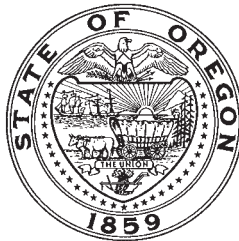


OREGON BULLETIN

Supplements the 2016 *Oregon Administrative Rules Compilation*

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Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

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

Background on Oregon Administrative Rules

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

OAR Citations

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

Understanding an Administrative Rule’s “History”

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

Locating Current Versions of Administrative Rules

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

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

Locating Administrative Rule Publications

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

Filing Administrative Rules and Notices

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

Administrative Rules Coordinators and Delegation of Signing Authority

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

Publication Authority

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

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

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OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION DETERMINATION, ROBINWOOD CLEANERS SITE IN WEST LINN, OREGON

COMMENTS DUE: 5 p.m., Monday, August 1, 2016

PROJECT LOCATION: 19149 Willamette Drive

PROPOSAL: The Oregon Department of Environmental Quality invites comments on its proposal to issue a conditional no further action determination for the Robinwood Cleaners Site.

HIGHLIGHTS: The former Robinwood Cleaners tenant space is approximately 1,000 square feet and is located within one of six buildings that comprise the 6.2-acre Robinwood Shopping Center. Robinwood Cleaners, a dry cleaning operation that used perchloroethene (PCE), operated from the early 1980s to the mid-1990s.

Investigation activities conducted between 2010 and 2013 identified and characterized dry cleaning solvent releases. The investigations determined there was a concentrated PCE soil gas plume beneath the dry cleaner tenant space that presented a potential health threat to on-site workers and two adjacent tenant spaces.

In April 2012, the previous owner completed an interim removal action measure under DEQ oversight, which included a soil removal, removal and replacement of a portion of the sanitary sewer line, and installation of a vapor collection system within the excavation backfill. In March 2012, new HVAC units were installed in each of the three affected tenant spaces. DEQ concludes that these efforts were sufficient to decrease indoor air concentrations to below levels of concern, and that residual dry cleaning-related contamination does not present unacceptable risk to human health.

To ensure protective conditions the floor should not be disturbed in the dry cleaning space, and active operation of the vapor collection and HVAC systems must be maintained. If the floor is disturbed it should be adequately repaired and sealed. DEQ will document the need to maintain the system and presence of residual contamination in a notice of environmental contamination to be recorded on the property deed.

HOW TO COMMENT: Send comments to DEQ Project Manager Mark Pugh at 700 NE Multnomah St., Suite #600, Portland, OR 97232 or pugh.mark@deq.state.or.us. For more information contact the project manager at 503-229-5587.

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 5607 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5607 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=5607&Screen=Load>.

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

THE NEXT STEP: DEQ will review and consider all comments received during the comment period prior to issuance of the conditional no further action determination.

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

PUBLIC NOTICE PROPOSED CONDITIONAL NO FURTHER ACTION FOR TUALATIN RIVER PIPELINE LEAK SITE

COMMENTS DUE: 5 p.m., Monday Aug. 1, 2016

PROJECT LOCATION: Along the Tualatin River approximately one-half mile north of the intersection of S.W. Cipole Road and S.W. Pacific Drive, Washington County, Oregon

PROPOSAL: Pursuant to Oregon Revised Statute ORS 465.320 and Oregon Administrative Rules OAR 340-122-0100, the Department of Environmental Quality (DEQ) is soliciting public comments on the proposed conditional no further action determination for the Tualatin River Pipeline Leak site. DEQ has determined that site cleanup activities have been successfully completed. Contaminants remaining in soil and groundwater do not pose an unacceptable risk to public health or the environment provided groundwater use is restricted on the property, health and safety requirements are implemented and soil and groundwater management is implemented as required by the Contaminated Media Management Plan. This proposed determination meets the requirements of Oregon Administrative Rules Chapter 340, Division 122, and Chapter 340 Division 122, Sections 010 to 0140 for Cleanup Sites; and ORS 465.200 through 465.455.

HIGHLIGHTS: The property is approximately six acres in size located on the south bank of the Tualatin River west of the city of Tualatin. In October 1991 a leak in a two-inch bypass line, assumed to be due to corrosion, was observed. The leak was of unknown duration and quantity. The release resulted in soil, groundwater and surface water contamination with petroleum compounds, including benzene, toluene, ethyl benzene, xylene, naphthalene and total petroleum hydrocarbons. Petroleum product was initially observed at a thickness of up to seven feet in groundwater monitoring wells.

Technologies implemented from 1991 until October 2013 to address the contamination included use of a petroleum recovery trench and an air sparge trench, bioslurping, and an air sparging and soil vapor extraction system. At least 186,000 gallons of petroleum product have been removed from the property. Currently only three wells have any product remaining and in those wells the product is at a thickness of less than 0.01 inches. Contamination in the Tualatin River was not observed after 2000. Dissolved phase contamination observed in monitoring wells is either not detected or below the compliance concentrations in shoreline wells. Although contamination remains in the subsurface soils and groundwater, the contamination does not appear to be mobile. Additional groundwater monitoring will be required to confirm long term cleanup.

HOW TO COMMENT: Send comments to DEQ Project Manager Deborah Bailey at 700 NE Multnomah St., Ste. 600, Portland, Oregon or bailey.deborah.a@deq.state.or.us. For more information contact the project manager at 503-229-6811.

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

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

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, select "Search complete ECSI database", then enter ECSI#1682 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled #1682 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=1682&SourceIdType=11>

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

THE NEXT STEP: Once the public comment period has closed DEQ will consider all comments before making a decision concerning the conditional No Further Action determination.

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

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED CERTIFICATE OF COMPLETION FOR BAKER SCHOOL DISTRICT 5J AT FORMER OSTWALD MACHINE SHOP

COMMENTS DUE: 5 p.m., Monday, August 1, 2016

PROJECT LOCATION: 2430 Balm St., in Baker City

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 2013, Baker School District 5J entered a Prospective Purchaser Agreement Consent Judgment with DEQ and agreed to complete a Scope of Work on the former Ostwald Machine Shop property, including the excavation and off-site disposal of contaminated soil.

DEQ reviewed the requirements of the Consent Judgment and the corresponding actions, and has made a preliminary determination that all obligations of the Consent Judgment 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 Baker School District 5J'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 Baker School District 5J with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Katie Robertson at 800 SE Emigrant Ave, Suite 330, Pendleton, OR 97801 or robertson.katie@deq.state.or.us. For more information contact the project manager at 541-278-4620.

Access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter 5387 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5387 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: 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.

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

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: To adopt rules related to professional work. Amend rule related to structural registration. Housekeeping.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002-372.325

Proposed Adoptions: 820-005-0036, 820-005-0051, 820-005-0066

Proposed Amendments: 820-010-4000, 820-080-0010

Proposed Repeals: 820-010-4000(T)

Last Date for Comment: 8-10-16, Close of Business

Summary: OAR 820-005-0036 — Defines the practice of engineering work as used in ORS 672.005 and 672.007. The temporary rule previously filed as OAR 820-005-0035 expired.

OAR 820-005-0051 — Defines the practice of land surveying work as used in ORS 672.005 and 672.007. The temporary rule previously filed as OAR 820-005-0050 expired.

OAR 820-005-0066 — Defines the practice of photogrammetric mapping work as used in ORS 672.002 and 672.007. The temporary rule previously filed as OAR 820-005-0060 expired.

OAR 820-010-4000 — Amends the rule for registration as a structural engineer.

OAR 820-080-0010 — Adds "renewal certificate" to fees. No change in fee is proposed.

Rules Coordinator: Jenn Gilbert

Address: Board of Examiners for Engineering and Land Surveying, 670 Hawthorne Ave. SE, Suite 220, Salem, OR 97301

Telephone: (503) 934-2107

Board of Geologist Examiners Chapter 809

Rule Caption: Update Board Rules for Complaint Investigations, Renewals/Restorations, Fees and Professional Code of Conduct

Date:
7-29-16

Time:
9 a.m.

Location:
Assoc. Center
707 13th. St. SE, Suite 114
Salem, OR

Hearing Officer: Christine Valentine

Stat. Auth.: 809-010-0001: ORS 182.466, 670.310 & 672.705; 809-015-0000: ORS 670.310 & 672.585; 809-015-0005: ORS 670.310 & 672.585; 809-015-0010: ORS 670.310 & 672.585; 809-020-0025: ORS 672.655, 670.310; 809-055-0000: ORS 670.310(1), 670.315, 672.665 & 672.675

Stats. Implemented: 809-010-0001: ORS 672.705 809-015-0000: ORS 672.585 809-015-0005: ORS 672.585 809-015-0010: ORS 672.585 809-020-0025: ORS 672.655 809-055-0000: ORS 672.665, 672.675

Proposed Amendments: 809-010-0001, 809-015-0000, 809-015-0005, 809-015-0010, 809-020-0025, 809-055-0000

Proposed Repeals: 809-015-0015

Last Date for Comment: 7-29-16, Close of Business

Summary: Rule updates are proposed to: (a) cover all types of complaint investigations in Board rule and generally update and clarify procedures for investigations, (b) redefine renewal date to not be equivalent to expiration date so that a registrant can renew through his/her renewal date instead of the day prior, (c) ensure consistent use of language and otherwise clarify requirements for renewals and restoration, (d) delete a rule related to renewal of Geologist-in-Training registration that is not needed for implementing that registration type, (e) clarify in fee rule proration of registration fees for registrants changing registration type, (f) make other housekeeping changes to fee rule but with no fee changes, (g) provide more flexibility to Board in mailing options, and (h) set minimum requirements for contact information that registrants must maintain on record with the Board.

Rules Coordinator: Christine Valentine

Address: Board of Geologist Examiners, 707 13th St. SE, Suite 114, Salem, OR 97301

Telephone: (503) 566-2837

Board of Licensed Professional Counselors and Therapists Chapter 833

Rule Caption: Definitions, rulemaking procedures, contested case hearings, investigations and failure to cooperate, and criminal history checks.

Date: 7-21-16
Time: 10 a.m.
Location: 3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: LaRee' Felton

Stat. Auth.: ORS 675.705-675.835 & 676.150-676.990

Other Auth.: HB 3168 (2013) & HB 2250 (2015)

Stats. Implemented: ORS 675.715-675.835 & 676.160-676.180

Proposed Amendments: 833-001-0000, 833-001-0015, 833-001-0020, 833-010-0001, 833-110-0011, 833-110-0021, 833-120-0011, 833-120-0021, 833-120-0041

Proposed Repeals: 833-120-0031

Last Date for Comment: 6-22-16, 5 p.m.

Summary: The proposed amendment makes clarifications to the rulemaking procedures and process for obtaining information from the Board, and clarifies that contested case hearings are closed to the public. It adds new definitions for AAMFT, Board, Hour Equivalents, LMFT, LPC, and NBCC, and modifies the Regional Accrediting Agency definition. In Division 110, the proposal clarifies and amends the complaint procedures, reorganizes, and removes unnecessary and redundant language. It establishes that failure to cooperate with a Board investigation constitutes unprofessional conduct which may subject a licensee, intern or applicant to disciplinary action.

Regarding criminal history checks (Division 120), the proposal updates statute numbers and rule references, reorganizes, removes confusing and redundant language, clarifies procedures, and eliminates certain exceptions. It repeals the Board's "information con-

NOTICES OF PROPOSED RULEMAKING

sidered” related to a criminal history check and implements the statewide uniform fitness determination process and criminal records administrative rules. This includes factors considered as part of fitness determination, such as mitigating circumstances, how a subject individual may contest an adverse determination, confidentiality of criminal offender information, and consequence for failure to comply per law.

Rules Coordinator: LaRee Felton

Address: Board of Licensed Professional Counselors and Therapists, 3218 Pringle Rd. SE, Suite 250, Salem, OR 97302

Telephone: (503) 373-1196

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Rule Caption: Application methods and requirements, inactive status, examination, general licensure provisions, fees, supervision, and continuing education.

Date:	Time:	Location:
7-21-16	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: LaRee Felton

Stat. Auth.: ORS 675.705–675.835 & 676.150–676.990

Other Auth.: HB 2611 (2013)

Stats. Implemented: ORS 675.715–675.835 & 676.850

Proposed Adoptions: 833-075-0010, 833-075-0020, 833-075-0030, 833-075-0040, 833-075-0050, 833-075-0060, 833-075-0070, 833-075-0080, 833-075-0090

Proposed Amendments: 833-020-0011, 833-020-0021, 833-020-0041, 833-020-0051, 833-020-0061, 833-020-0071, 833-020-0081, 833-030-0011, 833-030-0021, 833-030-0041, 833-040-0011, 833-040-0021, 833-040-0041, 833-050-0021, 833-050-0031, 833-050-0041, 833-050-0051, 833-050-0061, 833-050-0071, 833-050-0081, 833-050-0091, 833-050-0111, 833-050-0131, 833-050-0161, 833-070-0011, 833-070-0021, 833-080-0011, 833-080-0021, 833-080-0031, 833-080-0041, 833-080-0051, 833-080-0061, 833-130-0020, 833-130-0040, 833-130-0050, 833-130-0070, 833-130-0080

Proposed Repeals: 833-020-0031, 833-020-0091, 833-020-0101, 833-020-0112, 833-020-0201, 833-020-0301, 833-020-0401, 833-020-0501, 833-030-0031, 833-040-0031, 833-050-0121, 833-060-0012, 833-060-0022, 833-060-0032, 833-060-0042, 833-060-0052, 833-060-0062, 833-130-0030, 833-130-0060

Last Date for Comment: 7-22-16, 5 p.m.

Summary: The proposed amendment moves licensure-related sections 833-020-0091 through 833-020-0501 from Division 20, “Application Methods,” to newly adopted Division 75, “General Licensure Provisions.” The proposal repeals Division 60, “Graduate Degree Standards,” and integrates the language into Divisions 30 & 40, the Licensed Professional Counselor (LPC) and Licensed Marriage and Family Therapist (LMFT) licensure requirements. Much of the amendments reorganize and remove confusing and redundant language for clarity, and update rule and statute references.

This proposal establishes an inactive license status and renewal fee of \$100, and sets forth requirements to reactivate a license back to active status, along with a “reactivation” fee of \$125. This will replace the continuing education (CE) waiver for non-practicing licensees, which will be eliminated, waive the CE requirements for inactive licensees, and set forth that inactive licensees do not qualify for placement on the supervisor registry. It will remove the five-year supervisor registry renewal requirement; instead, licensees who supervise registered interns, including all licensees on the Supervisor Registry, will have a requirement for their CE to include three clock hours of supervision-related training within each reporting period. The proposal will sunset the 2010 “grandfathering” provision that allowed current supervisors to be placed on the registry, remove the current post-denial appeal process for supervisors with any disciplinary history, and create an up-front review process for registry applicants.

Other changes to fees (Division 70) include removal of the stated amount of criminal background check fee and replacement with requirement to pay the actual cost to the Board; removal of the fee

for annual renewal with background check, since this is no longer required every five years for licensees and interns; some fee renaming; and clarification that fees are nonrefundable, as per ORS 675.785(3). The proposal clarifies in the new Division 75 that a person may not use the title of “licensed professional counselor” or “licensed marriage and family therapist,” including the abbreviations “LPC” and “LMFT,” unless the person holds a current license issued by the Board. It also adds requirement that licensees’ professional disclosure statement (PDS) be accessible to people with disabilities (consistent with the requirement of intern PDS).

Proposed amendments to Division 20 include a requirement that email addresses and other clarifying information be provided as part of an application; clarification that applications may be extended “for good cause”; addition of a requirement that applicants must notify Board of application information changes within 30 days, including information related to character and fitness, and failure to do so may be grounds for denial or revocation; and removal of the requirement for direct method applicants to have completed no less than 480 post-degree client contact hours within 60 months immediately prior application. The proposal clarifies and adds specificity to the reciprocity application requirements; removes redundant and contradictory supervised experience requirements that are appropriately set forth in Divisions 30 and 40; repeals the Board’s acceptance of national credentials registry for professional counselors as a substitute for education and experience requirements, as this registry no longer exists; and increases the continuing education required for licensure, from 20 hours within one year to the regular activities required by OAR Ch. 833, Div. 80 (40 hours) within the prior two years. It also clarifies the reapplication requirements, transfer of documents from the prior file, examination requirements, deadlines, and consequences for failure to comply, and allows the Board to grant good-cause exam extensions.

Proposed amendments to Divisions 30 and 40 will eliminate the arbitrary “comparable” and “majority” educational program standard requirements and set forth clear program accreditation and coursework requirements for LPC and LMFT licensure. The proposal defines three years as 36 months for the clinical experience requirement for licensure. It clarifies post-graduate supervised experience accepted for licensure through the direct method of application. For direct and reciprocity application methods, it removes the requirement that the supervisor have completed 30 hours of supervision training for supervision received after June 30, 1992 and eliminates the need for difficult to verify criteria for previous experience. The proposal clarifies examination requirements, removes the Board’s ability to approve “other exams” not set forth in OAR, and allows the Board to notify examinees of their exam results in methods other than writing. Also, sections from Division 60 are moved to these divisions where they are more sensically located.

In Division 50, there are proposed changes to better align the intern PDS requirement with those of licensees, and to remove of the PDS waiver option for interns practicing out of state. The proposal clarifies the requirements for counting hours outside of a registered intern plan, adds a requirement that fees for supervision, if any, be paid in per-hour form and be disclosed in the intern registration plan. For supervision meetings, this removes the “no less than 50 minutes” definition of one hour. It adds new supervisor and intern responsibilities, including appropriate intern title representations to the public, exam study plan, creation and maintenance of supervision notes, name change notification, and notification of interruptions or expected termination of the supervisory relationship. Also, it is proposed that interns pay the same delinquent fee as licensees (\$50) when they renew after the due date, and that late renewals must be received within the renewal month or else the intern will be expired and must reapply.

There are several other proposed changes to the continuing education (CE) requirements in Division 80. This adds a requirement for CE to include four clock hours of training in cultural competency within each reporting period for renewal periods beginning January

NOTICES OF PROPOSED RULEMAKING

1, 2017 and later (per House Bill 2611, 2013), and allows the requirement for six hours of ethics to include training in Oregon State laws and regulations pertaining to the practice of professional counseling or marriage and family therapy. It adds requirements that programs must be conducted by a qualified instructor or discussion leader, that licensees must obtain a record of attendance, that supervision must be for a fee, and that credit may not be claimed for providing supervision or receiving disciplinary supervision. Also, this proposal sets forth that no credit shall be allowed for repeat professional presentations, with exception for substantially changed programs. It clarifies CE reporting periods, the number of hours required for licensees and new licensees, CE waiver procedures, acceptable documentation of CE activities, and audit penalties. The proposal establishes a policy that continuing education must be a learning activity that contributes directly to the professional competence of the licensee, and that the responsibility for documenting the acceptability of the program and the validity of credit rests with the licensee. It creates a minimum retention period for CE records as two years after reporting period, and sets forth that audited licensees hold the burden of proof of mailing of their records to the Board. The amendment will clarify home study programs and create a new limit of 20 clock hours per reporting period, and add service as an Oregon Board of Licensed Professional Counselors and Therapists member or committee volunteer as a method of obtaining hours.

Rules Coordinator: LaRee Felton

Address: Board of Licensed Professional Counselors and Therapists, 3218 Pringle Rd. SE, Suite 250, Salem, OR 97302

Telephone: (503) 373-1196

Board of Pharmacy Chapter 855

Rule Caption: Amends Division 041 rules for acquisition of epinephrine by an entity, pursuant to a prescription.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155 & 433.825

Proposed Amendments: 855-041-2320

Last Date for Comment: 7-25-16, 4:30 p.m.

Summary: Division 041 Epinephrine rules are updated to incorporate 2013 legislative authority for an entity to acquire epinephrine for emergency use. These rules were previously noticed in May 2016 and are being re-noticed due to changes recommended by the Oregon Health Authority and staff clarifications.

Updated proposed rules are posted on the Board's website at: www.pharmacy.state.or.us.

Rules Coordinator: Karen MacLean

Address: Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232

Telephone: (971) 673-0001

Department of Agriculture Chapter 603

Rule Caption: Amendments clarify definitions, require seed testing only, and change enforcement to Public Nuisance process.

Date:	Time:	Location:
7-18-16	1 p.m.	Oregon Dept. of Agriculture Hawthorne Facility 151 Hawthorne Ave. NE Salem, OR 97301

Hearing Officer: Gary McAninch

Stat. Auth.: ORS 561.190, 561.510-561.600, 570.305, 570.405, 570.410-570.415 & 570.450

Stats. Implemented: ORS 561.190, 561.510-561.600, 570.170-570.180, 570.305, 570.405, 570.410-570.415 & 570.450

Proposed Amendments: 603-052-0862, 603-052-0870

Last Date for Comment: 7-22-16, 5 p.m.

Summary: The proposed amendments would add a definition for "Land Manager" and clarify the definitions for "Field", "Department", and "Director" in OAR 603-052-0862. For OAR 603-052-

0870, the proposed 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 have been changed to the Public Nuisance process as described in ORS 570.170 to 570.180.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Housekeeping Updates to Quarantine; Noxious Weeds.

Stat. Auth.: ORS 561.190 & 561.510 & 569

Stats. Implemented: ORS 561.510

Proposed Amendments: 603-052-1200

Last Date for Comment: 7-15-16, 5 p.m.

Summary: The proposed changes are housekeeping in nature: scientific names updated and italicized, additions to "A" and "B" state designated noxious weeds and other minor changes to improve clarity.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Department of Consumer and Business Services, 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.

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

Stats. Implemented: ORS 654.001-654.295

Proposed Amendments: 437-002-0005, 437-002-0134, 437-002-0182, 437-003-0001, 437-003-0134, 437-005-0001, 437-005-0002, 437-005-0003

Last Date for Comment: 8-12-16, 5 p.m.

Summary: 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 will be amended with the ANSI updates, as well as references in Oregon Rules for Firefighters in Division 2/L.

Please visit our web site www.orosha.org Click 'Rules' in the left vertical column and view our proposed, adopted, and final rules.

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

NOTICES OF PROPOSED RULEMAKING

Department of Consumer and Business Services, Workers' Compensation Board Chapter 438

Rule Caption: Amends OAR 438-005-0046(1)(f) (e-mail filing: completed forms) and OAR 438-006-0100(1) (applies amended ORS 9.320).

Date: 7-29-16 **Time:** 10 a.m. **Location:** 2601 25th St. SE, Suite 150
Salem, OR 97302

Hearing Officer: Debra L. Young

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 9.320, 656.283(1), (2), 656.295(1) & 656.726(5)

Proposed Amendments: 438-005-0046, 438-006-0100

Last Date for Comment: 7-29-16, Close of Business

Summary: OAR 438-005-0046(1)(f) provides for electronic filing of the requests listed in subsection (e) of section (1). The Board proposes to amend OAR 438-005-0046(1)(f) 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 of an electronic filing is determined by the date the Board receives the e-mail described in paragraph (A) of this subsection.

The Board also proposes to amend OAR 438-006-0100 to apply amendments to ORS 9.320. This statute previously required that in any action, suit or proceeding a "corporation" appear by attorney in all cases, unless otherwise specified by law. The amended statute replaces the word "corporation" with "party that is not a natural person." In accordance with the statutory amendment, the Board proposes to amend its rule regarding representation of counsel to delete the word "corporations" and add the phrase "parties that are not natural persons."

Rules Coordinator: Karen Burton

Address: Department of Consumer and Business Services, Workers' Compensation Board, 2601 25th St. SE, Suite 150, Salem, OR 97302
Telephone: (503) 934-0123

Department of Corrections Chapter 291

Rule Caption: Prison Term Modification for Department of Corrections Inmates as it applies to Earned Time Credits

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

Proposed Adoptions: 291-097-0236

Proposed Amendments: 291-097-0200, 291-097-0210, 291-097-0215, 291-097-0220, 291-097-0225, 291-097-0230, 291-097-0231, 291-097-0240, 291-097-0245, 291-097-0260

Last Date for Comment: 8-19-16, 4:30 p.m.

Summary: These revisions 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 credit per ORS 421.121.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Rule Caption: Structured, Intermediate Sanctions for Offenders on Community Supervision

Stat. Auth.: ORS 135.595, 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 135.595, 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-058-0047, 291-058-0066, 291-058-0067

Proposed Amendments: 291-058-0010, 291-058-0020, 291-058-0030, 291-058-0040, 291-058-0045, 291-058-0046, 293-058-0050, 291-058-0060, 291-058-0065, 291-058-0070

Last Date for Comment: 8-19-16, 4:30 p.m.

Summary: These modifications are necessary to differentiate how counties may sanction inmates on short-term transitional leave vs. inmates on non-prison leave and to align the rules with proposed changes to the rules on short-term transitional leaves (OAR 291-063).

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Rule Caption: Alternative Incarceration Programs

Stat. Auth.: ORS 179.040, 421.500 to 421.512, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030 & 423.075

Proposed Amendments: 291-062-0100 through 291-062-0170

Last Date for Comment: 8-19-16, 4:30 p.m.

Summary: These revisions are necessary to differentiate the definitions and policies of non-prison leave associated with alternative incarceration programs and short-term transitional leave (addressed in OAR 291-063) and align the rules with statutory terminology.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Rule Caption: Short-Term Transitional Leave for Inmates in DOC Facilities

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-063-0130, 291-063-0150, 291-063-1000, 291-063-1010

Proposed Ren. & Amends: 291-063-0005 to 291-063-0100, 291-063-0010 to 291-063-0110, 291-063-0016 to 291-063-0120, 291-063-0030 to 291-063-0140, 291-063-0036 to 291-063-0160, 291-063-0050 to 291-063-1020, 291-063-0040 to 291-063-1030, 291-063-0060 to 291-063-1040

Last Date for Comment: 8-19-16, 4:30 p.m.

Summary: These modifications are necessary to incorporate legislative changes to the short-term transitional leave (STTL) program as a result of HB 3194 (2013), update the process of how inmates are identified and approved for STTL, and clarify which inmates are eligible for participation in STTL. These revisions also include housekeeping matters to separate the STTL rules from those applicable to emergency leave and supervised trips.

Rules Coordinator: Janet R. Worley

NOTICES OF PROPOSED RULEMAKING

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

Telephone: (503) 945-0933

Department of Environmental Quality Chapter 340

Rule Caption: Clean Fuels Program Corrections

Stat. Auth.: ORS 468.020, 468A.275

Other Auth.: HB 2186 (2009) & SB 324 (2015)

Stats. Implemented: ORS 468A.275

Proposed Amendments: 340-253-8010, 340-253-8020, 340-253-8030, 340-253-8040

Proposed Repeals: 340-253-8010(T), 340-253-8020(T), 340-253-8030(T), 340-253-8040(T)

Last Date for Comment: 7-21-16, 4 p.m.

Summary: DEQ proposes the Environmental Quality Commission approve new proposed rules to correct a miscalculation of how the clean fuel standards and the carbon intensity values of two fuel pathways were calculated in the rules adopted by the EQC on Dec. 9, 2015.

The EQC adopted temporary rules on April 21, 2016 to correct the miscalculation described above; this rulemaking will make those corrections permanent.

Rules Coordinator: Meyer Goldstein

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

Telephone: (503) 229-6478

Rule Caption: Art Glass Permanent Rules 2016

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.055, 468A.070 & 468A.310

Stats. Implemented: ORS 468A.025, 468A.040, 468A.055, 468A.070 & 468A.310

Proposed Adoptions: 340-244-9000, 340-244-9010, 340-244-9020, 340-244-9030, 340-244-9040, 340-244-9050, 340-244-9060, 340-244-9070, 340-244-9080, 340-244-9090

Proposed Amendments: 340-244-0010

Proposed Repeals: 340-244-0010(T), 340-244-9000(T), 340-244-9010(T), 340-244-9020(T), 340-244-9030(T), 340-244-9040(T), 340-244-9050(T), 340-244-9060(T), 340-244-9070(T), 340-244-9080(T), 340-244-9090(T)

Last Date for Comment: 7-29-16, 4 p.m.

Summary: Short summary:

- DEQ proposes that the Oregon Environmental Quality Commission (EQC) approve the proposed rules, making the temporary art glass rules adopted by the EQC in April 2016 permanent, but potentially with some modifications.

Brief history:

- Elevated and possibly unsafe levels of metals have been found in the air around two glass manufacturing facilities in Portland. In May 2015, DEQ received the initial results of a study the U.S. Forest Service conducted looking at moss samples as an indicator or screening tool for contaminants in the air. The study's results showed that the moss samples in the areas near two colored art glass manufacturers contained high levels of the heavy metals cadmium and arsenic in Southeast Portland and cadmium in North Portland.

This pilot study prompted DEQ to set up air monitoring systems near a glass company in Southeast Portland. The study collected 24-hour air samples every few days over a 30-day period in October 2015. The results of DEQ's air monitoring confirmed that the glass company was the likely source of metals air emissions. DEQ completed its quality assurance and quality control review of those samples in late January 2016. DEQ then shared its analysis of the findings with the Oregon Health Authority (OHA) and the Multnomah County Health Department.

The DEQ also identified a second area of concern near a glass company in North Portland. The glass companies were operating in

compliance with the current law. One company was operating within its permit and the other company is not required to have a permit.

The U.S. Congress amended the Clean Air Act in 1990 to allow EPA to oversee the control of 188 hazardous air pollutants (HAPs) in order to protect human health. The EPA works with local and state governments to implement technologies that control the emission of these chemicals.

Benchmarks are Oregon's protective "clean air" goals that DEQ developed to address toxic air pollutants. There are no direct regulatory requirements associated with benchmarks. In 2005, with EPA funding, DEQ measured concentrations of air toxics, including metals, at six locations in the Portland area, finding levels of many pollutants above clean air benchmarks. DEQ established air toxics benchmarks in 2006 that set guidelines for 52 pollutants.

DEQ's work in 2006 and since then has identified levels of some toxic air pollutants that are still above Oregon's air toxics benchmarks. This is a significant problem because toxic air pollutants are connected with serious health effects like cancer, respiratory problems and organ damage. DEQ's air toxics benchmarks are designed to be very protective air concentrations that people could breathe for a lifetime without increasing their cancer risk beyond a chance of one in a million.

Air toxics emissions from certain types of industrial businesses like colored art glass manufacturers are not fully regulated under federal requirements. Based on sampling DEQ has concluded that uncontrolled furnaces used in such colored art glass manufacturing are more likely than not to emit potentially unsafe levels of certain metals, including arsenic, cadmium, hexavalent chromium and nickel. The permanent rules that DEQ proposes for EQC adoption are intended to protect public health and the environment by ensuring the air emissions from colored art glass facilities do not cause unsafe levels of metals in the air nearby.

EQC adopted temporary rules on April 21, 2016 and this proposed rulemaking will make those rule changes permanent. If no action is taken those rules will expire 180 days after adoption, on October 18, 2016.

Regulated parties

- The proposed rules apply to colored art glass manufacturers (CAGM) in the Portland Air Quality Maintenance Area (AQMA). DEQ is considering rule modifications that would make the proposed permanent rules apply to more sources than do the temporary rules, as noted below in the section titled "Request for other options".

CAGMs will incur expenses to obtain air permits; submit reports to DEQ; and depending on the compliance path chosen, to install, operate and maintain emission control devices, and/or perform stack testing and dispersion modeling.

Request for other options:

- During the public comment period, DEQ requests public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

In addition to comments on other aspects of the proposed rules, DEQ is specifically requesting public input on these questions:

- Should the rule be modified to apply to sources that make less than 10 tons per year of colored art glass? If so, what threshold would be appropriate? If proposing a new threshold, what is the scientific/risk based rationale for the change?

- Should the rule be modified to apply statewide, rather than only in the Portland AQMA?

- The temporary rule requires control devices be shown to capture at least 99.0% of incoming particulate matter. DEQ has received indications that, for some facilities, capturing enough particulate matter to show compliance with the 99.0% requirement may require an unmanageably long source test. DEQ seeks comment on whether replacing the 99.0% capture efficiency standard with an emissions standard at the control device outlet would be appropriate for Tier 1 or all facilities and if so, what emissions standard should be chosen. DEQ is considering a control device outlet particulate matter emis-

NOTICES OF PROPOSED RULEMAKING

sion standard between 0.001 and 0.01 gr/dscf (grains per dry standard cubic foot of air) based on a range of emissions standards in federal air toxics rules.

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 Fish and Wildlife
Chapter 635

Rule Caption: Coastal Angling Zones Salmon Fisheries.

Date:	Time:	Location:
8-5-16	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: OR Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129, 506.750, et. Seq.

Other Auth.: Magnusson-Stevens Sustainable Fisheries Act.
Stats. Implemented: ORS 496.162, 506.036, 506.109, 506.129, 506.750, et. Seq.

Proposed Adoptions: Rules in 635-003, 635-013, 635-014, 635-016
Proposed Amendments: Rules in 635-003, 635-013, 635-014, 635-016

Proposed Repeals: Rules in 635-003, 635-013, 635-014, 635-016
Last Date for Comment: 8-5-16, Close of Hearing

Summary: Amended rules relate to sport salmon fishing in the Northwest and Southwest angling zones consistent with guidelines established by the Oregon Fish and Wildlife Commission, Pacific Fishery Management Council and enacted Federal Regulations. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

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Rule Caption: Rule Amendments Related to the 2017 Oregon Sport Fishing Regulations.

Date:	Time:	Location:
8-5-16	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: OR Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 496.162, 497.121 & 506.119
Stats. Implemented: ORS 496.004, 496.009, 496.138, 496.146, 496.162, 506.109 & 506.129

Proposed Adoptions: Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500

Proposed Amendments: Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500

Proposed Repeals: Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500

Last Date for Comment: 8-5-16, Close of Hearing
Summary: These rules modify sport fishing regulations for finfish, shellfish, and marine invertebrates for 2017. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

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Rule Caption: Amend rules relating to Wildlife Management Plans for elk and mule deer.

Date:	Time:	Location:
8-5-16	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: ODFW Commission
Stat. Auth.: ORS 183, 496.012, 496.138, 496.146, 496.162 & 496.164

Stats. Implemented: ORS 183, 496.012, 496.138, 496.146, 496.162 & 496.164

Proposed Amendments: Rules in 635-160, 635-190

Last Date for Comment: 8-5-16, Close of Hearing
Summary: Amendments to elk and mule deer Wildlife Management Plans.

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

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

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

Date:	Time:	Location:
7-21-16	2:30 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, Oregon 97301

Hearing Officer: Staff
Stat. Auth.: ORS 409.050, 443.835
Stats. Implemented: ORS 430.215, 443.830, 443.835
Proposed Amendments: Rules in 411-346
Proposed Repeals: 411-346-0100(T), 411-346-0110(T), 411-346-0170(T), 411-346-0190(T), 411-346-0200(T)
Last Date for Comment: 7-25-16, 5 p.m.

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules in OAR chapter 411, division 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.

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

NOTICES OF PROPOSED RULEMAKING

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

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

Rule Caption: Amending rule about guardianship permanency plans

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Proposed Amendments: 413-070-0670

Last Date for Comment: 7-22-16, 5 p.m.

Summary: OAR 413-070-0670 about approval and implementation of a guardianship permanency plan is being amended to require that prior to the court hearing to request the final order of guardianship, the Department must document in the case record that the case-worker, supervising worker, if any, and the certifier for the potential guardian recommends finalization of the guardianship.

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

.....
Rule Caption: Adopting and incorporating by reference the updated Behavior Rehabilitation Services (BRS) Rates Table

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005, 418.027 & 418.495

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.315, 418.490 & 418.495

Proposed Amendments: Rules in 413-090

Proposed Repeals: 413-090-0085(T)

Last Date for Comment: 7-22-16, 5 p.m.

Summary: 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.

The table showing all changes is available at http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm.

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

Rules Coordinator: Kris Skaro

Address: Department of Human Services, Child Welfare Programs, 500 Summer St. NE, E-48, Salem, OR 97301
Telephone: (503) 945-6067

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

Rule Caption: Amending rule relating to ERDC child care provider requirements

Stat. Auth.: ORS 329A.500, 409.050, 411.060 & 411.070

Other Auth.: 45 CFR 98.2

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070 & 411.122

Proposed Amendments: 461-165-0180

Proposed Repeals: 461-165-0180(T)

Last Date for Comment: 7-22-16, 5 p.m.

Summary: OAR 461-165-0180 about child care provider eligibility requirements is being amended to state that to be eligible, a provider may not be the sibling living in the home of a child in the filing group.

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.

Rules Coordinator: Kris Skaro

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

Telephone: (503) 945-6067

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Rule Caption: Amending rule relating to delivery of notices to the Estate Administration Unit

Stat. Auth.: ORS 114.525, 409.050, 410.070, 411.060, 411.070, 413.042, 413.085 & 414.685

Stats. Implemented: ORS 113.145, 114.525, 114.540, 115.135, 130.370, 130.400, 409.050, 410.070, 411.060, 411.070, 413.042, 413.085 & 414.685

Proposed Amendments: 461-135-0834

Last Date for Comment: 7-22-16, 5 p.m.

Summary: OAR 461-135-0834 about delivery of required notices to the Estate Administration Unit (EAU) is being amended to state that notices required by ORS 115.003 must be delivered or mailed to the EAU at the Department of Human Services.

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.

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

Rules Coordinator: Kris Skaro

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

Telephone: (503) 945-6067

.....
**Department of Public Safety Standards and Training
Chapter 259**

Rule Caption: Amends administrative rules for housekeeping changes to show consistency when referencing the Department Head.

