Amend	7-1-2016
808-003-0130	5-23-2016	Amend	7-1-2016	808-004-0550	5-23-2016	Repeal	7-1-2016
808-003-0230	1-1-2016	Amend	2-1-2016	808-004-0560	5-23-2016	Repeal	7-1-2016
808-003-0230	5-23-2016	Amend	7-1-2016	808-004-0590	5-23-2016	Amend	7-1-2016
808-003-0234	5-23-2016	Adopt	7-1-2016	808-030-0020	5-23-2016	Amend	7-1-2016
808-003-0610	1-1-2016	Amend	2-1-2016	808-030-0040	5-23-2016	Amend	7-1-2016
808-003-0610(T)	1-1-2016	Repeal	2-1-2016	808-040-0020	1-1-2016	Amend	2-1-2016
808-003-0611	1-1-2016	Amend	2-1-2016	808-040-0020	5-23-2016	Amend	7-1-2016
808-003-0613	1-1-2016	Amend	2-1-2016	808-040-0025	4-8-2016	Amend	5-1-2016
808-003-0700	5-23-2016	Adopt	7-1-2016	808-040-0050	4-8-2016	Amend	5-1-2016
808-003-0700	7-21-2016	Amend(T)	9-1-2016	808-040-0050	8-19-2016	Amend	10-1-2016
808-003-0710	5-23-2016	Adopt	7-1-2016	808-040-0060	4-8-2016	Amend	5-1-2016
808-003-0720	5-23-2016	Adopt	7-1-2016	808-040-0070	5-23-2016	Amend	7-1-2016
808-003-0730	5-23-2016	Adopt	7-1-2016	808-040-0080	1-1-2016	Amend	2-1-2016
808-003-0740	5-23-2016	Adopt	7-1-2016	808-040-0080	5-23-2016	Amend	7-1-2016
808-003-0750	5-23-2016	Adopt	7-1-2016	811-010-0084	6-6-2016	Amend	7-1-2016
808-003-0800	5-23-2016	Adopt	7-1-2016	811-010-0085	5-2-2016	Amend	5-1-2016
808-003-0810	5-23-2016	Adopt	7-1-2016	811-010-0110	6-6-2016	Amend	7-1-2016
808-003-0820	5-23-2016	Adopt	7-1-2016	812-006-0100	7-1-2016	Amend	7-1-2016
808-003-0830	5-23-2016	Adopt	7-1-2016	812-006-0150	7-1-2016	Amend	7-1-2016
808-003-0840	5-23-2016	Adopt	7-1-2016	812-006-0160	7-1-2016	Adopt	7-1-2016
808-003-0850	5-23-2016	Adopt	7-1-2016	812-006-0200	7-1-2016	Amend	7-1-2016
808-003-0900	5-23-2016	Adopt	7-1-2016	812-006-0310	7-1-2016	Adopt	7-1-2016
808-003-0910	5-23-2016	Adopt	7-1-2016	812-006-0400	7-1-2016	Amend	7-1-2016
808-003-0920	5-23-2016	Adopt	7-1-2016	812-008-0020	7-1-2016	Amend	7-1-2016
808-003-0930	5-23-2016	Adopt	7-1-2016	812-008-0072	7-1-2016	Amend	7-1-2016
808-003-0940	5-23-2016	Adopt	7-1-2016	812-008-0074	7-1-2016	Amend	7-1-2016
808-003-0950	5-23-2016	Adopt	7-1-2016	812-020-0050	7-1-2016	Amend	7-1-2016
808-003-0960	5-23-2016	Adopt	7-1-2016	812-020-0062	7-1-2016	Amend	7-1-2016
808-003-0970	5-23-2016	Adopt	7-1-2016	812-020-0070	7-1-2016	Amend	7-1-2016
808-003-0980	5-23-2016	Adopt	7-1-2016	812-020-0071	7-1-2016	Amend	7-1-2016
808-003-0985	5-23-2016	Adopt	7-1-2016	812-020-0080	7-1-2016	Repeal	7-1-2016
808-003-0990	5-23-2016	Adopt	7-1-2016	812-021-0000	7-1-2016	Repeal	7-1-2016
808-003-0995	5-23-2016	Adopt	7-1-2016	812-021-0005	7-1-2016	Repeal	7-1-2016
808-004-0160	5-23-2016	Amend	7-1-2016	812-021-0010	7-1-2016	Repeal	7-1-2016
808-004-0180	1-1-2016	Amend	2-1-2016	812-021-0011	7-1-2016	Repeal	7-1-2016
808-004-0180	5-23-2016	Repeal	7-1-2016	812-021-0015	7-1-2016	Repeal	7-1-2016

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812-021-0019	7-1-2016	Repeal	7-1-2016	813-300-0150(T)	3-25-2016	Repeal	5-1-2016
812-021-0021	7-1-2016	Repeal	7-1-2016	813-330-0000	2-11-2016	Adopt	3-1-2016
812-021-0023	7-1-2016	Repeal	7-1-2016	813-330-0010	2-11-2016	Adopt	3-1-2016
812-021-0025	7-1-2016	Repeal	7-1-2016	813-330-0020	2-11-2016	Adopt	3-1-2016
812-021-0028	7-1-2016	Repeal	7-1-2016	813-330-0030	2-11-2016	Adopt	3-1-2016
812-021-0030	7-1-2016	Repeal	7-1-2016	813-330-0040	2-11-2016	Adopt	3-1-2016
812-021-0031	7-1-2016	Repeal	7-1-2016	813-330-0050	2-11-2016	Adopt	3-1-2016
812-021-0032	7-1-2016	Repeal	7-1-2016	813-330-0060	2-11-2016	Adopt	3-1-2016
812-021-0033	7-1-2016	Repeal	7-1-2016	817-090-0025	4-4-2016	Amend	5-1-2016
812-021-0034	7-1-2016	Repeal	7-1-2016	817-090-0035	4-4-2016	Amend	5-1-2016
812-021-0035	7-1-2016	Repeal	7-1-2016	817-090-0050	4-4-2016	Repeal	5-1-2016
812-021-0037	7-1-2016	Repeal	7-1-2016	817-090-0080	4-4-2016	Amend	5-1-2016
812-021-0040	7-1-2016	Repeal	7-1-2016	817-090-0090	4-4-2016	Amend	5-1-2016
812-021-0042	7-1-2016	Repeal	7-1-2016	817-090-0100	4-4-2016	Amend	5-1-2016
812-021-0045	7-1-2016	Repeal	7-1-2016	819-005-0000	7-1-2016	Adopt(T)	8-1-2016
812-021-0047	7-1-2016	Repeal	7-1-2016	819-020-0030	7-1-2016	Adopt(T)	8-1-2016
812-022-0010	7-1-2016	Amend	7-1-2016	819-020-0040	7-1-2016	Adopt(T)	8-1-2016
812-022-0011	7-1-2016	Repeal	7-1-2016	819-020-0050	7-1-2016	Adopt(T)	8-1-2016
812-022-0021	7-1-2016	Amend	7-1-2016	819-020-0060	7-1-2016	Adopt(T)	8-1-2016