Stat. Auth.: ORS 181A.410, 181A.490, 181A.500, 181A.520, 181A.530, 181A.560, 181A.570, 181A.590, 183.341

Stats. Implemented: ORS 181A.410, 181A.490, 181A.500, 181A.520, 181A.530, 181A.560, 181A.570, 181A.590, 183.341

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 259-008-0010, 259-008-0011, 259-008-0060, 259-008-0064, 259-008-0065, 259-008-0066, 259-008-0076, 259-008-0080

Last Date for Comment: 7-21-16, Close of Business

Summary: The following proposed rule language shows house-keeping changes throughout OAR Chapter 259 Division 008 for criminal justice administrative rules to bring consistency to the rule language regarding references to the department head. OAR 259-008-0005 (10) defines "Department Head" as the chief of police, sheriff, or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit or agency. Existing rule language also references an agency head but the term "Agency Head" has not been included in administrative rule definitions and has been used inconsistently.

Rules Coordinator: Jennifer Howald

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

Telephone: (503) 378-2432

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Rule Caption: Amends language regarding DPSST use of Social Security Numbers to ensure compliance with state/federal laws.

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Proposed Amendments: 259-008-0020

Last Date for Comment: 7-21-16, Close of Business

Summary: DPSST requested a review by the Department of Justice (DOJ) regarding its use and storage of Social Security Numbers (SSNs) to ensure compliance with state and federal law. DOJ concluded that DPSST needs to modify its forms and practices to be in compliance with the law.

This proposed rule change removes language regarding DPSST's request for and use of SSNs in OAR 259-008-0020. This change makes OAR Chapter 259 Division 008 in compliance with state and federal laws regarding SSNs.

Rules Coordinator: Jennifer Howald

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

Telephone: (503) 378-2432

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Rule Caption: Amends language regarding DPSST use of Social Security Numbers to ensure compliance with state/federal laws.

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Proposed Amendments: 259-009-0010

Last Date for Comment: 7-21-16, Close of Business

Summary: DPSST requested a review by the Department of Justice (DOJ) regarding its use and storage of Social Security Numbers (SSNs) to ensure compliance with state and federal law. DOJ concluded that DPSST needs to modify its forms and practices to be in compliance with the law.

This proposed rule change removes language regarding DPSST's request for and use of SSNs in OAR 259-009-0010. This change makes OAR Chapter 259 Division 009 in compliance with state and federal laws regarding SSNs.

Rules Coordinator: Jennifer Howald

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

Telephone: (503) 378-2432

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

Rule Caption: Third Party Testing for Commercial Driver Licenses

Date:	Time:	Location:
7-21-16	9:30 p.m.	DMV Headquarters, 1 905 Lana Ave. Salem, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.072, 807.080

Other Auth.: 49 CFR Secs. 383.71, 383.75, 383.110-383.123, 383.131-383.135, 49 CFR Secs 384.228 and 384.229

Stats. Implemented: ORS 807.070, 807.072, 807.080

Proposed Adoptions: 735-060-0001, 735-060-0051, 735-060-0101, 735-060-0145

Proposed Amendments: 735-060-0030, 735-060-0040, 735-060-0050, 735-060-0055, 735-060-0057, 735-060-0090, 735-060-0095, 735-060-0100, 735-060-0105, 735-060-0115, 735-060-0120, 735-060-0130

Proposed Repeals: 735-060-0060, 735-060-0065, 735-060-0110

Proposed Ren. & Amends: 735-060-0000 to 735-060-0003

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

Summary: Chapter 735, Division 60 rules regarding CDL Third Party Testing were originally promulgated in 1986 and have had several partial updates since, which resulted in some inconsistent or confusing language and questionable organization of the content. Because of statutory and procedural changes, it is now time for DMV to again amend some of these rules. However, instead of just amending sections here and there, DMV carefully reviewed the entire rule division in an attempt to make certain the rules were consistent and easier to follow.

One of the two major changes that necessitated these rule amendments is implementation of the commercial learner driver permit (CLP) on September 26, 2016. These rules are amended to specify that no applicant may test with a third party tester unless the applicant possesses a CLP issued by DMV at least 14 days prior to testing. The other major change is that all test information, including passing scores that allow DMV to issue a CDL, are now entered into the Commercial Skills Test Information Management System (CSTIMS). Therefore, a third party examiner no longer needs to issue a Certificate of Test Completion for the applicant to take to DMV. DMV can access scores entered in CSTIMS by a third party testing business as well as scores entered by a tester in another jurisdiction.

Specific proposed changes to these rules include:

1. Proposed adoption of OAR 735-060-0001 to include a rule that establishes the purpose of Chapter 735, Division 60 rules.

2. OAR 735-060-0000 is being renumbered to 735-060-0003 and amended. The proposed amendments add, remove or change definitions of terms used in the rules in the division.

3. Proposed amendment of OAR 735-060-0030 includes that all Testers must have a business office or facility within the state of Oregon. This removes a "grandfather clause" exempting Testers that had maintained testing records outside of Oregon prior to June 1, 2010. This proposed rule also requires that a testing business provide a surety bond. It also includes a disqualifying factor if an owner, agent or manager of the entity has been terminated from employment with a state licensing agency or a third party testing business or equivalent business in any jurisdiction for fraud or another reason that may make the person unfit to be certified by DMV as an third party tester.

4. Proposed amendment of 735-060-0040 includes a provision that an inspection of a testing business by DMV will include a review of procedures used to secure applicant personal information.

5. Proposed amendment of 735-060-0050 clarifies that a testing business must provide to DMV, as part of an application for certification, a proposed location for conducting the pre-trip vehicle inspection and the basic control skills portion of the test. The proposed amendments to this rule also include, as part of the application, that the business must give authorization for DMV to verify tax compliance and that the required surety bond and insurance coverage are in force.

6. DMV proposes to adopt OAR 735-060-0051 to specify under what circumstance DMV may refuse to issue a CDL Third Party Tester Certificate.

7. Proposed amendment of 735-060-0055 includes changing the title of rule to Duties of a CDL Third Party Tester. This rule has been reorganized to help the material flow better. There are added sections regarding information that must be put in CSTIMS and language

NOTICES OF PROPOSED RULEMAKING

removed regarding retaining a copy of the Certificate of Test Completion as part of records. The proposed amendments also include duties not previously in these rules, such as notifying DMV of any deviation from the testing location or route used for the drive test or if there is good cause for a last minute deviation to note that in CSTIMS; ensuring that anyone who views or enters information in CSTIMS must first take the CSTIMS Privacy Awareness Training; and notifying DMV within 24 hours of any possible data breach that could lead to improper access to a person's personal information, such a driver license number, name or date of birth.

8. Proposed amendments to OAR 735-060-0057 add specific record requirements for maintaining information on the vehicle the person tested in as part of the record maintained.

9. DMV proposes to repeal OAR 735-060-0060, 735-060-0065 and 735-060-0110 as these Division 60 rules change the way sanctions are established. There is no longer a specific table of Tester sanctions or a specific table of Examiner sanctions. All sanctions, and how DMV may determine sanctions, are defined in a proposed new rule.

10. Proposed amendments to OAR 735-060-0090 including changing the title from "eligibility requirements" to "qualifications" for a Third Party Examiner Certificate to make it clear that the person must meet and maintain the qualifications to be an examiner. The rule is re-organized in a more logical manner. It also includes a disqualifying factor if the person has been terminated from employment with a state licensing agency or a third party testing business or equivalent business in any jurisdiction for fraud or another reason that makes the person unfit to be certified by DMV as an third party examiner.

11. Proposed amendments to OAR 735-060-0095 require that a CDL third party examiner complete refresher training every four years or more frequently if required by DMV. Sections of this rule were removed because they applied to the provider of the training rather than the person taking the training and were not needed in this rule.

12. Proposed amendments to OAR 735-060-0100 are for clarification.

13. DMV proposes to adopt OAR 735-060-0101 to specify under what circumstances DMV may refuse to issue a CDL Third Party Examiner Certificate.

14. Proposed amendments of OAR 735-060-0105 include changing the title of the rule to Duties of a CDL Third Party Examiner. Many of the changes are to specify the information that must be put in CSTIMS, and to eliminate prior requirements related to the Certificate of Test Completion that is no longer used by DMV.

15. DMV proposes to repeal OAR 735-060-0110 as these Division 60 rules no longer contain a detailed matrix of examiner sanctions.

16. Proposed amendments of OAR 735-060-0115 are for clarification.

17. Proposed amendments of OAR 735-060-0120 include the requirement that a test must not be given unless the applicant has an Oregon Class C driver license or an Oregon CDL along with a CLP that DMV has issued at least 14 days prior to the date of the test. Additionally, the rule describes more specific requirements of each test and the testing process.

18. Proposed amendments of OAR 735-060-0130 change the rule from being about a Certificate of Test Completion to describing the requirements for recording test scores in CSTIMS.

19. Proposed adoption of 735-060-0140 is to cover sanctions for both testers and examiners. This rule clarifies the sanctions - suspensions, revocations and cancellations - that DMV may impose on a tester or examiner certificate. Cancelling a certificate for not maintaining required qualification is added. A cancellation can be cleared simply by meeting the qualification - such as by providing a current Certificate of Insurance. The amended rule outlines specific violations or behaviors and what circumstances DMV may consider to determine the appropriate sanction - suspension or revocation - and the length of the sanction. DMV determined that a more general rule

around sanctions without a matrix of what the consequence of violating a specific subsection of which rule was more appropriate. DMV needs the ability to ensure that testing businesses and examiners are administering tests as specified, are providing DMV the required information when necessary, recording test detail and scores appropriately, protecting a CDL applicant's personal information as required, and are not negatively impacting the integrity of the CDL 3rd Party Testing Program or highway safety. DMV needs the ability to issue an appropriate sanction for the specific circumstance.

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

Employment Department Chapter 471

Rule Caption: Adopt Administrative Rule for Shared Work Plans and Benefits

Date:
7-29-16

Time:
2 p.m.

Location:
Employment Dept. Auditorium
875 Union St. NE
Salem, OR 97311

Hearing Officer: Staff

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.155, 657.260, 657.266, 657.370, 657.375, 657.380, 657.385, 657.390

Proposed Adoptions: 471-030-0079

Last Date for Comment: 7-29-16, 5 p.m.

Summary: The Department is adopting this rule with regard to shared work benefits and shared work benefit plans to define the following:

- 1) The time frame for when shared work plans can become effective;
- 2) Authority for employees to use hours from other paid time to meet the minimum threshold to receive shared work benefits (when not missing an opportunity for work);
- 3) Availability for work requirements during weeks when employees are not eligible for shared work benefits; and
- 4) Timeliness requirements for employees receiving shared work benefits to file continued claims.

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

Rules Coordinator: Cristina Koreski

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

Telephone: (503) 947-1471

Rule Caption: Clarifies how OED applies exceptions to sharing confidential information under 657.665

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.665

Proposed Amendments: 471-010-0080

Last Date for Comment: 7-22-16, 5 p.m.

Summary: Oregon's workforce redesign has changed local area boundaries, boards, and partner composition. Local areas are still in the process of putting together their local boards and addressing partner alignment. Many of the prior Memorandum of Understandings (MOUs) no longer reflect the current status. Without a current MOU, local one-stop delivery system partners are not identified.

ORS 657.665 states that all information in the record of the Employment Department is considered confidential and for the exclusive use and information of the Director. The statute allows exceptions where the Employment Department may disclose confidential information, including to partners for the purpose of administering state workforce programs.

NOTICES OF PROPOSED RULEMAKING

OAR 471 provides the clarity on how the Employment Department will apply the exceptions allowed under ORS 657.665:

- OAR 471-010-0115(1) states that Employment Department is authorized to disclose confidential customer information or records to one-stop delivery system partners under certain circumstances.

- OAR 471-010-0080(16) defines one-stop delivery system partners as entities authorized under the Workforce Investment Act and described in the local MOUs.

Employment Department executives are proposing a permanent rule change that modifies the definition of partners. The proposed rule takes the position that a "partner" under the Workforce Innovation and Opportunity Act fits within the definition of "partner" under the Workforce Investment Act. Adding requirements beyond the federal definition is not required.

Written comments may be submitted via e-mail to OED_Rules@oregon.gov by no later than 5:00 PM on July 22nd, 2016. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Cristina Koreski

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

Telephone: (503) 947-1471

.....
Employment Relations Board
Chapter 115

Rule Caption: Update procedural rules regarding notice of proposed rules and use of AG Model Rules.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

Hearing Officer: Kathryn A. Logan

Stat. Auth.: ORS 240.086(3) & 243.766(7)

Stats. Implemented: ORS 240 & 243

Proposed Amendments: 115-001-0000, 115-001-0005

Last Date for Comment: 8-9-16, Close of Business

Summary: Amend 115-001-0000 for improved clarity and to update the procedure for the Board's mailing list regarding proposed rules.

Amend 115-001-0005 for improved clarity on the Board's rules in relation to the Attorney General's Model Rules of Procedure.

Rules Coordinator: April Bathurst

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301

Telephone: (503) 378-3808

.....
Rule Caption: Amends Division 10 to improve readability, allow email and amicus filing, and update Board policies.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

Hearing Officer: Kathryn A. Logan

Stat. Auth.: ORS 240.086(3) & 243.766(7)

Stats. Implemented: ORS 240 & 243

Proposed Adoptions: 115-010-0033, 115-010-0103

Proposed Amendments: 115-010-0000, 115-010-0005, 115-010-0010, 115-010-0012, 115-010-0020, 115-010-0025, 115-010-0032, 115-010-0035, 115-010-0040, 115-010-0043, 115-010-0045, 115-010-0050, 115-010-0055, 115-010-0060, 115-010-0065, 115-010-0068, 115-010-0070, 115-010-0075, 115-010-0077, 115-010-0085, 115-010-0090, 115-010-0095, 115-010-0100

Proposed Repeals: 115-010-0015, 115-010-0030, 115-010-0105, 115-010-0115

Last Date for Comment: 8-9-16, Close of Business

Summary: Amend Rules throughout Division to correct Statutory Authority and Statutes Implemented.

Amend 115-010-0010, for improved clarity and to consolidate definitions from other Divisions.

Repeal 115-010-0015, which repeats information from ORS 240.065 and 240.

Amend 115-010-0020, 0025, and 0032, to update Board public meetings and public records rules.

Repeal 115-010-0030, which repeats information from ORS 243.766(4).

Adopt 115-010-0033, to allow for email filing.

Amend 115-010-0035, 0040, 0043, 0045, 0050, 0055, 0060, 0065, 0068, 0070, 0075, 0077, and 0080, to clarify and consolidate Board's general rules, including rules for contested cases.

Amend 115-010-0090, to allow for cross-objections, and to codify the Board's current practice regarding recommended orders with no objections.

Amend 115-010-0095, to clarify rules on Board review and set page limit for any written argument in lieu of oral argument and for any memorandum in aid of oral argument.

Amend 115-010-0100, to provide procedure for petitions for reconsideration or rehearing.

Adopt 115-010-0103, to provide procedure for amicus curiae briefs.

Repeal 115-010-0105, which concerns service of documents, because new proposed OAR 115-010-0033 provides rules regarding service of documents.

Amend 115-010-0110, to clarify rules regarding ex parte communications

Repeal 115-010-0115, which concerns facsimile filings, because new proposed OAR 115-010-0033 provides rules regarding those filings.

Rules Coordinator: April Bathurst

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301

Telephone: (503) 378-3808

.....
Rule Caption: Amends Division 20 to improve readability.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

Hearing Officer: Kathryn A. Logan

Stat. Auth.: ORS 240.086(3) & 243.766(7)

Stats. Implemented: ORS 240 & 243

Proposed Amendments: 115-020-0000

Proposed Repeals: 115-020-0005

Last Date for Comment: 8-9-16, Close of Business

Summary: Amend 115-020-0000 to consolidate and improve readability.

Repeal 115-020-0005 to consolidate and improve readability.

Rules Coordinator: April Bathurst

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301

Telephone: (503) 378-3808

.....
Rule Caption: Amends Division 25 to improve clarity and update rules regarding public employee representation.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

Hearing Officer: Kathryn A. Logan

Stat. Auth.: ORS 240.086(3) & 243.766(7)

Stats. Implemented: ORS 240 & 243

Proposed Amendments: 115-025-0000, 115-025-0005, 115-025-0008, 115-025-0009, 115-025-0010, 115-025-0015, 115-025-0020, 115-025-0023, 115-025-0025, 115-025-0030, 115-025-0035, 115-

NOTICES OF PROPOSED RULEMAKING

025-0040, 115-025-0050, 115-025-0055, 115-025-0060, 115-025-0065, 115-025-0070, 115-025-0075, 115-025-0090

Proposed Repeals: 115-025-0037

Last Date for Comment: 8-9-16, Close of Business

Summary: Amend Rules throughout Division to correct Statutory Authority and Statutes Implemented.

Amend 115-025-0000 to improve clarity.

Amend 115-025-0005 to improve clarity, and also to modify subsection (4) regarding clarification petitions.

Amend 115-025-0009, 0010, 0015, 0020, 0025, 0030, and 0035 to improve clarity.

Repeal 115-025-0037, and

Amend 115-025-0045 to improve clarity and consolidate rules.

Amend 115-025-0050, 0055, 0060, 0065, 0075, and 0090 to improve clarity, make rules more concise, and update mail-ballot election rule (0060(4)(b)).

Rules Coordinator: April Bathurst

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301

Telephone: (503) 378-3808

Rule Caption: Amends Division 30 to make the rule more concise.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
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Hearing Officer: Kathryn A. Logan

Stat. Auth.: ORS 240.086(3) & 243.766(7)

Stats. Implemented: ORS 240 & 243

Proposed Amendments: 115-030-0000

Last Date for Comment: 8-9-16, Close of Business

Summary: Amend 115-030-0000 to make the rule more concise by requirement that petition be filed via form provided by the Board. Correct Statutory Authority and Statutes Implemented.

Rules Coordinator: April Bathurst

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301

Telephone: (503) 378-3808

Rule Caption: Amends Division 35 to improve clarity and concision, and update policies regarding PECBA ULP complaints.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
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Hearing Officer: Kathryn A. Logan

Stat. Auth.: ORS 240.086(3) & 243.766(7)

Stats. Implemented: ORS 240 & 243

Proposed Amendments: 115-035-0000, 115-035-0005, 115-035-0010, 115-035-0015, 115-035-0020, 115-035-0025, 115-035-0030, 115-035-0035, 115-035-0040, 115-035-0055, 115-035-0057, 115-035-0060, 115-035-0070, 115-035-0075

Last Date for Comment: 8-9-16, Close of Business

Summary: Amend 115-035-0000 to eliminate filing three copies of complaint with the Board.

Amend 115-035-0005, 0010, 0015, 0020, 0025, 0030, and 0035 to improve clarity and make more concise. Amend 115-035-0010(2) and 0035(4) also adds provisions that limit the amendments of complaints and answers.

Amend 115-035-0040 and

Repeal 115-035-0042, 0045 and 0050 to consolidate rules.

Amend 115-035-0055 to modify how representation costs are awarded.

Amend 115-035-0057 to modify how attorney fees for appeals are awarded.

Amend 115-035-0060 and

Repeal 115-035-0065 and 115-035-0068 to improve clarity and concision of rules for requests to expedite complaints.

Amend 115-035-0070 to improve clarity and modify in light of proposed changes to OAR 115-035-0055.

Amend 115-035-0075 to improve clarity and concision.

Rules Coordinator: April Bathurst

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301

Telephone: (503) 378-3808

Rule Caption: Amends Division 40 to improve clarity/concision, and update policies regarding public employment dispute resolution.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
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Hearing Officer: Kathryn A. Logan

Stat. Auth.: ORS 240.086(3) & 243.766(7)

Stats. Implemented: ORS 240 & 243

Proposed Amendments: 115-040-0000, 115-040-0005, 115-040-0010, 115-040-0015, 115-040-0017, 115-040-0018, 115-040-0020, 115-040-0030, 115-040-0032, 115-040-0035, 115-040-0040, 115-040-0041, 115-040-0042, 115-040-0043, 115-040-0044

Proposed Repeals: 115-040-0033

Last Date for Comment: 8-0-16, Close of Business

Summary: Amend rules throughout Division to correct Statutory Authority and Statutes Implemented.

Amend 115-040-0000 to improve clarity and concision. Paragraph (1)(b)(B) modified to require each party in a successor negotiation to submit an initial proposal within 45 days of the first bargaining session (unless the parties agree otherwise). Subsection (1)(e) modifies cost-summary submission requirements.

Amend 115-040-0005, 0010, 0015, 0018, 0020, 0030, and 0032 to improve clarity, accuracy, and concision.

Repeal 115-040-0033 (Arbitration Subpoenas), which repeats provisions of ORS 243.706.

Rules Coordinator: April Bathurst

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301

Telephone: (503) 378-3808

Rule Caption: Amends Division 45 to improve clarity/concision.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
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Hearing Officer: Kathryn A. Logan

Stat. Auth.: ORS 240.086(3) & 243.766(7)

Stats. Implemented: ORS 240 & 243

Proposed Amendments: 115-045-0000, 115-045-0002, 115-045-0005, 115-045-0010, 115-045-0017, 115-045-0020, 115-045-0021, 115-045-0025, 115-045-0030

Proposed Repeals: 115-045-0023, 115-045-0035, 115-045-0040

Last Date for Comment: 8-9-16, Close of Business

Summary: Amend rules throughout Division to correct Statutory Authority and Statutes Implemented.

Amend 115-045-0000 to reflect that definitions have been relocated to Division 10 as part of consolidation of the Board's rules.

Amend 115-045-0002 as part of consolidation of the Board's rules.

Amend 115-045-0005, 0010, 0017, 0020, 0021, 0025 and Repeal OAR 115-045-0023 to improve clarity and concision.

Amend 115-045-0030 and

Repeal 115-045-0025, 0035, and 0040 as part of consolidation of the Board's rules.

Rules Coordinator: April Bathurst

NOTICES OF PROPOSED RULEMAKING

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301
Telephone: (503) 378-3808

Rule Caption: Amends Division 50 to improve clarity/concision re: State Personnel Relations Law arbitration awards.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

Hearing Officer: Kathryn A. Logan
Stat. Auth.: ORS 240.086(3) & 243.766(7)
Stats. Implemented: ORS 240
Proposed Amendments: 115-050-0001, 115-050-0010, 115-050-0020, 115-050-0030
Last Date for Comment: 8-9-16, Close of Business
Summary: Amend 115-050-0001, 0010, 0020, and 0030 to improve clarity and concision regarding State Personnel Relations Law Arbitration Awards.
Rules Coordinator: April Bathurst
Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301
Telephone: (503) 378-3808

Rule Caption: Repeals Division 75 rules.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

Hearing Officer: Kathryn A. Logan
Stat. Auth.: ORS 240.086(3) & 243.766(7)
Stats. Implemented: ORS 240 & 243
Proposed Repeals: 115-075-0000, 115-075-0005
Last Date for Comment: 8-9-16, Close of Business
Summary: Repeal OAR 115-075-0000, which repeats language from ORS 662.425.
 Repeal OAR 115-075-0005, which repeats language from ORS 662.445.
Rules Coordinator: April Bathurst
Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301
Telephone: (503) 378-3808

Rule Caption: Repeals Division 80.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

Hearing Officer: Kathryn A. Logan
Stat. Auth.: ORS 240.086(3) & 243.766(7)
Stats. Implemented: ORS 662.425 & 662.785
Proposed Repeals: 115-080-0000, 115-080-0005, 115-080-0010, 115-080-0015
Last Date for Comment: 8-9-16, Close of Business
Summary: Repeal OAR 115-080-0000, 0005, 0010, and 0015, which implement a repealed statute and contain redundant mediation fee provisions.
Rules Coordinator: April Bathurst
Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301
Telephone: (503) 378-3808

Rule Caption: Repeals Division 85

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

8-9-16 9 a.m. 528 Cottage St. NE, Suite 400
 Salem, OR 97301

Hearing Officer: Kathryn A. Logan
Stat. Auth.: ORS 240.086(3) & 243.766(7)
Stats. Implemented: ORS 662.425 & 662.785
Proposed Repeals: 115-085-0000, 115-085-0005, 115-085-0010
Last Date for Comment: 8-9-16, Close of Business
Summary: Repeal OAR 115-085-0000, 0005, 0010, and 0015, as the provisions are largely redundant or unnecessary. The initial rules were designed to provide arbitration procedures for an arbitration request under ORS 342.934(7). Such requests are rare. Proposed modification to OAR 115-040-0032 makes clear that arbitration request under ORS 342.934(7) is still available.
Rules Coordinator: April Bathurst
Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301
Telephone: (503) 378-3808

Rule Caption: Repeals Division 86.

Date:	Time:	Location:
7-26-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301
8-9-16	9 a.m.	528 Cottage St. NE, Suite 400 Salem, OR 97301

Hearing Officer: Kathryn A. Logan
Stat. Auth.: ORS 240.086(3) & 243.766(7)
Stats. Implemented: ORS 662.425 & 662.785
Proposed Repeals: 115-086-0000, 115-086-0010, 115-086-0020
Last Date for Comment: 8-9-16, Close of Business
Summary: Repeal 115-086-0000, 0010, and 0020, as the provisions are largely redundant or unnecessary. The initial rules were designed to provide arbitration procedures for an arbitration request under ORS 342.905(9)(b). Such requests are rare. Proposed modification to OAR 115-040-0032 makes clear that arbitration request under ORS 342.905(9)(b) is still available.
Rules Coordinator: April Bathurst
Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301
Telephone: (503) 378-3808

Land Conservation and Development Department Chapter 660

Rule Caption: Amend the Transportation Planning Rules, clarifying that local government may mitigate across jurisdictions.

Date:	Time:	Location:
7-22-16	8 a.m.	Port of Morrow 6 Marine Dr. NE Boardman, OR

Hearing Officer: LCDC
Stat. Auth.: ORS 197.040 & 197.798
Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.610–197.625, 197.628–197.646, 197.712, 197.717, 197.732 & 197.798
Proposed Amendments: 660-012-0060
Last Date for Comment: 7-22-16, Close of Hearing
Summary: Amend the Transportation Planning Rules to clarify that a city or county may propose transportation improvements outside of that city or county when the city or county is considering an amendment to a plan or land use regulation that would significantly affect a transportation facility.
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

NOTICES OF PROPOSED RULEMAKING

Landscape Contractors Board Chapter 808

Rule Caption: Amend 2015–2017 Budget and specific college credit courses are automatically approved for CEH

Date:	Time:	Location:
7-26-16	9 a.m.	LCB, 2111 Front St. NE Suite 2-101 Salem, OR 97301

Hearing Officer: Elizabeth Boxall

Stat. Auth.: ORS 670.310 & 671.760

Stats. Implemented: 182.462 & 671.676

Proposed Amendments: 808-001-0008, 808-040-0050

Last Date for Comment: 7-26-16, Close of Hearing

Summary: Amend 2015–2017 Budget and specific college credit courses are automatically approved for CEH.

Rules Coordinator: Kim Gladwill-Rowley

Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301

Telephone: (503) 967-6291, ext. 223

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Occupational Therapy Licensing Board Chapter 339

Rule Caption: Adds Doctorate student supervision to approved CE Category list.

Stat. Auth.: ORS 675.320

Other Auth.: Board Meeting 5/2/2016, June 2016 Newsletter

Stats. Implemented: ORS 675.320

Proposed Amendments: 339-020-0020

Last Date for Comment: 7-22-16, 12 p.m.

Summary: The proposed rule adds doctorate student supervision, OT Experiential level work, to the approved CE Category List line (15). Level II Field work previously on line (15) moved to line (14) with Level I Field work.

339-020-0020 CE Categories and Points

(14) Student supervision, Level I and Level II Fieldwork: One point for 8 hours of supervision.

(15) Doctorate student supervision, OT Experiential level work: One point for 8 hours of supervision.

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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Rule Caption: Amending rule 339-020-0010 Continuing Education Requirements for Current Licensees removing (3) Exceptions (a) and (b).

Stat. Auth.: 675.320

Other Auth.: Board Meetings held on 2/1/2016 and 5/2/2016. June 2016 Newsletter, Board website.

Stats. Implemented: ORS 675.320

Proposed Amendments: 339-020-0010

Last Date for Comment: 7-22-16, 12 p.m.

Summary: 339-020-0010 CE Requirements for Current Licensees

(1) All current licensees shall obtain a minimum of 30 points of CE from Board approved categories during the two years immediately preceding the date of the license renewal; or

(2) The Board recognizes the maintenances of continuous professional development hours as evidenced by current NBCOT Certification (National Board of Certification in Occupational Therapy) as fulfilling the requirements for CE under (1).

Rule amended to remove the following:

(3) Exceptions:

(a) Current licensees who have their first NBCOT certification do not need CE for their first year.

(b) Current licensees who have their second year of NBCOT certification shall obtain a minimum of 15 points of CE from Board approved categories.

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 529 Savings Board Chapter 173

Rule Caption: Update rules that relate to the Oregon 529 Savings Network.

Date:	Time:	Location:
7-28-16	10 a.m.	16290 SW Upper Boones Ferry Rd. Tigard, OR 97224

Hearing Officer: Michael Parker

Stat. Auth.: ORS 178.300–178.380

Other Auth.: Section 529 of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

Stats. Implemented: ORS 178.000–178.380

Proposed Amendments: 173-005-0000, 173-006-0005, 173-007-0000, 173-007-0005, 173-008-0000, 173-008-0005, 173-008-0010, 173-009-0000, 173-009-0005, 173-009-0010, 173-009-0015, 173-010-0000, 173-010-0025, 173-011-0000, 173-012-0000, 173-012-0005, 173-014-0000, 173-014-0010, 173-016-0010

Last Date for Comment: 7-28-16, Close of Hearing

Summary: The rules being amended are the rules of the Oregon 529 Savings Board regarding Definitions; Designated Beneficiary; Change of Account Ownership; Change of Designated Beneficiary; Opening an Account; Refusal to Open an Account; Custodian; Participation Agreement; Contributions Generally; Cash Contributions Only; Rollover Contributions; Contribution Limits; Distribution Request; Rollover Distribution and Fund Transfers; Termination of an Account; Board Administration Fees; Other Fees; Investment Policies; Investment Direction; Waivers.

Rules Coordinator: Michael Parker

Address: Oregon 529 Savings Board, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 373-1903

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Oregon Business Development Department Chapter 123

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

Stat. Auth.: ORS 285A.075, 285B.55, § 2-4, ch.786 OL 2013, § 2-4, ch.812 OL 2015

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

Proposed Amendments: Rules in 123-061

Last Date for Comment: 8-1-16, Close of Business

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

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

The principles of the proposed rules are:

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

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

-Timely application of resources targeted to move the needle- Unlocks funding from other sources.

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

Rules Coordinator: Mindee Sublette

NOTICES OF PROPOSED RULEMAKING

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301
Telephone: (503) 986-0036

Rule Caption: These rules relate to the Beginning and Expanding Farmer Loan Program (Aggie Bonds).

Stat. Auth.: ORS 285A.420–285A.435, ch 742 OL 2013

Stats. Implemented: ORS 285A.420–285A.435, ch 742 OL 2013

Proposed Amendments: Rules in 123-052

Last Date for Comment: 7-25-16, Close of Business

Summary: The changes made to these administrative rules streamline the process for the issuance of a bond through the Beginning and Expanding Farmer Loan Program (Aggie Bonds). Definitions for “Participating Lender” and “Standard Lender” have been added. New rules, creates an expedited process for lenders who are experienced with tax-exempt agricultural loans and the program.

Rules Coordinator: Mindee Sublette

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

Telephone: (503) 986-0036

Oregon Criminal Justice Commission Chapter 213

Rule Caption: Racial and Ethnic Impact Statement Rules

Stat. Auth.: ORS 137.656, 2013 OL Ch. 600

Stats. Implemented: ORS 137.656, 2013 OL Ch. 600

Proposed Adoptions: Rules in 213-071

Last Date for Comment: 7-29-16, Close of Business

Summary: 2013 Or Laws ch 600 requires the Criminal Justice Commission to prepare racial and ethnic impact statements pertaining to proposed legislation under certain circumstances. The Commission is also required by that same law to adopt rules to carry out the provisions of the law. These are those rules. The rules are retroactive to January 1, 2014, the effective date of the legislation requiring the Commission to prepare the racial and ethnic impact statements.

Rules Coordinator: Julie Vaughn

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

Telephone: (503) 378-4830

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

Rule Caption: Hospital Assessment Rate Decrease

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

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042

Stats. Implemented: Sections 1 through 14, Chapter 736, Oregon Laws 2003, as amended by sections 1 through 14, Chapter 736, Oregon Laws 2003, sections 1 through 2, Chapter 757, Oregon Laws 2005, sections 1 through 6, Chapter 780, Oregon Laws 2007, section 49 through 54, Chapter 828, Oregon Laws 2009, sections 17 through 23, Chapter 867, Oregon Laws 2009, and sections 2 through 10, Chapter 608, Oregon Laws 2013, and section 2, House Bill 2395, 2015 Regular Session.

Proposed Amendments: 410-050-0861

Proposed Repeals: 410-050-0861(T)

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

Summary: This proposed hospital assessment rule decreases the hospital assessment rate from 5.80% to 5.3% effective April 1, 2016.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Rule Caption: Clearly Define Maintenance to Comply with Federal Requirements and General Language Cleanup

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.025, 414.065 & 688.135

Proposed Amendments: 410-129-0020, 410-129-0040, 410-129-0060, 410-129-0065, 410-129-0070, 410-129-0080, 410-129-0100, 410-129-0180, 410-129-0220, 410-129-0260, 410-131-0040, 410-131-0080, 410-131-0100, 410-131-0120, 410-131-0160

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

Summary: The Division needs to amend these rules to follow CMS direction.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: Amends Rules for Ryan White Part B, AIDS Drug Assistance Program, CAREAssist

Date:	Time:	Location:
7-20-16	1 p.m.	800 NE Oregon St., Rm. 612 Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 413.042, 431.250 & 431.830

Stats. Implemented: ORS 431.250 & 431.830

Proposed Adoptions: 333-022-1147

Proposed Amendments: 333-022-1000, 333-022-1010, 333-022-1020, 333-022-1030, 333-022-1050, 333-022-1080, 333-022-1090, 333-022-1120, 333-022-1140, 333-022-1145

Proposed Repeals: 333-022-1110

Last Date for Comment: 7-22-16, 5 p.m.

Summary: The Oregon Health Authority (Authority), Public Health Division, AIDS Drug Assistance Program/CAREAssist is proposing permanent amendments to administrative rules used to govern the administration of Ryan White Part B, AIDS Drug Assistance Program. The proposed amendments address gaps in the original rule and reflect improvements to Program eligibility criteria and client benefits that have already been implemented.

The program is adopting rule 333-022-1147, which describes eligibility and benefits for dental assistance and repealing rule 333-022-1110, since the Cost Share Program has been discontinued. Other amendments include changes to Program eligibility and benefits and updates to the Program’s payment and reimbursement requirements.

Rules Coordinator: Tracy Candela

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

Telephone: (971) 673-0561

Rule Caption: X-ray operator requirements, repeal of leaded apron, licensing fee increase and corrections to rule references

Date:	Time:	Location:
7-22-16	10 a.m.	800 NE Oregon St. Conference Rm. 612 Portland, OR, 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 453.605–453.807

Other Auth.: Nuclear Regulatory Commission’s (NRC) 10 CFR Parts 20 through 71

Stats. Implemented: ORS 453.605–453.807

Proposed Amendments: 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

Proposed Repeals: 333-116-0130, 333-116-1010

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 7-28-16, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division, Center for Health Protection is proposing to amend and repeal Oregon Administrative rules relating to the X-ray and radioactive materials programs within the Radiation Protection Services (RPS) section.

The Radioactive Materials Licensing (RML) program is proposing to amend rules for compatibility with the Nuclear Regulatory Commission's regulations 10 CFR parts 20 through 71 within division 102 and 125 by correcting rule references within Oregon Administrative Rules pertaining to material safety and security and raise selected license types licensing fees between 15% to 25% accordingly in division 103.

RML and X-ray programs are also amending administrative rules for specific licenses and X-ray applications. Application fees will only be refundable if the application is withdrawn within 10 calendar days of receipt by the Authority.

The RML program also proposes to repeal rules relating to the definition and reporting of misadministration within division 116.

The X-ray program is amending rules in divisions 101 and 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. In addition, amended rules will allow an out of state licensed physician to practice the healing arts without being licensed in Oregon and allow for physician assistants to operate a fluoroscopy unit if the operator possess a permit issued by the Oregon Board of Medical Imaging.

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 and thyroid collar.

Amended rules for both the X-ray and RML programs will require the registrant and licensee to submit a non-refundable fee with the registration or licensing application.

Rules Coordinator: Tracy Candela

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

Telephone: (971) 673-0561

Rule Caption: New definitions and new disease reporting requirements

Date:	Time:	Location:
7-19-16	1 p.m.	Portland State Office Bldg. 800 NE Oregon St., Conf. Rm. 1D Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 413.042, 431.110, 433.004, 433.006, 433.255, 433.260, 433.284, 433.329, 433.332, 433.360, 433.365, 437.010, 438.450, 442.420, 616.745, 616.750, 624.005, 624.080, OL 2007, Ch. 838 1-6 & 12

Stats. Implemented: ORS 179.505, 192.410, 192.496, 192.502, 413.042, 433.004, 433.255, 433.260, 433.360, 433.365, 433.407, 433.411, 433.419, 437.010, 437.030, 438.310, 441.015, 442.400, 442.405, 616.745, 624.080, 624.380, OL 2007, Ch. 838 1-6 & 12

Proposed Amendments: 333-017-0000, 333-018-0015, 333-018-0018, 333-018-0100, 333-018-0110, 333-018-0127, 333-019-0010, 333-019-0017, 333-019-0027

Last Date for Comment: 7-22-16, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division, Acute and Communicable Disease Prevention section is proposing to permanently amend rules in chapter 333, divisions 17, 18, and 19 pertaining to new or modified definitions and to new disease reporting requirements. The proposed new and modified definitions assure that reporting of select biological agents and toxins is well described, including isolation-submission requirements; that language pertaining to outbreaks makes explicit all disease outbreaks are reportable, regardless of whether the disease is included in the rule; and that Oregon's Healthcare-Associated Infections definitions are harmonized

with national definitions to clarify language and standardize with terminology used by the Centers for Medicare and Medicaid Services (CMS). The proposed new disease reporting requirements include the addition of "cadmium demonstrated by laboratory testing of urine" and the removal of pelvic inflammatory disease, as well as the elimination of pediculosis as a potentially restrictable disease.

Rules Coordinator: Tracy Candela

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

Telephone: (971) 673-0561

Oregon Liquor Control Commission Chapter 845

Rule Caption: The Commission will refund twenty-five dollars or less upon written request.

Date:	Time:	Location:
7-15-16	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Bryant Haley

Stat. Auth.: ORS 471.040

Stats. Implemented: ORS 293.445

Proposed Adoptions: 845-004-0031

Last Date for Comment: 7-29-16, 5 p.m.

Summary: ORS 293.445 enables State Agencies to establish a minimum sum that agencies will refund upon written request. The Commission 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

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

Telephone: (503) 872-5136

Oregon Youth Authority Chapter 416

Rule Caption: Amending foster care rules to address vulnerable persons and "reasonable prudent parent" standard.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420.888-420.892; 2016 SB 1515 Sec. 6

Proposed Amendments: 416-530-0010, 416-530-0030, 416-530-0035, 416-530-0050, 416-530-0060, 416-530-0125

Last Date for Comment: 8-3-16, Close of Business

Summary: OYA is amending its foster care certification rules to include a definition for "vulnerable persons." In compliance with 2016 SB 1515, OYA is adding a requirement for applicants to sign a release of information allowing OYA to report information to DHS or a child-caring agency if the applicant is, was, or becomes subject to an abuse or neglect investigation. Foster parents must also meet the federal requirement of a "reasonable and prudent parent" standard when determining whether to allow a foster youth to participate in recreational and extracurricular activities.

Rules Coordinator: Winifred Skinner

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

Telephone: (503) 373-7570

Parks and Recreation Department Chapter 736

Rule Caption: Amend Reservation Program Rules

Date:	Time:	Location:
7-20-16	6 p.m.	Pine Ridge Inn 1200 Mt Bachelor Dr. Bend, OR 97702
7-28-16	6 p.m.	Tryon Creek State Park 11321 SW Terwilliger Blvd. Portland, OR 97219

Hearing Officer: Staff

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.111, 390.121 & 390.124
Proposed Amendments: 736-015-0006, 736-015-0015, 736-015-0026, 736-015-0030, 736-015-0035
Last Date for Comment: 8-1-16, 5 p.m.
Summary: Revisions to Division 15 focus on aligning rule language with current practices, improving customer service, clarifying rules by providing additional detail or correcting errors, increasing operational efficiency, improving consistency and removing terms no longer used.

** Those who wish to make public comment must register with the hearings officer by 6:30 pm on the hearing day.

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

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**Public Utility Commission,
Board of Maritime Pilots
Chapter 856**

Rule Caption: Establishes a regular reporting process for tracking results of fatigue management programs.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115
Proposed Amendments: 856-010-0029
Last Date for Comment: 7-15-16, Close of Business
Summary: Rule amendments establish reporting requirements for pilot organizations' fatigue management programs and records retention.

Rules Coordinator: Susan Johnson
Address: Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232
Telephone: (971) 673-1530

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Rule Caption: Codifies current practice of submitting documentation of professional development and safety training for pilots.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115
Proposed Amendments: 856-010-0027
Last Date for Comment: 7-15-16, Close of Business
Summary: Codifies existing practice of submitting documentation of courses taken to comply with continuing professional development and personal safety training requirements for annual renewals.

Rules Coordinator: Susan Johnson
Address: Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232
Telephone: (971) 673-1530

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**Teacher Standards and Practices Commission
Chapter 584**

Rule Caption: Related to standards for dyslexia and reading instruction.

Date:	Time:	Location:
7-27-16	5 p.m.	TSPC Office 250 Division St. NE Salem, OR 97301

Hearing Officer: Tamara Dykeman
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120-342.430, 342.455-342.495 & 342.553

Proposed Adoptions: 584-420-0015, 584-420-0016
Proposed Amendments: 584-420-0345, 584-420-0360, 584-420-0440, 584-420-0460

Last Date for Comment: 7-27-16, Close of Hearing
Summary: Creates new dyslexia instruction and reading standards for elementary, reading intervention, ESOL and special education endorsements.

Rules Coordinator: Tamara Dykeman

Address: Teacher Standards and Practices Commission, 250 Division St. NE, Salem, OR 97301
Telephone: (503) 378-3586

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**Water Resources Department
Chapter 690**

Rule Caption: Updates to Grande Ronde Basin Program and Extension of Reservations

Date:	Time:	Location:
7-27-16	4 p.m.	Cook Memorial Library 2006 Fourth St. La Grande, OR 97850

Hearing Officer: Bruce Corn
Stat. Auth.: ORS 536 & 537
Stats. Implemented: ORS 536.220, 536.300, 536.310, 537.249 & 537.358

Proposed Amendments: 690-508-0000 through 690-508-0110
Last Date for Comment: 7-29-16, 5 p.m.

Summary: A reservation of water for future economic development sets aside a quantity of water for storage to meet future needs. The rules establishing the Grande Ronde Basin reservations of water are set to expire on February 7, 2017, unless extended by rule by the Water Resources Commission. This rule would extend reservations of water for future economic development for the Upper Grande Ronde Subbasin and Middle Grande Subbasin of the Grande Ronde Basin for an additional 20 years, and changes reporting requirements. Without these rules, the Grande Ronde Basin reservations will expire. In addition, the rules include expansion of classified uses to clarify that the allowable uses include agricultural, commercial, and flow augmentation for instream use, and to address inconsistencies in terminology.

Rules Coordinator: Diana Enright
Address: Water Resources Department, 725 Summer St. NE, Salem, OR 97301
Telephone: (503) 986-0874

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Rule Caption: Updates to Malheur Basin Program and Extension of Reservations

Date:	Time:	Location:
7-28-16	4 p.m.	Ontario Community Library 388 SW 2nd Ave. Ontario, OR 97914

Hearing Officer: Bruce Corn
Stat. Auth.: ORS 536 & 537
Stats. Implemented: ORS 536.220, 536.300, 536.310, 537.249 & 537.358

Proposed Amendments: 690-510-0010, 690-510-0020, 690-510-0100, 690-510-0110

Proposed Repeals: 690-510-0000
Last Date for Comment: 7-29-16, 5 p.m.

Summary: A reservation of water for future economic development sets aside a quantity of water for storage to meet future needs. The rules establishing the Malheur Basin reservations of water are set to expire on January 7, 2017, unless extended by rule by the Water Resources Commission. This rule would extend reservations of water for future economic development for the three Malheur Reservations of the Malheur Basin for an additional 20 years, and changes reporting requirements. Without these rules, the Malheur Basin reservations will expire. In addition, the rules include expansion of classified uses to clarify that the allowable uses include agricultural, commercial, and flow augmentation for instream use, and to address inconsistencies in terminology.

Rules Coordinator: Diana Enright
Address: Water Resources Department, 725 Summer St. NE, Salem, OR 97301
Telephone: (503) 986-0874

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Updates to Owyhee Basin Program and Extension of Reservations

Date:
7-28-16

Time:
6 p.m.

Location:
Owyhee Watershed Council
106 Owyhee St.
Adrian, OR 97901

Hearing Officer: Bruce Corn

Stat. Auth.: ORS 536 & 537

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

Proposed Amendments: 690-511-0010 through 690-511-0100

Last Date for Comment: 7-29-16, 5 p.m.

Summary: A reservation of water for future economic development sets aside a quantity of water for storage to meet future needs. The rules establishing the Owyhee Basin reservations of water are set to expire on January 7, 2017, unless extended by rule by the Water Resources Commission. This rule would extend reservations of water for future economic development for the Owyhee Reservations of the Owyhee Basin for an additional 20 years, and changes reporting requirements. Without these rules, the Owyhee Basin reservations will expire. In addition, the rules include expansion of classified uses to clarify that the allowable uses include agricultural, commercial, and flow augmentation for instream use; an addition of withdrawal from further appropriation for irrigation purposes from Owyhee River and its tributaries above the Owyhee Reservoir by order of the State Engineer dated May 27, 1929; and to address inconsistencies in terminology.

Rules Coordinator: Diana Enright

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

Telephone: (503) 986-0874

ADMINISTRATIVE RULES

Board of Chiropractic Examiners Chapter 811

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

Adm. Order No.: BCE 2-2016

Filed with Sec. of State: 6-6-2016

Certified to be Effective: 6-6-16

Notice Publication Date: 5-1-2016

Rules Amended: 811-010-0084, 811-010-0110

Subject: Amend current rules to add fingerprint and background check requirements for Chiropractic Assistants.

Rules Coordinator: Kelly J. Beringer—(503) 373-1573

811-010-0084

Fitness Determinations for Licensure; State and Nationwide Criminal Background Checks

(1) Purpose. The purpose of this rule is to provide for the reasonable screening of subject individuals in order to determine if they have a history of criminal behavior such that they are not fit to be granted a license or certificate, registration, permit in occupations, or professions covered by Oregon Laws 2005, chapter 730.

(2) These rules are to be applied when evaluating the criminal history of a subject individual and conducting fitness determinations based upon such history. The fact that a subject individual is approved does not guarantee the granting of a license, certification, registration, or permit.

(3) "Subject individual" means a person from whom the Board may require fingerprints for the purpose of enabling the Board of Chiropractic Examiners to request a state or nationwide criminal records check. Under this chapter, subject individual means applicants for doctor of chiropractic license, applicants for chiropractic assistant certification, and any licensee under investigation as ordered by the Board.

(4) The Board may request that the Department of State Police conduct a Criminal History Check and a National Criminal History Check, using fingerprint identification, of subject individuals. The Board may conduct criminal records checks on subject individuals and any licensee/certificate holder under investigation through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police. Criminal history information obtained from the Law Enforcement Data System must be handled in accordance with applicable Oregon State Police requirements in ORS Chapter 181 and OAR chapter 257, division 15.

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

(6) The Board shall determine whether an applicant is fit to be granted a license or certification, based on the criminal records background check, on any false statements made by the individual regarding the criminal history of the individual, on any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If a subject individual is determined to be unfit, then the individual may not be granted a license or certification. The Board may make a fitness determination conditional upon applicant's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(7) Except as otherwise provided in section 6 in making the fitness determination the Board shall consider:

(a) The nature of the crime;

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

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

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

(F) A recommendation of an employer.

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

(9) Criminal offender information is confidential. Dissemination of information received under ORS 181A.195 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant, licensee and certificate holder and as such is confidential pursuant to ORS 676.175(1). All original fingerprint cards will be destroyed per ORS 181A.195.

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

(11) The Board may consider any felony or misdemeanor conviction involving moral turpitude.

(12) If an applicant, licensee or certificate holder is determined not to be fit for a license and/or certificate, they are entitled to a contested case process pursuant to ORS 183.413-470. Challenges to the accuracy or completeness of information provided by the Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process pursuant to ORS 183.

(13) Request for Re-Evaluation Following Correction. If the subject individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation or other agency reporting information to the Board, the Board will conduct a new criminal history check and re-evaluate the criminal history upon submission of a new criminal history request form.

(14) If the subject individual discontinues the application or fails to cooperate with the criminal history check process then the application is considered incomplete.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.100, 183

Hist.: BCE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-1-06; BCE 4-2006, f. & cert. ef. 8-2-06; BCE 2-2016, f. & cert. ef. 6-6-16

811-010-0110

Chiropractic Assistants

(1) The certification period for Chiropractic Assistants begins on August 1 and ends on July 31. A 30 day grace period will follow whereupon the Chiropractic Assistant may continue to practice. Any Chiropractic Assistant who has not renewed by September 1 must cease practice.

(2) Chiropractic Assistants may be certified upon compliance with the following standards and procedures:

(a) The Chiropractic Assistant applicant shall successfully complete a Board approved training course offered by an association, college or otherwise approved person. The initial training course shall be at least twelve hours in length, of which eight hours shall be didactic training and four hours shall be practical training;

(A) The practical training must be in physiotherapy, electrotherapy and hydrotherapy administered by a health care provider licensed to independently provide those therapies.

(B) A chiropractic physician may perform the initial practical training provided this is direct contact time.

(C) The initial training must have been completed within 60 days preceding the application submission date.

(b) Submit to a complete state and federal background check performed by a local law enforcement agency;

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

(B) Criminal background check results must be submitted to the Board prior to certification.

(c) The applicant shall complete an application form and an open book examination supplied by the Board;

(d) If an applicant has a certificate or license from another state and adequate documentation of training, the Board may waive the requirement for the initial training course; and

(e) A person initially certified between March 1st and May 31st is exempt from the continuing education requirement for renewal.

ADMINISTRATIVE RULES

(3) The training course verification form, completed application form, completed examination, and fees in the following amounts shall be submitted to the Board:

- (a) A non-refundable application fee — \$50;
- (b) A non-refundable examination fee — \$35; and
- (c) An initial certification fee — \$50. A refund of the certification fee will only be allowed when requested within 60 days of the initial application.

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

(e) In circumstances beyond the applicant's control (e.g. Board review of criminal history) the Board may determine to refund the fees or portion thereof.

(f) In the event the Board requires the NBCE chiropractic assistant examination in lieu of the Board's examination, the fee in subsection (b) will be waived.

(4) The Board shall maintain an incomplete application file for six months from the date the application was received; afterward, applicants will need to re-apply.

(5) The applicant shall be at least 18 years of age.

(6) The Chiropractic Assistant shall not perform electrotherapy, hydrotherapy, or physiotherapy until he or she receives a certificate from the Board.

(7) A Chiropractic Assistant shall be directly supervised by the Chiropractor at all times. The supervising Chiropractor must be on the premises.

(8) The Chiropractic Assistant scope of practice

(a) includes physiotherapy, electrotherapy and hydrotherapy, taking vitals such as height, weight, blood pressure, temperature, pulse, respiration and/or body fat percentages and other duties as described by the Board, and

(b) does not otherwise include performing physical examinations, taking initial histories, taking X-rays (unless properly licensed), interpretation of postural screening, doing manual muscle testing, or performing osseous adjustments or manipulations or other tasks as authorized by the Board.

(9) Chiropractic Assistants shall report to the Board, in writing, his/her mailing address and place of employment. Notification of a change of mailing address or place of employment must be made within 10 days of the change.

(10) On or before each June 1, the Board of Examiners shall send the renewal notice to the Chiropractic Assistant at the last known mailing address.

(11) On or before each July 31 the Chiropractic Assistant shall mail to the Board of Examiners the renewal form with a renewal fee of \$75. A certificate that is not renewed on time may not be renewed except:

(a) Upon written application and payment to the Board of the renewal fee plus a delinquent fee of \$25 for renewals submitted between August 1 and August 31 of each year; or

(b) Upon written application and payment to the Board of the renewal fee plus a delinquent fee of \$50 for renewals submitted on September 1 or later; and

(c) Upon submission of proof of compliance with or exemption from the requirements of ORS 684.092.

(12) A Chiropractic Assistant has up to one year following their July 31 renewal date to renew and reinstate their certificate upon meeting the provisions of (11)(a) through (c) above. After 12 months a person must restart the application process.

(13) Continuing education programs may be comprised of subjects that are pertinent to clinical practices of chiropractic. Continuing education must meet the criteria outlined in OAR 811-015-0025 sections (8), (9) and (10). No continuing education hours may be carried over into the next renewal year. Evidence of successful completion of six hours of continuing education during the 12 months preceding the renewal must be submitted upon request by the Board.

(14) The Chiropractic Assistant's certificate shall be displayed at all times in the Chiropractic Physician's office during the Chiropractic Assistant's employment.

(15) The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate, or may impose upon an applicant for certification or Chiropractic Assistant a civil penalty not to exceed \$1,000 upon finding of any of the following:

(a) Cause, which is defined as, but not limited to, failure to follow directions, unprofessional or dishonorable conduct, injuring a patient, or unlawful disclosure of patient information. The supervising Chiropractic Physician is required to notify the Board, in writing, of any dismissal of a Chiropractic Assistant for cause within ten days. The Board shall determine

if there is cause for action and shall be governed by the rules of the Board adopted pursuant to ORS Chapter 183;

(b) Conviction of a misdemeanor involving moral turpitude or a felony; or

(c) Failure to notify the Board of a change of location of employment as required by these rules.

(16) Unprofessional or dishonorable conduct is defined as: any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or failure to conform to, the minimal standards of acceptable Chiropractic Assistant practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic Assistant:

(a) Engaging in any conduct or verbal behavior with or towards a current patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).

(b) A certificate holder shall not engage in sexual relations or have a romantic relationship with a current patient unless a consensual sexual relationship or a romantic relationship existed between them before the commencement of the Chiropractic Assistant-patient relationship.

(A) "Sexual relations" means:

(i) Sexual intercourse; or

(ii) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the Chiropractic Assistant for the purpose of arousing or gratifying the sexual desire of either Chiropractic Assistant or patient.

(B) A patient's consent to, initiation of or participation in sexual behavior or involvement with a Chiropractic Assistant does not change the nature of the conduct nor lift the prohibition.

(C) In determining whether a patient is a current patient, the Board may consider the length of time of the Chiropractic Assistant-patient contact, evidence of termination of the Chiropractic Assistant-patient relationship, the nature of the Chiropractic Assistant-patient relationship, and any other relevant information.

(c) Use of protected or privileged information obtained from the patient to the detriment of the patient.

(d) Practicing outside the scope of the practice of a Chiropractic Assistant in Oregon;

(e) Charging a patient for services not rendered;

(f) Intentionally causing physical or emotional injury to a patient;

(g) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;

(h) Soliciting or borrowing money from patients;

(i) Possessing, obtaining, attempting to obtain, furnishing, or prescribing controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; illegally using or dispensing controlled drugs;

(j) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of Chiropractic Assistants or other health care providers; or

(k) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;

(l) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;

(m) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of a Chiropractic Assistant;

(n) Practicing as a Chiropractic Assistant without a current Oregon certificate;

(o) Allowing another person to use one's Chiropractic Assistant certification for any purpose;

(p) Resorting to fraud, misrepresentation, or deceit in applying for or taking the certificate examination or obtaining a certificate or renewal thereof;

(q) Impersonating any applicant or acting as a proxy for the applicant in any Chiropractic Assistant certificate examination;

(r) Disclosing the contents of the certificate examination or soliciting, accepting, or compiling information regarding the contents of the examination before, during, or after its administration;

(s) Failing to provide the Board with any documents requested by the Board;

(t) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege;

(u) Claiming any academic degree not actually conferred or awarded;

ADMINISTRATIVE RULES

- (v) Disobeying a final order of the Board; and
- (w) Splitting fees or giving or receiving a commission in the referral of patients for services.

(x) Receiving a suspension or revocation of a certificate for a Chiropractic Assistant, or other license or certificate by another state based upon acts by the Chiropractic Assistant or applicant that describes acts similar to this section. A certified copy of the record of suspension or revocation of the state making that is conclusive evidence thereof.

(17) The service of the Chiropractic Assistant is the direct responsibility of the licensed Chiropractic Physician. Violations may be grounds for disciplinary action against the Chiropractic Physician under ORS 684.100(9).

Stat. Auth.: ORS 684.155
Stats. Implemented: ORS 684.054 & 684.155(c)(A)
Hist.: CE 1-1990, f. & cert. ef. 2-15-90; CE 5-1992(Temp), f. 10-21-92, cert. ef. 10-23-92; CE 2-1993, f. 3-1-93, cert. ef. 4-23-93; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01; BCE 1-2002, f. & cert. ef. 2-6-02; BCE 2-2008, f. & cert. ef. 10-9-08; BCE 2-2010, f. & cert. ef. 6-15-10; BCE 1-2012, f. & cert. ef. 5-31-12; BCE 3-2013, f. 10-8-13, cert. ef. 11-1-13; BCE 4-2013, f. 10-21-13, cert. ef. 11-1-13; BCE 4-2014, f. & cert. ef. 8-11-14; BCE 5-2014, f. & cert. ef. 9-5-14; BCE 2-2016, f. & cert. ef. 6-6-16

Board of Licensed Professional Counselors and Therapists Chapter 833

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

Adm. Order No.: BLPCT 2-2016

Filed with Sec. of State: 6-7-2016

Certified to be Effective: 6-7-16

Notice Publication Date: 3-1-2016

Rules Amended: 833-020-0101

Subject: Senate Bill 230 (SB 230) passed during the 2015 Regular Session and amended ORS 676.410. This added a requirement that certain healthcare workforce regulatory boards, including the Board of Licensed Professional Counselors and Therapists, collaborate with the Oregon Health Authority (OHA) and adopt rules that will require renewing licensees to provide specified information and pay a fee established by OHA. This rule amendment implements SB 230 by requiring that licensed professional counselors and licensed marriage and family therapists, in order to complete their annual license renewal, must pay the fee established by OHA and complete the healthcare workforce data survey. This requirement begins with renewals due in July of 2016. The amendment also creates Board discretion to waive delinquent fees for late renewals, and makes other clarifications to the license renewal process.

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

833-020-0101

License Renewal/Late Renewal

(1) Before the Board will renew a license, a licensee must, no more than 45 days before or during the renewal month:

(a) Submit a completed renewal form provided by the Board which will include responses to all character and fitness questions and a sworn statement that there is no reason for denial of renewal;

(b) Pay the appropriate renewal fee;

(c) Submit continuing education information detailing compliance with the requirements, if applicable;

(d) Submit an updated professional disclosure statement, if there have been changes or if renewal information indicates that the one on file with the Board contains false, incomplete, outdated or misleading information; and

(e) Complete the required healthcare workforce data survey and pay the fee established by the Oregon Health Authority pursuant to ORS 676.410.

(2) A licensee may renew a license in the month following the renewal month by, in addition to completing the requirements of section (1) above, submitting to the Board the required delinquent fee. If these are not timely submitted, then the license shall lapse.

(3) The licensee holds the burden of proof of submission of the items required for renewal. Failure to receive a courtesy reminder from the Board shall not relieve a licensee of the renewal requirements and consequences.

(4) The Board shall have discretion to waive the delinquent fee in cases of documented hardship.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180
Stats. Implemented: ORS 675.785 - 675.835
Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 2-2016, f. & cert. ef. 6-7-16

Board of Massage Therapists Chapter 334

Rule Caption: Increase inactive fees by \$25. Modify continuing education requirements and Clarify licensure and fingerprint requirements.

Adm. Order No.: BMT 1-2016

Filed with Sec. of State: 5-23-2016

Certified to be Effective: 7-1-16

Notice Publication Date: 5-1-2016

Rules Amended: 334-010-0015, 334-010-0017, 334-010-0018, 334-010-0033, 334-010-0050

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

Rules Coordinator: Ekaette Udosenata—(503) 365-8657

334-010-0015

Licensure

(1) An applicant for an initial license or renewal of a license must complete, in its entirety, an original application furnished by the Board.

(2) An applicant for an initial license and all lapsed and inactive licensees applying for reactivation must submit a completed electronic fingerprints for a criminal background check.

(3) All applications for licensure must be accompanied by proof of current certification in cardiopulmonary resuscitation (CPR).

(4) An applicant must provide written explanation and copies of all related documentation as requested by the board if:

(a) Applicant has ever been investigated, disciplined or denied licensure by this agency or any other governmental agency in any state or jurisdiction of the United States or foreign country;

(b) Applicant has surrendered a massage license or other professional license in any state or jurisdiction of the United States or foreign country;

(c) Applicant has been arrested, charged or convicted of any type of violation of the law, including both misdemeanors or felonies, other than minor traffic infractions in any state or jurisdiction of the United States or foreign country;

(d) Applicant has abused or been treated for the abuse of alcohol, controlled or mind altering substances; or

(e) Applicant has suffered from and/or received treatment for a mental, physical or emotional condition, which could impede applicant's ability to safely practice massage.

(5) Applicants for initial licensure must apply within one year of the successful completion of the practical examination.

(a) If an applicant does not apply within one year, the applicant must retake the practical examination.

(b) At the time of re-examination, the applicant must meet all current licensing requirements and submit original documents as required by the Board.

(6) Licenses issued expire on the last day of the licensees' birth month of even numbered years for licensees with even numbered birth years and odd numbered years for licensees with odd numbered birth years. Thereafter, licenses may be renewed every other year upon completion of the application requirements. The application must be returned to the Board postmarked no later than the 1st day of the month of expiration. A delinquent fee must be paid if the completed application and all requirements are not received by the due date.

(7) Applicants for the renewal of an active license must sign a statement verifying completion of a minimum of 25 hours of continuing education. The Board may require proof of the continuing education hours.

(8) Applications for renewal of an active license must be accompanied by:

(a) Current licensing fee;

(b) Any applicable late fees;

(c) Proof of current certification in cardiopulmonary resuscitation (CPR);

(d) Proof of 25 hours of continuing education as required in OAR 334-010-0050(1)(b); and

(e) Any additional documentation required by the Board.

(9) All applicants for initial, renewal, or reinstated license must sign a statement verifying that they have read, understand, and must comply

ADMINISTRATIVE RULES

with all current Oregon Revised Statutes (ORS 687), Oregon Administrative Rules (OAR 334), and policy statements of the Board.

(10) Licenses issued by the Board must not be transferable.

(11) A person licensed by the Board may move to an inactive status by completing the form provided by the Board. Upon payment of the appropriate fee, the applicant will be issued an inactive license. During the period of inactive status, the licensee may not practice massage for compensation in the State of Oregon.

(12) An application to reactivate an inactive license:

(a) Must be accompanied by:

(A) Current licensing fee;

(B) Verification of current cardiopulmonary resuscitation (CPR);

(C) Verification of 25 hours of continuing education for each biennium the license was inactive. Of the 25 hours, at least 15 must be contact hours of continuing education training or Board approved activities. At least 4 contact hours must be in Professional Ethics, Boundaries and/or Communication. The remaining 10 of 25 hours may be contact or noncontact hours.

(D) Verification of 50 hours of continuing education for the reactivation of inactive license more than 1 biennium must be submitted to the Board. Of the 50 hours, at least 30 must be contact hours of continuing education training or Board approved activities. At least 8 contact hours must be in Professional Ethics, Boundaries and/or Communication. The remaining 20 of 50 hours may be contact or noncontact hours; and

(E) Completed electronic fingerprints for criminal background check.

Stat. Auth.: ORS 687.121 & 687.051

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0006; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 2-2006(Temp), f. & cert. ef. 2-16-06 thru 8-7-06; Administrative correction 8-22-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 1-2012, f. 6-19-12, cert. ef. 7-1-12; BMT 1-2013, f. 5-31-13, cert. ef. 7-1-13; BMT 3-2015, f. 11-12-15, cert. ef. 1-1-16; BMT 1-2016, f. 5-23-16, cert. ef. 7-1-16

334-010-0017

Lapsed License

(1) The massage therapist license is considered lapsed if an individual fails to complete the renewal process prior to the expiration of license.

(2) During the lapsed status, no such person shall practice massage in the State of Oregon.

(3) An applicant whose license is lapsed may return to active status by including the following with the completed application.

(a) Payment of the current fee for activation of the license;

(b) Payment of the licensing fee applicable for the period of the lapsed license;

(c) Late fee payment;

(d) Proof of 25 hours of continuing education for each biennium the license was lapsed and for the current licensing period;

(e) Verification of 4 contact hours in Ethics.

(f) Proof of current certification in cardiopulmonary resuscitation (CPR);

(g) A statement indicating whether the applicant has engaged in the practice of massage and bodywork in another jurisdiction during the period of lapsed status; and

(h) Applicants must submit a completed electronic fingerprint for criminal background check.

(4) An applicant whose license is lapsed for 12 months or less may renew as an inactive status.

(5) An applicant whose license is lapsed for greater than 12 months must renew as an active status.

(6) All information required for restoring a lapsed license to an active status must be received within 3 years of the date of lapsing along with the requirements listed in OAR 334-010-0017(3)(a-h). Thereafter, one must apply as a new applicant.

(7) Continuing Education is not required if this is your first subsequent renewal after receipt of your initial license.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 3-2015, f. 11-12-15, cert. ef. 1-1-16; BMT 1-2016, f. 5-23-16, cert. ef. 7-1-16

334-010-0018

Criminal Background Checks, Fitness Determinations

(1) The Board requires a criminal background check of all applicants for a massage therapist license to determine the professional fitness of an applicant. These must be provided on prescribed forms provided by the Board. Fingerprints shall be obtained at a fingerprinting site approved by the Board. The Board must submit fingerprints to the Oregon Department of State Police for checks against state law enforcement data systems and national data sources. Any electronic fingerprint records must subsequently be destroyed by the Oregon Department of State Police.

(a) The Board requires a completed electronic fingerprint of all applicants for an initial license; licensees applying to reinstate a lapsed license or licensees applying to reactivate an inactive license; and licensees under investigation to determine the professional fitness of an applicant or licensee.

(2) These rules are to be applied when evaluating the criminal background of all licensees and applicants for a massage therapist license and conducting professional fitness determinations based upon such history. The fact that the applicant has cleared the criminal background check does not guarantee the granting of a license.

(3) The Board may require fingerprints of any Oregon licensed massage therapist who is the subject of a complaint or investigation for the purpose of requesting a state or nationwide criminal background check.

(4) All criminal background checks must include, but not be limited to, all available state law enforcement data systems and national data sources, unless obtaining one or the other is an acceptable alternative.

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

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

(7) The Board must determine whether an individual is professionally fit to be granted a license. If an individual is determined to be unfit, then the individual may not be granted a license. The Board may make professional fitness determinations conditional upon applicant's acceptance of probation, conditions, limitations, or other restrictions upon licensure. Except as otherwise provided in section (1), in making the professional fitness determination the Board must consider:

(a) Criminal background check;

(b) The nature of the crime;

(c) The facts that support the conviction or pending indictment or that indicates the making of any false statement;

(d) The relevancy, if any, of the crime or the false statement to the specific requirements of applicant's or licensee's present or proposed license, services, employment, position, or permit;

(e) Any refusal to submit or consent to a criminal background check including, but not limited to, fingerprint identification;

(f) Any other pertinent information requested or obtained as a part of an investigation;

(g) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

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

(F) A recommendation of an employer.

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

(9) If an applicant or licensee is determined not to be professionally fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.413-470. Challenges to the accuracy of com-

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pleteness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(a) If an individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the FBI or other reporting agency, the Board must conduct a new criminal background check upon submission of a new request.

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

Stat. Auth.: ORS 687 & 676

Stats. Implemented: ORS 181, 183, 687.041, 687.051, 687.081, 670.280

Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 1-2012, f. 6-19-12, cert. ef. 7-1-12; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15; BMT 1-2016, f. 5-23-16, cert. ef. 7-1-16

334-010-0033

Fees

(1) The fees are:

- (a) \$100 for initial license;
- (b) \$50 for initial license under 12 months;
- (c) \$155 per biennial renewal for active license;
- (d) \$75 per biennial renewal for inactive license;
- (e) \$25 per week, up to a maximum of \$100, for any late renewal;
- (f) \$100 for application processing;
- (g) \$150 for each practical examination;
- (h) \$100 for mailing list;
- (i) \$10 for license reprint;
- (j) \$10 for license verification;
- (k) \$250 Credentialing Review;
- (l) Current Oregon State Police Criminal Background Check Fee;
- (m) \$50 initial facility permit;
- (n) \$250 facility permit transfer;
- (o) \$10 facility permit reprint and
- (p) Other administrative fees as allowed by law.

(2) Application and licensure fees are not refundable.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1989(Temp), f. & cert. ef. 7-27-89; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 4-2004, f. 10-22-04, cert. ef. 1-1-05; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 3-2010, f. 12-22-10, cert. ef. 1-1-11; BMT 1-2011, f. & cert. ef. 4-21-11; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 1-2012, f. 6-19-12, cert. ef. 7-1-12; BMT 2-2013, f. 11-26-13, cert. ef. 1-1-14; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15; BMT 3-2015, f. 11-12-15, cert. ef. 1-1-16; BMT 1-2016, f. 5-23-16, cert. ef. 7-1-16

334-010-0050

Continuing Education

(1) The intent of Continuing Education is to protect the public by maintaining knowledge and skills of massage and/or bodywork. Each licensee must complete 25 hours of continuing education each renewal period. The continuing education hours must be from the following topics:

- (A) Massage and bodywork techniques;
- (B) Use of thermal modalities, topical preparations, mechanical assistive; devices/appliances;
- (C) Stretching and gymnastics that lengthen and shorten soft tissues;
- (D) Posture and movement assessment;
- (E) Massage and bodywork business practices;
- (F) Anatomy and physiology of the human body;
- (G) Kinesiology of the human body;
- (H) Pathology of the human body;
- (I) Professional Ethics, Boundaries or Communication;
- (J) Cultural competency
- (K) Body mechanics;
- (L) Somatic education; or
- (M) CPR/First Aid.

(a) At renewal time, each licensee must sign and submit a Board supplied CE form indicating they have completed 25 hours of continuing education. The Board may require proof of CE hours.

(b) Of the 25 hours, at least 15 must be contact hours of continuing education training or Board approved activities. At least 4 contact hours must be in Professional Ethics, Boundaries and/or Communication. The remaining 10 of 25 hours maybe contact or noncontact hours.

(2) The methods of obtaining continuing education contact hours shall include:

(a) Attendance of courses, seminars, and workshops sponsored, certified by a licensed or accredited massage and bodywork training program;

(b) Attendance of courses or activities for continuing education offered by a provider recognized by a massage and bodywork professional organization;

(c) Attendance of courses provided by an accredited institution of higher education if topics are listed in OAR 334-010-0050(1)(A)-(M).

(d) Attendance of courses, seminars, and workshops that meets the content requirement of OAR 334-010-0050(1)(A)-(M).

(e) Individual interactive distance learning study courses with subject matter that is listed in OAR 334-010-0050(1)(E)-(J).

(f) Courses in cardiopulmonary resuscitation/first aid if taken in the presence of an instructor;

(g) Providing Board requested peer supervision or Board exam proctoring; One hour of CE contact credit will be given for each meeting/day.

(h) Attendance at an Oregon Board of Massage Therapists board meeting, board committee meeting, board task force or serving on these committees/task forces. One hour of CE contact credit will be given for each meeting.

(3) The methods of obtaining continuing education non-contact hours shall include:

(a) Publishing an article relating to massage and bodywork;

(b) Self-study based on media (i.e. book/video, periodical, web based, DVD);

(c) Courses or lectures on massage and bodywork which a licensee presents. A licensee may receive credit for presenting a course or lecture only one time per renewal period regardless of how many times the licensee presents the course or lecture.

(4) If the Continuing Education subject matter is not listed under OAR 334-010-0050(1) it will not be accepted for continuing education.

(5) The Oregon Board of Massage Therapists randomly selects a minimum of 10 percent of received monthly renewals for an audit.

(a) If selected for an audit you will have 30 days to complete the audit form and submit copies (not originals) of your Continuing Education certificates.

(b) If you fail to provide the requested information to the Board, within the 30 days, the Board may issue discipline per ORS 687.081 and 687.250.

(6) The continuing education requirement does not apply to a licensee's first license renewal.

(7) Continuing education must be completed within the renewal period. Contact hours taken and submitted during renewal in excess of the total number required may only be carried over to the next subsequent renewal period.

(a) First renewal CE are not required to be submitted at the time of renewal, CE taken during the first renewal period may be submitted with second renewal.

(8) Continuing education records must be maintained by each licensee for a minimum of five years.

(9) If the Board finds indications of fraud or falsification of records, investigative action shall be taken. Findings may result in disciplinary action up to and including revocation of the licensee's license.

(10) Failure to complete continuing education hours by the time of renewal may result in revocation, suspension and/or denial of a license. Licensee has 30 days from date of notification of non-compliance to come into compliance. Failure to be in compliance may result in discipline of the licensee to practice massage.

Stat. Auth.: ORS 687.081, 687.121 & 687.122

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 1-1998(Temp), f. & cert. ef. 2-3-98 thru 7-31-98; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 2-2004(Temp), f. & cert. ef. 3-16-04 thru 9-7-04; Administrative correction, 9-28-04; BMT 3-2004(Temp), f. & cert. ef. 10-22-04 thru 4-19-05; BMT 1-2005, f. & cert. ef. 2-23-05; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 2-2013, f. 11-26-13, cert. ef. 1-1-14; BMT 1-2016, f. 5-23-16, cert. ef. 7-1-16

Board of Psychologist Examiners Chapter 858

Rule Caption: Contested case hearings.

Adm. Order No.: BPE 4-2016

Filed with Sec. of State: 5-23-2016

Certified to be Effective: 5-23-16

Notice Publication Date: 3-1-2016

Rules Amended: 858-020-0075

ADMINISTRATIVE RULES

Subject: This amendment clarifies that contested case hearings are closed to the public. There is also a correction to a statute reference.

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

858-020-0075

Contested Case Hearings

(1) When the Board institutes disciplinary actions, notice of proposed actions must be served on the respondent(s) or the respondent's legal counsel by certified mail, return receipt.

(2) The notice shall comply with ORS 183.411 to 183.497, and shall state that the respondent has the right to request a contested case hearing by filing an answer to the notice of disciplinary action and written request for hearing within 30 days of the mailing of the notice.

(3) Failure to request a hearing within 30 days of the mailing of the notice of disciplinary action shall be deemed a default and a final order shall be issued by the Board.