813-005-0005	6-29-2016	Amend(T)	8-1-2016	819-020-0070	7-1-2016	Adopt(T)	8-1-2016
813-005-0025	6-29-2016	Adopt(T)	8-1-2016	819-020-0080	7-1-2016	Adopt(T)	8-1-2016
813-006-0005	6-29-2016	Amend(T)	8-1-2016	819-040-0000	7-1-2016	Adopt(T)	8-1-2016
813-006-0010	6-29-2016	Amend(T)	8-1-2016	820-010-0505	2-16-2016	Amend	4-1-2016
813-013-0001	11-30-2015	Amend(T)	1-1-2016	820-010-0615	5-12-2016	Amend	6-1-2016
813-013-0001	5-27-2016	Amend	7-1-2016	820-010-3020	1-14-2016	Adopt	2-1-2016
813-013-0005	11-30-2015	Amend(T)	1-1-2016	820-010-4000	3-15-2016	Amend(T)	4-1-2016
813-013-0005	5-27-2016	Amend	7-1-2016	820-010-5000	1-15-2016	Amend(T)	2-1-2016
813-013-0010	11-30-2015	Amend(T)	1-1-2016	820-010-5000	5-12-2016	Amend	6-1-2016
813-013-0010	5-27-2016	Amend	7-1-2016	820-010-5000(T)	5-12-2016	Repeal	6-1-2016
813-013-0015	11-30-2015	Amend(T)	1-1-2016	820-015-0026	2-16-2016	Amend	4-1-2016
813-013-0015	5-27-2016	Amend	7-1-2016	820-020-0015	2-16-2016	Amend	4-1-2016
813-013-0020	11-30-2015	Amend(T)	1-1-2016	820-020-0025	2-16-2016	Amend	4-1-2016
813-013-0020	5-27-2016	Amend	7-1-2016	820-020-0030	2-16-2016	Amend	4-1-2016
813-013-0035	11-30-2015	Amend(T)	1-1-2016	820-020-0035	2-16-2016	Amend	4-1-2016
813-013-0035	5-27-2016	Amend	7-1-2016	820-020-0040	1-14-2016	Amend	2-1-2016
813-013-0040	11-30-2015	Amend(T)	1-1-2016	820-025-0005	5-12-2016	Amend	6-1-2016
813-013-0040	5-27-2016	Amend	7-1-2016	820-025-0015	1-15-2016	Amend(T)	2-1-2016
813-013-0050	11-30-2015	Amend(T)	1-1-2016	820-025-0015	5-12-2016	Amend	6-1-2016
813-013-0050	5-27-2016	Amend	7-1-2016	820-025-0015(T)	5-12-2016	Repeal	6-1-2016
813-013-0054	11-30-2015	Amend(T)	1-1-2016	820-030-0005	2-16-2016	Adopt	4-1-2016
813-013-0054	5-27-2016	Amend	7-1-2016	820-040-0005	2-16-2016	Amend	4-1-2016
813-042-0010	7-19-2016	Amend	9-1-2016	830-011-0000	1-1-2016	Amend	2-1-2016
813-055-0010	7-19-2016	Amend	9-1-2016	830-011-0020	1-1-2016	Amend	2-1-2016
813-110-0010	5-5-2016	Amend(T)	6-1-2016	830-011-0040	1-1-2016	Amend	2-1-2016
813-110-0013	5-5-2016	Amend(T)	6-1-2016	830-011-0065	1-1-2016	Adopt	2-1-2016
813-110-0015	5-5-2016	Amend(T)	6-1-2016	830-011-0065	7-6-2016	Amend(T)	8-1-2016
813-135-0010	9-12-2016	Adopt(T)	10-1-2016	830-020-0000	1-1-2016	Amend	2-1-2016
813-135-0020	9-12-2016	Adopt(T)	10-1-2016	830-020-0030	1-1-2016	Amend	2-1-2016
813-135-0030	9-12-2016	Adopt(T)	10-1-2016	830-020-0040	1-1-2016	Amend	2-1-2016
813-135-0040	9-12-2016	Adopt(T)	10-1-2016	830-030-0004	1-1-2016	Amend	2-1-2016
813-135-0050	9-12-2016	Adopt(T)	10-1-2016	830-030-0090	1-1-2016	Amend	2-1-2016
813-136-0060	9-12-2016	Adopt(T)	10-1-2016	830-040-0095	1-1-2016	Adopt	2-1-2016
813-300-0005	3-25-2016	Amend	5-1-2016	833-001-0000	8-8-2016	Amend	9-1-2016
813-300-0120	3-25-2016	Amend	5-1-2016	833-001-0015	8-8-2016	Amend	9-1-2016
813-300-0150	3-25-2016	Amend	5-1-2016	833-001-0020	8-8-2016	Amend	9-1-2016

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833-020-0101	6-7-2016	Amend	7-1-2016	836-053-0015(T)	4-8-2016	Repeal	5-1-2016
833-110-0011	8-8-2016	Amend	9-1-2016	836-053-0021	4-8-2016	Amend	5-1-2016
833-110-0021	8-8-2016	Amend	9-1-2016	836-053-0030	4-8-2016	Amend	5-1-2016
833-120-0011	4-1-2016	Amend	5-1-2016	836-053-0050	4-8-2016	Amend	5-1-2016
833-120-0011	8-8-2016	Amend	9-1-2016	836-053-0066	4-8-2016	Amend	5-1-2016
833-120-0021	8-8-2016	Amend	9-1-2016	836-053-0230	4-8-2016	Amend	5-1-2016
833-120-0031	8-8-2016	Repeal	9-1-2016	836-053-0300	9-14-2016	Adopt	10-1-2016
833-120-0041	8-8-2016	Amend	9-1-2016	836-053-0310	9-14-2016	Adopt	10-1-2016
834-020-0000	3-1-2016	Amend	4-1-2016	836-053-0320	9-14-2016	Adopt	10-1-2016
834-030-0000	3-1-2016	Amend	4-1-2016	836-053-0330	9-14-2016	Adopt	10-1-2016
834-030-0010	3-1-2016	Amend	4-1-2016	836-053-0340	9-14-2016	Adopt	10-1-2016
834-040-0000	3-1-2016	Amend	4-1-2016	836-053-0350	9-14-2016	Adopt	10-1-2016
834-050-0000	3-1-2016	Amend	4-1-2016	836-053-0410	4-8-2016	Amend	5-1-2016
834-050-0010	3-1-2016	Amend	4-1-2016	836-053-0431	4-8-2016	Amend	5-1-2016
836-009-0020	4-8-2016	Repeal	5-1-2016	836-053-0432	7-29-2016	Adopt(T)	9-1-2016
836-009-0025	4-8-2016	Repeal	5-1-2016	836-053-0465	4-8-2016	Amend	5-1-2016
836-009-0030	4-8-2016	Repeal	5-1-2016	836-053-0472	4-8-2016	Amend	5-1-2016
836-009-0035	4-8-2016	Repeal	5-1-2016	836-053-0510	4-8-2016	Amend	5-1-2016