(4) A contested case hearing will be conducted by an impartial administrative law judge who has not been involved in the initial investigation of the complaint, in accordance with ORS 183.310-183.550 and the Board's Notice of Rights and Procedures.

(5) Only the Board may order testimony be taken by deposition.

(6) All hearings shall be conducted in Salem, Oregon, unless a different location is stipulated to by all parties and approved by the Board.

(7) Contested case hearings are closed to the public.

Stat. Auth.: ORS 183.425(1), 183.425(2) & 675.110

Stats. Implemented: ORS 183.425(1), 183.425(2) & 675.110

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 4-2016, f. & cert. ef. 5-23-16

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

Adm. Order No.: BPE 5-2016

Filed with Sec. of State: 5-23-2016

Certified to be Effective: 5-23-16

Notice Publication Date: 3-1-2016

Rules Amended: 858-010-0020

Subject: This amendment requires that applications for licensure not make omissions or false, misleading or deceptive statements on any Board application form, establishes a minimum \$200 civil penalty for failure to disclose an arrest or conviction, and prohibits an application from being approved until Board ordered conditions are met.

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

858-010-0020

Process and Disposition of Application for License

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

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

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

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

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

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

(2) Active Application Period.

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

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

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

(3) The Board may extend the active application period upon written request of the applicant, which must be received or postmarked prior to the

expiration date. Failure to receive a courtesy reminder notice from the Board shall not relieve an applicant of the responsibility to timely request an extension.

(4) Reapplication. If an application for licensure has been denied by the Board for any reason, the Board will not review a second application until at least one year has elapsed from the date of the previous denial.

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

(6) Applicants must not make omissions or false, misleading or deceptive statements on any Board application form. Failure to disclose an arrest or conviction is a violation of ORS 675.070(2)(d) and (f) and will result in a \$200 civil penalty for each violation. Applicants may also be subject to further disciplinary action by the Board. The Board will not approve an application until the applicant has satisfied any conditions ordered by the Board, including payment of any civil penalty.

Stat. Auth.: ORS 675.040, 675.045 & 675.050

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

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13; BPE 1-2016, f. & cert. ef. 2-1-16; BPE 5-2016, f. & cert. ef. 5-23-16

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

Adm. Order No.: BPE 6-2016

Filed with Sec. of State: 5-23-2016

Certified to be Effective: 6-15-16

Notice Publication Date: 3-1-2016

Rules Amended: 858-010-0041

Subject: Senate Bill 230 (SB 230) passed during the 2015 Regular Session and amended ORS 676.410. This added a requirement that certain healthcare workforce regulatory boards, including the Board of Psychologist Examiners, collaborate with the Oregon Health Authority (OHA) and adopt rules that will require renewing licensees to provide specified information and pay a fee established by OHA. This rule amendment implements SB 230 by requiring that licensed psychologists and psychologist associates, in order to complete their biennial license renewal, must pay the fee established by OHA and complete the healthcare workforce data survey. This requirement will begin with renewals due in July of 2016.

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

858-010-0041

License Renewals

(1) Before the Board will renew a license or approve a request for active or semi-active status under ORS 675.110, a licensee must:

(a) Submit a signed Renewal Notice and Affidavit attesting to meeting the continuing education requirements of OAR 858-040-0015 and reporting any history of felony convictions, pending criminal charges or history of discipline;

(b) Pay the appropriate renewal fee;

(c) Pay the delinquent fee (if any); and

(d) Complete the required healthcare workforce data survey and pay the fee established by the Oregon Health Authority pursuant to ORS 676.410.

(2) Semi-Active License.

(a) Continuing education requirements shall be the same as for active licensees as described in OAR 858-040-0015.

(b) Before the Board will approve a request for semi-active status a licensee must:

(A) Be at least 62 years of age; and

(B) Not engage in the practice of psychology as defined in ORS 675.020 for more than twenty client contact hours per week.

(3) A Renewal Notice and Affidavit and the correct fee must be post-marked by the stated due date to be considered timely. Licensee holds the burden of proof of mailing.

(4) Delinquent Fees.

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(a) A delinquent fee must be paid for a license renewed after the stated due date. The Board shall have discretion to waive this fee in documented hardship cases.

(b) If license renewal and delinquent fees are not paid within 30 days immediately following the due date defined in section (3), the license shall lapse.

(c) To renew a license that has lapsed for nonpayment of the renewal or delinquent fees, in addition to the requirements of section (1) above, an individual must:

(A) Submit a completed Application for Reinstatement postmarked within sixty days of the stated due date on the Renewal Notice and Affidavit; and

(B) Attest that the individual has not engaged in the unlicensed practice of psychology during the lapsed period; and

(C) Pay the required fee.

(5) Failure to receive a courtesy renewal reminder from the Board shall not relieve a licensee of renewal requirements and consequences.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110

Hist.: BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 6-2016, f. 5-23-16, cert. ef. 6-15-16

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wages for the period beginning July 1, 2016.

Adm. Order No.: BLI 3-2016

Filed with Sec. of State: 6-10-2016

Certified to be Effective: 7-1-16

Notice Publication Date: 6-1-2016

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 July 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 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.

(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 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. 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

Rule Caption: Update of minimum wage rules to implement SB 1532 (2016).

Adm. Order No.: BLI 4-2016

Filed with Sec. of State: 6-15-2016

Certified to be Effective: 7-1-16

Notice Publication Date: 5-1-2016

Rules Adopted: 839-020-0011

Rules Amended: 839-020-0004, 839-020-0010

Subject: Update minimum wage rules and implement new minimum wage law.

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

839-020-0004

Definitions

As used in ORS 653.010 to 653.261 and these rules, unless the context requires otherwise:

(1) "Administrator" means the Administrator of the Wage and Hour Division.

(2) "Adult" means an individual of 18 years of age or more.

(3) "Adult foster home" means any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage.

(4) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. "Agricultural employment" is employment in "Agriculture" as herein defined.

(5) "Bureau" means Bureau of Labor and Industries.

(6) "Casual basis" as used in ORS 653.020(2) and these rules means employment which is irregular and intermittent and which is not performed by an individual whose vocation is providing domestic services.

(7) "Child care service person" means an individual who performs child care services in the home of the individual or the child and who during any part of a 24 hour period provides custodial care and protection to infants or children.

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(8) “Commissioner” means the Commissioner of the Bureau of Labor and Industries.

(9) “Commissions” or “pay on a commission basis” means payment based on a percentage of total sales, or of sales in excess of a specified amount, or on a fixed allowance per unit agreed upon as a measure of accomplishment or on some other formula and may be the sole source of compensation or payment in addition to other compensation.

(10) “Companionship services”, as used in ORS 653.020(14) and in these rules, means those services which provide fellowship, care and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Such services may include household work related to the care of the elderly or infirm person such as meal preparation, bed making, washing of clothes and other similar services. They may also include the performance of general household work: provided, however, that such work is incidental, i.e., does not exceed 20 percent of the total weekly hours worked. Individuals employed in domestic service employment in or about a family home to provide companionship services are not required to be employed by the individual for whom they provide such services. The term “companionship services” does not include services relating to the care and protection of the elderly or infirm which require and are performed by trained personnel, such as a registered or practical nurse. While such trained personnel do not qualify as companions, this fact does not remove them from the category of covered domestic service employees when employed in or about a family home.

(11) “Division” means the Wage and Hour Division of the Bureau of Labor and Industries.

(12) “Domestic service” means services of a household nature performed by an employee in or about a family home (permanent or temporary) of the person by whom the employee is employed. The term includes, but is not limited to, employees such as cooks, waiters, butlers, valets, maids, housekeepers, governesses, nurses, janitors, gardeners, and companions to the elderly and infirm.

(13) “Domicile” means the permanent residence of a person or the place to which that person intends to return even though that person may actually reside elsewhere.

(14) “Employed on a seasonal basis at”, as used in ORS 653.020(10) and in these rules, means employment that occurs during the time the organized camp provides services to campers at the camp site where campers are located. The term includes employment at the camp site in duties preparatory to the opening or closing of the camp site. The term includes employment during the camping season only and does not include full time, year around employment.

(15) “Employer” has the same meaning as that in ORS 653.010(3).

(16) “Fair market value” means an amount not to exceed the retail price customarily paid by the general public for the same or similar meals, lodging or other facilities or services provided to the employee by the employer. In determining the fair market value of meals, lodging and other facilities and services, the bureau will be guided by these rules and by Title 29, CFR Part 531 — Wage Payments under the Fair Labor Standards Act of 1938, where applicable.

(17) “Family home”, as used in ORS 653.020(2) and this section, means a residence, the purpose of which is to provide an abode for the owner or renter of the residence and family members of the owner or renter. For example, a boarding house or an adult foster care home are not family homes for purposes of ORS 653.020(2) and these rules. However, when casual domestic service work is performed in structures where the owner or renter resides and operates a business, such work may qualify as exempt under ORS 653.020(2) depending upon all the facts of the particular arrangement.

(18) “Homeworker” means any employee suffered or permitted to produce goods or services for an employer in or about a home, apartment or room in a residence in which that employee or other employees of an employer resides, regardless of the source of the materials used by the homeworker in such production.

(19) “Hours worked” means all hours for which an employee is employed by and required to give to the employer and includes all time during which an employee is necessarily required to be on the employer’s premises, on duty or at a prescribed work place and all time the employee is suffered or permitted to work. “Hours worked” includes “work time” as defined in ORS 653.010(11).

(20) “Immediate family” means grandfather, grandmother, father, mother, son, daughter, sister, brother, uncle or aunt.

(21) “Minimum wage” means the rate of pay prescribed in ORS 653.025 and 653.030.

(22) “Minor” means an individual of 17 years of age or less.

(23) “Organized camp” has the same meaning as that in ORS 653.010(6).

(24) “Primary duty” means, as a general rule, the major part, or over 50 percent, of an employee’s time. However, a determination of whether an employee has management as the employee’s primary duty must be based on all the facts of a particular case. Time alone is not the sole test and in situations where the employee does not spend over 50 percent of the employee’s time in managerial duties, the employee might have management as a primary duty if other pertinent factors support such a conclusion. Factors to be considered include, but are not limited to, the relative importance of the managerial duties as compared with other duties, the frequency with which the employee exercises discretionary powers, the relative freedom from supervision and the relationship between the salary paid the employee and wages paid other employees for the kind of non-exempt work performed by the supervisor.

(25) “Primary school” means a learning institution containing any combination of grades Kindergarten - 8 or age level equivalent.

(26) “Region” means a geographic area for which ORS 653.025 establishes a minimum rate of wage.

(27) “Reside” means a personal presence at some place of abode with no present intention of definite and early removal and with the intent to remain for an undetermined period, but not necessarily combined with the intent to stay permanently.

(28) “Resident manager” means an employee of an adult foster home who is domiciled at the home and who is directly responsible for the care of residents in the home on a day to day basis.

(29) “Salary” means a predetermined amount constituting all or part of the employee’s compensation paid for each pay period of one week or longer (but not to exceed one month). The predetermined amount may not be any amount less than the equivalent of a monthly salary calculated by multiplying the wage set pursuant to ORS 653.025 by 2,080 hours per year, then dividing by 12 months.

(30) “Salary basis” means a salary as defined in section (29) of this rule, which is not subject to deduction because of lack of work for part of a work week, however, deductions for absences of one day or more may be made if the employee is absent for other reasons. Deductions may not be made for absences of less than one day, except as permitted for employers covered by the federal Family and Medical Leave Act of 1993, Public Law 103-3, for part-day absences due to leave pursuant to that law. Employees who are not paid for workweeks in which they performed no work are considered to be on a salary basis provided they are paid on a salary basis in workweeks when work is performed.

(a) Payment of additional compensation is not inconsistent with the salary basis of payment.

(b) Compensation paid in the form of fees is not inconsistent with the salary basis of payment, provided the fees paid in each pay period are not less than the amount required to be paid pursuant to ORS 653.025 and meet the requirements for fee payments under Title 29, Code of Federal Regulations, Part 541.605 and related regulations as amended April 23, 2004.

(31) “Secondary school” means a learning institution containing any combination of grades 9–12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(32) “Violation” means a transgression of any statute or rule, or any part thereof and includes both acts and omissions.

(33) “Willfully” means knowingly. An action is done knowingly when it is undertaken with actual knowledge of a thing to be done or omitted or action undertaken by a person who should have known the thing to be done or omitted. A person “should have known the thing to be done or omitted” if the person has knowledge of facts or circumstances which, with reasonably diligent inquiry, would place the person on notice of the thing to be done or omitted to be done. A person acts willfully if the person has the means to inform the person’s self but elects not to do so. For purposes of these rules, the employer is presumed to know the requirements of ORS 653.010 to 653.261 and these rules.

Stat. Auth.: ORS 651.060(4) & 653.040, OL Ch. 012, 2016

Stats. Implemented: OL Ch. 012, 2016 & ORS 653.025

Hist.: BL 1-1987, f. & ef. 1-12-87; BL 1-1990, f. 2-27-90, cert. ef. 2-28-90; BL 10-1990, f. & cert. ef. 7-26-90; BL 3-1992, f. & cert. ef. 3-2-92; BL 5-1993(Temp), f. 5-7-93, cert. ef. 5-14-93; BL 12-1993, f. 10-29-93, cert. ef. 11-1-93; BL 9-1996, f. & cert. ef. 10-8-96; BL 9-1997, f. & cert. ef. 11-13-97; BL 1-2002, f. & cert. ef. 1-9-02; TIC 3-2006, f. & cert. ef. 11-24-06; BL 41-2006(Temp), f. & cert. ef. 11-27-06 thru 5-23-07; BL 11-2007, f. 5-10-07, cert. ef. 5-15-07; BL 15-2010, f. 5-25-10, cert. ef. 6-1-10; BL 8-2013, f. 12-18-13, cert. ef. 1-1-14; BL 4-2016, f. 6-15-16, cert. ef. 7-1-16

ADMINISTRATIVE RULES

839-020-0010

Payment of Minimum Wages — Generally

(1) Unless exempt under ORS 653.020, an employer is required to pay each employee it employs in the state no less than the minimum rate(s) of wage for the applicable region(s) as specified in ORS 653.025 and OAR 839-020-0011 for each hour worked by the employee.

(2) Employees shall be paid no less than the applicable minimum wage for all hours worked, which includes “work time” as defined in ORS 653.010(11). If in any pay period the combined wages of the employee are less than the applicable minimum wage, the employer shall pay, in addition to sums already earned, no less than the difference between the amounts earned and the minimum wage as prescribed by the appropriate statute or administrative rule.

(3) Employers may include commission and bonus payments to employees when computing the minimum wage. Such commission or bonus payment may only be credited toward employees’ minimum wages in the pay periods in which they are received.

Stat. Auth.: ORS 651.060(4) & 653.040, OL Ch. 012, 2016

Stats. Implemented: OL Ch. 012, 2016 & ORS 653.025

Hist.: BL 1-1987, f. & ef. 1-12-87; BL 1-1990, f. 2-27-90, cert. ef. 2-28-90; BL 10-1990, f. & cert. ef. 7-26-90; BL 9-1996, f. & cert. ef. 10-8-96; BL 1 4-2016, f. 6-15-16, cert. ef. 7-1-16

839-020-0011

Determination of Applicable Region and Minimum Wage Rate to be Paid for Work Performed by Employees

The applicable region and minimum wage rate to be paid to employees pursuant ORS 653.025 and OAR 839-020-0010 shall be determined as follows:

(1) Work performed at a permanent fixed business location of the employer in Oregon.

(a) If an employee performs more than 50% of the employee’s work in a pay period at the employer’s permanent fixed business location in Oregon, the applicable minimum wage rate to be paid to the employee by the employer shall be determined based on the region in which such business is located.

(b) If an employee makes deliveries as a part of the employee’s job and starts and ends the employee’s work at the employer’s permanent fixed business location, the minimum rate of wage required to be paid to the employee by the employer is the applicable rate for the region in which such business is located.

(2) Work performed other than at the employer’s permanent fixed business location.

(a) If an employee does not perform more than 50% of the employee’s work in a pay period at the employer’s permanent fixed business location in Oregon pursuant to section (1) of this rule, the region in which the employee performs work is considered to be the employer’s location for purposes of determining the applicable minimum wage rate to be paid. The employer is required to pay no less than this rate for each hour worked during the pay period.

(b) In the event an employee performs work in more than one region in a pay period, the employer must pay either:

(A) The applicable minimum rates of wage for each hour worked in each region in which the employee worked; or

(B) The highest minimum rate of wage required for any region in which the employee worked for all hours worked by the employee during the pay period.

(c) If an employee performs work in more than one region in a pay period, the employer must maintain records of the locations in which the employee worked unless pursuant to paragraph (b)(B) of this section, the employer pays the highest rate of wage required for any region in which the employee worked for all hours worked by the employee during the work period.

Stat. Auth.: ORS 651.060(4) & 653.040, OL Ch. 012, 2016

Stats. Implemented: OL Ch. 012, 2016 & ORS 653.025

Hist.: BL 1 4-2016, f. 6-15-16, cert. ef. 7-1-16

Construction Contractors Board Chapter 812

Rule Caption: Pre-Licensing Training and Testing, Home Inspectors, Commercial and Residential Continuing Education

Adm. Order No.: CCB 1-2016

Filed with Sec. of State: 6-6-2016

Certified to be Effective: 7-1-16

Notice Publication Date: 4-1-2016

Rules Adopted: 812-006-0160, 812-006-0310

Rules Amended: 812-006-0100, 812-006-0150, 812-006-0200, 812-006-0400, 812-008-0020, 812-008-0072, 812-008-0074, 812-020-0062, 812-020-0050, 812-020-0070, 812-020-0071, 812-022-0010, 812-022-0021

Rules Repealed: 812-020-0080, 812-021-0000, 812-021-0005, 812-021-0010, 812-021-0011, 812-021-0015, 812-021-0016, 812-021-0019, 812-021-0021, 812-021-0023, 812-021-0025, 812-021-0028, 812-021-0030, 812-021-0031, 812-021-0032, 812-021-0033, 812-021-0034, 812-021-0035, 812-021-0037, 812-021-0040, 812-021-0042, 812-021-0045, 812-021-0047, 812-022-0011

Subject: ADOPT:

- 812-006-0160 is adopted to set forth the pre-licensure training requirement for individuals that take and pass the NASCLA examination.

- 812-006-0310 is adopted to provide an alternative method to obtain a contractor’s license by: (1) studying for the NASCLA examination; (2) passing the NASCLA examination; and (3) passing the Oregon pre-licensure test.

AMEND:

- 812-006-0100 is amended to provide an alternative method by which an applicant/RMI may qualify a contractor for licensing.

- 812-006-0150 is amended to create an exemption from the standard pre-licensure training for persons who study for and pass the NASCLA examination.

- 812-006-0200 is amended to create an exemption from the standard pre-licensure training for persons who study for and pass the NASCLA examination and modifies the reference to the agency-approved reference manual that is the basis for the 16-hour training.

- 812-006-0400 is amended to clarify the requirement and align it with common expectations - contractors will have 24 months from the date their RMI passes the test to become licensed. The change does not affect certain contractors may obtain a license based on experience (“grandfathered” contractors).

- 812-008-0020 is amended to delete the term “test,” which is defined as a “test administered by the agency.” See OAR 812-008-0020(34) (eff. 10/1/15). This term is no longer necessary to be defined.

- 812-008-0072 is amended to eliminate the continuing education unit (CEU) for attending a Home Inspector Advisory Committee. Home inspectors may earn CEUs by providing “ride-along” training to new applicants.

- 812-008-0074 is amended to eliminate the inspector study guide to replace it with the national examination content items.

- 812-020-0050 is amended to allow all commercial contractors two years in which to complete the continuing education requirements.

- 812-020-0062 amends the exemptions for commercial and residential contractors to be the same, with the exception that home inspectors and master builders are not exempt from commercial CE since their work involves exclusively residential structures. Exemptions for contractors that perform plumbing and electrical work or are owned by or hire persons who perform plumbing and electrical work are clarified.

- 812-020-0070 is amended to clarify that if a contractor was a residential contractor at time of the previous endorsement, the contractor must complete residential CE to renew the license.

- 812-020-0071 is amended to eliminate Section 1; obsolete after Dec. 31, 2015.

- 812-022-0010 is amended to clarify that division 22 rules applies to all residential contractors that renew their licenses on or after January 1, 2016.

- 812-022-0021 is amended to retain the exemptions previously allowed, while expanding the language to clarify a broader scope of electrical and elevator contractor licenses (ORS chapter 479), adds the residential developer exemption previously in OAR 812-022-0011. The rule mirrors the exemptions for commercial contractors in OAR 812-020-0062, corrects the citation for plumbing contractors, creates new exemptions for boiler contractors and elevator

ADMINISTRATIVE RULES

contractors, adds exemptions for: (1) contractors owned by (or employing) a licensed electrician; (2) contractors owned by (or employing) a licensed plumber; (3) contractors licensed as landscape contracting businesses; (4) contractors owned by (or employing) a home inspector; and (5) contractors certified as master builders. This rule does not include an exemption for contractors serving on active duty in the US armed forces. This because that exclusion is already in Division 22 - in OAR 812-022-0015(6).

REPEAL:

- 812-020-0080 is repealed because the agency no longer prorates the number of hours that a commercial contractor must complete.

- 812-021-0000, 812-021-0005, 812-021-0010, 812-021-0011, 812-021-0015, 812-021-0016, 812-021-0019, 812-021-0021, 812-021-0023, 812-021-0025, 812-021-0028, 812-021-0030, 812-021-0031, 812-021-0032, 812-021-0033, 812-021-0034, 812-021-0035, 812-021-0037, 812-021-0040, 812-021-0042, 812-021-0045, 812-021-0047 are repealed because they were effective through December 31, 2015.

- 812-022-0011 is repealed because content is moved to 812-022-0021.

Rules Coordinator: Leslie Culpepper—(503) 934-2228

812-006-0100

Responsible Managing Individual

(1) As used in these rules, a responsible managing individual (RMI) has that meaning as provided in ORS 701.005(16).

(2) Upon initial application, an applicant for a contractor's license shall designate at least one individual as the applicant's RMI and;

(a) Provide evidence that the applicant's RMI has completed the pre-licensure training and passed the test, as provided for in ORS 701.122, OAR 812-006-0150 and 812-006-0300;

(b) Document that the applicant's RMI has experience as required by OAR 812-006-0450; or

(c) Document that the applicant's RMI has:

(A) Completed the pre-licensure training as provided in OAR 812-006-0160;

(B) Passed the National Association of State Contractor Licensing Agencies (NASCLA) Accredited Examination for Commercial General Building Contractors as provided in OAR 812-006-0310; and

(C) Passed the Oregon pre-licensure test as provided in OAR 812-006-0300.

(3) An individual who is not an owner may not be designated as the RMI of more than one licensee.

(4) An RMI may not be an approved pre-licensure training provider or the principal of an approved pre-licensure training provider or an approved pre-licensure trainer, as provided in OAR 812-006-0200, while serving as an RMI for a licensee. For purposes of this rule, the principal of an approved pre-licensure training provider includes any owner, partner, officer, member, manager or trustee of the provider.

(5) When an RMI leaves a business, the business shall:

(a) Immediately appoint another RMI; and

(b) Immediately notify the agency in writing of the name of the individual and the date the individual joined the business.

(6) An RMI appointed under section (5) of this rule must:

(a) Document completion of the pre-licensure training and testing requirements under ORS 701.122, OAR 812-006-0150 and 812-006-0300;

(b) Document that the RMI has experience as required by OAR 812-006-0450; or

(c) Document that the applicant's RMI has:

(A) Completed the pre-licensure training as provided in OAR 812-006-0160;

(B) Passed the National Association of State Contractor Licensing Agencies (NASCLA) Accredited Examination for Commercial General Building Contractors as provided in OAR 812-006-0310; and

(C) Passed the Oregon pre-licensure test as provided in OAR 812-006-0300.

Stat. Auth.: ORS 670.310, 701.122 & 701.235

Stats. Implemented: ORS 701.005, 701.091 & 701.122

Hist.: CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 3-2005, f. & cert. ef. 8-24-05; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; Renumbered from 812-006-0011, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 20-2008, f. & cert. ef. 11-20-08; CCB 1-2013, f. 4-30-13, cert. ef. 5-1-13; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-006-0150

Pre-Licensure Training Requirements

(1) Except as provided in OAR 812-006-0160, the pre-licensure training required in ORS 701.122 shall cover the subjects listed in OAR 812-006-0250.

(2) Pre-licensure training shall consist of at least 16 hours.

(3) Except as provided in OAR 812-006-0160, pre-licensure training must be provided by a training provider approved by the agency as provided in OAR 812-006-0200.

(4) A person seeking to take the pre-licensure training shall:

(a) Pay any fees required by the pre-licensure training provider; and

(b) Provide approved government-issued picture identification to the pre-licensure training provider.

Stat. Auth.: ORS 670.310, 701.122 & 701.235

Stats. Implemented: ORS 701.122

Hist.: CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 1-2011, f. 2-28-11, cert. ef. 3-1-11; CCB 1-2013, f. 4-30-13, cert. ef. 5-1-13; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-006-0160

Pre-Licensure Training Requirements for NASCLA Accredited Examination for Commercial General Building Contractors

(1) RMIs that pass the NASCLA Accredited Examination for Commercial General Building Contractors and the Oregon pre-licensure test satisfy the pre-licensure training requirement in ORS 701.122 by studying the material contained in the reference list published by NASCLA or by any state that uses or accepts the NASCLA examination.

(2) Reference study materials may include, but are not limited to:

(a) BCSI: Guide to Good Practice for Handling, Installing, Restraining and Bracing of Metal Plate Connected Wood Trusses;

(b) Construction Jobsite Management;

(c) NASCLA Contractors' Guide to Business, Law and Project Management;

(e) Training and Certification of Field Personnel for Unbonded Post-Tensioning — Level One;

(f) Management of Construction Projects — A Constructor's Perspective;

(g) Manual of Construction with Steel Deck;

(h) Pipe and Excavation Contracting;

(i) Gypsum Construction Handbook;

(j) Placing Reinforcing Bars, Recommended Practices;

(k) Technical Digest No. 9 — Handling and Erection of Steel Joists and Joist Girders;

(l) Modern Masonry — Brick, Block, Stone;

(m) Principles and Practices of Commercial Construction;

(n) Code of Federal Regulations, 29 CFR Part 1926 (OSHA);

(o) Code of Federal Regulations, 29 CFR Part 1926 Selections by

PSI;

(p) Carpentry and Building Construction;

(q) ANSI Accessible and Usable Buildings and Facilities;

(r) Roofing Construction and Estimating;

(s) The Contractor's Guide to Quality Concrete Construction;

(t) Green Building Fundamentals; and

(u) International Building Code.

(3) Study of the reference materials qualifies as pre-licensure training under ORS 701.122, regardless of when the study was started and finished.

Stat. Auth.: ORS 670.310, 701.122 & 701.235

Stats. Implemented: ORS 701.122

Hist.: CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-006-0200

Pre-Licensure Training Provider Approval

(1) Except as provided in OAR 812-006-0160, no pre-licensure training shall meet the requirements of ORS 701.122 unless it is offered by a pre-licensure training provider approved by the agency.

(2) To receive agency approval, individuals and organizations shall make application and sign an agreement with the agency prior to offering the pre-licensure training.

(3) The pre-licensure training provider application shall include, but will not be limited to, provisions for:

(a) Recording the name, address, contact information, and name of responsible administrator of the pre-licensure training provider.

(b) Submitting trainer resumes or work summaries that demonstrate that all its trainers have at least four years work experience or four years education, or any combination of both, in subject areas that they instruct as outlined in the agency-approved reference manual.

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(4) Except as provided in OAR 812-006-0160, no pre-licensure training provider may offer or provide any pre-licensure training until there is a fully executed agreement between the pre-licensure training provider and the agency.

(5) Except as provided in OAR 812-006-0160, no pre-licensure training provider may offer or provide any pre-licensure training if, at the time of offering or providing the pre-licensure training, the pre-licensure training provider is an RMI of a licensee.

(6) Except as provided in OAR 812-006-0160, a pre-licensure training provider must comply at all times with the following requirements:

(a) The pre-licensure training provider will provide 16-hours of training under OAR 812-006-0150.

(b) The pre-licensure training provider will verify that each student taking the pre-licensure training has a current agency-approved manual.

(c) The pre-licensure training provider will use agency-approved curriculum and the agency-approved reference manual.

(d) The pre-licensure training provider will send electronic records of completion to the agency in a format approved by the agency and keep records of completion for a minimum of six years.

(e) The pre-licensure training provider will communicate law changes and program procedural changes received from the agency to the pre-licensure training provider's trainers and will implement these changes within 30 business days.

(f) The pre-licensure training provider will use only approved trainers who have at least four years work experience or four years education, or any combination of both, in the subject that they instruct as outlined in the agency-approved reference manual. CCB will not approve as a trainer any individual who, at the time of offering or providing the pre-licensure training, is an RMI of a licensee.

(g) The pre-licensure training provider will request and receive, in writing, agency approval of all trainers at least 10 business days before trainers are scheduled to teach.

(h) The pre-licensure training provider will provide a mechanism for students to contact their trainer(s) outside of class for a minimum of one hour per week for 90 days from date of enrollment.

(i) The pre-licensure training provider will give all students information about how to contact trainers and hours of availability before the end of the pre-licensure training.

(j) The pre-licensure training provider will comply with all applicable federal and state laws.

(k) Except as provided in OAR 812-006-0205(2), the pre-licensure training provider will obtain and maintain a surety bond as described in OAR 812-006-0205 in the amount of \$10,000 obligating the surety to pay the State of Oregon for the benefit of third-parties.

(7) The agency may publicize a pre-licensure training provider's test passage rate for its students.

(8) The agency may revoke a pre-licensure training provider's right to offer training and terminate the agreement of a pre-licensure training provider at any time the pre-licensure training provider fails to:

(a) Meet any requirement of the agreement; or

(b) Comply with these rules.

(9) The agency may revoke a pre-licensure training provider's right to offer pre-licensure training and terminate the agreement of a pre-licensure training provider:

(a) Whose students do not pass the agency test on their first attempt at least 70 percent of the time after the pre-licensure training provider has provided pre-licensure training for at least three months, or whose students fail to maintain the 70 percent first attempt test passing rate during the remaining period of the agreement; or

(b) Who acquires or attempts to acquire agency test questions by unauthorized means, including but not limited to, photographing, photocopying or videotaping any part of the agency's test or paying or offering incentives to individuals or business entities to write down, photograph or videotape any part of the agency's test.

Stat. Auth.: ORS 670.310, 701.122 & 701.235
Stats. Implemented: ORS 701.122

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 1-2005(Temp), f. & cert. ef. 1-5-05 thru 7-1-05; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; CCB 3-2005, f. & cert. ef. 8-24-05; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; Renumbered from 812-006-0030, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 20-2008, f. & cert. ef. 11-20-08; CCB 1-2013, f. 4-30-13, cert. ef. 5-1-13; CCB 5-2014(Temp), f. & cert. ef. 5-5-14 thru 10-31-14; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-006-0310

Pre-Licensure Testing Based on NASCLA Accredited Examination for Commercial General Building Contractors

(1) An RMI may satisfy the pre-licensure requirements by passing the NASCLA Accredited Examination for Commercial General Building Contractors and the Oregon pre-licensure test developed by the CCB.

(2) Proof of passing the NASCLA Accredited Examination for Commercial General Building Contractors is established when the name of the RMI is entered in the NASCLA National Examination Database (NED).

(3) Passing the NASCLA Accredited Examination for Commercial General Contractors and the Oregon pre-licensure test qualifies as pre-licensure testing under ORS 701.122, regardless of when the tests were taken and passed.

Stat. Auth.: ORS 670.310, 701.122 & 701.235

Stats. Implemented: ORS 701.122

Hist.: CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-006-0400

Pre-Licensure Training and Testing Period

(1) The pre-licensure training and testing required under ORS 701.122 (1) and (3) shall be valid for 24 months from the date the responsible managing individual passed the test.

(2) Section (1) of this rule does not apply to an RMI that meets the experience requirements under OAR 812-006-0450.

(3) Section (1) of this rule does not apply to an RMI that meets the training and testing requirements of OAR 812-006-0160 and 812-006-0310.

Stat. Auth.: ORS 670.310, 701.122 & 701.235

Stats. Implemented: ORS 701.122

Hist.: CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06; CCB 11-2006(Temp), f. & cert. ef. 11-6-06 thru 5-4-07; CCB 2-2007, f. & cert. ef. 3-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 1-2013, f. 4-30-13, cert. ef. 5-1-13; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-008-0020

Definitions

The following definitions apply to Division 8 of OAR chapter 812:

(1) "Administrator" means the Administrator of the agency.

(2) "Agency" means the Oregon Construction Contractors Board.

(3) "Automatic safety controls" means the devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel, leaks, fire, freezing, or other unsafe conditions.

(4) "Central air conditioning" means a system that uses ducts to distribute cooled and/or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.

(5) "Certified individual" means an individual who successfully passed a test accredited by the agency or who successfully passed the National Home Inspector Examination and who completes the education required for renewal and satisfies any other requirements established by OAR chapter 812.

(6) "Component" means a readily accessible and observable aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component. "Component" also includes, but is not limited to, the separate parts of an installed appliance or an electric or gas-powered system, including, but not limited to, a water heater, furnace or air conditioning unit.

(7) "Conspicuous" as used in these regulations shall mean a term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(8) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination.

(9) "Dangerous or adverse situations" means situations that pose a threat of injury to the Oregon certified home inspector, or damage to the property.

(10) "Describe" means report in writing a system or component by its type, or other observed characteristics, to distinguish it from other components or system used for the same purpose.

(11) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed or fastened by other means and that would not be dismantled by a homeowner in the course of normal household maintenance.

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(12) "Energy audit" means evaluation or testing of components or systems with a focus on energy efficiency or renewable energy, which may lead to recommendations that improve energy efficiency or renewable energy generation. "Energy audit" also includes quality assurance review or verification of installed or retrofitted components or systems impacting energy efficiency or renewable energy generation.

(13) "Enter" means to go into an area and observe all visible components.

(14) "Forensic evaluation" means evaluation or testing of components or systems for purposes of envelope analysis, materials testing or failure due to water intrusion or other external causes.

(15) "Functional drainage" means a drain is functional when it empties in a reasonable amount of time.

(16) "Functional flow" means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

(17) "Home performance testing" means evaluation or testing of components or systems for purposes of comfort, energy efficiency, safety or indoor air quality.

(18) "Home inspection" means an inspection of substantially all of the components or systems as set forth in 812-008-0205 through 812-008-0214 for the purpose of determining the overall physical condition and habitability of the inspected structure at the time of inspection. A home inspection is not a re-inspection of isolated repairs made as part of a real estate transaction. A home inspection does not include energy audit, forensic evaluation or home performance testing.

(19) "Installed" means attached or connected such that the installed item requires tools for removal.

(20) "Normal operating controls" means homeowner-operated devices such as but not limited to thermostat, wall switch, or safety switch.

(21) "Observe" means the act of making a visual examination.

(22) "On-site water supply quality" means water quality based on the bacterial, chemical, mineral, and solids content of the water.

(23) "On-site water supply quantity" means the water quantity based on the rate of flow of water.

(24) "Operate" means to cause systems or equipment to function.

(25) "Oregon certified home inspector" means a person certified pursuant to ORS chapter 701, chapter 814, 1997 Oregon Laws and OAR chapter 812.

(26) "Readily accessible panel" means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted into place. This definition is limited to those panels within normal reach or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components.

(27) "Representative number" for multiple identical components such as windows and electrical outlets means one such component per room; for multiple identical exterior components, one such component on each side of the building.

(28) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.

(29) "Shut down" means a piece of equipment or a system is shut down when it cannot be operated by the device or control that a homeowner should normally use to operate it or detached from a plug source. If its safety switch or circuit is in the "off" position or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.

(30) "Solid fuel heating device" means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and combinations of these devices.

(31) "Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

(32) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions. "System" also includes, but is not limited to, an installed appliance or an electric or gas-powered system, including but not limited to, a water heater, furnace or air conditioning unit.

(33) "Technically exhaustive" means an inspection involving the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.

(34) "Underfloor crawl space" means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355

Stats. Implemented: ORS 701.350 & 701.355

Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 17-2011, f. 12-13-11, cert. ef. 1-1-12; CCB 1-2015, f. 7-1-15, cert. ef. 10-1-15; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-008-0072

Approved Continuing Education Units

The following continuing education units (CEUs) are approved:

(1) One CEU for each completed clock hour of instruction of approved subject matter in OAR 812-008-0074(1) given by the following:

(a) Education providers approved under OAR 812-008-0074(3).

(b) Accredited colleges or universities.

(c) Federal, state or local government agencies.

(d) Education providers approved or accredited by federal, state or local government agencies.

(2) One CEU for accompanying a plumbing, electrical, or heating and air conditioning contractor who is licensed with the Building Codes Division, on a repair or maintenance job that lasts a minimum of four hours. No more than one CEU shall be granted in each of the three areas per two-year renewal period for a total of three CEUs.

(3) One CEU for each year completed for serving as an officer of an Oregon or national home inspector professional trade association.

(4) One CEU for each clock hour for providing "ride-along" inspection training, as authorized by OAR 812-008-0040(3)(c), to home inspector certification applicants.

Stat. Auth.: ORS 670.310, 701.235 & 701.350

Stats. Implemented: ORS 701.350 & 701.355

Hist.: CCB 4-1999, f. & cert. ef. 6-29-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 2-2000, f. 2-25-00, cert. ef. 3-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 14-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 1-2011, f. 2-28-11, cert. ef. 3-1-11; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-008-0074

Approved Course Subjects and Education Providers

(1) The following subject areas are approved for continuing education units: Report writing, communication skills, business practices, legal issues, ethics, national examination content items, building codes, construction, renovation, lead-based paint and home inspector standards of practice.

(2) If applicable, a foreign company applying to be an education provider must be authorized by the Oregon Corporation Division to do business in Oregon. All education provider applicants must register their assumed business name(s) used in Oregon with the Oregon Corporation Division.

(3) Education provider applicants shall complete an application form prescribed by the agency that shall include but is not limited to the following information:

(a) Evidence that the education provider applicant complies with section (2) of this rule.

(b) An outline that demonstrates the goals and objectives of the education program are appropriate for Oregon Home Inspectors;

(c) Certification that the courses intended for Oregon Home Inspectors are in the approved subject matter stated in OAR 812-008-0074(1).

(d) Certification that the instructors are qualified and have:

(A) Experience in subject matter.

(B) Licenses, certificates, and/or degrees in subject matter.

(C) Background in training or adult education; and

(D) Knowledge of home inspection industry.

(e) Certification that the criteria used by the education provider to approve and evaluate instructors and courses are stringent and ongoing.

(4) Education providers offering continuing education units as defined in 812-008-0072(1)(a) shall provide completion certificates to course attendees within 30 days from the date of course completion. Course completion certificates shall include but are not limited to the following:

(a) Education provider's name;

(b) Attendee's name;

(c) Date of course;

(d) Subject areas covered in course;

(e) Number of clock hours or continuing education units; and

(f) Signature of education program designee.

(5) The agency may terminate a provider's program if they do not meet the agency's approved criteria.

Stat. Auth.: ORS 670.310, 701.235 & 701.350

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Stats. Implemented: ORS 701.350 & 701.355
Hist.: CCB 5-1999, f. & cert. ef. 9-10-99; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; CCB 14-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 17-2010, f. 12-22-10, cert. ef. 1-1-11; CCB 1-2011, f. 2-28-11, cert. ef. 3-1-11; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-020-0050

Authority, Purpose, and Scope of Rules — Continuing Education for Commercial Contractors

(1) Authority. These rules are promulgated in accordance with ORS 670.310(1) and 701.086, which authorize CCB to adopt rules to administer a continuing education system for commercial contractors.

(2) Purpose. The purpose of these rules is to further explain and detail the requirements for continuing education under ORS 701.086.

(3) Scope. These rules establish:

(a) Procedures for commercial contractors to report continuing education hours; and

(b) Sanctions for commercial contractors failing to comply.

Stat. Auth.: ORS 670.310, 701.124 & 701.235

Stats. Implemented: 701.124

Hist.: CCB 21-2008, f. & cert. ef. 11-20-08; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-020-0062

Exemptions — Continuing Education for Commercial Contractors

(1) Commercial contractors subject to regulation under ORS 479.510 to 479.945 or 480.510 to 480.670 or ORS chapter 693 do not need to satisfy the continuing education requirements. These contractors include, but are not limited to:

(a) Electrical contractors subject to regulation under ORS 479.510 to 479.945.

(b) Plumbing contractors subject to regulation under ORS 447.040 and chapter 693.

(c) Boiler contractor subject to regulation under ORS 480.510 to 480.670.

(d) Elevator contractors subject to regulation under ORS 479.510 to 479.945.

(e) Renewable energy contractors subject to regulation under ORS 479.510 to 479.945.

(f) Pump installation contractors subject to regulation under ORS 479.510 to 479.945.

(g) Limited sign contractors subject to regulation under ORS 479.510 to 479.945.

(2) Commercial contractors endorsed only as commercial developers do not need to satisfy the continuing education requirements.

(3) Contractors owned by or having an officer or an employee who is an electrician licensed under ORS 479.510 to 479.945 do not need to satisfy the continuing education requirement.

(4) Contractors owned by or having an officer or an employee who is a plumber licensed under ORS chapter 693 do not need to satisfy the continuing education requirement.

(5) Contractors owned by or having an officer or an employee who is an architect registered under ORS 671.010 to 671.020 do not need to satisfy the continuing education requirement.

(6) Contractors owned by or having an officer or an employee who is a professional engineer licensed under ORS 672.002 to 672.325 do not need to satisfy the continuing education requirement.

(7) Contractors licensed as landscape contracting businesses under ORS 671.510 to 671.760 do not need to satisfy the continuing education requirement.

(8) If, during the two years immediately preceding the expiration date of the license, a commercial contractor served on active duty in the United States armed forces, including but not limited to mobilization or deployment, the continuing education requirement is waived for that two-year period. This exemption applies only if the commercial contractor is a:

(a) Sole proprietor;

(b) Sole owner of a corporation; or

(c) Sole member of a limited liability company.

Stat. Auth.: ORS 670.310, 701.124 & 701.235

Stats. Implemented: 701.124

Hist.: CCB 21-2008, f. & cert. ef. 11-20-08; CCB 7-2009, f. 11-30-09, cert. ef. 1-1-10; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-020-0070

Certification of Hours — Continuing Education for Commercial Contractors

(1) Upon renewal, a commercial contractor must certify that one or more key employees obtained the continuing education required by OAR 812-020-0050 to 812-020-0073.

(2) For a commercial general or specialty contractor – level 1 with five or more key employees, the commercial contractor must certify that one or more key employees completed at least 80 hours during the preceding license period.

(3) For a commercial general or specialty contractor – level 1 with four or fewer key employees, the commercial contractor must certify as follows:

(a) With four key employees, that one or more key employees completed at least 64 hours during the preceding license period.

(b) With three key employees, that one or more key employees completed at least 48 hours during the preceding license period.

(c) With two key employees, that one or more key employees completed at least 32 hours during the preceding license period.

(d) With one key employee, that the key employee completed at least 16 hours during the preceding license period.

(4) For a commercial general or specialty contractor — level 2, the commercial contractor must certify that one or more key employees completed at least 32 hours during the preceding license period.

(5) For purposes of this rule, the required amount of continuing education hours for the renewing contractor is determined based on the contractor's endorsement status as of the previous date of license issuance, reissuance or renewal. If the contractor was not endorsed as a commercial contractor on the previous date, commercial continuing education does not apply. If the contractor was endorsed, on the previous date, as a residential contractor subject to continuing education, the contractor must complete residential continuing education.

(6) For purposes of this rule, if a contractor is subject to the continuing education requirement, the number of key employees is the number of such persons employed by the commercial contractor as of the previous date of license issuance, reissuance or renewal as a commercial contractor.

Stat. Auth.: ORS 670.310, 701.124 & 701.235

Stats. Implemented: 701.124

Hist.: CCB 21-2008, f. & cert. ef. 11-20-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 1-2010, f. & cert. ef. 2-1-10; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-020-0071

Hours Earned as Residential Contractor — Continuing Education for Commercial Contractors

A commercial contractor also endorsed as a residential contractor may take credit for continuing education earned under ORS 701.082 and OAR division 22.

Stat. Auth.: ORS 670.310, 701.082 & 701.235

Stats. Implemented: ORS 701.082

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 3-2014, f. & cert. ef. 4-30-14; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-022-0010

Effective Date — Continuing Education for Residential Contractors (SB 783)

Effective January 1, 2016, OAR 812-022-0000 to 812-022-0047 apply to all residential contractors that renew licenses.

Stat. Auth.: ORS 670.310, 701.082, 701.126, 701.235

Stats. Implemented: ORS 701.082

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2013(Temp), f. & cert. ef. 10-29-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14; CCB 2-2014(Temp), f. & cert. ef. 3-26-14 thru 9-22-14; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

812-022-0021

Exemptions from Continuing Education — Continuing Education for Residential Contractors (SB 783)

(1) Residential contractors subject to regulation under ORS 479.510 to 479.945 or 480.510 to 480.670 or ORS chapter 693 do not need to satisfy the continuing education requirements. These contractors include, but are not limited to:

(a) Electrical contractors subject to regulation under ORS 479.510 to 479.945.

(b) Plumbing contractors subject to regulation under ORS 447.040 and chapter 693.

(c) Boiler contractors subject to regulation under ORS 480.510 to 480.670.

(d) Elevator contractors subject to regulation under ORS 479.510 to 479.945.

(e) Renewable energy contractors subject to regulation under ORS 479.510 to 479.945.

(f) Pump installation contractors subject to regulation under ORS 479.510 to 479.945.

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(g) Limited sign contractors subject to regulation under ORS 479.510 to 479.945. (2) Residential contractors endorsed only as residential developers do not need to satisfy the continuing education requirement.

(3) Contractors owned by or having an officer or an employee who is an electrician licensed under ORS 479.510 to 479.945 do not need to satisfy the continuing education requirement.

(4) Contractors owned by or having an officer or an employee who is a plumber licensed under ORS chapter 693 do not need to satisfy the continuing education requirement.

(5) Contractors owned by or having an officer or an employee who is an architect registered under ORS 671.010 to 671.020 do not need to satisfy the continuing education requirement.

(6) Contractors owned by or having an officer or an employee who is a professional engineer licensed under ORS 672.002 to 672.325 do not need to satisfy the continuing education requirement.

(7) Contractors licensed as landscape contracting businesses under ORS 671.510 to 671.760 do not need to satisfy the continuing education requirement.

(8) Contractors owned by or having an employee who is a home inspector certified under ORS 701.350 do not need to satisfy the continuing education requirement.

(9) Contractors certified as master builders under ORS 455.810 do not need to satisfy the continuing education requirement.

Stat. Auth.: ORS 670.310, 701.082, 701.083, & 701.235

Stats. Implemented: ORS 701.082, 701.083

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 4-2013(Temp), f. & cert. ef. 11-26-13 thru 5-23-14; CCB 1-2014, f. & cert. ef. 2-6-14; CCB 2-2014(Temp), f. & cert. ef. 3-26-14 thru 9-22-14; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16

Department of Agriculture

Chapter 603

Rule Caption: Exempts certain food establishments located within residential dwelling from regulation under specific conditions.

Adm. Order No.: DOA 12-2016

Filed with Sec. of State: 5-19-2016

Certified to be Effective: 5-19-16

Notice Publication Date: 4-1-2016

Rules Adopted: 603-025-0315, 603-025-0320, 603-025-0325, 603-025-0330

Subject: In 2015 the Oregon State Legislature passed Senate Bill 320, which was subsequently signed by the Governor. Senate Bill 320 allows a food establishment located within a residential dwelling to produce limited amounts of certain foods for sale to the public without being regulated by the State Department of Agriculture. These rules supplement Senate Bill 320, as it was codified in Oregon Revised Statute 616.723 (ORS), by including the exemption in Oregon Administrative Rules (OAR), and providing further clarification on the exemption.

The rules provide that a food establishment in a residential dwelling is exempt from licensing and inspection if it meets the following requirements: (1) only non-potentially hazardous baked goods or confections are prepared; (2) all sales are to the end user of the product [No sales on the internet or to a commercial entity such as a restaurant, grocery store, caterer, school, day care center, hospital, nursing home, or correctional facility]; (3) the product must be labeled "This product is homemade and is not prepared in an inspected food establishment"; (4) the gross annual sales of foods prepared cannot exceed \$20,000; (5) the product follows all other pertinent labeling laws, and must have the name, phone number, and physical address of the food establishment on the label; (6) any person involved in food preparation must have a food handler card; and (7) the food prepared cannot include marijuana or marijuana items.

The Department of Agriculture (ODA) may require an exempt food establishment to become licensed under ORS 616.695 to 616.755, if the food establishment refuses to comply with ODA rules requiring that the food establishment be constructed and maintained in a clean, healthful, and sanitary manner.

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

603-025-0315

Definitions

In addition to the definitions set forth in OAR 603-025-0010 the following shall apply:

(1) "Baked goods" include bread, rolls, cakes, pies, doughnuts, cookies, biscuits, crackers and all similar goods, to be used for human food.

(2) "Confectionary items" mean candy or sweets, including, but not limited to: salted caramel, fudge, marshmallow bars, chocolate covered marshmallows, and hard candy.

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

(4) "End user" means a person, who is a member of the public, who takes possession of food, and is not functioning in the capacity of an operator of a food establishment, and does not offer the food for resale.

(5) "Food" means any article used, or intended to be used, for food, ice, drink, confection or condiment, whether simple or compound, or any part or ingredient thereof or in the preparation thereof, and for human consumption.

(6) "Food establishment" means:

(a) Any room, building, structure or place, used or intended for use, or operated for storing, preparing, compounding, manufacturing, processing, freezing, packaging, distributing, handling, salvaging or displaying food.

(b) The ground upon which such place or business is operated or used and the adjacent ground that is also used in carrying on the business of the establishment. The department may prescribe additional areas or places that may not be contiguous or adjacent to the above area or establishment, but may be included therein.

(c) Vehicles, machinery, equipment, utensils, tools, fixtures, implements, and all other articles or items, used in operating or carrying on the business of a food establishment.

(7) "Food handler training program" means a food handler training program offered by the Oregon Health Authority or designated agent of the Oregon Health Authority, or offered by a local public health authority or designated agent of the local public health authority that has been approved by the Oregon Health Authority.

(8)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(9) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

(10) "Person(s)" means the individual(s) responsible for food preparation that are present during the commercial operation of an exempt residential kitchen.

(11) "Potentially hazardous" means requiring temperature control due to the capacity to support the rapid and progressive growth of infectious microorganisms or the growth of toxic microorganisms. Potentially hazardous baked goods and confectionary items foods include, but are not limited to:

(a) Food containing fresh, frozen or dried meat (including jerky);

(b) Food made with fish or shellfish products;

(c) Food that requires any type of refrigeration after production, such as, but not limited to: cream, custard, or meringues.

(d) Pies, cakes, or pastries with cream, custard, or cream cheese icings or fillings;

(e) Focaccia-style breads made with vegetables or cheese; and

(f) Candied fresh fruit products including caramel and candy apples.

(12) "Residential dwelling" means a home or area within a rental unit, in which a person or persons make their primary residence.

(13) "Total gross sales of food" means the total annual retail sale value of all food produced under this exemption and sold by the person or persons operating an exempt residential kitchen.

Stat. Auth.: ORS 561

Stats. Implemented: ORS 561

Hist.: DOA 12-2016, f. & cert. ef. 5-19-16

603-025-0320

License and Inspection Exemption

(1) ORS 616.695 to 616.755 do not apply to a food establishment if:

(a) The food establishment is located in a residential dwelling;

(b) The food establishment sells food only to the end user of the product;

(c) The foods prepared at the food establishment for public distribution are not potentially hazardous and do not contain marijuana or marijuana items;

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(d) The foods prepared at the food establishment for public distribution are sold only to the end user of the product, and are:

- (A) Baked goods; or
- (B) Confectionary items;

(e) The food establishment complies with the provisions of OAR 603-025-0020 and 603-025-0150;

(f) The annual gross sales of foods prepared at the food establishment do not exceed \$20,000; and

(g) Each person involved in the preparation of food at the food establishment for public distribution has successfully completed a food handler training program and holds a certificate issued pursuant to ORS 624.570 and OAR chapter 333 division 175.

(2) A person may not sell foods prepared in an exempt residential kitchen:

- (a) On the Internet; or
- (b) To a commercial entity or institution, including, but not limited to

a:

- (A) Restaurant;
- (B) Grocery store;
- (C) Caterer;
- (D) School;
- (E) Day care center;
- (F) Hospital;
- (G) Nursing home; or
- (H) Correctional facility.

(3) Records:

(a) A person operating an exempt residential kitchen must maintain accurate records of annual sales and the types of food produced by the food establishment;

(b) A person must maintain all records for at least three years; and

(c) A person must make all records available for inspection by the Department upon request.

(4) The Department may require that a baked good or confectionary item be assessed by the Department to ensure that it is not potentially hazardous.

(5) Any area or room of a residential dwelling may be used for food preparation, packaging, storage, or handling of permitted food products if it is constructed and maintained in a clean, healthful, and sanitary condition.

Stat Auth.: ORS 561
Stats. Implemented: ORS 561
Hist.: DOA 12-2016, f. & cert. ef. 5-19-16

603-025-0325

Labeling

(1) The principal display panel of food prepared in an exempt residential kitchen must contain the following statement, "This product is homemade and is not prepared in an inspected food establishment."

(2) The principal display label must also include:

(a) The business name, phone number, and address for the food establishment;

(b) The name of the product;

(c) The ingredients of the product in descending order by weight;

(d) The net weight or net volume of the product;

(e) Any applicable allergen warnings as specified in The Food Allergen Labeling & Consumer Protection Act of 2004 (FALCPA); and

(f) If the label provides any nutrient content claim, health claim or other nutritional information, product nutritional information as described in Title 21, Part 101 of the Code of Federal Regulations (2015).

Stat Auth.: ORS 561
Stats. Implemented: ORS 561
Hist.: DOA 12-2016, f. & cert. ef. 5-19-16

603-025-0330

Revocation of Exemption

The Department may require a food establishment that is operating as an exempt residential kitchen to become licensed under ORS 616.695 to 616.755 if the food establishment refuses to comply with Department rule requiring that the food establishment be constructed and maintained in a clean, healthful, and sanitary manner or if the food establishment is producing potentially hazardous foods.

Stat Auth.: ORS 561
Stats. Implemented: ORS 561
Hist.: DOA 12-2016, f. & cert. ef. 5-19-16

Department of Agriculture, Oregon Hazelnut Commission Chapter 623

Rule Caption: Amends the hazelnut assessment: in-shell to \$17 per ton, shelled to \$42.50 per ton.

Adm. Order No.: HZL 1-2016

Filed with Sec. of State: 6-9-2016

Certified to be Effective: 9-1-16

Notice Publication Date: 5-1-2016

Rules Amended: 623-010-0010

Subject: Proposed amendment to OAR 623-010-0010 will increase the assessment to hazelnut growers. Increased revenue will be used to make up for decreased federal and state dollars for production research projects and increased state fees. In addition, funds will augment the loss of funds from eastern filbert blight infected trees that are declining in nut production. The anticipated result of the assessment increase will be to maintain funding to support the continued research on the development of eastern filbert blight resistant trees and on the identification of cultural practices specific to the new varieties. This research will enable the Oregon hazelnut industry to be sustainable into the future.

Rules Coordinator: Meredith Nagely—(503) 678-6823

623-010-0010

Assessment

(1) Except as provided in section (2) of this rule, for all transactions occurring on or after September 1, 2016, involving hazelnuts grown in Oregon, the first purchaser shall deduct and withhold an assessment of \$.0085 per pound or \$17 per ton on merchantable weight in-shell hazelnuts and \$.02125 per pound or \$42.50 per ton on all shelled hazelnuts from the price paid the producer.

(2) All casual sales of hazelnuts shall be exempt from said assessment.

(3) ORS 576.345: When a first purchaser lives or has his office in another state or is a federal or other governmental agency, the producer shall report all sales made to such purchaser on forms provided by and pay the tax assessment directly to the Commission, unless such first purchaser voluntarily makes the proper deduction and remits the proceeds to the Commission.

(4) Any producer who performs the handling or processing functions on all or a part of the production of hazelnuts, which normally would be performed by another person as the first purchaser thereof, shall report the sales on such self-produced hazelnuts on forms provided by and pay the assessment moneys directly to the Commission, unless the purchaser from such producer voluntarily makes the proper deduction and remits the proceeds to the Commission.

Stat. Auth.: ORS 576.304(2), 576.304(14), 576.325
Stats. Implemented: ORS 576.304(2), 576.304(14), 576.325
Hist.: OFC 2, f. 8-6-59; OFC 7, f. 5-10-65, ef. 7-1-65; OFC 8, f. 4-24-72, ef. 7-1-71; OFC 2-1980, f. & ef. 7-28-80; OFC 1-1982, f. & ef. 10-4-82; OFC 2-1984, f. & ef. 3-7-84; OFC 1-1985, f. 7-29-85, ef. 8-1-85; HZL 1-2000, f. 12-8-00, cert. ef. 1-1-01; HZL 1-2003, f. 9-30-03, cert. ef. 10-1-03; HZL 1-2004, f. & cert. ef. 7-30-04; HZL 1-2011, f. & cert. ef. 10-24-11; HZL 1-2016, f. 6-9-16, cert. ef. 9-1-16

Department of Agriculture, Oregon Ryegrass Growers Seed Commission Chapter 657

Rule Caption: Increases the assessment rate.

Adm. Order No.: RGSC 1-2016

Filed with Sec. of State: 6-15-2016

Certified to be Effective: 7-1-16

Notice Publication Date: 6-1-2016

Rules Amended: 657-010-0015

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

Rules Coordinator: Lisa Ostlund—(503) 364-2944

657-010-0015

Assessments

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

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(2) All casual sales of ryegrass seed shall be exempt from the assessment.

(3) The assessment shall be levied only against any commodity or mixture which contains more than 50 percent ryegrass seed.

Stat. Auth.: ORS 576.325 - 576.365

Stats. Implemented: ORS 576.325 - 576.365

Hist.: RG 3, f. 7-8-65, ef. 7-15-65; RG 4(Temp), f. 6-5-75, ef. 7-1-75 RG 5, f. 7-7-75, ef. 7-25-75; RG 1-1988, f. 6-17-88, cert. ef. 7-1-88; RG 2-1988, f. 10-19-88, cert. ef. 1-1-89; RG 1-1989, f. 6-21-89, cert. ef. 7-1-89; RG 2-1991, f. & cert. ef. 7-9-91; RG 1-1992, f. 6-22-92, cert. ef. 7-1-92; RG 2-1995, f. 9-14-95, cert. ef. 10-1-95; RG 1-1997, f. 6-11-97, cert. ef. 7-1-97; ORGC 1-1998, f. 6-11-98, cert. ef. 7-1-98; ORGC 1-1999, f. 8-19-99, cert. ef. 10-1-99; RGSC 2-2008, f. 6-4-08, cert. ef. 7-1-08; RGSC 1-2016, f. 6-15-16, cert. ef. 7-1-16

Department of Energy
Chapter 330

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

Adm. Order No.: DOE 3-2016

Filed with Sec. of State: 6-2-2016

Certified to be Effective: 6-2-16

Notice Publication Date: 5-1-2016

Rules Amended: 330-070-0022

Subject: This permanent rule amendment for the Residential Energy Tax Credit program implements changes provided in Oregon Laws 2016, chapter 29, sections 4 and 5 (SB 1507). SB 1507 limits the amount a taxpayer may claim per device when using a RETC incentive to \$1,500 a year, except for alternative fuel devices. This change impacts solar thermal domestic water heating and solar thermal swimming pool device tax credits, these are the only RETC incentives over \$1,500 that did not have an annual claiming limit starting in 2016. Prior to SB 1507, ORS 316.116 already limited alternative fuel device tax credits to \$750. SB 1507 changes apply to alternative energy devices certified on or after January 1, 2016, and to tax years beginning on or after January 1, 2016.

Rules Coordinator: Elizabeth Ross—(503) 378-8534

330-070-0022

Amount of Tax Credit

(1) The amount of the AED tax credit is based on the first-year energy savings of an eligible AED. The department has determined first-year energy savings estimates for eligible AEDs and associated tax credit amounts, which are listed in the RETC Rate Chart. The energy savings basis for a solar tax credit may be adjusted by the department to account for less than optimal solar access.

(2) The amount of the AED tax credit may not exceed the lesser of:

(a) For AEDs used for space heating, cooling, electrical energy or domestic water heating, other than an AED using solar radiation for domestic water heating or electric heat pump water heater, \$1,500 or the first-year energy savings of the AED in kWh multiplied by 60 cents. The amount of the credit may not exceed 50 percent of the cost of the system components and their installation.

(b) For electric heat pump water heaters rated as a Northern Climate Specification Product Tier 1, \$1,500 or the first-year energy savings of the AED in kWh multiplied by 28 cents. The amount of the credit may not exceed 50 percent of the cost of the device.

(c) For electric heat pump water heaters rated as a Northern Climate Specification Product Tier 2 or greater, \$1,500 or the first-year energy savings of the AED in kWh multiplied by 38 cents. The amount of the credit may not exceed 50 percent of the cost of the device.

(d) For AEDs that use solar radiation for domestic water heating:

(A) The incentive rate is based on when the system is certified as operational as of the date of the final inspection:

(i) Before September 1, 2015, \$1,500 or the first-year energy savings of the AED in kWh multiplied by 60 cents. The amount of the credit may not exceed 100 percent of the cost of the system components and their installation.

(ii) On or after September 1, 2015 and for tax years beginning on or after January 1, 2015, the first-year energy savings of the AED in kWh multiplied by \$2.00, or 50 percent of the cost of the system, not to exceed \$6,000. The maximum credit claimed per year may not exceed \$1,500.

(B) The tax credit is calculated:

(i) Prior to September 1, 2015, by multiplying the Solar Rating and Certification Corporation (SRCC) savings estimate for the appropriate

zone, times the Total Solar Resource Fraction (TSRF), times the incentive rate.

(ii) On September 1, 2015 through December 31, 2016, by multiplying the Solar Rating and Certification Corporation (SRCC) savings estimate for the appropriate zone times the incentive rate.

(iii) On or after January 1, 2017, by multiplying the Solar Rating and Certification Corporation (SRCC) savings estimate for the appropriate zone, times the Total Solar Resource Fraction (TSRF), times the incentive rate.

(e) For AEDs used for swimming pool, spa or hot tub heating, other than an AED using solar radiation for swimming pool heating, the first-year energy savings of the AED in kWh multiplied by 15 cents, up to 50 percent of the eligible cost of the AED or \$1,500.

(f) For AEDs using solar radiation for swimming pool heating:

(A) The incentive rate is based on when the system is certified as operational as of the operational date reported on the RETC application form:

(i) Before September 1, 2015, the first-year energy savings of the AED in kWh multiplied by 15 cents, up to 50 percent of the eligible cost of the AED, or \$1,500.

(ii) On or after September 1, 2015 and for tax years beginning on or after January 1, 2015, the first-year energy savings of the AED in kWh multiplied by \$0.20, or 50 percent of the cost of the system, not to exceed \$2,500. The maximum credit claimed per year may not exceed \$1,500.

(B) The tax credit is calculated:

(i) Prior to January 1, 2017, by multiplying the collector area in square feet, times the number of collectors, times the solar output by zone, times the incentive rate.

(ii) On or after January 1, 2017, by multiplying the collector area in square feet, times the number of collectors, times the solar output by zone, times the Total Solar Resource Fraction (TSRF), times the incentive rate.

(C) The solar output by zone is:

(i) 30 kWh/ft² for systems located in Zone 1 which is areas not in Zone 4 of the following counties: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill.

(ii) 30 kWh/ft² for systems located in Zone 2 which is areas not in Zone 4 of the following counties: Coos, Curry, Douglas, Jackson and Josephine.

(iii) 35 kWh/ft² for systems located in Zone 3 which is the following counties: Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler.

(iv) 20 kWh/ft² for systems located in Zone 4 which is areas within 10 miles of the coast.

(g) For each alternative fuel device, 50 percent of the eligible cost of the alternative fuel device or \$750.

(h) For fuel cell systems, \$3.00 per watt of the installed capacity or \$6,000, and not to exceed 50 percent of the cost of the system. One tax credit may be issued per year, per residence, and the maximum credit claimed per year may not exceed \$1,500.

(i) For wind AEDs, the first-year energy savings of the AED in kWh multiplied by \$2.00, not to exceed the lesser of \$6,000 or 50 percent of the cost of the system. One tax credit may be issued per year, per residence, and the maximum credit claimed per year may not exceed \$1,500, over a four year period.

(j) For premium efficiency biomass combustion devices, the average heating need times the stove efficiency improvement times 60 cents, up to \$1,500. The amount of the credit may not exceed 50 percent of the cost of the device. The department will use the EPA default efficiency as of January 1, 2016 when calculating the stove efficiency improvement for:

(A) Wood or pellet stoves without full efficiency testing listed on the EPA list of EPA Certified Wood Heaters,

(B) Wood or pellet stoves without full efficiency testing with the testing data submitted and approved by EPA, or

(C) Pellet stoves on the List of EPA Exempt Wood Heating Appliances that submitted testing certificates to the department.

(3) For photovoltaic systems:

(a) On or after January 1, 2012 and before January 1, 2014, the credit allowed under this section is equal to \$2.10 per watt of the installed capacity measured in watts of direct current at industry standard test conditions; the tax credit is claimed according to OAR 330-070-0024.

(b) On or after January 1, 2014 and before January 1, 2015, the credit allowed under this section is equal to \$1.90 per watt of the installed

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capacity measured in watts of direct current at industry standard test conditions; the tax credit is claimed according to OAR 330-070-0024.

(c) On or after January 1, 2015, and before January 1, 2016, the credit allowed under this section is equal to \$1.70 per watt of the installed capacity measured in watts of direct current at industry standard test conditions; the tax credit is claimed according to OAR 330-070-0024.

(d) On or after January 1, 2016, the credit allowed under this section is equal to \$1.50 per watt of the installed capacity measured in watts of direct current at industry standard test conditions; the tax credit is claimed according to OAR 330-070-0024.

(e) A maximum of one credit valued at \$6,000 is allowed per residence, per AED. The maximum amount of credit allowed per year, beginning in the year in which the AED was installed, is \$1,500 per year over a four-year period. The total credit may not exceed 50 percent of the cost of the system.

(4) The amount of the tax credit may not exceed the system cost of the AED to the applicant. The sum of any rebates or cash payments, including public purpose organization or federal grants or credits and the residential energy tax credit may not exceed system costs.

(5) Each of the following device types installed at a dwelling within in a 5-year period will be considered a single device:

- (a) Photovoltaic,
 - (b) Solar radiation for domestic water heating, or
 - (c) Solar radiation for swimming pool heating.
- (6) For purposes of the tax credit, the cost of the AED must:
- (a) Comply with OAR 330-070-0059 through 330-070-0097, as those rules apply;

(b) Be the system cost of acquiring the system.

(A) AEDs using an alternative energy source for only a part of their energy output or savings will have system cost prorated. System cost must be based on that part of the AED's energy output or savings that is due to the alternative source;

(B) The department may find an AED to be too large for a dwelling. In such case the system cost must be prorated. System cost must be based on the largest useful size of an AED for the dwelling. The department will determine largest useful size based on the energy needs of the building; and

(C) The amount of credit for the original system and any addition may not exceed \$1,500 per year.

(7) For purposes of the tax credit, the eligible system cost of the AED is only those costs necessary for the system to yield energy savings or produce renewable energy such as:

- (a) The cost to purchase the AED.
- (b) The cost of materials directly associated with installation or construction of the AED.

(c) For solar thermal systems, the cost of solar collectors; thermal storage devices; monitors, meters and controls; photovoltaic devices used to supply electricity to parts of the system; installation charges; fees paid for design or building; and ductwork, piping, fans, pumps and controls that move heat from solar collectors to storage and to heat buildings.

(d) For solar photovoltaic systems, solar labor costs and solar material costs including photovoltaic modules; inverters; storage systems and regulators; monitors, meters, and controls; wiring and framing materials; trackers; mounting or racking structures only, no structures beyond those needed for mounting or racking purposes; shipping; and for owner-built system inspections by a tax-credit technician, up to \$400; permits and fees.

(e) For wind systems, the cost of wind turbine generators; DC/AC converters, inverters and synchronous inverters; energy storage (batteries or other methods); tower, foundation and guys; electric transformers and lines and supports; safety equipment; up to \$500 of wind permitting cost; windmills; pumps, linkage, pump heads, and vacuum chambers; and obtaining a project site specific computer model wind speed estimate from a nationally recognized service as approved by the department, not to exceed \$100.

(8) Eligible system cost do not include:

- (a) Unpaid labor (including the applicant's labor);
- (b) Operating and maintenance costs;
- (c) Land costs;
- (d) Legal and court costs;
- (e) Patent search fees;
- (f) Fees for use permits or variances;
- (g) Loan interest;
- (h) Vendor rebates, discounts and refunds;
- (i) Service contracts;
- (j) Cost of moving a used AED from one site to another;
- (k) Cost of repair or resale of a system;

(L) Any part of the purchase price which is optional, such as an extended warranty; or

(m) Support structures beyond the mounting or racking hardware necessary for securing equipment.

[ED. NOTE: Tables referenced are not included in rule text.]

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

Stat. Auth.: ORS 469.040; 469B.103; 316.116

Stats. Implemented: ORS 469B.100-469B.118; 316.116; 317.115

Hist.: DOE 1-1986, f. & ef. 2-7-86; DOE 4-1987, f. 12-18-87, ef. 1-1-88; DOE 2-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 1-1996, f. & cert. ef. 4-1-96; DOE 1-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 1-1999, f. 12-21-99, cert. ef. 1-1-00; DOE 2-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 1-2004, f. & cert. ef. 1-21-04; DOE 2-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 4-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 7-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; DOE 16-2010, f. & cert. ef. 12-22-10; DOE 11-2011, f. 12-16-11, cert. ef. 1-1-12; DOE 14-2012, f. 12-26-12, cert. ef. 1-1-13; DOE 8-2013, f. 12-27-13, cert. ef. 1-1-14; DOE 8-2014, f. 11-18-14, cert. ef. 1-1-15; DOE 4-2015, f. & cert. ef. 10-5-15; DOE 6-2015, f. 11-9-15, cert. ef. 1-1-16; DOE 3-2016, f. & cert. ef. 6-2-16

Department of Environmental Quality Chapter 340

Rule Caption: Increase Title V Permit Fees by the Consumer Price Index

Adm. Order No.: DEQ 7-2016

Filed with Sec. of State: 6-9-2016

Certified to be Effective: 6-9-16

Notice Publication Date: 2-1-2016

Rules Amended: 340-220-0030, 340-220-0040, 340-220-0050

Subject: DEQ is increasing Title V operating permit fees by the change in the consumer price index (CPI) as authorized by federal and state law. The fee increases are necessary for DEQ to provide essential services associated with Oregon's Title V permitting program.

The rules will increase the fees in two phases. This approach will save administrative costs by holding a single public notice and comment period for the two rulemakings.

Phase one: DEQ adopted the phase one rules at the Environmental Quality Commission's meeting in June 2016. The fee increase effective for the 2016 invoice year is 0.45 percent based on the Bureau of Labor Statistics September 2015 consumer price index for the period of September 2014 to August 2015. DEQ will apply this CPI increase to permit fees on the invoices DEQ will issue in August 2016 for annual emissions during 2015 and the operating period Nov. 15, 2016 to Nov. 14, 2017.

Phase two: DEQ will propose the phase two rules at a commission meeting between December 2016 and May 2017. The proposed fee increase effective for the 2017 invoice year is 0.45 percent based on the Bureau of Labor Statistics September 2016 consumer price index for the period September 2015 to August 2016. This is an estimate identical to the 2016 increase. DEQ would apply this CPI increase to permit fees on the invoices DEQ will issue in August 2016 for annual emissions during 2016 and the operating period Nov. 15, 2017 to Nov. 14, 2018.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-220-0030

Annual Base Fee

(1) DEQ will assess an annual base fee of \$7,910 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2015 to November 14, 2016, and for each annual period thereafter.

(2) DEQ will assess an annual base fee of \$7,946 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2016 to November 14, 2017, and for each annual period thereafter.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2580; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; Administrative correction 3-18-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 5-2012,

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f. & cert. ef. 7-2-12; DEQ 9-2012, f. & cert. ef. 12-11-12; DEQ 10-2014, f. & cert. ef. 9-4-14; DEQ 2-2015, f. & cert. ef. 1-7-15; DEQ 7-2016, f. & cert. ef. 6-9-16

340-220-0040

Emission Fee

(1) DEQ will assess an emission fee of \$59.81 per ton of each regulated pollutant emitted during calendar year 2014 and for each year thereafter to each source subject to the Oregon Title V Operating Permit Program.

(2) DEQ will assess an emission fee of \$60.08 per ton of each regulated pollutant emitted during calendar year 2015 and for each calendar year thereafter to each source subject to the Oregon Title V Operating Permit Program.

(3) The emission fee will be applied to emissions based on the elections made according to OAR 340-220-0090.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2590; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; Administrative correction 3-18-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 5-2012, f. & cert. ef. 7-2-12; DEQ 9-2012, f. & cert. ef. 12-11-12; DEQ 10-2014, f. & cert. ef. 9-4-14; DEQ 2-2015, f. & cert. ef. 1-7-15; DEQ 7-2016, f. & cert. ef. 6-9-16

340-220-0050

Specific Activity Fees

(1) DEQ will assess specific activity fees for an Oregon Title V Operating Permit program source for the period of June 7, 2015 to June 14, 2016 as follows:

(a) Existing source permit revisions:

(A) Administrative* — \$482;

(B) Simple — \$1,929;

(C) Moderate — \$14,471;

(D) Complex — \$28,942.

(b) Ambient air monitoring review — \$3,858.

(2) DEQ will assess specific activity fees for an Oregon Title V Operating Permit program source as of June 15, 2016 as follows:

(a) Existing source permit revisions:

(A) Administrative* — \$484;

(B) Simple — \$1,938;

(C) Moderate — \$14,536;

(D) Complex — \$29,072;

(b) Ambient air monitoring review — \$3,876.

NOTE: *Includes revisions specified in OAR 340-218-0150(1)(a) through (g). Other revisions specified in OAR 340-218-0150 are subject to simple, moderate or complex revision fees.

(3) DEQ will assess the following specific activity fee for an Oregon Title V Operating Permit program source for annual greenhouse gas reporting, as required by OAR 340-215-0060(1) — 15 percent of the following, not to exceed \$4,500:

(a) The applicable annual base fee (for the period of November 15 of the current year to November 14 of the following year); and

(b) The applicable annual emission fee (for emissions during the previous calendar year).