836-009-0040	4-8-2016	Repeal	5-1-2016	836-053-0600	1-1-2016	Adopt	2-1-2016
836-010-0013	4-8-2016	Amend	5-1-2016	836-053-0600(T)	1-1-2016	Repeal	2-1-2016
836-010-0013	4-28-2016	Amend(T)	6-1-2016	836-053-0605	1-1-2016	Adopt	2-1-2016
836-010-0155	4-26-2016	Adopt	6-1-2016	836-053-0605(T)	1-1-2016	Repeal	2-1-2016
836-011-0000	2-3-2016	Amend	3-1-2016	836-053-0610	1-1-2016	Adopt	2-1-2016
836-027-0005	3-3-2016	Amend	4-1-2016	836-053-0610(T)	1-1-2016	Repeal	2-1-2016
836-027-0010	3-3-2016	Amend	4-1-2016	836-053-0615	1-1-2016	Adopt	2-1-2016
836-027-0012	3-3-2016	Amend	4-1-2016	836-053-0615(T)	1-1-2016	Repeal	2-1-2016
836-027-0100	3-3-2016	Amend	4-1-2016	836-053-0825	4-8-2016	Amend	5-1-2016
836-027-0125	3-3-2016	Amend	4-1-2016	836-053-0830	4-8-2016	Amend	5-1-2016
836-027-0140	3-3-2016	Amend	4-1-2016	836-053-0835	4-8-2016	Amend	5-1-2016
836-027-0160	3-3-2016	Amend	4-1-2016	836-053-1020	12-17-2015	Amend(T)	2-1-2016
836-051-0150	1-1-2016	Adopt	2-1-2016	836-053-1020	4-26-2016	Amend	6-1-2016
836-051-0153	1-1-2016	Adopt	2-1-2016	836-053-1404	12-17-2015	Amend(T)	2-1-2016
836-051-0156	1-1-2016	Adopt	2-1-2016	836-053-1404	4-26-2016	Amend	6-1-2016
836-052-0142	1-1-2016	Amend	2-1-2016	836-053-1405	12-17-2015	Amend(T)	2-1-2016
836-052-0536	7-6-2016	Repeal	8-1-2016	836-053-1405	4-26-2016	Amend	6-1-2016
836-052-0740	7-6-2016	Amend	8-1-2016	836-053-1406	4-26-2016	Am. & Ren.	6-1-2016
836-052-1000	4-8-2016	Amend	5-1-2016	836-053-1500	4-8-2016	Adopt	5-1-2016
836-053-0002	12-17-2015	Amend(T)	2-1-2016	836-053-1500(T)	4-8-2016	Repeal	5-1-2016
836-053-0002	4-26-2016	Amend	6-1-2016	836-053-1505	4-8-2016	Adopt	5-1-2016
836-053-0004	12-17-2015	Adopt(T)	2-1-2016	836-053-1505(T)	4-8-2016	Repeal	5-1-2016
836-053-0004	4-26-2016	Adopt	6-1-2016	836-053-1510	4-8-2016	Adopt	5-1-2016
836-053-0004(T)	4-26-2016	Repeal	6-1-2016	836-053-1510(T)	4-8-2016	Repeal	5-1-2016
836-053-0008	12-17-2015	Amend(T)	2-1-2016	836-054-0000	1-1-2016	Amend	2-1-2016
836-053-0008	4-26-2016	Amend	6-1-2016	836-054-0000(T)	1-1-2016	Repeal	2-1-2016
836-053-0009	12-17-2015	Amend(T)	2-1-2016	836-054-0020	1-1-2016	Adopt	2-1-2016
836-053-0009	4-26-2016	Amend	6-1-2016	836-071-0108	7-1-2016	Amend	8-1-2016
836-053-0010	4-8-2016	Amend	5-1-2016	836-071-0354	1-1-2016	Adopt	2-1-2016
836-053-0010	4-26-2016	Am. & Ren.	6-1-2016	836-071-0354	1-20-2016	Adopt	3-1-2016
836-053-0012	12-17-2015	Adopt(T)	2-1-2016	836-071-0355	1-1-2016	Amend	2-1-2016
836-053-0012	4-26-2016	Adopt	6-1-2016	836-071-0355	1-20-2016	Amend	3-1-2016
836-053-0012(T)	4-26-2016	Repeal	6-1-2016	836-071-0370	1-1-2016	Amend	2-1-2016
836-053-0013	12-17-2015	Adopt(T)	2-1-2016	836-071-0370	1-20-2016	Amend	3-1-2016
836-053-0013	4-26-2016	Adopt	6-1-2016	836-071-0380	1-1-2016	Amend	2-1-2016
836-053-0013(T)	4-26-2016	Repeal	6-1-2016	836-071-0380	1-20-2016	Amend	3-1-2016
836-053-0014(T)	4-8-2016	Repeal	5-1-2016	836-071-0450	7-1-2016	Adopt	8-1-2016



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839-020-0011	7-1-2016	Adopt	7-1-2016	845-025-1000	1-1-2016	Adopt(T)	1-1-2016
839-020-0012	1-1-2017	Amend	10-1-2016	845-025-1000	6-29-2016	Adopt	8-1-2016
839-020-0030	1-1-2016	Amend	2-1-2016	845-025-1015	1-1-2016	Adopt(T)	1-1-2016
839-020-0042	1-1-2016	Amend	2-1-2016	845-025-1015	6-29-2016	Adopt	8-1-2016
839-020-0052	1-1-2016	Adopt	2-1-2016	845-025-1015	6-30-2016	Amend(T)	8-1-2016
839-020-0080	1-1-2017	Amend	10-1-2016	845-025-1030	1-1-2016	Adopt(T)	1-1-2016
839-020-0083	1-1-2017	Amend	10-1-2016	845-025-1030	6-29-2016	Adopt	8-1-2016
839-020-0125	1-1-2016	Amend	2-1-2016	845-025-1030	6-30-2016	Amend(T)	8-1-2016
839-020-1010	1-1-2016	Amend	2-1-2016	845-025-1045	1-1-2016	Adopt(T)	1-1-2016
839-025-0004	3-31-2016	Amend	5-1-2016	845-025-1045	6-29-2016	Adopt	8-1-2016
839-025-0020	3-31-2016	Amend	5-1-2016	845-025-1045	6-30-2016	Amend(T)	8-1-2016
839-025-0037	3-31-2016	Amend	5-1-2016	845-025-1060	1-1-2016	Adopt(T)	1-1-2016
839-025-0100	3-31-2016	Amend	5-1-2016	845-025-1060	6-29-2016	Adopt	8-1-2016
839-025-0320	3-31-2016	Amend	5-1-2016	845-025-1060	6-30-2016	Amend(T)	8-1-2016
839-025-0530	3-31-2016	Amend	5-1-2016	845-025-1070	1-1-2016	Adopt(T)	1-1-2016
839-025-0700	1-1-2016	Amend	1-1-2016	845-025-1070	6-29-2016	Adopt	8-1-2016
839-025-0700	4-1-2016	Amend	5-1-2016	845-025-1080	1-1-2016	Adopt(T)	1-1-2016
839-025-0700	7-1-2016	Amend	7-1-2016	845-025-1080	6-29-2016	Adopt	8-1-2016