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2600; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; DEQ 12-2010, f. & cert. ef. 10-27-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 11-2011, f. & cert. ef. 7-21-11; DEQ 12-2011, f. & cert. ef. 7-21-11; DEQ 5-2012, f. & cert. ef. 7-2-12; DEQ 9-2012, f. & cert. ef. 12-11-12; DEQ 10-2014, f. & cert. ef. 9-4-14; DEQ 2-2015, f. & cert. ef. 1-7-15; DEQ 7-2016, f. & cert. ef. 6-9-16

Department of Fish and Wildlife Chapter 635

Rule Caption: Commercial Sales of Dressed Salmon and Steelhead by Columbia River Treaty Tribal Fishers Allowed.

Adm. Order No.: DFW 51-2016(Temp)

Filed with Sec. of State: 5-17-2016

Certified to be Effective: 5-18-16 thru 11-13-16

Notice Publication Date:

Rules Amended: 635-006-0212, 635-006-0215, 635-006-0225

Subject: These amended rules allow commercial sales of gilled and gutted Columbia River salmon and steelhead caught by Treaty tribal members to wholesale fish dealers, cannerys, and buyers. Modifications also require wholesale fish dealers, cannerys, and buyers to report totals of fish purchased in round eights on the Fish Receiving Ticket using a conversion factor of 1.17.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-006-0212

Fish Receiving Ticket — Salmon

(1) This regulation is in addition to, and not in lieu of the provisions contained in OAR 635-006-0210.

(2) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Oregon Department of Fish and Wildlife.

(3) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught.

(4) It is lawful for licensed wholesale fish dealers, cannerys, or buyers to purchase from tribal fishers, referred to in OAR 635-041-0005, gilled and gutted Columbia River salmon lawfully taken by treaty Indians during commercial fishing seasons. The licensed wholesale dealer must submit round weights on the Fish Receiving Ticket by multiplying the weights of gilled and gutted salmon by the conversion factor listed in OAR 635-006-0215 for tribal Columbia River salmon and steelhead.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.530 & 508.535

Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 & 508.550

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 44-2006(Temp), f. & cert. ef. 6-19-06 thru 12-15-06; Administrative correction 12-16-06; DFW 79-2008(Temp), f. & cert. ef. 7-10-08 thru 12-31-08; Administrative correction 1-23-09; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10; DFW 102-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 83-2012(Temp), f. & cert. ef. 7-5-12 thru 12-31-12; Administrative correction, 2-1-13; DFW 68-2013(Temp), f. & cert. ef. 7-3-13 thru 12-30-13; Administrative correction, 2-5-14; DFW 106-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 28-2015(Temp), f. 4-9-15, cert. ef. 5-1-15 thru 10-27-15; DFW 31-2015, f. & cert. ef. 4-27-15; DFW 33-2015(Temp), f. 4-28-15, cert. ef. 5-1-15 thru 10-27-15; Administrative correction, 11-20-15; DFW 51-2016(Temp), f. 5-17-16, cert. ef. 5-18-16 thru 11-13-16

635-006-0215

Monthly Remittance Report

(1) A monthly report is required of all licensed:

(a) Wholesale fish dealers, wholesale fish bait dealers, food fish cannerys, or shellfish cannerys receiving food fish or shellfish from licensed commercial fishers or bait fishers;

(b) Limited Fish Sellers selling food fish or shellfish.

(2) Except as provided in OAR 635-006-0220, the report is required even though no food fish or shellfish are received or sold during the calendar month covered by the report.

(3) The following information shall be included on the report:

(a) Fish dealer's name, license number, and address;

(b) Calendar month of the report;

(c) Serial numbers of all Fish Receiving Tickets issued during the month;

(d) Total pounds of all salmon and steelhead received or sold during the calendar month on which poundage fees are due. Salmon and steelhead may be reported as round weight, dressed head on or dressed head off;

(e) Total value of salmon and steelhead received or sold during the calendar month including fish eggs and parts;

(f) Total value of all other food fish and shellfish including eggs and parts;

(g) Total pounds in the round of all other species of food fish or shellfish received or sold during the calendar month on which taxes are due. When landed in a dressed condition, the following listed species may be converted to round weight for the purposes of completing monthly reports, by multiplying each applicable below-listed factor by the dressed weight of that species:

(A) Troll salmon:

(i) Gilled and gutted 1.15.

(ii) Gilled, gutted, and headed 1.30.

(B) Tribal Columbia River salmon and steelhead trout: Gilled and gutted 1.17.

(C) Halibut:

(i) Gilled and gutted 1.15.

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- (g) Gilled, gutted, and headed 1.35.
- (D) Sablefish, gutted and headed 1.60.
- (E) Pacific whiting:
 - (i) Fillet 2.86.
 - (ii) Headed and gutted 1.56.
 - (iii) Headed and gutted with tail removed 2.0.
- (F) Thresher shark 2.0.
- (G) Lingcod:
 - (i) Gilled and gutted 1.1.
 - (ii) Gilled, gutted and headed 1.5.
- (H) Spot prawn, tails 2.24.
- (I) Rockfish (including thornyheads), except Pacific Ocean Perch:
 - (i) Gilled and gutted 1.14.
 - (ii) Gutted and headed 1.75.
 - (iii) Gutted and headed, with collarbone still attached to body (western cut) 1.66.
 - (iv) Gutted and headed, with collarbone removed from body (eastern cut) 2.0.
- (J) Pacific Ocean Perch, gutted and headed 1.6.
- (K) Pacific Cod, gutted and headed 1.58.
- (L) Dover sole, English sole, and "other flatfish" as defined in Title 50 of the Code of Federal Regulations, part 660 Subpart C, gutted and headed 1.53.
- (M) Petrale sole, gutted and headed 1.51.
- (N) Arrowtooth flounder, gutted and headed 1.35.
- (O) Starry flounder, gutted and headed 1.49.
- (P) Groundfish, glazed:
 - (i) Conversion factors must be calculated for each landing for each species or species group categorized in OAR 635-006-0209 when there are 60 or greater individuals of a category in a single landing as follows:
 - (I) Weigh a sample of at least 20 glazed fish to obtain the glazed weight;
 - (II) Completely remove glaze from individual fish making up the sample;
 - (III) Re-weigh the sample to obtain the non-glazed weight;
 - (IV) Divide the non-glazed weight by the glazed weight to obtain the conversion factor;
 - (V) A separate conversion factor may be calculated for each size grade of a species, but may only be applied to landings of that size grade;
 - (VI) Documentation of this calculation must be retained with the dock receiving ticket.
 - (ii) A conversion factor of 0.95 must be applied when there are fewer than 60 individuals of any species or species group categorized in OAR 635-006-0209 in a single landing.
 - (h) Total value of food fish landed in another state but not taxed by that state;
 - (i) Total pounds in the round of all food fish landed in another state but not taxed by that state;
 - (j) Total fees due - in accordance with ORS 508.505 the fees are the value of the food fish at the point of landing multiplied by the following rates:
 - (A) All salmon and steelhead, 3.15 percent.
 - (B) Effective January 1, 2005, all black rockfish, blue rockfish and nearshore fish (as defined by ORS 506.011), 5.00 percent.
 - (C) Effective January 1, 2010, all other food fish (except tuna, shellfish, crab, shrimp, sablefish, and whiting, as defined by ORS 508.505) and all other groundfish, 2.25 percent.
 - (D) All tuna (as defined by ORS 508.505), 1.09 percent.
 - (E) All crab, 2.35 percent.
 - (F) All sablefish, 2.40 percent.
 - (G) All sardines, 2.25 percent.
 - (H) All shellfish, 2.30 percent.
 - (I) All shrimp, 2.40 percent.
 - (J) All whiting, 2.30 percent.
 - (k) Signature of the individual completing the report.
- (4) The monthly report and all landing fees due shall be sent to the Department on or before the 20th of each month for the preceding calendar month. Landing fees are delinquent if not received or postmarked within 20 days after the end of the calendar month. A penalty charge of \$5 or five percent of the landing fees due, whichever is larger, shall be assessed along with a one percent per month interest charge on any delinquent landing fee payments.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.530 Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 506.109, 506.129, 508.535, 508.505, 508.550
Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0140; FWC 48-1978, f. & ef. 9-27-78, Renumbered from 635-036-0585; FWC 17-1981(Temp), f. & ef. 5-22-81; FWC 25-

1981(Temp), f. 7-8-81, ef. 7-15-81; FWC 27-1981, f. & ef. 8-14-81; FWC 1-1986, f. & ef. 1-10-86; FWC 4-1987, f. & ef. 2-6-87; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-92, FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 5-1993, f. 1-22-93, cert. ef. 1-25-93; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 118-2005(Temp), f. & cert. ef. 10-10-05 thru 12-31-05; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2008(Temp), f. & cert. ef. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; DFW 73-2009(Temp), f. 6-24-09, cert. ef. 6-25-09 thru 12-21-09; Administrative correction 12-23-09; DFW 39-2010(Temp), f. 3-30-10, cert. ef. 4-1-10 thru 9-27-10; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10; Administrative correction 11-23-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 102-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 83-2012(Temp), f. & cert. ef. 7-5-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 68-2013(Temp), f. & cert. ef. 7-3-13 thru 12-30-13; Administrative correction, 2-5-14; DFW 106-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 12-31-14; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 28-2015(Temp), f. 4-9-15, cert. ef. 5-1-15 thru 10-27-15; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16; DFW 51-2016(Temp), f. 5-17-16, cert. ef. 5-18-16 thru 11-13-16

635-006-0225

Purchase, Record, Report, and Sale of Steelhead Trout and Walleye from Treaty Indian Fisheries

(1) Steelhead trout and walleye lawfully taken by treaty Indians during commercial fishing seasons may be purchased by licensed wholesale fish dealers, canners, or buyers pursuant to restrictions set forth in sections (2) through (5) of this rule. In addition, steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased and/or possessed by any individual pursuant to restrictions set forth in section (6) of this rule.

(2) The wholesale fish dealer, canner, or buyer, shall at the time of purchase, enter the purchase of steelhead trout and walleye on a Department Columbia River Fish Receiving Ticket. Information required to be entered on the Fish Receiving Ticket shall be the same as required by OAR 635-006-0210 through 635-006-0212 for each purchase of food fish.

(3) The record keeping and reporting requirements for food fish as set forth in OAR 635-006-0200 through 635-006-0215 shall apply to all steelhead trout and walleye purchases. The round weights of all gilled and gutted steelhead trout must be converted by the licensed wholesale fish dealer, canner, or buyer by using the conversion factor of 1.17 listed in OAR 635-006-0215 for Tribal Columbia River salmon and steelhead trout.

(4) In addition to the records required in connection with the purchase of steelhead trout, and walleye, a record of all sales of steelhead trout and walleye shall be maintained by licensed wholesale fish dealers, canners, or buyers for a period of three years and shall be subject to inspection by the Department, the Director's authorized agent or the Oregon State Police. Such record of sales shall include as a minimum:

- (a) Name and address of each person to whom either steelhead or walleye are sold;
- (b) Quantity in pounds of each sale identified as whole or round weight; and
- (c) Date of each delivery.

(5) Steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased from a treaty Indian and/or possessed by any individual so long as said fish are accompanied by a written document listing treaty Indian taker's name, tribal enrollment number, number of fish, approximate weight of each fish, date and location where taken, date of sale, and purchaser's name. It is unlawful for any individual other than a treaty Indian to sell steelhead trout or walleye. The provisions in this section (5) apply to individuals other than licensed wholesale fish dealers, canners and buyers.

Stat. Auth.: ORS 506.119, 508.530 & 509.031

Stats. Implemented: ORS 498.022, 506.129, 508.535 & 508.550

Hist.: FWC 39, f. & ef. 1-23-76, Renumbered from 625-040-0150, Renumbered from 635-036-0595; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 41-1995, f. 5-23-95, cert. ef. 5-24-95; FWC 51-1997(Temp), f. & cert. ef. 8-27-97; DFW 73-1998, f. & cert. ef. 8-28-98; DFW 32-2008(Temp), f. & cert. ef. 4-1-08 thru 9-27-08; DFW 79-2008(Temp), f. & cert. ef. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; Administrative correction 12-23-09; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10; Administrative correction 11-23-10; DFW 102-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 83-2012(Temp), f. & cert. ef. 7-5-12 thru 12-31-12; DFW 101-2012, f. & cert. ef. 8-6-12; DFW 68-2013(Temp), f. & cert. ef. 7-3-13 thru 12-30-13; Administrative correction, 2-5-14; DFW 106-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 28-2015(Temp), f. 4-9-15, cert. ef. 5-1-15 thru 10-27-15; Administrative correction, 11-20-15; DFW 51-2016(Temp), f. 5-17-16, cert. ef. 5-18-16 thru 11-13-16

Rule Caption: Three Day Columbia River Mainstem Sport Salmon and Steelhead Season Authorized.

Adm. Order No.: DFW 52-2016(Temp)

Filed with Sec. of State: 5-19-2016

ADMINISTRATIVE RULES

Certified to be Effective: 5-20-16 thru 6-15-16

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule authorizes a three-day recreational season for retention of spring Chinook and steelhead in the mainstem Columbia River downstream of Bonneville Dam. The three-day period begins Friday, May 20 and continues through Sunday, May 22, 2016. Fishers may only keep healed adipose fin-clipped Chinook salmon or steelhead, two adult salmonids per day, only one of which may be a Chinook. Modifications are consistent with action taken by the Departments of Fish and Wildlife for the States of Oregon and Washington on May 18, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0125

Spring Sport Fishery

(1) The 2016 Oregon Sport Fishing Regulations provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the 2016 Oregon Sport Fishing Regulations.

(2) The Columbia River recreational salmon and steelhead fishery downstream of Bonneville Dam is open from the mouth at Buoy 10 upstream to Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline from Tuesday, March 1 through Friday, April 8, 2016, except closed Tuesday, March 29, and Tuesday, April 5, 2016 (38 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) The upstream boat boundary at Beacon Rock is defined as: “a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.”

(c) All other permanent 2016 Oregon Sport Fishing Regulations apply.

(3) The Columbia River recreational salmon and steelhead fishery upstream of the Tower Island power lines (approximately 6 miles below The Dalles Dam) to the Oregon/Washington border, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines is open from Wednesday, March 16 through Sunday, May 8, 2016 (54 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) All other permanent 2016 Oregon Sport Fishing Regulations apply.

(4) Beginning Tuesday, March 1 through Wednesday, June 15, 2016 the following restrictions are in effect for Columbia River Select Area recreational salmon and steelhead fisheries:

(a) On days when the recreational fishery below Bonneville Dam is open to retention of Chinook, the salmonid daily bag limit in Select Areas will be the same as mainstem Columbia River bag limits; and

(b) On days when the mainstem Columbia River fishery is closed to Chinook retention, the permanent salmonid bag limit regulations for Select Areas apply.

(5) Beginning Wednesday, March 16 through Sunday, May 15, 2016, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead from Buoy 10 upstream to the Oregon/Washington border and open for shad from Buoy 10 upstream to Bonneville Dam only during days and in areas open for retention of adipose fin-clipped spring Chinook.

(6) Beginning Friday, May 20 through Sunday, May 22, 2016, the mainstem Columbia River will be open for retention of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead in the area from the Tongue Point/Rocky Point line upstream to Beacon Rock (boat and bank); plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline; and in the area from the Tower Island powerlines (approximately 6 miles below The Dalles Dam) upstream to the Oregon/Washington bor-

der; plus the Oregon and Washington banks between Bonneville Dam and the Tower Island powerlines, with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed. Retention of adipose fin-clipped Chinook jacks is allowed. All sockeye salmon must be released.

(b) All other regulations for the mainstem Columbia River as shown in the 2016 Oregon Sport Fishing Regulations apply.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12; DFW 51-2012(Temp), f. 5-23-12, cert. ef. 5-26-12 thru 7-31-12; Suspended by DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 26-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 7-1-13; DFW 38-2013(Temp), f. 5-22-13, cert. ef. 5-25-13 thru 7-1-13; DFW 49-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 6-30-13; Administrative correction, 7-18-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 12-2014(Temp), f. 2-13-14, cert. ef. 3-1-14 thru 6-15-14; DFW 29-2014(Temp), f. 4-3-14, cert. ef. 4-4-14 thru 6-15-14; DFW 31-2014(Temp), f. 4-17-14, cert. ef. 4-19-14 thru 7-31-14; DFW 40-2014(Temp), f. 5-7-14, cert. ef. 5-9-14 thru 6-30-14; DFW 44-2014(Temp), f. 5-14-14, cert. ef. 5-15-14 thru 6-15-14; DFW 52-2014(Temp), f. 5-28-14, cert. ef. 5-31-14 thru 6-30-14; Administrative correction, 7-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 12-2015(Temp), f. 2-3-15, cert. ef. 3-1-15 thru 6-15-15; DFW 16-2015(Temp), f. & cert. ef. 3-5-15 thru 6-15-15; DFW 26-2015(Temp), f. 4-8-15, cert. ef. 4-10-15 thru 6-15-15; DFW 35-2015(Temp), f. 4-30-15, cert. ef. 5-2-15 thru 6-15-15; DFW 40-2015(Temp), f. & cert. ef. 5-6-15 thru 6-15-15; DFW 52-2015(Temp), f. 5-27-15, cert. ef. 5-28-15 thru 6-15-15; DFW 59-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 6-15-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 9-2016(Temp), f. 2-1-16, cert. ef. 3-1-16 thru 6-15-16; DFW 29-2016(Temp), f. 4-7-16, cert. ef. 4-8-16 thru 6-15-16; DFW 44-2016(Temp), f. 5-5-16, cert. ef. 5-6-16 thru 6-15-16; DFW 49-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 6-15-16; DFW 52-2016(Temp), f. 5-19-16, cert. ef. 5-20-16 thru 6-15-16

Rule Caption: Columbia River Commercial Spring Chinook Drift Net Fishery Set for May 24, 2016.

Adm. Order No.: DFW 53-2016(Temp)

Filed with Sec. of State: 5-19-2016

Certified to be Effective: 5-23-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0022, 635-042-0145

Rules Suspended: 635-042-0022(T), 635-042-0145(T)

Subject: This amended rule authorizes a 12-hour non-Indian commercial spring Chinook drift net fishery in the mainstem Columbia River to commence on Tuesday, May 24 at 7:00 p.m. through 7:00 a.m. Wednesday, May 25, 2016 from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). Modifications are consistent with action taken May 18, 2016 by the Oregon and Wash-

ADMINISTRATIVE RULES

ington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon and shad may be taken by drift gillnet for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1–5) during the period: 7:00 p.m. Tuesday, May 24 to 7:00 a.m. Wednesday, May 25, 2016 (12 hours). An adipose fin clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(2) During the spring Chinook gillnet fishery:

(a) It is unlawful to use a gillnet having a mesh size less than 8 inches or more than 9 3/4 inches.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(3) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(4) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(5) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(6) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(7) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(8) Sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked; pumps must continue to run until the net is fully retrieved and completely on board the vessel. Pumps shall continue to run whenever a fish is in the recovery box.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(9) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(10) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(11) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery. In addition, cooperation with department personnel prior to a fishing period is expected.

(12) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp), f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. 3-31-14, cert. ef. 4-1-14 thru 7-31-14; DFW 38-2014(Temp), f. & cert. ef. 5-7-14 thru 7-31-14; DFW 43-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 50-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 22-2015(Temp), f. 3-30-15, cert. ef. 3-31-15 thru 4-1-15; DFW 24-2015(Temp), f. 4-6-15, cert. ef. 4-7-15 thru 4-8-15; Administrative correction, 4-21-15; DFW 36-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 5-5-15; DFW 39-2015(Temp), f. & cert. ef. 5-6-15 thru 5-7-15; DFW 43-2015(Temp), f. & cert. ef. 5-12-15 thru 5-13-15; Administrative correction, 5-21-15; DFW 51-2015(Temp), f. & cert. ef. 5-27-15 thru 5-28-15; DFW 57-2015(Temp), f. & cert. ef. 6-2-15 thru 6-3-15; DFW 62-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 6-11-15; Administrative correction, 6-23-15; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16; DFW 25-2016(Temp), f. 4-4-16, cert. ef. 4-5-16 thru 7-31-16; DFW 47-2016(Temp), f. & cert. ef. 5-11-16 thru 7-31-16; DFW 53-2016(Temp), f. 5-19-16, cert. ef. 5-23-16 thru 7-31-16

635-042-0145

Youngs Bay Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods in waters of Youngs Bay as described below. Retention and sale of white sturgeon is prohibited.

(a) The 2016 open fishing periods are established in the three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: None scheduled at this time.

(B) Spring Season: Open during the following periods:

Thursday, April 28, 11:00 a.m.–3:00 p.m. (4 hours);

Monday, May 2, 3:00 p.m.–9:00 p.m. (6 hours);

Wednesday, May 4, 9:00 a.m.–9:00 p.m. (12 hours);

Thursday, May 5, 4:00 p.m.–10:00 a.m. Friday, May 6 (18 hours);

Monday, May 9, Noon to Noon Friday, June 10 (4 days/week, 20 days total); and

ADMINISTRATIVE RULES

Rules Amended: 635-019-0090

Rules Suspended: 635-019-0090(T)

Subject: This amended rule allows recreational anglers opportunity to harvest adipose fin-clipped adult and jack spring Chinook salmon, which are in excess of the Department's hatchery production needs, in Lookingglass Creek. This fishery is scheduled to begin Saturday, May 28 and run through Tuesday, May 31, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-019-0090

Inclusions and Modifications

(1) The 2016 Oregon Sport Fishing Regulations provide requirements for the Northeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2016 Oregon Sport Fishing Regulations.

(2) The John Day River from the Hwy 207 bridge (located .5 miles downstream of Service Creek, OR) upstream to the mouth of Rattlesnake Creek (19.5 miles), near the south end of Picture Gorge, is open to angling for adult Chinook salmon from May 10 through June 5, 2016.

(a) The daily bag limit is two (2) adult Chinook and five (5) jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult daily bag limit is met.

(b) Statewide salmon gear restrictions apply.

(c) All other General, Statewide and Northeast Zone Regulations, as provided in the 2016 Oregon Sport Fishing Regulations, remain in effect.

(3) Lookingglass Creek from the Moses Creek Lane Bridge (County Road 42) to the confluence of Jarboe Creek is open to angling for adipose fin-clipped spring Chinook salmon from May 28 through May 31, 2016.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult daily bag limit is met.

(b) During this spring Chinook angling season, the area closure listed for Lookingglass Creek on page 53 of the 2016 Oregon Sport Fishing Regulations is modified to read: "Lookingglass Creek closed between Jarboe Creek and 200 feet upstream of the hatchery water intake."

(c) All other General, Statewide and Northeast Zone Regulations, as provided in the 2016 Oregon Sport Fishing Regulations, remain in effect.

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 496.162, 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef. 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef.

7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12; DFW 61-2012(Temp), f. & cert. ef. 6-11-12 thru 8-31-12; DFW 69-2012(Temp), f. 6-20-12, cert. ef. 6-22-12 thru 9-1-12; DFW 70-2012(Temp), f. 6-26-12, cert. ef. 6-27-12 thru 9-1-12; DFW 72-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 86-2012(Temp), f. 7-10-12, cert. ef. 7-15-12 thru 9-1-12; Administrative correction 9-20-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 153-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 4-30-13; DFW 31-2013(Temp), f. 5-14-13, cert. ef. 5-16-13 thru 6-30-13; DFW 39-2013(Temp), f. 5-22-13, cert. ef. 5-24-13 thru 11-19-13; DFW 46-2013(Temp), f. 5-30-13, cert. ef. 6-1-13 thru 11-26-13; DFW 62-2013(Temp), f. 6-26-13, cert. ef. 7-5-13 thru 12-31-13; DFW 74-2013(Temp), f. 7-15-13, cert. ef. 7-19-13 thru 9-1-13; Administrative correction 11-1-13; DFW 121-2013(Temp), f. 10-24-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 42-2014(Temp), f. 5-12-14, cert. ef. 5-17-14 thru 6-1-14; DFW 47-2014(Temp), f. 5-27-14, cert. ef. 5-31-14 thru 7-31-14; DFW 53-2014(Temp), f. 5-28-14, cert. ef. 6-1-14 thru 7-31-14; DFW 58-2014(Temp), f. 6-9-14, cert. ef. 6-21-14 thru 8-31-14; DFW 71-2014(Temp), f. 6-16-14, cert. ef. 6-18-14 thru 9-1-14; DFW 72-2014(Temp), f. & cert. ef. 6-19-14 thru 9-1-14; DFW 75-2014(Temp), f. 6-23-14, cert. ef. 6-27-14 thru 8-31-14; DFW 82-2014(Temp), f. 7-1-14, cert. ef. 7-5-14 thru 9-1-14; DFW 86-2014(Temp), f. 7-2-14, cert. ef. 7-5-14 thru 9-1-14; DFW 97-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; Administrative correction 10-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 45-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 6-30-15; DFW 53-2015(Temp), f. 5-27-15, cert. ef. 6-6-15 thru 8-31-15; DFW 64-2015(Temp), f. & cert. ef. 6-9-15 thru 8-31-15; DFW 81-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 8-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 99-2015(Temp), f. & cert. ef. 8-3-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 45-2016(Temp), f. 5-5-16, cert. ef. 5-10-16 thru 6-5-16; DFW 54-2016(Temp), 5-23-16, cert. ef. 5-18-16 thru 6-5-16

Rule Caption: Columbia River Zone 6 Tributary Treaty Indian Commercial Fishery Set.

Adm. Order No.: DFW 55-2016(Temp)

Filed with Sec. of State: 5-24-2016

Certified to be Effective: 5-25-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-041-0065

Rules Suspended: 635-041-0065(T)

Subject: This amended rule allows sales of fish from a Zone 6 Treaty commercial gill net fishery beginning 6:00 a.m. Wednesday, May 25, 2016 in all of Zone 6 and running through 6:00 p.m. Friday, May 27, 2016. Modifications are consistent with action taken May 24, 2016 by the Oregon and Washington Departments of Fish and Wildlife, in cooperation with the Yakama Nation, Warm Springs, and Umatilla Treaty Tribes, at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0065

Spring Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes from the Zone 6 Columbia River Treaty Indian Fishery.

(a) From 6:00 a.m. Monday, May 16, through 11:59 p.m. Wednesday June 15, 2016, subsistence fishing gear is allowed, which includes hoop-nets, dipnets, rod and reel with hook-and-line.

(b) From 6:00 a.m. Wednesday, May 25 through 6:00 p.m. Friday, May 27, 2016 (2.5 days) gillnet gear is allowed in all of Zone 6. There are no mesh size restrictions.

(c) Fish landed during any open period may be sold after the close of that period.

(2) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary, which does not apply.

(3) White sturgeon between 43-54 inches in fork length caught in The Dalles and John Day pools and white sturgeon between 38-54 inches in fork length caught in the Bonneville Pool may not be sold but may be kept for subsistence use.

(4) Beginning 6:00 a.m. Monday, May 16, 2016 until further notice, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught during open Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members.

(a) Sturgeon between 38-54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

ADMINISTRATIVE RULES

12-27-12, cert. ef. 1-1-13; DFW 154-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 2-28-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 47-2013(Temp), f. 5-30-13, cert. ef. 6-14-13 thru 9-30-13; DFW 59-2013(Temp), f. 6-19-13, cert. ef. 6-21-13 thru 10-31-13; DFW 64-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 10-31-13; DFW 104-2013(Temp), f. 9-13-13, cert. ef. 10-19-13 thru 12-31-13; DFW 126-2013(Temp), f. 10-31-13, cert. ef. 11-12-13 thru 12-31-13; DFW 135-2013(Temp), f. 12-12-13, cert. ef. 1-1-14 thru 1-31-14; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 5-2014(Temp), f. 1-30-14, cert. ef. 2-1-14 thru 7-30-14; DFW 14-2014(Temp), f. 2-20-14, cert. ef. 2-24-14 thru 7-31-14; DFW 27-2014(Temp), f. 3-28-14, cert. ef. 5-1-14 thru 7-31-14; DFW 56-2014(Temp), f. 6-9-14, cert. ef. 6-13-14 thru 7-31-14; DFW 87-2014(Temp), f. 7-2-14, cert. ef. 7-11-14 thru 12-31-14; DFW 94-2014(Temp), f. & cert. ef. 7-14-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 166-2014(Temp), f. 12-18-14, cert. ef. 1-1-15 thru 3-1-15; Administrative correction, 3-23-15; DFW 41-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; DFW 54-2015(Temp), f. 5-28-15, cert. ef. 6-3-15 thru 7-31-15; DFW 89-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 9-30-15; Temporary suspended by DFW 122-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 7-2016(Temp), f. 1-28-16, cert. ef. 2-8-16 thru 8-05-16; DFW 36-2016(Temp), f. 4-26-16, cert. ef. 5-1-16 thru 7-31-16; DFW 42-2016(Temp), f. 4-27-16, cert. ef. 4-30-16 thru 7-31-16; DFW 56-2016(Temp), f. 5-25-16, cert. ef. 5-29-16 thru 11-24-16

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Rule Caption: Seventeen Day Columbia River Mainstem Sport Salmon and Steelhead Season Authorized.

Adm. Order No.: DFW 57-2016(Temp)

Filed with Sec. of State: 5-25-2016

Certified to be Effective: 5-28-16 thru 6-15-16

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule authorizes two recreational seasons for retention of spring Chinook and steelhead in the mainstem Columbia River in the area from the Tongue Point/Rocky Point line upstream to Beacon Rock (boat and bank); plus bank only angling from Beacon Rock upstream to the Bonneville Dam deadline (approximately four miles downstream from Bonneville Dam Powerhouse One). The fishery begins Friday, May 27 and runs through Monday, May 30 (4 days); then closes from May 31 through June 2 (3 days); and re-opens Friday, June 3 through Wednesday, June 15, 2016 (13 days). Fishers may only keep healed adipose fin-clipped Chinook salmon or steelhead, two adult salmonids per day, of which only one may be a Chinook. Modifications are consistent with action taken by the Departments of Fish and Wildlife for the States of Oregon and Washington on May 24, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0125

Spring Sport Fishery

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) The Columbia River recreational salmon and steelhead fishery downstream of Bonneville Dam is open from the mouth at Buoy 10 upstream to Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline from Tuesday, March 1 through Friday, April 8, 2016, except closed Tuesday, March 29, and Tuesday, April 5, 2016 (38 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) The upstream boat boundary at Beacon Rock is defined as: “a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.”

(c) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

(3) The Columbia River recreational salmon and steelhead fishery upstream of the Tower Island power lines (approximately 6 miles below The Dalles Dam) to the Oregon/Washington border, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines is open from Wednesday, March 16 through Sunday, May 8, 2016 (54 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

(4) Beginning Tuesday, March 1 through Wednesday, June 15, 2016 the following restrictions are in effect for Columbia River Select Area recreational salmon and steelhead fisheries:

(a) On days when the recreational fishery below Bonneville Dam is open to retention of Chinook, the salmonid daily bag limit in Select Areas will be the same as mainstem Columbia River bag limits; and

(b) On days when the mainstem Columbia River fishery is closed to Chinook retention, the permanent salmonid bag limit regulations for Select Areas apply.

(5) Beginning Wednesday, March 16 through Sunday, May 15, 2016, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead from Buoy 10 upstream to the Oregon/Washington border and open for shad from Buoy 10 upstream to Bonneville Dam only during days and in areas open for retention of adipose fin-clipped spring Chinook.

(6) Beginning Friday, May 27 through Monday, May 30 and Friday, June 3 through Wednesday, June 15, 2016 (17 days), the mainstem Columbia River will be open for retention of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead in the area from the Tongue Point/Rocky Point line upstream to Beacon Rock (boat and bank); plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed. Retention of adipose fin-clipped Chinook jacks is allowed. All sockeye salmon must be released.

(b) All other regulations for the mainstem Columbia River as shown in the **2016 Oregon Sport Fishing Regulations** apply.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12; DFW 51-2012(Temp), f. 5-23-12, cert. ef. 5-26-12 thru 7-31-12; Suspended by DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 26-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 7-1-13; DFW 38-2013(Temp), f. 5-22-13, cert. ef. 5-25-13 thru 7-1-13; DFW 49-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 6-30-13; Administrative correction, 7-18-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 12-2014(Temp), f. 2-13-14, cert. ef. 3-1-14 thru 6-15-14; DFW 29-2014(Temp), f. 4-3-14, cert. ef. 4-4-14 thru 6-15-14; DFW 31-2014(Temp), f. 4-17-14, cert. ef. 4-19-14 thru 7-31-14; DFW 40-2014(Temp), f. 5-7-14,

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cert. ef. 5-9-14 thru 6-30-14; DFW 44-2014(Temp), f. 5-14-14, cert. ef. 5-15-14 thru 6-15-14; DFW 52-2014(Temp), f. 5-28-14, cert. ef. 5-31-14 thru 6-30-14; Administrative correction, 7-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 12-2015(Temp), f. 2-3-15, cert. ef. 3-1-15 thru 6-15-15; DFW 16-2015(Temp), f. & cert. ef. 3-5-15 thru 6-15-15; DFW 26-2015(Temp), f. 4-8-15, cert. ef. 4-10-15 thru 6-15-15; DFW 35-2015(Temp), f. 4-30-15, cert. ef. 5-2-15 thru 6-15-15; DFW 40-2015(Temp), f. & cert. ef. 5-6-15 thru 6-15-15; DFW 52-2015(Temp), f. 5-27-15, cert. ef. 5-28-15 thru 6-15-15; DFW 59-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 6-15-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 9-2016(Temp), f. 2-1-16, cert. ef. 3-1-16 thru 6-15-16; DFW 29-2016(Temp), f. 4-7-16, cert. ef. 4-8-16 thru 6-15-16; DFW 44-2016(Temp), f. 5-5-16, cert. ef. 5-6-16 thru 6-15-16; DFW 49-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 6-15-16; DFW 52-2016(Temp), f. 5-19-16, cert. ef. 5-20-16 thru 6-15-16; DFW 57-2016(Temp), f. 5-25-16, cert. ef. 5-28-16 thru 6-15-16

Rule Caption: Powder River Sport Spring Chinook Fishery Opens June 8, 2016.

Adm. Order No.: DFW 58-2016(Temp)

Filed with Sec. of State: 5-25-2016

Certified to be Effective: 6-8-16 thru 9-1-16

Notice Publication Date:

Rules Amended: 635-021-0090

Rules Suspended: 635-021-0090(T)

Subject: This amended rule allows the recreational harvest of spring Chinook salmon in the Powder River from June 8 through September 1, 2016. Rule modifications allow anglers opportunities to harvest spring Chinook which have been out-planted specifically for this purpose. The Oregon Department of Fish & Wildlife (ODFW) will be transporting spring Chinook salmon from the collection trap at Hells Canyon Dam on the Snake River and releasing them into the Powder River for the express purpose of providing this unique opportunity to the sport fishing public. Salmon returning to Hells Canyon Dam are predominantly the result of smolt releases intended to provide fisheries on the Snake River. The salmon trapped and transported to the Powder River are in excess of the number needed to provide sport fisheries on the Snake River.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-021-0090

Inclusions and Modifications

(1) **2016 Oregon Sport Fishing Regulations** provide requirements for the Southeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2016 Oregon Sport Fishing Regulations.

(2) The Malheur River is open to angling for spring Chinook salmon on the mainstem river from the Bluebucket Creek confluence upstream to the headwaters of McCoy Creek, Lake Creek, Big Creek and tributaries, and Bosonberg Creek from May 1 through August 15, 2016.

(a) The daily bag limit is two (2) hatchery spring Chinook salmon; two daily limits in possession.

(b) All other General, Statewide and Southeast Zone regulations, as provided in the 2016 Oregon Sport Fishing Regulations, remain in effect.

(3) Burns Paiute Tribal Members participating in this experimental spring Chinook fishery are governed by the conditions and limitations established in the Burns Paiute Tribal Fishing Code.

(a) Burns Paiute Tribal members are not required to have an ODFW angling license or report catch on an ODFW combined angling tag when fishing for spring Chinook in the area described above in section (2).

(b) Burns Paiute Tribal members must have a valid tribal identification card in their possession.

(c) When fishing for any species other than spring Chinook, an ODFW angling license is required and General, Statewide and Southeast Zone regulations, as provided in the 2016 Oregon Sport Fishing Regulations, remain in effect.

(4) Crystal Creek: Use of bait is allowed.

(5) The Powder River is open to angling for spring Chinook salmon from Hughes Lane Bridge near Baker City upstream to Mason Dam from June 8 to September 1, 2016:

(a) The daily bag limit is four (4) adipose fin-clipped Chinook; two daily limits in possession.

(b) All other General, Statewide and Southeast Zone Regulations, as provided in the **2016 Oregon Sport Fishing Regulations**, remain in effect.

Stat. Auth.: ORS 183.325, 496.138, 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96;

FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98;

DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00;

DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12; DFW 114-2012(Temp), f. 8-30-12, cert. ef. 9-1-12 thru 2-27-13; DFW 117-2012(Temp), f. 9-5-12, cert. ef. 9-7-12 thru 2-27-13; DFW 122-2012(Temp), f. 9-21-12, cert. ef. 9-21-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 61-2013(Temp), f. 6-24-13, cert. ef. 7-1-13 thru 12-27-13; DFW 93-2013(Temp), f. 8-22-13, cert. ef. 8-24-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 57-2014(Temp), f. 6-9-14, cert. ef. 6-11-14 thru 9-1-14; DFW 90-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 12-31-14; DFW 116-2014(Temp), f. 8-6-14, cert. ef. 8-9-14 thru 12-31-14; DFW 149-2014(Temp), f. 10-13-14, cert. ef. 11-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 44-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 9-1-15; DFW 85-2015(Temp), f. 7-13-15, cert. ef. 7-18-15 thru 10-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 37-2016(Temp), f. 4-26-16, cert. ef. 5-1-16 thru 10-27-16; DFW 58-2016(Temp), f. 5-25-16, cert. ef. 6-8-16 thru 9-1-16

Rule Caption: Directed Commercial Market Squid Fishery Rule Modified.

Adm. Order No.: DFW 59-2016(Temp)

Filed with Sec. of State: 5-26-2016

Certified to be Effective: 6-3-16 thru 11-29-16

Notice Publication Date:

Rules Amended: 635-005-0920

Subject: This rule amends regulations for directed commercial purse seine fisheries for market squid. The modifications increase allowable take of osmerid smelt species from 1% of a landing (by weight), currently allowed for all commercial fisheries, to 10% of a landing (by weight) when fishing for market squid using purse seine gear. Further modifications allow incidental take of certain species which are generally prohibited in the Cape Perpetua Seabird Protection Area (CPSPA), up to 10% of the landed weight of market squid. Mackerel are also included in the CPSPA bycatch landing limit. The Department will recommend the addition of mackerels to the list of CPSPA prohibited species by the Oregon Fish and Wildlife Commission in a separate rulemaking action scheduled for June 9-10, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-005-0920

Market Squid Fishery

(1) Market squid (*Loligo opalescens*) are federally managed by the Coastal Pelagic Species Fishery Management Plan, and are subject to all federal regulations adopted by reference in OAR 635-004-0375.

(2) Notwithstanding OAR 635-004-0545(3), incidentally caught smelt landed by vessels directed fishing for market squid using seine gear shall not exceed 10% of the landed weight of market squid.

(3) Notwithstanding OAR 635-012-0100(2), incidental take of species listed in OAR 635-012-0100(2), except Pacific sand lance, is allowed when directed fishing for market squid using seine gear within the Cape Perpetua Seabird Protection Area. When any fishing during the fishing trip has occurred within the Cape Perpetua Seabird Protection Area, it is unlawful to land an aggregate weight of these species plus mackerels greater than 10% of the landed weight of market squid from the same fishing trip.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109 & 506.129

ADMINISTRATIVE RULES

Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; Administrative correction, 12-22-15; DFW 59-2016(Temp), f. 5-26-16, cert. ef. 6-3-16 thru 11-29-16

Rule Caption: Columbia River Commercial Spring Chinook Drift Net Fishery Set for May 31, 2016.

Adm. Order No.: DFW 60-2016(Temp)

Filed with Sec. of State: 5-26-2016

Certified to be Effective: 5-31-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0022, 635-042-0145

Rules Suspended: 635-042-0022(T), 635-042-0145(T)

Subject: This amended rule authorizes a 12-hour non-Indian commercial spring Chinook drift net fishery in the mainstem Columbia River to commence on Tuesday, May 31 at 7:00 p.m. through 7:00 a.m. Wednesday, June 1, 2016 from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). Modifications are consistent with action taken May 26, 2016 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon and shad may be taken by drift net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1–5) during the period: 7:00 p.m. Tuesday, May 31 to 7:00 a.m. Wednesday, June 1, 2016 (12 hours). An adipose fin clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(2) During the spring Chinook gillnet fishery:

(a) It is unlawful to use a gillnet having a mesh size less than 8 inches or more than 9-3/4 inches.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(3) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(4) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(5) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by length of the web per length of the corkline.

(6) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(7) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(8) Sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

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(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into

each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

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(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(9) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(10) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(11) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery. In addition, cooperation with department personnel prior to a fishing period is expected.

(12) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokom-B, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp), f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. & cert. ef. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. & cert. ef. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. & cert. ef. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. & cert. ef. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. & cert. ef. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. & cert. ef. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. & cert. ef. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. & cert. ef. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. & cert. ef. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. & cert. ef. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. & cert. ef. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. & cert. ef. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. & cert. ef. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. & cert. ef. 3-31-14, cert. ef. 4-1-14 thru 7-31-14; DFW 38-2014(Temp), f. & cert. ef. 5-7-14 thru 7-31-14; DFW 43-2014(Temp), f. & cert. ef. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 50-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. & cert. ef. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 22-2015(Temp), f. & cert. ef. 3-30-15, cert. ef. 3-31-15 thru 4-1-15; DFW 24-2015(Temp), f. & cert. ef. 4-6-15, cert. ef. 4-7-15 thru 4-8-15; Administrative correction, 4-21-15; DFW 36-2015(Temp), f. & cert. ef. 5-1-15, cert. ef. 5-4-15 thru 5-5-15; DFW 39-2015(Temp), f. & cert. ef. 5-6-15 thru 5-7-15; DFW 43-2015(Temp), f. & cert. ef. 5-12-15 thru 5-13-15; Administrative correction, 5-21-15; DFW 51-2015(Temp), f. & cert. ef. 5-27-15 thru 5-28-15; DFW 57-2015(Temp), f. & cert. ef. 6-2-15 thru 6-3-15; DFW 62-2015(Temp), f. & cert. ef. 6-9-15, cert. ef. 6-10-

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thru 9-1-13; Administrative correction 11-1-13; DFW 121-2013(Temp), f. 10-24-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 42-2014(Temp), f. 5-12-14, cert. ef. 5-17-14 thru 6-1-14; DFW 47-2014(Temp), f. 5-27-14, cert. ef. 5-31-14 thru 7-31-14; DFW 53-2014(Temp), f. 5-28-14, cert. ef. 6-1-14 thru 7-31-14; DFW 58-2014(Temp), f. 6-9-14, cert. ef. 6-21-14 thru 8-31-14; DFW 71-2014(Temp), f. 6-16-14, cert. ef. 6-18-14 thru 9-1-14; DFW 72-2014(Temp), f. & cert. ef. 6-19-14 thru 9-1-14; DFW 75-2014(Temp), f. 6-23-14, cert. ef. 6-27-14 thru 9-1-14; DFW 82-2014(Temp), f. 7-1-14, cert. ef. 7-5-14 thru 9-1-14; DFW 86-2014(Temp), f. 7-2-14, cert. ef. 7-5-14 thru 9-1-14; DFW 97-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; Administrative correction, 10-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 45-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 6-30-15; DFW 53-2015(Temp), f. 5-27-15, cert. ef. 6-6-15 thru 8-31-15; DFW 64-2015(Temp), f. & cert. ef. 6-9-15 thru 8-31-15; DFW 81-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 8-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 99-2015(Temp), f. & cert. ef. 8-3-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 45-2016(Temp), f. 5-5-16, cert. ef. 5-10-16 thru 6-5-16; DFW 54-2016(Temp), 5-23-16, cert. ef. 5-18-16 thru 6-5-16; DFW 62-2016(Temp), f. 6-1-16, cert. ef. 6-15-16 thru 8-31-16

Rule Caption: Sport Pacific Halibut All-Depth Season Closes from Leadbetter Point, WA to Cape Falcon, OR.

Adm. Order No.: DFW 63-2016(Temp)

Filed with Sec. of State: 6-1-2016

Certified to be Effective: 6-2-16 thru 9-30-16

Notice Publication Date:

Rules Amended: 635-039-0085

Subject: This amended rule closes the all-depth sport fishery for Pacific halibut in the area between Leadbetter Point, WA and Cape Falcon, OR at 11:59 p.m. on Friday, June 3, 2016 due to the projected attainment of the pre-season quota of 10,509 pounds. These rule modifications are consistent with regulations previously implemented by the federal government and the International Pacific Halibut Commission for the 2016 Oregon sport fishery for Pacific halibut.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 39 incorporates into Oregon Administrative Rules, by reference:

(a) Title 50 of the Code of Federal Regulations, Part 300, Subpart E (October 1, 2015 ed.), as amended;

(b) Federal Register Vol. 81, No. 51, dated March 16, 2016; and

(c) Federal Register Vol. 81, No. 63, dated April 1, 2016.

(2) Therefore, persons must consult all publications referenced in this rule in addition to division 39 to determine applicable halibut fishing seasons.

(3) Beginning at 11:59 p.m., Friday, June 3, 2016 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) all-depth season is closed to the retention of Pacific halibut.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. ef. 9-27-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 55-2009(Temp), f. & cert. ef. 5-22-09 thru 8-6-09; DFW 94-2009(Temp), f. 8-14-09, cert. ef. 8-16-09 thru 12-31-09; Administrative correction 1-25-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 100-2010(Temp), f. 7-15-10, cert. ef. 7-17-10 thru 10-31-10; DFW 118-2010(Temp), f. & cert. ef. 8-13-10 thru 10-31-10; Administrative correction 11-23-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 58-2011(Temp), f. 5-27-11, cert. ef. 6-4-11 thru 8-4-11; DFW 82-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 8-4-11; DFW 85-2011(Temp), f. 7-5-11, cert. ef. 7-6-11 thru 10-31-11; DFW 114-2011(Temp), f. & cert. ef. 8-12-11 thru 10-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 84-2012(Temp), f. & cert. ef. 7-5-12 thru 8-2-12; DFW 91-2012(Temp), f. 7-19-12, cert. ef. 7-22-12 thru 10-31-12; DFW 111-2012(Temp), f. 8-23-12, cert. ef. 8-24-12 thru 12-31-12; DFW 123-2012(Temp), f. 9-19-12, cert. ef. 9-24-12 thru 10-31-12; Administrative correction 11-23-12; DFW 65-2013(Temp), f. 6-27-13, cert. ef. 6-28-13 thru 8-2-13; DFW 78-2013(Temp), f. & cert. ef. 7-23-13 thru 10-31-13; DFW 86-2013(Temp), f. & cert. ef. 8-8-13 thru 10-31-13; Administrative correction 11-22-13; DFW 36-2014, f. 4-29-14, cert. ef. 5-1-14; DFW 80-2014(Temp), f. 6-26-14, cert. ef. 6-27-14 thru 12-24-14; DFW 123-2014(Temp), f. & cert. ef.

8-21-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 56-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 9-30-15; DFW 65-2015(Temp), f. 6-10-15, cert. ef. 6-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 35-2016, f. & cert. ef. 4-26-16; DFW 63-2016(Temp), f. 6-1-16, cert. ef. 6-2-16 thru 9-30-16

Rule Caption: Columbia River Commercial Spring Chinook Drift Net Fishery Set for June 7, 2016.

Adm. Order No.: DFW 64-2016(Temp)

Filed with Sec. of State: 6-2-2016

Certified to be Effective: 6-7-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0022, 635-042-0145

Rules Suspended: 635-042-0022(T), 635-042-0145(T)

Subject: This amended rule authorizes a 8-hour non-Indian commercial spring Chinook drift net fishery in the mainstem Columbia River to commence on Tuesday, June 7 at 9:00 p.m. through 5:00 a.m. Wednesday, June 8, 2016 from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). Modifications are consistent with action taken June 2, 2016 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon and shad may be taken by drift net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1–5) during the period: 9:00 p.m. Tuesday, June 7 to 5:00 a.m. Wednesday, June 8, 2016 (8 hours). A maximum of six (6) adult adipose fin-clipped Chinook may be possessed or sold by each participating vessel. The first six (6) adult hatchery fish caught must be retained and no additional drifts may be conducted once the Chinook limit has been reached. Jacks (Chinook less than 24-inches) do not count against the adult landing limit. An adipose fin clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(2) During the spring Chinook gillnet fishery:

(a) It is unlawful to use a gillnet having a mesh size less than 8 inches or more than 9-3/4 inches.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(3) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(4) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(5) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(6) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(7) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(8) Sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked; pumps must continue to run until the net is fully retrieved and completely on board the vessel. Pumps shall continue to run whenever a fish is in the recovery box.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must

ADMINISTRATIVE RULES

be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(9) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(10) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(11) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery. In addition, cooperation with department personnel prior to a fishing period is expected.

(12) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp), f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 7-31-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 7-31-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 7-31-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. 3-31-14, cert. ef. 4-1-14 thru 7-31-14; DFW 38-2014(Temp), f. & cert. ef. 5-7-14 thru 7-31-14; DFW 43-2014(Temp), f. 5-

14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 50-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 22-2015(Temp), f. 3-30-15, cert. ef. 3-31-15 thru 4-1-15; DFW 24-2015(Temp), f. 4-6-15, cert. ef. 4-7-15 thru 4-8-15; Administrative correction, 4-21-15; DFW 36-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 5-5-15; DFW 39-2015(Temp), f. & cert. ef. 5-6-15 thru 5-7-15; DFW 43-2015(Temp), f. & cert. ef. 5-12-15 thru 5-13-15; Administrative correction, 5-21-15; DFW 51-2015(Temp), f. & cert. ef. 5-27-15 thru 5-28-15; DFW 57-2015(Temp), f. & cert. ef. 6-2-15 thru 6-3-15; DFW 62-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 6-11-15; Administrative correction, 6-23-15; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16; DFW 25-2016(Temp), f. 4-4-16, cert. ef. 4-5-16 thru 7-31-16; DFW 47-2016(Temp), f. & cert. ef. 5-11-16 thru 7-31-16; DFW 53-2016(Temp), f. 5-19-16, cert. ef. 5-23-16 thru 7-31-16; DFW 60-2016(Temp), f. 5-26-16, cert. ef. 5-31-16 thru 7-31-16; DFW 64-2016(Temp), f. 6-2-16, cert. ef. 6-7-16 thru 7-31-16

635-042-0145

Youngs Bay Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods in waters of Youngs Bay as described below. Retention and sale of white sturgeon is prohibited.

(a) The 2016 open fishing periods are established in three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: None scheduled at this time.

(B) Spring Season: Open during the following periods:

Monday, May 9, Noon to Noon Friday, June 10 (4 days/week, 20 days total);

Retention and sales of non-adipose fin-clipped Chinook is prohibited from 9:00 p.m.

Tuesday, June 7 through noon Wednesday, June 8, 2016;

Monday, June 13, Noon to Noon Wednesday, June 15 (2 days).

(C) Summer Season: Beginning June 16 the following open periods apply:

Thursday, June 16, Noon to Noon Friday, June 17 (1 day);

Monday, June 20, Noon to Noon Friday, June 24 (4 days);

Monday, June 27, Noon to Noon Friday, July 1 (4 days);

Monday, July 4, Noon to Noon Thursday, July 7 (3 days); and

Tuesdays, July 12, Noon to Noon Thursdays, July 28 (2 days/week, 6 days total)

(b) The fishing areas for the winter fisheries, the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers including the lower Walluski River upstream to the Highway 202 Bridge are open, with the exception of March 28 through April 17 when the open area boundaries are from the first powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers including the lower Walluski River upstream to the Highway 202 Bridge (Walluski Area). Those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River) are closed. For the spring and summer fisheries the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers and includes the lower Walluski River upstream to Highway 202 Bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the headline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries and upstream of the alternate Highway 101 Bridge in the Lewis and Clark River. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is unlawful to use a gill net having a mesh size that is less than 7 inches during the winter season. It is unlawful to use a gill net having a mesh size that is more than 9.75 inches during the spring and summer seasons.

(b) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-

ADMINISTRATIVE RULES

- (d) Gear is restricted to hand or hand-powered tools only;
- (e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.
- (f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.
- (3) Foster Reservoir: 5 hatchery trout or kokanee per day, 8 inch minimum length.
- (4) Willamette River from the Highway 20 bridge upstream to the Highway 99 bridge:
- Open all year for hatchery Chinook;
 - Open all year for hatchery steelhead;
 - Open all year for trout, 2 trout per day, 8 inch minimum length;
 - Open for retention of white sturgeon, 1 per day and 2 per year, 38 inch minimum and 54 inch maximum fork lengths; and
 - Use of bait allowed.
- (5) Beginning April 1 through July 31, 2016, the following rules apply:

- (a) In all areas of the Willamette River and tributaries, including flowing waters, that are open to angling for hatchery Chinook, hatchery steelhead, trout, or warmwater gamefish, anglers with a valid 2016 Two-Rod Angling Validation may use up to two fishing rods while fishing for any game fish or non-game fish species except sturgeon. Youth anglers under 12 years of age may use two rods in these areas without purchasing the Two-Rod Angling Validation.
- (b) Angling for sturgeon remains restricted to the use of one rod per angler.
- (c) All other rules and licensing requirements specified in the 2016 Oregon Sport Fishing Regulations remain in effect.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02 cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08,

cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12; DFW 99-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 67-2013(Temp), f. 7-3-13, cert. ef. 7-11-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 62-2014(Temp), f. & cert. ef. 6-10-14 thru 10-31-14; DFW 70-2014(Temp), f. & cert. ef. 6-13-14 thru 6-30-14; DFW 73-2014(Temp), f. 6-20-14, cert. ef. 6-23-14 thru 10-31-14; DFW 141-2014(Temp), f. 9-25-14, cert. ef. 9-26-14 thru 12-31-14; DFW 150-2014(Temp), f. 10-14-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 49-2015(Temp), f. & cert. ef. 5-27-15 thru 11-22-15; DFW 66-2015(Temp), f. 6-10-15, cert. ef. 6-12-15 thru 11-22-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 152-2015(Temp), f. 11-6-15, cert. ef. 11-17-15 thru 12-31-15; DFW 154-2015(Temp), f. 11-12-15, cert. ef. 11-23-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 30-2016(Temp), f. & cert. ef. 4-8-16 thru 9-30-16; DFW 67-2016(Temp), f. & cert. ef. 6-9-16 thru 9-30-16

Ruled Caption: Columbia River Bank Only Angling Restriction Lifted Below Bonneville Dam.

Adm. Order No.: DFW 68-2016(Temp)

Filed with Sec. of State: 6-9-2016

Certified to be Effective: 6-10-16 thru 6-16-16

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125

Subject: This amended rule allows angling for salmon and steelhead from a boat in the mainstem Columbia River in the area from Beacon Rock upstream to the Bonneville Dam deadline (approximately four miles downstream from Bonneville Dam Powerhouse One). This area had previously been closed to all but bank angling. Modifications are consistent with action taken by the Departments of Fish and Wildlife for the States of Oregon and Washington on June 9, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0125

Spring Sport Fishery

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) The Columbia River recreational salmon and steelhead fishery downstream of Bonneville Dam is open from the mouth at Buoy 10 upstream to Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline from Tuesday, March 1 through Friday, April 8, 2016, except closed Tuesday, March 29, and Tuesday, April 5, 2016 (38 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) The upstream boat boundary at Beacon Rock is defined as: “a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.”

(c) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

(3) The Columbia River recreational salmon and steelhead fishery upstream of the Tower Island power lines (approximately 6 miles below The Dalles Dam) to the Oregon/Washington border, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines is open from Wednesday, March 16 through Sunday, May 8, 2016 (54 retention days) with the following restrictions:

ADMINISTRATIVE RULES

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

(4) Beginning Tuesday, March 1 through Wednesday, June 15, 2016 the following restrictions are in effect for Columbia River Select Area recreational salmon and steelhead fisheries:

(a) On days when the recreational fishery below Bonneville Dam is open to retention of Chinook, the salmonid daily bag limit in Select Areas will be the same as mainstem Columbia River bag limits; and

(b) On days when the mainstem Columbia River fishery is closed to Chinook retention, the permanent salmonid bag limit regulations for Select Areas apply.

(5) Beginning Wednesday, March 16 through Sunday, May 15, 2016, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead from Buoy 10 upstream to the Oregon/Washington border and open for shad from Buoy 10 upstream to Bonneville Dam only during days and in areas open for retention of adipose fin-clipped spring Chinook.

(6) Beginning Friday, May 27 through Monday, May 30 and Friday, June 3 through Wednesday, June 15, 2016 (17 days), the mainstem Columbia River will be open for retention of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead in the area from the Tongue Point/Rocky Point line upstream to Beacon Rock (boat and bank); plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed. Retention of adipose fin-clipped Chinook jacks is allowed. All sockeye salmon must be released.

(b) All other regulations for the mainstem Columbia River as shown in the **2016 Oregon Sport Fishing Regulations** apply.

(c) Effective Friday June 10, boat and bank angling is allowed from the Tongue Point/Rocky Point line upstream to Bonneville Dam.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12; DFW 51-2012(Temp), f. 5-23-12, cert. ef. 5-26-12 thru 7-31-12; Suspended by DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 26-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 7-1-13; DFW 38-2013(Temp), f. 5-22-13, cert. ef. 5-25-13 thru 7-1-13; DFW 49-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 6-30-13; Administrative correction 7-18-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 12-2014(Temp), f. 2-13-14, cert.

ef. 3-1-14 thru 6-15-14; DFW 29-2014(Temp), f. 4-3-14, cert. ef. 4-4-14 thru 6-15-14; DFW 31-2014(Temp), f. 4-17-14, cert. ef. 4-19-14 thru 7-31-14; DFW 40-2014(Temp), f. 5-7-14, cert. ef. 5-9-14 thru 6-30-14; DFW 44-2014(Temp), f. 5-14-14, cert. ef. 5-15-14 thru 6-15-14; DFW 52-2014(Temp), f. 5-28-14, cert. ef. 5-31-14 thru 6-30-14; Administrative correction 7-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 12-2015(Temp), f. 2-3-15, cert. ef. 3-1-15 thru 6-15-15; DFW 16-2015(Temp), f. & cert. ef. 3-5-15 thru 6-15-15; DFW 26-2015(Temp), f. 4-8-15, cert. ef. 4-10-15 thru 6-15-15; DFW 35-2015(Temp), f. 4-30-15, cert. ef. 5-2-15 thru 6-15-15; DFW 40-2015(Temp), f. & cert. ef. 5-6-15 thru 6-15-15; DFW 52-2015(Temp), f. 5-27-15, cert. ef. 5-28-15 thru 6-15-15; DFW 59-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 6-15-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 9-2016(Temp), f. 2-1-16, cert. ef. 3-1-16 thru 6-15-16; DFW 29-2016(Temp), f. 4-7-16, cert. ef. 4-8-16 thru 6-15-16; DFW 44-2016(Temp), f. 5-5-16, cert. ef. 5-6-16 thru 6-15-16; DFW 49-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 6-15-16; DFW 52-2016(Temp), f. 5-19-16, cert. ef. 5-20-16 thru 6-15-16; DFW 57-2016(Temp), f. 5-25-16, cert. ef. 5-28-16 thru 6-15-16; DFW 68-2016(Temp), f. 6-9-16, cert. ef. 6-10-16 thru 6-16-16

Rule Caption: Coastal Pelagic Species Fisheries Rules Modified.

Adm. Order No.: DFW 69-2016

Filed with Sec. of State: 6-13-2016

Certified to be Effective: 6-13-16

Notice Publication Date: 5-1-2016

Rules Adopted: 635-004-0377, 635-004-0378, 635-004-0379, 635-005-0931, 635-005-0932, 635-005-0933, 635-006-0136

Rules Amended: 635-004-0370, 635-004-0430, 635-004-0555, 635-012-0090, 635-012-0100

Rules Repealed: 635-004-0425, 635-004-0435, 635-004-0440

Subject: These adopted, amended, and repealed Oregon administrative rules for commercial pelagic species fisheries bring the State of Oregon concurrent with federally adopted regulations. House-keeping and technical corrections to the regulations were made to ensure rule consistency.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-004-0370

Organization of Rules

(1) Administrative rules contained in OAR 635-004-0375 though 635-004-0379 shall apply to all fisheries in the Coastal Pelagic and Smelt Species section, and are in addition to and not in lieu of division 004 General Regulations contained in 635-004-0200 through 635-004-0265. The Coastal Pelagic and Smelt Species Section includes regulations for the Sardine, Inland Waters Herring, Yaquina Bay Roe-Herring, Pacific Ocean Herring, Anchovy and Smelt Fisheries.

(2) Market squid are managed under the Coastal Pelagic Species Fishery Management Plan and through the regulations adopted by reference in OAR 635-004-0375. However, market squid are managed as a shellfish when landed in Oregon, and are subject to regulations in the Squid Fishery Section in division 5.

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 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; DFW 77-2015, f. & cert. ef. 6-29-15; DFW 69-2016, f. & cert. ef. 6-13-16

635-004-0377

Fishing Gear

(1) For vessels using purse seine gear to take any coastal pelagic species except market squid, a grate must be placed over the intake of the hold of the vessel to sort out larger species of fish. None of the openings between the bars in the grate may exceed 2-3/8 inches.

(2) It is unlawful for a receiving vessel to pump coastal pelagic species onboard directly from the pursed seine of a catching vessel unless fish so received make up no more than 20% of the weight of either vessel's landing. The receiving vessel shall:

(a) Have lawfully deployed purse seine gear during the current calendar year and pumped resultant catch onboard the same vessel for delivery to a port of landing or fish dealer in Oregon;

(b) Possess onboard, in working order, legal seine gear capable of catching coastal pelagic species including but not limited to seine net, skiff, and pumping gear;

(c) Document the vessel that made the set, any other vessel pumping fish from the pursed seine, and information on catch and location in the logbook required under OAR 635-004-0376; and

(d) If the catching vessel is participating in the directed commercial sardine fishery (see OAR 635-004-0430), the receiving vessel must also hold a valid Sardine Permit pursuant to OAR 635-004-0385.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129

Stats. Implemented: ORS 506.109, 506.129

Hist.: DFW 69-2016, f. & cert. ef. 6-13-16

ADMINISTRATIVE RULES

635-004-0378

Bycatch Restrictions

For vessels using purse seine gear to take any coastal pelagic species, all groundfish and salmon, as defined by OAR 635-004-0215, must be returned to the water immediately. Every effort must be made to dipnet salmon out of the seine net before they go through a pump system.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129

Stats. Implemented: ORS 506.109, 506.129

Hist.: DFW 69-2016, f. & cert. ef. 6-13-16

635-004-0379

No Reduction Fishery Allowed

No more than 10%, by weight, of a coastal pelagic species landing may be used for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products or by-products for purposes other than human consumption or fishing bait. Exceptions to this limit may be granted due to unforeseen circumstances with written authorization by the Director to avoid wastage of fish.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129

Stats. Implemented: ORS 506.109, 506.129

Hist.: DFW 69-2016, f. & cert. ef. 6-13-16

635-004-0430

Sardine Catching Vessel

(1) Only a sardine catching vessel may pump fish onboard, directly from the pursed seine of another sardine catching vessel, and lawfully land that catch.

(2) For the purposes of this rule, "Sardine catching vessel" means a vessel holding a valid Sardine Permit pursuant to OAR 635-004-0385 that lawfully deployed purse seine gear during the current year and pumped resultant catch onboard the same vessel for delivery to a port of landing or fish dealer.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 38-2009, f. & cert. ef. 4-22-09; Renumbered from 635-004-0012, DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; DFW 77-2015, f. & cert. ef. 6-29-15; DFW 69-2016, f. & cert. ef. 6-13-16

635-004-0555

Scope, Inclusion, and Modification of Rules

(1) The commercial highly migratory species 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 highly migratory species. 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, Subpart K, (October 1, 2011 ed.); and

(b) Federal Register Vol. 76, No. 177, dated September 13, 2011 (76 FR 56327).

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable highly migratory species fishing requirements. The area that federal regulations apply to is hereby extended to the area from shore to three nautical miles from shore, coterminous with the Exclusive Economic Zone.

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0560 through 635-004-0570 for additions or modifications to federal highly migratory species regulations.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162, 506.109 & 506.129

Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 69-2016, f. & cert. ef. 6-13-16

635-005-0931

Fishing Gear

It is *unlawful* for a vessel to pump market squid onboard directly from the pursed seine of another vessel unless squid so received make up no more than 20% of the weight of each landing and the vessel receiving squid in such manner:

(1) Has lawfully deployed purse seine gear during the current year and pumped resultant catch onboard the same vessel for delivery to a port of landing or fish dealer in Oregon;

(2) Possesses onboard, in working order, legal seine gear capable of catching market squid including but not limited to seine net, skiff, and pumping gear; and

(3) Documents the vessel that made the set, any other vessel pumping squid from the pursed seine, and information on catch and location in the logbook required under OAR 635-004-0376.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129

Stats. Implemented: ORS 506.109, 506.129

Hist.: DFW 69-2016, f. & cert. ef. 6-13-16

635-005-0932

Bycatch Restrictions

For vessels using purse seine gear to take market squid, all groundfish and salmon, as defined by OAR 635-004-0215, must be returned to the water immediately. Every effort must be made to dipnet salmon out of the seine net before they go through a pump system.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129

Stats. Implemented: ORS 506.109, 506.129

Hist.: DFW 69-2016, f. & cert. ef. 6-13-16

635-005-0933

No Reduction Fishery Allowed

No more than 10%, by weight, of a market squid landing may be used for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products or by-products for purposes other than human consumption or fishing bait. Exceptions to this limit may be granted due to unforeseen circumstances with written authorization by the Director to avoid wastage of fish.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129

Stats. Implemented: ORS 506.109, 506.129

Hist.: DFW 69-2016, f. & cert. ef. 6-13-16

635-006-0136

License Holder Consent to Inspection

It is *unlawful* to:

(1) Refuse to present or submit to the inspection of any fishing gear, fish or parts thereof, or license(s) subject to such person's control when requested or required by any peace officer of this state or upon the request of any authorized Department employee. By purchasing any commercial license or permit, a person consents to these inspections.

(2) Interfere with a fishing gear, fish, license, animal or plant life inspection by any peace officer of this state or any authorized Department employee.

Stat. Auth.: 506.550, 506.620, 506.755

Stats. Implemented: 506.550, 506.620, 506.755

Hist.: DFW 69-2016, f. & cert. ef. 6-13-16

635-012-0090

Cape Perpetua South-East Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) The following activities are prohibited within the Cape Perpetua South-East Marine Protected Area:

(a) Use of trawl gear to take any fish species.

(b) Take of the following species, used as seabird forage:

(A) Pacific herring;

(B) Pacific sardine (pilchard);

(C) Anchovies;

(D) Smelt as defined by OAR 635-004-0215;

(E) Pacific sand lance;

(F) Mackerels;

(G) Market squid.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; Administrative correction, 12-22-15; DFW 69-2016, f. & cert. ef. 6-13-16

635-012-0100

Cape Perpetua Seabird Protection Area Prohibitions and Allowances

(1) Except as specified in section (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) Take of the following species, used as seabird forage, are prohibited within the Cape Perpetua Seabird Protection Area:

(a) Pacific herring;

(b) Pacific sardine (pilchard);

(c) Anchovies;

(d) Smelt as defined by OAR 635-004-0215;

(e) Pacific sand lance;

(f) Mackerels.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 506.119 & 506.129
Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)
Hist.: DFW 102-2012, f. & cert. ef. 8-6-12; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; Administrative correction, 12-22-15, DFW 69-2016, f. & cert. ef. 6-13-16

Rule Caption: Treaty Indian Commercial Summer Salmon Fisheries Set.

Adm. Order No.: DFW 70-2016(Temp)

Filed with Sec. of State: 6-13-2016

Certified to be Effective: 6-16-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-041-0045, 635-041-0076

Subject: These amended rules authorize the sales of fish caught in Treaty Indian commercial summer salmon gillnet and hook-and-line fisheries both above and below Bonneville Dam in the Columbia River beginning 6:00 a.m. Thursday, June 16, 2016. Modifications are consistent with action taken June 9, 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) Fisheries conducted by the Yakama, Warm Springs, Nez Perce and Umatilla tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington are open until further notice.

(A) Allowable sales include Chinook, steelhead, sockeye, coho, wall-eye, shad, yellow perch, bass, catfish and carp. 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 which includes hoop-nets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line.

(C) Fish caught during an open period may be sold after the period concludes.

(b) 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 20 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. & cert. ef. 1-28-77; FWC 133, f. & cert. ef. 8-4-77; FWC 149(Temp), f. & cert. ef. 9-21-77 thru 1-18-78; FWC 2-1978, f. & cert. ef. 1-31-78; FWC 7-1978, f. & cert. ef. 2-21-78; FWC 2-1979, f. & cert. ef. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & cert. ef. 1-28-80; FWC 44-1980(Temp), f. & cert. ef. 8-22-80; FWC 1-1981, f. & cert. ef. 1-19-81; FWC 6-1982, f. & cert. ef. 1-28-82; FWC 49-1983(Temp), f. & cert. ef. 9-26-83; FWC 4-1984, f. & cert. ef. 1-31-84; FWC 55-1985(Temp), f. & cert. ef. 9-6-85; FWC 4-1986 (Temp), f. & cert. ef. 1-28-86; FWC 25-1986(Temp), f. & cert. ef. 6-25-86; FWC 42-1986, f. & cert. ef. 8-15-86; FWC 2-1987, f. & cert. ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 54-1989 (Temp), f. & cert. ef. 8-7-89; FWC 90-1989, f. & cert. ef. 9-6-89; FWC 80-1990(Temp), f. & cert. ef. 8-7-90, cert. ef. 8-8-90; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 60-2011(Temp), f. & cert. ef. 6-6-11 thru 10-31-11; DFW 63-2011(Temp), f. & cert. ef. 6-8-11, cert. ef. 6-9-11 thru 10-31-11; DFW 66-2011(Temp), f. & cert. ef. 6-16-11 thru 10-31-11; DFW 88-2011(Temp), f. & cert. ef. 7-10-11 thru 10-31-11; DFW 119-2011(Temp), f. & cert. ef. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 5-2012(Temp), f. & cert. ef. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. & cert. ef. 2-29-12 thru 6-15-12; DFW 46-2012(Temp), f. & cert. ef. 5-14-12, cert. ef. 5-15-12 thru 6-30-12; DFW 74-2012(Temp), f. & cert. ef. 6-29-12, cert. ef. 7-1-12 thru 10-31-12; DFW 87-2012(Temp), f. & cert. ef. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 119-2012(Temp), f. & cert. ef. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 143-2012(Temp), f. & cert. ef. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; DFW 8-2013(Temp), f. & cert. ef. 1-31-13, cert. ef. 2-1-13 thru 3-31-13; DFW 18-2013(Temp), f. & cert. ef. 3-6-13 thru 6-15-13; DFW 57-2013(Temp), f. & cert. ef. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 88-2013(Temp), f. & cert. ef. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 116-2013(Temp), f. & cert. ef. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 22-2014(Temp), f. & cert. ef. 3-11-14, cert. ef. 3-12-14 thru 7-31-14; DFW 37-2014(Temp), f. & cert. ef. 5-6-14 thru 7-31-14; DFW 105-2014(Temp), f. & cert. ef. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 153-2014(Temp), f. & cert. ef. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 71-2015(Temp), f. & cert. ef. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 97-2015(Temp), f. & cert. ef. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 70-2016(Temp), f. & cert. ef. 6-13-16, cert. ef. 6-16-16 thru 7-31-16

635-041-0076

Summer Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes from Zone 6, in the Columbia River Treaty Indian fishery, from 6:00 a.m. Thursday, June 16 through 11:59 p.m. Sunday, July 31, 2016. Fish caught during any open period may be sold after the period concludes.

(a) White sturgeon between 38-54 inches in fork length caught in the Bonneville Pool and between 43-54 inches in fork length caught in The

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Dalles Pool and John Day pools may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net with a 7-inch minimum mesh size restriction during the following period(s):

6:00 a.m. Thursday, June 16 through 6:00 p.m. Saturday, June 18 (2.5 days);
6:00 a.m. Monday, June 20 through 6:00 p.m. Thursday, June 23 (3.5 days); and
6:00 a.m. Monday, June 27 through 6:00 p.m. Thursday, June 30, 2016 (3.5 days)

(c) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(2) Effective 6:00 a.m. Thursday, June 16 through 11:59 p.m. Sunday, July 31, 2016, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River, Wind River, Drano Lake, Icicle Creek and Yakima River are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(a) Sturgeon between 38-54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoop nets, bag nets, dip nets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-1-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12; DFW 81-2012(Temp), f. 6-29-12, cert. ef. 7-3-12 thru 8-31-12; [DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12]; Temporary Suspended by DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 63-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 7-31-13; DFW 69-2013(Temp), f. 7-5-13, cert. ef. 7-6-13 thru 7-31-13; DFW 71-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; DFW 77-2013(Temp), f. 7-18-13, cert. ef. 7-22-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 66-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 79-2014(Temp), f. 6-26-14, cert. ef. 6-30-14 thru 7-31-14; DFW 91-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 95-2014(Temp), f. 7-17-14, cert. ef. 7-21-14 thru 7-31-14; DFW 103-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 80-2015(Temp), f. 6-30-15, cert. ef. 7-6-15 thru 7-31-15; DFW 83-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; DFW 87-2015(Temp), f. & cert. ef. 7-15-15 thru 7-31-15; DFW 90-2015(Temp), f. 7-20-15, cert. ef. 7-21-15 thru 7-31-15; DFW 93-2015(Temp), f. 7-27-15, cert. ef. 7-28-15 thru 7-31-15; Administrative correction, 8-18-15; DFW 70-2016(Temp), f. 6-13-16, cert. ef. 6-16-16 thru 7-31-16

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Rule Caption: Commercial Spring Salmon and Shad Fisheries for Columbia River Select Areas Modified.

Adm. Order No.: DFW 71-2016(Temp)

Filed with Sec. of State: 6-13-2016

Certified to be Effective: 6-16-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0160, 635-042-0170

Rules Suspended: 635-042-0160(T), 635-042-0170(T)

Subject: This amended rule adds three new 12-hour fishing periods in Blind and Knappa sloughs, and two new 12-hour periods in the Tongue Pont/South Channel commercial spring Chinook fisheries of

the Columbia River of the Select Areas. Modifications are consistent with action taken June 9, 2016 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods described as the winter fishery and the spring fishery in subsections (1)(a)(A) and (1)(a)(B) respectively, of this rule in those waters of Blind Slough and Knappa Slough. Retention and sale of white sturgeon is prohibited. Retention and sales of non-adipose finclipped Chinook salmon from the Blind Slough Select area is prohibited from 12:00 noon through midnight on March 29, 2016. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough and Knappa Slough in subsection (1)(a)(A), the winter fishery in Blind Slough only in subsection (1)(a)(B), and the spring fishery in Blind Slough and Knappa Slough in subsection (1)(a)(C). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough and Knappa Slough: Monday, Wednesday and Thursday nights beginning Monday, February 8 through Friday, March 11 (15 nights); Monday, March 14 (1 night); and Thursday, March 17 (1 night).