839-025-0700	8-16-2016	Amend	10-1-2016	845-025-1090	1-1-2016	Adopt(T)	1-1-2016
839-025-0700	10-1-2016	Amend	10-1-2016	845-025-1090	6-29-2016	Adopt	8-1-2016
845-003-0210	2-23-2016	Amend(T)	4-1-2016	845-025-1090	6-30-2016	Amend(T)	8-1-2016
845-003-0210	8-19-2016	Amend	10-1-2016	845-025-1100	1-1-2016	Adopt(T)	1-1-2016
845-003-0220	2-23-2016	Amend(T)	4-1-2016	845-025-1100	6-29-2016	Adopt	8-1-2016
845-003-0220	8-19-2016	Amend	10-1-2016	845-025-1115	1-1-2016	Adopt(T)	1-1-2016
845-003-0270	2-23-2016	Amend(T)	4-1-2016	845-025-1115	1-1-2016	Amend(T)	2-1-2016
845-003-0270	8-19-2016	Amend	10-1-2016	845-025-1115	6-29-2016	Adopt	8-1-2016
845-003-0331	2-23-2016	Amend(T)	4-1-2016	845-025-1115	6-30-2016	Amend(T)	8-1-2016
845-003-0331	8-19-2016	Amend	10-1-2016	845-025-1130	1-1-2016	Adopt(T)	1-1-2016
845-004-0015	2-23-2016	Amend(T)	4-1-2016	845-025-1130	6-29-2016	Adopt	8-1-2016
845-004-0015	8-19-2016	Amend	10-1-2016	845-025-1145	1-1-2016	Adopt(T)	1-1-2016
845-004-0031	9-3-2016	Adopt	10-1-2016	845-025-1145	6-29-2016	Adopt	8-1-2016
845-004-0101	2-1-2016	Amend	2-1-2016	845-025-1160	1-1-2016	Adopt(T)	1-1-2016
845-004-0105	2-1-2016	Repeal	2-1-2016	845-025-1160	6-29-2016	Adopt	8-1-2016
845-005-0400	3-1-2016	Amend	4-1-2016	845-025-1175	1-1-2016	Adopt(T)	1-1-2016
845-005-0413	2-1-2016	Amend	2-1-2016	845-025-1175	6-29-2016	Adopt	8-1-2016
845-005-0417	1-1-2016	Amend(T)	2-1-2016	845-025-1190	1-1-2016	Adopt(T)	1-1-2016
845-005-0417	6-29-2016	Amend	8-1-2016	845-025-1190	6-29-2016	Adopt	8-1-2016
845-005-0420	1-1-2016	Suspend	2-1-2016	845-025-1200	1-1-2016	Adopt(T)	1-1-2016
845-005-0420	6-29-2016	Repeal	8-1-2016	845-025-1200	6-29-2016	Adopt	8-1-2016
845-005-0428	4-1-2016	Amend	5-1-2016	845-025-1215	1-1-2016	Adopt(T)	1-1-2016
845-005-0431	2-1-2016	Amend	2-1-2016	845-025-1215	6-29-2016	Adopt	8-1-2016
845-006-0392	1-1-2016	Amend(T)	2-1-2016	845-025-1230	1-1-2016	Adopt(T)	1-1-2016
845-006-0392	6-29-2016	Amend	8-1-2016	845-025-1230	6-29-2016	Adopt	8-1-2016
845-006-0396	1-1-2016	Amend(T)	2-1-2016	845-025-1245	1-1-2016	Adopt(T)	1-1-2016
845-006-0396	6-29-2016	Amend	8-1-2016	845-025-1245	6-29-2016	Adopt	8-1-2016
845-006-0446	4-1-2016	Adopt	5-1-2016	845-025-1260	1-1-2016	Adopt(T)	1-1-2016
845-006-0450	4-1-2016	Amend	5-1-2016	845-025-1260	6-29-2016	Adopt	8-1-2016
845-006-0452	2-1-2016	Amend	2-1-2016	845-025-1275	1-1-2016	Adopt(T)	1-1-2016
845-013-0040	4-1-2016	Amend	5-1-2016	845-025-1275	6-29-2016	Adopt	8-1-2016
845-015-0130	6-29-2016	Repeal	8-1-2016	845-025-1290	1-1-2016	Adopt(T)	1-1-2016
845-015-0148	5-2-2016	Amend	6-1-2016	845-025-1290	6-29-2016	Adopt	8-1-2016
845-015-0155	6-29-2016	Amend	8-1-2016	845-025-1295	1-1-2016	Adopt(T)	1-1-2016
845-015-0175	6-29-2016	Amend	8-1-2016	845-025-1295	6-29-2016	Adopt	8-1-2016
845-015-0177	6-29-2016	Amend	8-1-2016	845-025-1300	1-1-2016	Adopt(T)	1-1-2016
845-015-0177	8-23-2016	Amend	10-1-2016	845-025-1300	6-29-2016	Adopt	8-1-2016
845-015-0190	6-29-2016	Amend	8-1-2016	845-025-1330	6-29-2016	Adopt	8-1-2016

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845-025-1360	6-29-2016	Adopt	8-1-2016	845-025-2890	6-29-2016	Adopt	8-1-2016
845-025-1400	1-1-2016	Adopt(T)	1-1-2016	845-025-2900	6-30-2016	Adopt(T)	8-1-2016
845-025-1400	6-29-2016	Adopt	8-1-2016	845-025-2910	6-30-2016	Adopt(T)	8-1-2016
845-025-1405	6-29-2016	Adopt	8-1-2016	845-025-3200	1-1-2016	Adopt(T)	1-1-2016
845-025-1410	1-1-2016	Adopt(T)	1-1-2016	845-025-3200	6-29-2016	Adopt	8-1-2016
845-025-1410	6-29-2016	Adopt	8-1-2016	845-025-3210	1-1-2016	Adopt(T)	1-1-2016
845-025-1420	1-1-2016	Adopt(T)	1-1-2016	845-025-3210	6-29-2016	Adopt	8-1-2016
845-025-1420	6-29-2016	Adopt	8-1-2016	845-025-3215	6-29-2016	Adopt	8-1-2016
845-025-1430	1-1-2016	Adopt(T)	1-1-2016	845-025-3215	6-30-2016	Amend(T)	8-1-2016
845-025-1430	6-29-2016	Adopt	8-1-2016	845-025-3220	1-1-2016	Adopt(T)	1-1-2016
845-025-1440	1-1-2016	Adopt(T)	1-1-2016	845-025-3220	6-29-2016	Adopt	8-1-2016
845-025-1440	6-29-2016	Adopt	8-1-2016	845-025-3230	1-1-2016	Adopt(T)	1-1-2016
845-025-1450	1-1-2016	Adopt(T)	1-1-2016	845-025-3230	6-29-2016	Adopt	8-1-2016
845-025-1450	6-29-2016	Adopt	8-1-2016	845-025-3240	1-1-2016	Adopt(T)	1-1-2016
845-025-1460	1-1-2016	Adopt(T)	1-1-2016	845-025-3240	6-29-2016	Adopt	8-1-2016
845-025-1460	6-29-2016	Adopt	8-1-2016	845-025-3250	1-1-2016	Adopt(T)	1-1-2016
845-025-1470	1-1-2016	Adopt(T)	1-1-2016	845-025-3250	6-29-2016	Adopt	8-1-2016
845-025-1470	6-29-2016	Adopt	8-1-2016	845-025-3260	1-1-2016	Adopt(T)	1-1-2016
845-025-1600	1-1-2016	Adopt(T)	1-1-2016	845-025-3260	6-29-2016	Adopt	8-1-2016
845-025-1600	6-29-2016	Adopt	8-1-2016	845-025-3280	1-1-2016	Adopt(T)	1-1-2016
845-025-1620	1-1-2016	Adopt(T)	1-1-2016	845-025-3280	6-29-2016	Adopt	8-1-2016
845-025-1620	6-29-2016	Adopt	8-1-2016	845-025-3290	1-1-2016	Adopt(T)	1-1-2016
845-025-2000	1-1-2016	Adopt(T)	1-1-2016	845-025-3290	6-29-2016	Adopt	8-1-2016
845-025-2000	6-29-2016	Adopt	8-1-2016	845-025-3300	6-30-2016	Adopt(T)	8-1-2016
845-025-2020	1-1-2016	Adopt(T)	1-1-2016	845-025-3310	6-30-2016	Adopt(T)	8-1-2016
845-025-2020	6-29-2016	Adopt	8-1-2016	845-025-3500	1-1-2016	Adopt(T)	1-1-2016
845-025-2020	6-30-2016	Amend(T)	8-1-2016	845-025-3500	6-29-2016	Adopt	8-1-2016
845-025-2030	1-1-2016	Adopt(T)	1-1-2016	845-025-3500	6-30-2016	Amend(T)	8-1-2016
845-025-2030	6-29-2016	Adopt	8-1-2016	845-025-3510	6-30-2016	Adopt(T)	8-1-2016
845-025-2030	6-30-2016	Amend(T)	8-1-2016	845-025-3600	6-30-2016	Adopt(T)	8-1-2016
845-025-2040	1-1-2016	Adopt(T)	1-1-2016	845-025-5000	1-1-2016	Adopt(T)	1-1-2016
845-025-2040	6-29-2016	Adopt	8-1-2016	845-025-5000	6-29-2016	Adopt	8-1-2016
845-025-2050	1-1-2016	Adopt(T)	1-1-2016	845-025-5000	6-30-2016	Amend(T)	8-1-2016
845-025-2050	6-29-2016	Adopt	8-1-2016	845-025-5030	1-1-2016	Adopt(T)	1-1-2016
845-025-2060	1-1-2016	Adopt(T)	1-1-2016	845-025-5030	6-29-2016	Adopt	8-1-2016
845-025-2060	6-29-2016	Adopt	8-1-2016	845-025-5045	1-1-2016	Adopt(T)	1-1-2016
845-025-2060	6-30-2016	Amend(T)	8-1-2016	845-025-5045	6-29-2016	Adopt	8-1-2016
845-025-2070	1-1-2016	Adopt(T)	1-1-2016	845-025-5060	1-1-2016	Adopt(T)	1-1-2016
845-025-2070	6-29-2016	Adopt	8-1-2016	845-025-5060	6-29-2016	Adopt	8-1-2016
845-025-2080	1-1-2016	Adopt(T)	1-1-2016	845-025-5075	1-1-2016	Adopt(T)	1-1-2016
845-025-2080	6-29-2016	Adopt	8-1-2016	845-025-5075	6-29-2016	Adopt	8-1-2016
845-025-2100	6-30-2016	Adopt(T)	8-1-2016	845-025-5300	1-1-2016	Adopt(T)	1-1-2016
845-025-2400	1-1-2016	Adopt(T)	1-1-2016	845-025-5300	6-29-2016	Adopt	8-1-2016
845-025-2800	1-1-2016	Adopt(T)	1-1-2016	845-025-5300	6-30-2016	Amend(T)	8-1-2016
845-025-2800	6-29-2016	Adopt	8-1-2016	845-025-5350	1-1-2016	Adopt(T)	1-1-2016
845-025-2800	6-30-2016	Amend(T)	8-1-2016	845-025-5350	6-29-2016	Adopt	8-1-2016
845-025-2820	1-1-2016	Adopt(T)	1-1-2016	845-025-5350	6-30-2016	Amend(T)	8-1-2016
845-025-2820	6-29-2016	Adopt	8-1-2016	845-025-5500	1-1-2016	Adopt(T)	1-1-2016
845-025-2840	1-1-2016	Adopt(T)	1-1-2016	845-025-5500	6-29-2016	Adopt	8-1-2016
845-025-2840	6-29-2016	Adopt	8-1-2016	845-025-5500	6-30-2016	Amend(T)	8-1-2016
845-025-2840	6-30-2016	Amend(T)	8-1-2016	845-025-5520	1-1-2016	Adopt(T)	1-1-2016
845-025-2860	1-1-2016	Adopt(T)	1-1-2016	845-025-5520	6-29-2016	Adopt	8-1-2016
845-025-2860	6-29-2016	Adopt	8-1-2016	845-025-5540	1-1-2016	Adopt(T)	1-1-2016
845-025-2880	1-1-2016	Adopt(T)	1-1-2016	845-025-5540	6-29-2016	Adopt	8-1-2016
845-025-2880	6-29-2016	Adopt	8-1-2016	845-025-5540	6-30-2016	Amend(T)	8-1-2016
845-025-2890	1-1-2016	Adopt(T)	1-1-2016	845-025-5560	1-1-2016	Adopt(T)	1-1-2016

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845-025-5560	6-29-2016	Adopt	8-1-2016	845-025-8520	6-29-2016	Adopt	8-1-2016
845-025-5580	1-1-2016	Adopt(T)	1-1-2016	845-025-8540	1-1-2016	Adopt(T)	1-1-2016
845-025-5580	6-29-2016	Adopt	8-1-2016	845-025-8540	6-29-2016	Adopt	8-1-2016
845-025-5590	1-1-2016	Adopt(T)	1-1-2016	845-025-8560	1-1-2016	Adopt(T)	1-1-2016
845-025-5590	6-29-2016	Adopt	8-1-2016	845-025-8560	6-29-2016	Adopt	8-1-2016
845-025-5700	1-1-2016	Adopt(T)	1-1-2016	845-025-8570	6-29-2016	Adopt	8-1-2016
845-025-5700	6-29-2016	Adopt	8-1-2016	845-025-8580	1-1-2016	Adopt(T)	1-1-2016
845-025-5720	1-1-2016	Adopt(T)	1-1-2016	845-025-8580	6-29-2016	Adopt	8-1-2016
845-025-5720	6-29-2016	Adopt	8-1-2016	845-025-8590	1-1-2016	Adopt(T)	1-1-2016
845-025-5730	6-29-2016	Adopt	8-1-2016	845-025-8590	6-29-2016	Adopt	8-1-2016
845-025-5740	1-1-2016	Adopt(T)	1-1-2016	845-025-8700	6-29-2016	Adopt	8-1-2016
845-025-5740	6-29-2016	Adopt	8-1-2016	847-001-0015	1-8-2016	Amend	2-1-2016
845-025-5760	1-1-2016	Adopt(T)	1-1-2016	847-005-0005	1-8-2016	Amend	2-1-2016
845-025-5760	6-29-2016	Adopt	8-1-2016	847-008-0020	1-8-2016	Amend	2-1-2016
845-025-5790	6-29-2016	Adopt	8-1-2016	847-008-0022	1-8-2016	Amend	2-1-2016
845-025-7000	1-1-2016	Adopt(T)	1-1-2016	847-008-0023	1-8-2016	Amend	2-1-2016
845-025-7000	6-29-2016	Adopt	8-1-2016	847-008-0025	1-8-2016	Amend	2-1-2016
845-025-7020	1-1-2016	Adopt(T)	1-1-2016	847-008-0030	1-8-2016	Amend	2-1-2016
845-025-7020	2-23-2016	Amend(T)	4-1-2016	847-008-0035	1-8-2016	Amend	2-1-2016
845-025-7020	6-29-2016	Adopt	8-1-2016	847-008-0037	1-8-2016	Amend	2-1-2016
845-025-7020	8-23-2016	Amend(T)	10-1-2016	847-008-0050	1-8-2016	Amend	2-1-2016
845-025-7030	6-29-2016	Adopt	8-1-2016	847-008-0055	1-8-2016	Amend	2-1-2016
845-025-7040	1-1-2016	Adopt(T)	1-1-2016	847-008-0056	1-8-2016	Repeal	2-1-2016
845-025-7040	6-29-2016	Adopt	8-1-2016	847-008-0070	4-8-2016	Amend	5-1-2016
845-025-7060	1-1-2016	Adopt(T)	1-1-2016	847-010-0073	1-8-2016	Amend	2-1-2016
845-025-7060	6-29-2016	Adopt	8-1-2016	847-015-0005	7-8-2016	Amend	8-1-2016
845-025-7500	1-1-2016	Adopt(T)	1-1-2016	847-015-0010	7-8-2016	Amend	8-1-2016
845-025-7500	6-29-2016	Adopt	8-1-2016	847-015-0030	7-8-2016	Amend	8-1-2016
845-025-7520	1-1-2016	Adopt(T)	1-1-2016	847-017-0003	4-8-2016	Amend	5-1-2016
845-025-7520	6-29-2016	Adopt	8-1-2016	847-017-0015	4-8-2016	Amend	5-1-2016
845-025-7540	1-1-2016	Adopt(T)	1-1-2016	847-017-0020	4-8-2016	Amend	5-1-2016
845-025-7540	6-29-2016	Adopt	8-1-2016	847-020-0135	1-1-2016	Adopt	1-1-2016
845-025-7560	1-1-2016	Adopt(T)	1-1-2016	847-023-0005	4-8-2016	Amend	5-1-2016
845-025-7560	6-29-2016	Adopt	8-1-2016	847-050-0010	9-1-2016	Amend	8-1-2016
845-025-7570	6-29-2016	Adopt	8-1-2016	847-050-0025	1-8-2016	Amend	2-1-2016
845-025-7580	1-1-2016	Adopt(T)	1-1-2016	847-050-0025(T)	1-8-2016	Repeal	2-1-2016
845-025-7580	6-29-2016	Adopt	8-1-2016	847-050-0027	9-1-2016	Amend	8-1-2016
845-025-7590	1-1-2016	Adopt(T)	1-1-2016	847-050-0036	9-1-2016	Adopt	8-1-2016
845-025-7590	6-29-2016	Adopt	8-1-2016	847-050-0037	9-1-2016	Amend	8-1-2016
845-025-7700	1-1-2016	Adopt(T)	1-1-2016	847-050-0040	9-1-2016	Amend	8-1-2016
845-025-7700	6-29-2016	Adopt	8-1-2016	847-050-0043	1-8-2016	Amend	2-1-2016
845-025-7750	1-1-2016	Adopt(T)	1-1-2016	847-050-0063	1-8-2016	Repeal	2-1-2016
845-025-7750	6-29-2016	Adopt	8-1-2016	847-050-0065	1-8-2016	Repeal	2-1-2016
845-025-8000	1-1-2016	Adopt(T)	1-1-2016	847-070-0045	1-8-2016	Amend	2-1-2016
845-025-8000	6-29-2016	Adopt	8-1-2016	847-080-0010	4-8-2016	Amend	5-1-2016
845-025-8020	1-1-2016	Adopt(T)	1-1-2016	847-080-0018	4-8-2016	Amend	5-1-2016
845-025-8020	6-29-2016	Adopt	8-1-2016	847-080-0021	4-8-2016	Amend	5-1-2016
845-025-8040	1-1-2016	Adopt(T)	1-1-2016	847-080-0022	4-8-2016	Amend	5-1-2016
845-025-8040	6-29-2016	Adopt	8-1-2016	847-080-0035	4-8-2016	Amend	5-1-2016
845-025-8060	1-1-2016	Adopt(T)	1-1-2016	850-005-0190	12-30-2015	Amend	2-1-2016
845-025-8060	6-29-2016	Adopt	8-1-2016	850-060-0226	12-30-2015	Amend	2-1-2016
845-025-8080	1-1-2016	Adopt(T)	1-1-2016	851-002-0010	8-1-2016	Amend	8-1-2016
845-025-8080	6-29-2016	Adopt	8-1-2016	851-002-0010	9-22-2016	Amend	10-1-2016
845-025-8500	1-1-2016	Adopt(T)	1-1-2016	851-002-0040	9-22-2016	Amend	10-1-2016
845-025-8500	6-29-2016	Adopt	8-1-2016	851-031-0005	1-1-2016	Amend	1-1-2016
845-025-8520	1-1-2016	Adopt(T)	1-1-2016	851-031-0086	1-1-2016	Amend	1-1-2016



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851-050-0138	11-24-2015	Amend(T)	1-1-2016	855-019-0430(T)	5-1-2016	Repeal	6-1-2016
851-050-0138	4-1-2016	Amend	4-1-2016	855-019-0435	5-1-2016	Adopt	6-1-2016
851-056-0000	11-30-2015	Amend(T)	1-1-2016	855-019-0435(T)	5-1-2016	Repeal	6-1-2016
851-056-0000	4-1-2016	Amend	4-1-2016	855-019-0450	9-7-2016	Adopt(T)	10-1-2016
851-056-0020	11-30-2015	Amend(T)	1-1-2016	855-019-0455	9-7-2016	Adopt(T)	10-1-2016
851-056-0020	4-1-2016	Amend	4-1-2016	855-019-0460	9-7-2016	Adopt(T)	10-1-2016
851-070-0000	8-1-2016	Amend	8-1-2016	855-025-0001	7-1-2016	Amend	8-1-2016
851-070-0005	8-1-2016	Amend	8-1-2016	855-025-0005	7-1-2016	Amend	8-1-2016
851-070-0010	8-1-2016	Amend	8-1-2016	855-025-0010	7-1-2016	Amend	8-1-2016
851-070-0020	8-1-2016	Amend	8-1-2016	855-025-0012	7-1-2016	Amend	8-1-2016
851-070-0025	8-1-2016	Adopt	8-1-2016	855-025-0015	12-23-2015	Amend	2-1-2016
851-070-0030	8-1-2016	Amend	8-1-2016	855-025-0015	7-1-2016	Amend	8-1-2016
851-070-0040	8-1-2016	Amend	8-1-2016	855-025-0015(T)	12-23-2015	Repeal	2-1-2016
851-070-0045	8-1-2016	Adopt	8-1-2016	855-025-0060	7-1-2016	Amend	8-1-2016
851-070-0050	8-1-2016	Amend	8-1-2016	855-041-1120	7-1-2016	Amend	2-1-2016
851-070-0060	8-1-2016	Amend	8-1-2016	855-041-2320	8-26-2016	Amend	10-1-2016
851-070-0070	8-1-2016	Amend	8-1-2016	855-041-2340	9-7-2016	Adopt(T)	10-1-2016
851-070-0075	8-1-2016	Adopt	8-1-2016	855-041-4200	7-1-2016	Amend	8-1-2016
851-070-0075	8-2-2016	Amend	9-1-2016	855-043-0110	7-1-2016	Repeal	8-1-2016
851-070-0080	8-1-2016	Amend	8-1-2016	855-043-0130	12-23-2015	Amend	2-1-2016
851-070-0090	8-1-2016	Amend	8-1-2016	855-043-0130	7-1-2016	Repeal	8-1-2016
851-070-0100	8-1-2016	Amend	8-1-2016	855-043-0130(T)	12-23-2015	Repeal	2-1-2016
852-010-0015	4-1-2016	Amend	4-1-2016	855-043-0300	7-1-2016	Repeal	8-1-2016
852-010-0080	4-1-2016	Amend	4-1-2016	855-043-0310	7-1-2016	Repeal	8-1-2016
852-010-0080	4-8-2016	Amend	5-1-2016	855-043-0700	7-1-2016	Adopt	8-1-2016
852-050-0006	4-1-2016	Amend	4-1-2016	855-043-0705	7-1-2016	Adopt	8-1-2016
852-050-0014	4-1-2016	Amend	4-1-2016	855-043-0710	7-1-2016	Adopt	8-1-2016
852-050-0018	4-1-2016	Amend	4-1-2016	855-043-0715	7-1-2016	Adopt	8-1-2016
852-050-0025	4-1-2016	Amend	4-1-2016	855-043-0720	7-1-2016	Adopt	8-1-2016
852-050-0025	4-8-2016	Amend	5-1-2016	855-043-0725	7-1-2016	Adopt	8-1-2016
852-070-0010	4-1-2016	Amend	4-1-2016	855-043-0730	7-1-2016	Adopt	8-1-2016
852-070-0020	4-1-2016	Amend	4-1-2016	855-043-0735	7-1-2016	Adopt	8-1-2016
852-070-0035	4-1-2016	Amend	4-1-2016	855-043-0740	7-1-2016	Adopt	8-1-2016
852-070-0037	4-1-2016	Adopt	4-1-2016	855-043-0745	7-1-2016	Adopt	8-1-2016
852-070-0047	4-1-2016	Adopt	4-1-2016	855-043-0750	7-1-2016	Adopt	8-1-2016
855-006-0005	12-23-2015	Amend	2-1-2016	855-062-0040	12-23-2015	Amend	2-1-2016
855-006-0005	7-1-2016	Amend	8-1-2016	855-062-0040(T)	12-23-2015	Repeal	2-1-2016
855-006-0020	7-1-2016	Adopt	8-1-2016	855-080-0021	8-22-2016	Amend(T)	10-1-2016
855-019-0110	12-23-2015	Amend	2-1-2016	855-090-0005	12-23-2015	Repeal	2-1-2016
855-019-0200	12-23-2015	Amend	2-1-2016	855-110-0003	7-1-2016	Amend	8-1-2016
855-019-0264	12-23-2015	Adopt	2-1-2016	855-110-0005	7-1-2016	Amend	8-1-2016
855-019-0270	12-23-2015	Amend	2-1-2016	855-110-0007	7-1-2016	Amend	8-1-2016
855-019-0280	12-23-2015	Amend	2-1-2016	855-110-0010	7-1-2016	Amend	8-1-2016
855-019-0400	5-1-2016	Adopt	6-1-2016	856-010-0010	3-31-2016	Amend	5-1-2016
855-019-0400(T)	5-1-2016	Repeal	6-1-2016	856-010-0012	1-25-2016	Amend	3-1-2016
855-019-0405	5-1-2016	Adopt	6-1-2016	856-010-0012	2-10-2016	Amend	3-1-2016
855-019-0405(T)	5-1-2016	Repeal	6-1-2016	856-010-0026	3-31-2016	Amend	5-1-2016
855-019-0410	5-1-2016	Adopt	6-1-2016	856-010-0027	8-23-2016	Amend	10-1-2016
855-019-0410(T)	5-1-2016	Repeal	6-1-2016	856-010-0029	7-22-2016	Amend	9-1-2016
855-019-0415	5-1-2016	Adopt	6-1-2016	856-030-0040	5-25-2016	Amend(T)	7-1-2016
855-019-0415(T)	5-1-2016	Repeal	6-1-2016	858-010-0007	2-1-2016	Amend	3-1-2016
855-019-0420	5-1-2016	Adopt	6-1-2016	858-010-0020	2-1-2016	Amend	3-1-2016
855-019-0420(T)	5-1-2016	Repeal	6-1-2016	858-010-0020	5-23-2016	Amend	7-1-2016
855-019-0425	5-1-2016	Adopt	6-1-2016	858-010-0036	2-2-2016	Amend	3-1-2016
855-019-0425(T)	5-1-2016	Repeal	6-1-2016	858-010-0041	6-15-2016	Amend	7-1-2016

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858-040-0035	2-1-2016	Amend	3-1-2016	860-200-0050(T)	5-3-2016	Repeal	6-1-2016
858-040-0055	2-1-2016	Amend	3-1-2016	860-200-0100	5-3-2016	Adopt	6-1-2016
858-040-0065	2-1-2016	Amend	3-1-2016	860-200-0100(T)	5-3-2016	Repeal	6-1-2016
859-010-0005	12-3-2015	Amend(T)	1-1-2016	860-200-0150	5-3-2016	Adopt	6-1-2016
859-020-0005	3-17-2016	Amend	5-1-2016	860-200-0150(T)	5-3-2016	Repeal	6-1-2016
859-020-0010	3-17-2016	Amend	5-1-2016	863-060-0011	4-25-2016	Adopt	6-1-2016
859-020-0015	3-17-2016	Amend	5-1-2016	863-060-0011	5-13-2016	Adopt	6-1-2016
859-030-0005	3-17-2016	Amend	5-1-2016	875-010-0045	8-4-2016	Amend(T)	9-1-2016
859-030-0010	3-17-2016	Amend	5-1-2016	875-030-0050	8-4-2016	Amend(T)	9-1-2016
859-040-0005	3-17-2016	Amend	5-1-2016	877-001-0020	1-1-2016	Amend	2-1-2016
859-040-0010	3-17-2016	Amend	5-1-2016	877-015-0108	3-14-2016	Amend(T)	4-1-2016
859-040-0015	3-17-2016	Amend	5-1-2016	877-020-0005	12-15-2015	Amend	1-1-2016
859-040-0020	3-17-2016	Amend	5-1-2016	877-020-0009	3-14-2016	Amend(T)	4-1-2016
859-040-0025	3-17-2016	Amend	5-1-2016	877-020-0021	12-15-2015	Adopt	1-1-2016
859-045-0005	3-17-2016	Adopt	5-1-2016	877-030-0110	1-1-2016	Adopt	2-1-2016
859-045-0010	3-17-2016	Adopt	5-1-2016	918-020-0090	1-1-2016	Amend	1-1-2016
859-050-0001	3-17-2016	Adopt	5-1-2016	918-020-0090(T)	1-1-2016	Repeal	1-1-2016
859-050-0005	3-17-2016	Amend	5-1-2016	918-098-1010	1-26-2016	Amend(T)	3-1-2016
859-050-0010	3-17-2016	Amend	5-1-2016	918-098-1010	4-1-2016	Amend	5-1-2016
859-050-0015	3-17-2016	Amend	5-1-2016	918-098-1010	7-1-2016	Amend	8-1-2016
859-050-0020	3-17-2016	Amend	5-1-2016	918-098-1010(T)	4-1-2016	Repeal	5-1-2016
859-050-0025	3-17-2016	Amend	5-1-2016	918-098-1012	4-1-2016	Amend	5-1-2016
859-050-0030	3-17-2016	Amend	5-1-2016	918-098-1012	7-1-2016	Amend	8-1-2016
859-050-0035	3-17-2016	Amend	5-1-2016	918-098-1015	4-1-2016	Amend	5-1-2016
859-050-0040	3-17-2016	Amend	5-1-2016	918-098-1015	7-1-2016	Amend	8-1-2016
859-050-0045	3-17-2016	Amend	5-1-2016	918-098-1025	1-26-2016	Amend(T)	3-1-2016
859-050-0050	3-17-2016	Amend	5-1-2016	918-098-1025	4-1-2016	Amend	5-1-2016
859-050-0055	3-17-2016	Amend	5-1-2016	918-098-1025	7-1-2016	Amend	8-1-2016
859-050-0060	3-17-2016	Amend	5-1-2016	918-098-1025(T)	4-1-2016	Repeal	5-1-2016
859-050-0065	3-17-2016	Amend	5-1-2016	918-098-1028	7-1-2016	Amend	8-1-2016
859-050-0070	3-17-2016	Amend	5-1-2016	918-098-1100	7-1-2016	Adopt	8-1-2016
859-050-0075	3-17-2016	Amend	5-1-2016	918-098-1210	4-1-2016	Amend	5-1-2016
859-050-0080	3-17-2016	Amend	5-1-2016	918-098-1215	4-1-2016	Amend	5-1-2016
859-050-0083	3-17-2016	Adopt	5-1-2016	918-098-1305	4-1-2016	Amend	5-1-2016
859-050-0085	3-17-2016	Amend	5-1-2016	918-098-1320	4-1-2016	Amend	5-1-2016
859-050-0090	3-17-2016	Amend	5-1-2016	918-098-1470	1-26-2016	Amend(T)	3-1-2016
859-050-0095	3-17-2016	Amend	5-1-2016	918-098-1470	4-1-2016	Amend	5-1-2016
859-050-0100	3-17-2016	Amend	5-1-2016	918-098-1470(T)	4-1-2016	Repeal	5-1-2016
859-050-0105	3-17-2016	Amend	5-1-2016	918-098-1475	7-1-2016	Adopt	8-1-2016
859-200-0070	3-17-2016	Amend	5-1-2016	918-098-1480	1-26-2016	Amend(T)	3-1-2016
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859-400-0010	3-17-2016	Adopt	5-1-2016	918-098-1900	1-26-2016	Amend(T)	3-1-2016
859-400-0015	3-17-2016	Adopt	5-1-2016	918-098-1900	4-1-2016	Amend	5-1-2016
859-400-0020	3-17-2016	Adopt	5-1-2016	918-098-1900(T)	4-1-2016	Repeal	5-1-2016
859-400-0025	3-17-2016	Adopt	5-1-2016	918-271-0040	1-1-2016	Amend	1-1-2016
859-400-0030	3-17-2016	Adopt	5-1-2016	918-271-0105	4-1-2016	Adopt	5-1-2016
859-400-0035	3-17-2016	Adopt	5-1-2016	918-305-0105	9-7-2016	Amend(T)	10-1-2016
859-400-0040	3-17-2016	Adopt	5-1-2016	918-309-0000	4-1-2016	Amend	5-1-2016
859-400-0045	3-17-2016	Adopt	5-1-2016	918-309-0030	4-1-2016	Amend	5-1-2016
860-024-0020	5-17-2016	Amend	7-1-2016	918-309-0040	4-1-2016	Amend	5-1-2016
860-024-0021	5-17-2016	Amend	7-1-2016	918-309-0060	4-1-2016	Amend	5-1-2016
860-038-0300	3-10-2016	Amend	4-1-2016	918-309-0070	4-1-2016	Amend	5-1-2016
860-200-0005	5-3-2016	Adopt	6-1-2016	918-309-0075	4-1-2016	Adopt	5-1-2016
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918-460-0500	8-30-2016	Amend(T)	10-1-2016				
918-480-0010	2-1-2016	Amend	3-1-2016				
918-480-0100	6-28-2016	Suspend	8-1-2016				
918-480-0110	6-28-2016	Suspend	8-1-2016				
918-480-0120	6-28-2016	Suspend	8-1-2016				
918-480-0125	6-28-2016	Adopt(T)	8-1-2016				
918-695-0410	4-1-2016	Amend	5-1-2016				
945-030-0020	3-25-2016	Amend(T)	5-1-2016				
945-030-0030	4-12-2016	Amend	5-1-2016				
945-030-0035	4-12-2016	Repeal	5-1-2016				
945-060-0000	9-8-2016	Adopt	10-1-2016				
945-060-0005	9-8-2016	Adopt	10-1-2016				
945-060-0010	9-8-2016	Adopt	10-1-2016				
945-060-0015	9-8-2016	Adopt	10-1-2016				
945-060-0020	9-8-2016	Adopt	10-1-2016				
945-060-0025	9-8-2016	Adopt	10-1-2016				
945-060-0030	9-8-2016	Adopt	10-1-2016				
945-060-0035	9-8-2016	Adopt	10-1-2016				
945-060-0040	9-8-2016	Adopt	10-1-2016				
951-006-0000	6-21-2016	Amend	8-1-2016				
951-006-0001	6-21-2016	Amend	8-1-2016				
951-006-0005	6-21-2016	Amend	8-1-2016				
951-006-0010	6-21-2016	Amend	8-1-2016				
951-006-0020	6-21-2016	Amend	8-1-2016				
976-002-0020	7-1-2016	Amend	8-1-2016				