(B) Blind Slough only: Monday and Thursday nights beginning Monday, March 21 through Tuesday, March 29 (3 nights).

(C) Blind Slough and Knappa Slough Thursday and Monday nights beginning Thursday, April 28 through 7:00 a.m. Friday, June 24 (17 nights).

(b) The fishing areas for the winter and spring seasons are:

(A) Blind Slough are those waters from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the period from May 2 through June 14, the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the winter and spring fisheries, outlined above in subsections (1)(a)(A), (1)(a)(B), (1)(a)(C) and (1)(a)(D), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and/or anchors directly to the lead line is permitted.

(B) It is unlawful to use a gill net having a mesh size that is less than 7-inches during the winter fishery or greater than 9.75-inches during the spring fishery.

(C) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(2) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef.

ADMINISTRATIVE RULES

635-042-0027

Summer Salmon Season

(1) Chinook and sockeye salmon and shad may be taken by drift net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5) during the period: 9:00 p.m. Thursday, June 16 to 5:00 a.m. Friday, June 17, 2016 (8 hours).

(2) During the summer Chinook fishery:

(a) It is unlawful to use a drift net having a mesh size less than 8 inches;

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4); and

(c) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(3) Sturgeon and steelhead must be released immediately to the river with care and with the least possible injury to the fish.

(4) Closed waters, as described in OAR 635-042-0005 for Elokomin-A, Cowlitz River, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-2006, cert. ef. 7-16-06 thru 7-31-06; DFW 68-2006(Temp), f. 7-28-06, cert. ef. 7-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 52-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; DFW 63-2008(Temp), f. 6-13-08, cert. ef. 6-24-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 75-2008(Temp), f. 7-3-08, cert. ef. 7-7-08 thru 7-31-08; Administrative correction 8-21-08; DFW 72-2009(Temp), f. 6-15-09, cert. ef. 6-18-09 thru 7-31-09; Administrative correction 8-21-09; DFW 81-2010(Temp), f. 6-14-10, cert. ef. 6-17-10 thru 7-31-10; Administrative correction 8-18-10; DFW 67-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; Administrative correction 9-23-11; DFW 67-2012(Temp), f. 6-14-12, cert. ef. 6-17-12 thru 7-31-12; Administrative correction, 8-27-12; DFW 56-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 72-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 67-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 84-2014(Temp), f. 7-2-14, cert. ef. 7-7-14 thru 7-31-14; DFW 93-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 102-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 72-2015(Temp), f. 6-15-15, cert. ef. 6-17-15 thru 6-30-15; DFW 84-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; Suspend by DFW 86-2015(Temp), f. & cert. ef. 7-14-15 thru 7-31-15; DFW 91-2015(Temp), f. 7-20-15, cert. ef. 7-21-15 thru 7-31-15; Administrative correction, 8-18-15; DFW 72-2016(Temp), f. 6-13-16, cert. ef. 6-16-16 thru 7-31-16

Rule Caption: 2016-2017 Big Game Regulations for Division 200
Adm. Order No.: DFW 73-2016

Filed with Sec. of State: 6-13-2016

Certified to be Effective: 6-13-16

Notice Publication Date: 5-1-2016

Rules Amended: 635-200-0020, 635-200-0120

Subject: Hunting season regulations for 2016 and 2017 game mammals, Division 200.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-200-0020

Furbearing and Unprotected Mammals Generally

(1) Any person may sell, purchase or exchange the pelt, carcass or any part thereof, of any legally taken furbearing or unprotected mammal as allowed by OAR 635 division 50.

(2) Any person may purchase unprocessed furbearing or unprotected mammal pelts, provided that such pelts are purchased from the furtaker who took the furbearer and that the pelts are purchased for personal use and not for resale. For any furbearer pelt purchased under this section, the purchaser must retain a record of the furtaker's brand.

(3) Any licensed fur dealer may sell, purchase or exchange unprocessed furbearer pelts pursuant to OAR 635-200-0030.

(4) Any person may sell, purchase, or exchange unprocessed unprotected mammal pelts.

(5) Any person may sell, purchase, or exchange processed furbearing or unprotected mammal pelts, carcasses and parts thereof.

(6) A licensed furtaker may sell or exchange, and any person may purchase, road-killed furbearers or unprotected mammals, provided that:

(a) The road kill is taken by a licensed furtaker during an authorized season for hunting or trapping the species, and

(b) The sale is made by the licensed furtaker who took the road kill.

(7) No person may sell a bobcat (*Lynx rufus*) or river otter (*Lutra canadensis*) pelt without the appropriate year's ownership tag as required in OAR 635 division 050.

(8) No person may sell raw bobcat or river otter pelts taken before September 1, 1982 unless they were metal-sealed by the Oregon State Police or the department before that date as required in OAR 635 division 50.

(9) Any person may sell, purchase, or exchange the carcass or parts of black-tailed jackrabbits (*Lepus californicus*), white-tailed jackrabbits (*Lepus townsendii*) or any tree squirrel (except western gray squirrel (*Sciurus griseus*) or northern flying squirrel (*Glaucomys sabrinus*)), provided that the animal was lawfully taken and the carcass or parts were lawfully obtained outside Oregon, as documented by appropriate regulatory agency, business or other reliable records.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042

Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042

Hist.: DFW 96-1998, f. & cert. ef. 11-25-98; DFW 73-2016, f. & cert. ef. 6-13-16

635-200-0120

Taxidermy Mounts

(1) A game mammal taxidermy mount acquired from an Oregon resident 65 years of age or older and legally harvested by the same individual, or acquired from an Oregon decedent by survivorship or any form of succession, may be sold by the person 65 or older, or the decedent's survivor or successor, to any person, provided that the seller first obtains a registration permit from the department.

(2) A registration permit requires a \$25.00 non-refundable permit administration fee which covers processing of up to five taxidermy mounts, and a processing fee of an additional \$5.00 for each additional mounted game mammal.

(3) To obtain a permit if the seller acquired the mount(s) by survivorship or any form of succession, he or she must provide the department with:

(a) An Oregon death certificate for the decedent;

(b) For mounts of game mammals harvested before January 1, 2017, an affidavit by the seller stating that (to the best of the seller's knowledge) the decedent legally harvested the game mammal and describing how the seller legally acquired the mount by survivorship or succession; and

(c) For mounts of game mammals harvested on or after January 1, 2017, a properly validated tag which the decedent used to document legal harvest of the game mammal.

(4) To obtain a permit if the seller is an Oregon resident 65 years of age or older, he or she must provide the department with:

(a) For mounts of game mammals harvested before January 1, 2017, a properly validated tag issued to the seller, or an affidavit by the seller stating that the seller legally harvested the game mammal; and

(b) For mounts of game mammals harvested on or after January 1, 2017, a properly validated tag issued to the seller to document legal harvest of the game mammal.

(5) Upon compliance with the requirements of subsection (2), the department shall register the mount and affix a permanent identification number.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042

Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042

Hist.: DFW 96-1998, f. & cert. ef. 11-25-98; DFW 73-2016, f. & cert. ef. 6-13-16

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

Adm. Order No.: DFW 74-2016

Filed with Sec. of State: 6-14-2016

Certified to be Effective: 6-14-16

Notice Publication Date: 5-1-2016

Rules Amended: 635-050-0047, 635-050-0070, 635-050-0080, 635-050-0090, 635-050-0100, 635-050-0110, 635-050-0120, 635-050-0130, 635-050-0140, 635-050-0150, 635-050-0170, 635-050-0183, 635-050-0189

Subject: Amend rules regarding seasons and bag limits for the 2016–2017 and 2017–2018 furbearer harvest and pursuit seasons and general furbearer trapping and hunting regulations.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-050-0047

Set-Back Restrictions

On state or federal lands, except when authorized by the Oregon Department of Fish and Wildlife, no traps or snares may be set on land:

(1) Within 50 feet of any public trail;

(2) Within 300 feet of any trailhead that is designated and maintained as such by the public land management agency and is accessible to vehicular traffic;

ADMINISTRATIVE RULES

ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12; DFW 64-2014, f. & cert. ef. 6-11-14; DFW 74-2016, f. & cert. ef. 6-14-16

635-050-0140

Raccoon

(1) Open season: November 15, 2016 through March 15, 2017 and November 15, 2017 through March 15, 2018.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12; DFW 64-2014, f. & cert. ef. 6-11-14; DFW 74-2016, f. & cert. ef. 6-14-16

635-050-0150

River Otter

(1) Open season: November 15, 2016 through March 15, 2017 and November 15, 2017 through March 15, 2018.

(2) Open area: Entire state except for all areas closed to beaver trapping in OAR 635-050-0070.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12; DFW 64-2014, f. & cert. ef. 6-11-14; DFW 74-2016, f. & cert. ef. 6-14-16

635-050-0170

Pursuit Seasons

(1) The following pursuit seasons are authorized:

(a) Bobcat: September 1, 2016 through February 28, 2017 and September 1, 2017 through February 28, 2018.

(b) Fox: September 1, 2016 through February 28, 2017 and September 1, 2017 through February 28, 2018.

(c) Raccoon: September 1, 2016 through March 15, 2017 and September 1, 2017 through March 15, 2018.

(2) License Requirements: Furtaker's license or hunting license for furbearers shall be on one's person during pursuit.

(3) No animals shall be killed except during authorized open harvest season.

(4) A bobcat record card shall be on one's person while taking or attempting to take bobcat.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 35-1980, f. & ef. 7-2-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0026; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 61-2001, f. & cert. ef. 7-25-01; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12; DFW 64-2014, f. & cert. ef. 6-11-14; DFW 74-2016, f. & cert. ef. 6-14-16

635-050-0183

Bobcat and River Otter Ownership Tags

(1) The ownership tag shall be affixed by Department personnel at district and regional offices and shall remain so affixed while the pelt is in raw form.

(2) Ownership tags may be used as foreign export tags.

(3) Each ownership tag authorizes the holder to sell one bobcat or river otter.

(4) Each person shall have an ownership tag affixed to his or her bobcat or river otter pelt at a Department district or regional office within five business days after the season ends.

(5) It shall be *unlawful* to possess a 2016-2017 or 2017-2018 harvested bobcat or river otter after five business days following the season closure without an ownership tag.

(6) It shall be unlawful to sell or remove from the state a 2016-2017 or 2017-2018 harvested bobcat or river otter pelt without the respective year's ownership tag.

(7) A furtaker shall be responsible for surrendering to the Oregon Department of Fish and Wildlife the lower jawbone including both canine teeth and information on sex, date of catch and county of harvest with each individual Oregon bobcat and river otter to qualify for ownership tags. A district office may, on a case-by-case basis, waive the lower jawbone requirement, for example if the furtaker provides evidence that failure to provide the jawbone is due to unexpected circumstances beyond his or her control.

(8) The record card with the required information including species, sex, date of possession and county shall be presented to obtain an ownership tag.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12; DFW 64-2014, f. & cert. ef. 6-11-14; DFW 74-2016, f. & cert. ef. 6-14-16

635-050-0189

Special Bobcat and River Otter Regulations

(1) Raw pelts taken prior to September 1, 1982 may not be sold unless they were metal-sealed by the Oregon State Police or the Department prior to that date.

(2) Those persons failing to comply with 2016-2017 or 2017-2018 Special Bobcat and River Otter Regulations may not be issued a license for the following furbearer season and shall be subject to the penalties provided in ORS 496.992.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12; DFW 64-2014, f. & cert. ef. 6-11-14; DFW 74-2016, f. & cert. ef. 6-14-16

Rule Caption: Amendment to Wildlife Control Operator Rules

Adm. Order No.: DFW 75-2016

Filed with Sec. of State: 6-14-2016

Certified to be Effective: 6-14-16

Notice Publication Date: 5-1-2016

Rules Amended: 635-435-0010

Subject: The Commission approved amendments to division 435, Wildlife Control Operators, on December 4, 2015. Additional amendments were needed to correct 435-0010(3) regarding the time frame for bat control activities.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-435-0010

Permit Required to Capture, Possess, or Transport Wildlife

(1) A WCO permit is required for any individual, business owner, or the business owner's designee charging a fee to control bats, furbearers, unprotected mammals (excluding moles (*Scapanus* spp.)), and western gray squirrels causing damage, creating a public nuisance or posing a public health or safety concern; and for the offsite transportation of any live wildlife;

(a) A WCO permit is not required for the onsite capture and euthanasia of species defined as "predatory animals".

(b) Federal employees of the U.S. Department of Agriculture, Animal Plant and Health Inspection Service-Wildlife Services and, county or municipality employees, working in their official capacity, are exempt from this requirement.

(c) WCO permittees must comply with all state wildlife laws and regulations, and all activities must be in compliance with conditions specified by these rules, permit or authorization from the Department.

(2) A permit allows a WCO to:

(a) Capture, possess, or transport furbearers, predatory animals, western gray squirrels, unprotected mammals and all snakes.

ADMINISTRATIVE RULES

(b) Humanely euthanize wildlife authorized under this permit using methods defined by the “American Veterinary Medical Association (AVMA) Guidelines for Euthanasia of Animals: 2013 Edition” except for the following species of snakes which shall be relocated:

(A) Willamette Valley Populations of Western Rattlesnake (*Crotalus oreganus*);

(B) Sharptail snake (*Contia tenuis*);

(C) Common Kingsnake (*Lampropeltis getula*);

(D) California Mountain Kingsnake (*Lampropeltis zonata*);

(E) Western Ground Snake (*Sonora semiannulata*).

(c) Collect and dispose of animals directly related to WCO activities.

(3) WCO activities for all bat species are as follows:

(a) Exclusion and eviction permitted except during the months of June, July and August unless the permittee receives prior authorization from the Department. For purposes of this rule, “exclusion” and “eviction” are defined as follows:

(a) “Exclusion” means taking actions to prevent an animal from occupying a space or structure

(b) “Eviction” means creating conditions which encourages an animal to move out, and remain out of an area.

(c) Capture of bats from indoor areas not associated with roosting, hibernaculum and nurseries is permitted year round, provided that the bat is immediately released outdoors or taken to a licensed wildlife rehabilitator.

(4) A permit does not allow a WCO to transport, for the purposes of release, any wildlife captured under terms of the WCO permit except for:

(a) Western Gray Squirrel, Marten and Fisher

(b) Reptiles listed in subsection (2),

(c) Badger and Beaver with prior approval from the Department.

(5) A WCO permit does not authorize the permittee to intentionally capture, possess, or transport:

(a) Wildlife not authorized under a WCO permit.

(b) Species protected by other state or federal law.

(c) Species protected by other state or federal law caught incidentally must be released immediately onsite.

Stat. Auth.: ORS Ch. 496.012, 496.138, 496.146, 496.162 & 610.005

Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146, 496.162, 610.002 & 610.105

Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12; DFW 162-2015, f. & cert. ef. 12-9-15; DFW 165-2015(Temp), f. & cert. ef. 12-9-15 thru 6-1-16; DFW 75-2016, f. & cert. ef. 6-14-16

Rule Caption: Additional Opportunity for Personal Use Harvest of Pacific Lamprey at Willamette Falls Allowed.

Adm. Order No.: DFW 76-2016(Temp)

Filed with Sec. of State: 6-15-2016

Certified to be Effective: 6-16-16 thru 9-30-16

Notice Publication Date:

Rules Amended: 635-017-0090

Rules Suspended: 635-017-0090(T)

Subject: This amended rule allows three additional days for personal use harvest of Pacific lamprey at Willamette Falls, beginning on Tuesday, June 21 through Thursday, June 23, 2016, by individuals with the required permit. This season modification provides opportunity for harvest of Pacific lamprey following the rescheduled installation of water flow devices at Willamette Falls. All other regulations for the harvest of Pacific lamprey remain unchanged.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-017-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday with the exception of Tuesday, June 21 through Thursday, June 23, 2016;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only; and

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Foster Reservoir: 5 hatchery trout or kokanee per day, 8 inch minimum length.

(4) Willamette River from the Highway 20 bridge upstream to the Highway 99 bridge:

(a) Open all year for hatchery Chinook;

(b) Open all year for hatchery steelhead;

(c) Open all year for trout, 2 trout per day, 8 inch minimum length;

(d) Open for retention of white sturgeon, 1 per day and 2 per year, 38 inch minimum and 54 inch maximum fork lengths; and

(e) Use of bait allowed.

(5) Beginning April 1 through July 31, 2016, the following rules apply:

(a) In all areas of the Willamette River and tributaries, including flowing waters, that are open to angling for hatchery Chinook, hatchery steelhead, trout, or warmwater gamefish, anglers with a valid 2016 Two-Rod Angling Validation may use up to two fishing rods while fishing for any game fish or non-game fish species except sturgeon. Youth anglers under 12 years of age may use two rods in these areas without purchasing the Two-Rod Angling Validation.

(b) Angling for sturgeon remains restricted to the use of one rod per angler.

(c) All other rules and licensing requirements specified in the **2016 Oregon Sport Fishing Regulations** remain in effect.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07,

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cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12; DFW 99-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 67-2013(Temp), f. 7-3-13, cert. ef. 7-11-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 62-2014(Temp), f. & cert. ef. 6-10-14 thru 10-31-14; DFW 70-2014(Temp), f. & cert. ef. 6-13-14 thru 6-30-14; DFW 73-2014(Temp), f. 6-20-14, cert. ef. 6-23-14 thru 10-31-14; DFW 141-2014(Temp), f. 9-25-14, cert. ef. 9-26-14 thru 12-31-14; DFW 150-2014(Temp), f. 10-14-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 49-2015(Temp), f. & cert. ef. 5-27-15 thru 11-22-15; DFW 66-2015(Temp), f. 6-10-15, cert. ef. 6-12-15 thru 11-22-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 152-2015(Temp), f. 11-6-15, cert. ef. 11-17-15 thru 12-31-15; DFW 154-2015(Temp), f. 11-12-15, cert. ef. 11-23-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 30-2016(Temp), f. & cert. ef. 4-8-16 thru 9-30-16; DFW 67-2016(Temp), f. & cert. ef. 6-9-16 thru 9-30-16; DFW 76-2016(Temp), f. 6-15-16, cert. ef. 6-16-16 thru 9-30-16

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Rule Caption: 2016 Columbia River Summer Recreational Fisheries Implemented.

Adm. Order No.: DFW 77-2016(Temp)

Filed with Sec. of State: 6-15-2016

Certified to be Effective: 6-16-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-023-0128

Subject: This amended rule implements the 2016 summer recreational salmon fishing season on the Columbia River. Modifications to regulations for 2016 conform to regulation changes developed through this year's Pacific Fishery Management Council/North of Falcon process. Corrections to the regulations were made to ensure rule consistency with the State of Washington.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0128

Summer Sport Fishing

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) Retention of adipose fin-clipped summer Chinook (adults and jacks), sockeye, and adipose fin-clipped steelhead is allowed in the mainstem Columbia River:

(a) From the Astoria-Megler Bridge upstream to the Oregon/Washington border (above McNary Dam) beginning June 16 through July 31.

(b) The daily bag limit is two adult salmonids and five jacks. All sockeye are considered adults in the daily limit and must be recorded as adults on the combined angling tag.

(c) All other permanent rules for the Columbia River angling zone, as stated in the **2016 Oregon Sport Fishing Regulations**, remain in effect.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 52-2005(Temp), f. 6-3-05, cert. ef. 6-16-05 thru 7-31-05; DFW 64-2005(Temp), f. 6-30-05, cert. ef. 7-1-05 thru 7-31-05; Administrative correction 8-17-05; 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 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 51-2007(Temp), f. 6-29-07, cert. ef. 7-2-07 thru 7-31-07; 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 61-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 69-2009(Temp), f. 6-11-09, cert. ef. 6-16-09 thru 7-31-09; Administrative correction 8-21-09; 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 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 65-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; DFW 95-2011(Temp), f. 7-15-11, cert. ef. 7-18-11 thru

7-31-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 64-2012(Temp), f. 6-12-12, cert. ef. 6-16-12 thru 7-31-12; [DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; Temporary Suspended by 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 55-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 66-2013(Temp), f. & cert. ef. 6-27-13 thru 7-31-13; DFW 70-2013(Temp), f. 7-11-13, cert. ef. 7-13-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 68-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 85-2014(Temp), f. 7-2-14, cert. ef. 7-3-14 thru 7-31-14; DFW 92-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 61-2015(Temp), f. 6-8-15, cert. ef. 6-16-15 thru 7-31-15; DFW 79-2015(Temp), f. 6-30-15, cert. ef. 7-3-15 thru 7-31-15; Administrative correction, 8-18-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 77-2016(Temp), f. 6-15-16, cert. ef. 6-16-16 thru 7-31-16

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Department of Forestry Chapter 629

Rule Caption: Department of Forestry and Forest Protective Association Firefighter Criminal Defense Expenditures

Adm. Order No.: DOF 2-2016

Filed with Sec. of State: 6-10-2016

Certified to be Effective: 7-1-16

Notice Publication Date: 4-1-2016

Rules Adopted: 629-170-0001, 629-170-0005, 629-170-0010, 629-170-0015, 629-170-0020, 629-170-0025, 629-170-0030, 629-170-0035, 629-170-0040

Subject: OAR 629-170-0001 through 629-170-0040 are intended to provide procedures to guide the exercise of authority granted in ORS 477.128 for the State Forestry Department to pay costs and reasonable attorney fees for legal defense of a firefighter charged with a crime resulting from actions or omissions occurring in the course of fire abatement duties.

The included rules address the scope and effective date of the rules, definitions, purpose, the method for requesting reimbursement of legal defense costs, investigation by the State Forester of the circumstances leading to the alleged acts, determination of eligibility for reimbursement, determination of available funding, development of an agreement establishing the terms for reimbursement and appropriate accounting of authorized funds and an alternative method of maintaining ethical procedures in the special case that it is the State Forester alleged to have committed a crime.

These rules do not regulate activities of forest landowners, operators or the general public, but may have a very limited financial impact on owners who pay forest patrol assessments or the general public depending on the funding that would be used to pay the costs and fees contemplated. The circumstances to which these rules apply have never occurred in Oregon and the future likelihood of occurrence is very small, but still possible.

Rules Coordinator: Sabrina Perez—(503) 945-7210

629-170-0001

Title, Scope and Effective Date

(1) OAR 629-170-0001 through 629-170-0040 are known as the Firefighter Criminal Defense Expenditure rules.

(2) As provided in ORS 477.128, the scope of this division is limited to firefighters employed by the State Forestry Department or a forest protective association. This division does not apply to firefighting contractors or their employees; employees or members of rangeland protection associations; or other cooperating individuals, companies, agencies or their employees; even if they conducted fire suppression activities under the direction of the forester; except that it may apply to employees of other jurisdictions that are members of the Northwest Wildland Fire Protection Agreement pursuant to ORS 477.200, Article VI.

(3) The procedures described in this division shall apply to any circumstance where criminal charges result from fire suppression actions alleged to have occurred on or since January 1, 2012; effective July 1, 2016.

Stat. Auth.: ORS 526.041

Stats. Implemented: ORS 477.128

Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

629-170-0005

Definitions

(1) Terms used in OAR chapter 629, division 170 have the meaning given in ORS 477.001.

(2) In addition, as used in this division,

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(a) "Firefighter" means an employee of the State Forestry Department or of a forest protective association, employed at the time of the alleged incident, whose duties included the abatement of uncontrolled fire as described in ORS 477.064.

(b) "Fire suppression activities", "fire suppression actions" or "fire abatement duties" mean any of the myriad actions carried out as responsibilities of employees of the State Forestry Department or forest protective associations relating to suppressing fire including, but not limited to, attacking fires by building line or spraying water, using fire to burn out control lines or back fire, operating firefighting equipment, directing or planning the attack, operating or directing aircraft, dispatching resources and supporting firefighters logistical needs.

(c) "Under the direction and control of the forester" means and includes, in addition to fire suppression activities on lands provided fire protection directly by the State Forester pursuant to ORS 477.210(4) and (5), any firefighter assignments to fire suppression activities authorized by the forester pursuant to agreements with cooperating fire protection jurisdictions authorized under ORS 477.200 or 477.406.

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 477.128
Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

629-170-0010

Purpose

(1) OAR 629-170-0001 through 629-170-0040 are intended to provide procedures to guide the exercise of authority granted in ORS 477.128 for the State Forestry Department to pay costs and reasonable attorney fees for defense of a firefighter charged with a crime resulting from actions or omissions occurring in the course of fire abatement duties.

(2) Moreover, these rules and ORS 477.128 are intended to demonstrate to agency and association personnel that, if they make a dedicated effort to train and gain the critical experience required to be placed in positions of authority for fire suppression activities, and carry out their responsibilities in a conscientious manner, the department will support and assist in defending them.

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 477.128
Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

629-170-0015

Request for Reimbursement of Defense Costs

(1) Prior to any consideration by the State Forester to authorize expenditures under ORS 477.128, at the earliest practicable time after the firefighter reasonably suspects or has been informed of criminal charges being sought against the firefighter, the firefighter must make a written request to the State Forester.

(2) The request in section (1) above must:

(a) Seek a determination by the State Forester as to the eligibility of the firefighter for expenditures related to costs and reasonable attorney fees to defend against criminal charges in a specific instance; and

(b) Provide a description of the events leading to the possibility of criminal prosecution with sufficient specificity to allow the State Forester to initiate an investigation of those events.

(3) The request required by this rule is not intended to require the firefighter to provide information of a nature that would be construed to violate the firefighter's right to avoid self-incrimination guaranteed under the Constitutions of the State of Oregon or the United States.

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 477.128
Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

629-170-0020

State Forester's Investigation

(1) Upon receipt of a request pursuant to OAR 629-170-0015, the State Forester may initiate an investigation into the events and circumstances leading to criminal charges against a firefighter.

(2) The State Forester's investigation must be focused on answering the following questions:

(a) At the time of the alleged actions underlying the charge, was the firefighter performing fire suppression activities under the direction and control of the forester?

(b) Did the alleged actions underlying the charge actually occur, and if so, were they directly related to the firefighter's duties or performance of fire suppression activities?

(c) Were the alleged actions of the firefighter within the range of reasonable fire suppression actions?

(3) The State Forester may include in the investigation evidence from any credible source including, but not limited to, evidence gathered by

other investigating entities. The State Forester has the sole responsibility to determine the validity and weight to be given any and all evidence.

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 477.128
Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

629-170-0025

Determination of Eligibility for Reimbursement

(1) If the State Forester finds affirmative answers to the questions in OAR 629-170-0020(2)(a) and (c); and relative to (2)(b) finds that the underlying actions leading to charges did not actually occur as charged, or finds that they did actually occur but were directly and appropriately related to the firefighter's performance of fire suppression activities, the State Forester may authorize expenditures as provided in ORS 477.128.

(2) The State Forester shall strive to make a determination under this rule in as timely a fashion as possible to aid the firefighter in responding to the charges.

(3) Notwithstanding ORS 183.480, the firefighter has no right to a hearing or appeal of the State Forester's determination under this rule, as specified in ORS 477.128(3).

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 477.128
Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

629-170-0030

Funding

Prior to authorizing expenditures for costs and reasonable attorney fees pursuant to ORS 477.128, the State Forester must determine the source of funding to be used and the amount that may be available for such expenditures.

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 477.128
Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

629-170-0035

Written Agreement; Terms of Reimbursement

(1) As a condition of authorizing expenditures for costs and reasonable attorney fees pursuant to ORS 477.128, the State Forester may request the firefighter, the firefighter's legal counsel or both, enter into a written agreement with the State Forester to establish the terms under which expenditures will be made that may include, but are not limited to:

(a) Designation of a department employee to act as the main point of contact in carrying out the terms of the agreement;

(b) Limits on the funds to be made available by the State Forester;

(c) Documentation that may be required to support expenditures and ensure appropriate fiscal procedures;

(d) Timing of expenditures;

(e) Means of recovering funds paid out upon a determination that the employee misrepresented any material facts in the course of making the request for reimbursement required by OAR 629-170-0015, the State Forester's investigation, or at trial; and

(f) Clauses to protect the State of Oregon from any additional liabilities that might arise as a result of these actions.

(2) Upon final determination by the State Forester to authorize expenditures under ORS 477.128 and enter into an agreement described in this rule, the firefighter's cost, if any, of development or legal review of the agreement may be included in the expenditures authorized by the State Forester.

(3) The State Forester may consult with legal counsel from the Department of Justice with regard to the form and content of the agreement described in this rule, provided that no information directly related to the facts of the criminal case be revealed.

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 477.128
Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

629-170-0040

Special Case

If the firefighter seeking reimbursement of legal costs under this division is the State Forester, all authorities and responsibilities of the State Forester under ORS 477.128 and this division must be delegated to a management service employee of the department, knowledgeable in firefighting organization, tactics and procedures, to be carried out under the supervision of an ad hoc committee of the Board of Forestry.

Stat. Auth.: ORS 526.041
Stats. Implemented: ORS 477.128
Hist.: DOF 2-2016, f. 6-10-16, cert. ef. 7-1-16

ADMINISTRATIVE RULES

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

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

Adm. Order No.: DHSD 4-2016

Filed with Sec. of State: 6-9-2016

Certified to be Effective: 6-15-16

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Rules Amended: 407-007-0000, 407-007-0010, 407-007-0020, 407-007-0030, 407-007-0050, 407-007-0060, 407-007-0065, 407-007-0070, 407-007-0080, 407-007-0090

Rules Repealed: 407-007-0000(T), 407-007-0010(T), 407-007-0020(T), 407-007-0030(T), 407-007-0040, 407-007-0050(T), 407-007-0060(T), 407-007-0065(T), 407-007-0070(T), 407-007-0075, 407-007-0080(T), 407-007-0090(T)

Subject: ORS 181A.215 (formerly ORS 181.547) shifts the criminal records check rules from Oregon state agencies to the Oregon Department of Administrative Services (DAS). The DAS rules (OAR 125-007-0200 to 125-007-0330) became effective 1/4/2016. The Department of Human Services (Department) filed temporary rules 1/14/2016 to modify its criminal records check rules to align with the DAS rules. In addition, the statutes governing the criminal records check processes (ORS chapter 181) have been renumbered to ORS 181A. References to these statutes have been corrected. Other changes include updating rules to current processes, including the requirement for electronic submission of fingerprints (ORS 181.516) and upgrading to the Department's Background Check Unit's Criminal Records Information Management System (CRIMS). Adoption of these rules will repeal the temporary rules filed on January 14, 2016.

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407-007-0000

Purpose and Scope

(1) The purpose of these rules, OAR 407-007-0020 to 407-007-0100 is to supplement OAR 125-008-0200 to 125-007-0330 with guidelines and requirements specific to background checks for Department of Human Services (Department) and Oregon Health Authority (Authority) subject individuals (SIs). These rules provide for the reasonable screening under ORS 181A.195 and 181A.200 of the Department's employees, volunteers, and contractors to determine if they have a history of criminal behavior such that they should not be allowed to work, volunteer, be employed, or otherwise perform in positions covered by these rules.

(2) These rules apply to evaluating criminal records and potentially disqualifying conditions of an SI when conducting fitness determinations based upon such information. The fact that an SI is approved does not guarantee employment or placement. These rules do not apply to SIs covered under OAR 407-007-0200 to 407-007-0370.

(3) The Authority authorizes the Background Check Unit (BCU), a shared service of the Department and the Authority, to act on its behalf in performing criminal records checks. References in these rules to the Department or Authority shall be construed to be references to either or both agencies.

(4) Although abuse checks may occur concurrently with criminal records checks and may share similar processes, the criminal records check process is separate and distinct from the abuse checks that may be performed under OAR 407-007-0400 to 407-007-0460.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050

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

Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0010

Definitions

In addition to the definitions in OAR 125-007-0210, the following definitions apply to OAR 407-007-0000 to 407-007-0640 unless otherwise noted:

(1) "Abuse" has the meaning given in the administrative rules promulgated by the Department or Authority corresponding to the setting in which the abuse was alleged or investigated.

(2) "Abuse check" means obtaining and reviewing abuse allegations, abuse investigation reports, and associated exhibits and documents for the purpose of determining whether an SI has potentially disqualifying abuse.

(3) "Abuse investigation report" means a written report completed after an investigation into suspected abuse and retained by the Department or the Authority pursuant to ORS 124.085, 419B.030, or 430.757, or a similar report filed in another state agency or by another state.

(4) "Approved" means that a subject individual, following a final fitness determination, is fit to work, volunteer, be employed, or otherwise perform in the position listed in the criminal records check request.

(5) "Approved with restrictions" means an approval in which some restriction is made to the position listed in the criminal records check request including but not limited to the SI, the SI's environment, the type or number of clients for whom the SI may provide care, or the information to which the SI has access.

(6) "Authority" means the Oregon Health Authority.

(7) "Authorized designee (AD)" means an individual whom the Department designates and authorizes to receive and process criminal records check requests from SIs and criminal records information, and to make fitness determinations.

(8) "Background check" means a criminal records check and an abuse check.

(9) "Background Check Unit" means the Background Check Unit (BCU), a Shared Services unit which conducts criminal records checks and abuse checks for the Department and the Authority.

(10) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation, or support to children, the elderly, or individuals with disabilities (see ORS 181A.200).

(11) "Client" means any individual who receives services, care, or funding for care through the Department or the Authority.

(12) "Criminal records check" means obtaining and reviewing criminal records and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal information.

(b) A national criminal records check where criminal records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information.

(c) A state-specific criminal records check where criminal records are obtained from law enforcement agencies, courts, or other criminal records information resources located in, or regarding, a state or jurisdiction outside Oregon.

(13) "Criminal Records Information Management System (CRIMS)" means the electronic records system used to process and maintain background checks OAR 407-007-0000 to 407-007-0640.

(14) "Denied" means that a subject individual, following a fitness determination including a weighing test, is not fit to work, volunteer, be employed, or otherwise perform in the position listed in the criminal records check request.

(15) "Department" means the Department of Human Services.

(16) "Employee" in OAR 407-007-0000, 407-007-0020 to 407-007-0060, and 407-007-0400 to 407-007-0460, means an individual working in the Department or the Authority in any position including a new hire, promotion, demotion, direct appointment, re-employment, job rotation, developmental assignment, transfer, an individual impacted by the Department's or the Authority's lay-off process, or temporary hire.

(17) "Fingerprint capture" means taking the SI's fingerprints for a national criminal records check in a manner that meets current Oregon statutes and the OSP's capacity for receiving fingerprints.

(18) "Fitness determination" means the decision regarding a criminal records check and abuse check when either or both are considered and includes:

(a) The decision regarding SI disclosures, an Oregon criminal records check, and preliminary review (a preliminary fitness determination); or

(b) The decision regarding SI disclosures, completed criminal and abuse records check when either or both are considered including the gathering of other information as necessary, and a final review by an AD (a final fitness determination).

(19) "Founded or substantiated" has the meaning given these terms in the Department or Authority's administrative rules corresponding to the setting in which the abuse was alleged or investigated.

(20) "Good cause" means a valid and sufficient reason for not complying with time frames set during the criminal records check process or

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contested case hearing process, including but not limited to an explanation of circumstances beyond an SI's reasonable control.

(21) "Hearing representative" means a Department employee representing the Department in a contested case hearing.

(22) "Human Resources" in OAR 407-007-0000, 407-007-0020 to 407-007-0060, and 407-007-0400 to 407-007-0460, means either the Department's Office of Human Resources (which includes BCU) or the Authority's Office of Human Resources.

(23) "Office of Adult Abuse Prevention and Investigations (OAAPI)" means the Office of Adult Abuse Prevention and Investigations, formerly the Office of Investigation and Training, a shared service of the Department and Authority.

(24) "Other criminal records information" means information obtained and used in the criminal records check that is not criminal offender information from OSP. Other criminal records information includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided in the criminal records check requests, disclosures by an SI, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(25) "Position" means the position listed on the criminal records check request for the SI which determines whether the individual is an SI under these rules. Covered positions include any type of employment, volunteer placement, or contract placement.

(26) "Subject individual (SI)" in OAR 407-007-0000, 407-007-0020 to 407-007-0060, and 407-007-0400 to 407-007-0460, means an individual on whom the Department may conduct a criminal records check and from whom the Department may require fingerprints for the purpose of conducting a national criminal records check. An SI includes any of the following:

(a) A Department employee.

(b) An individual who has been offered employment by the Department.

(c) An individual secured by the Department through the services of a temporary employment agency, staffing agency, or personnel services agency who is providing any of the duties or having access as described in OAR 407-007-0060(3).

(d) A Department client who is placed in the Work Experience or JOBS Plus program at a Department site.

(e) An individual who provides or seeks to provide services to the Department at Department facilities, sites, or offices as a contractor, sub-contractor, vendor, volunteer under Department direction and control, or student under Department direction and control who:

(A) May have contact with clients;

(B) Has access to personal information about employees of the Department, clients, or members of the public, including but not limited to Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information, or criminal background information;

(C) Has access to information the disclosure of which is prohibited by state or federal laws, rules, or regulations or information that is defined as confidential under state or federal laws, rules, or regulations;

(D) Has access to property held in trust or to private property in the temporary custody of the state;

(E) Has payroll or fiscal functions or responsibility for:

(i) Receiving, receipting or depositing money or negotiable instruments;

(ii) Billing, collections, setting up financial accounts, or other financial transactions; or

(iii) Purchasing or selling property;

(F) Provides security, design or construction services for government buildings, grounds, or facilities;

(G) Has access to critical infrastructure or secure facilities information; or

(H) Is providing information technology services and has control over or access to information technology systems.

(f) Any individual applying for employment or a volunteer placement or any employee, volunteer, contractor, or employee of any contractor in any of the following:

(A) A State-operated or Authority-contracted secure residential treatment facility;

(B) A State-operated group home within the Department's Stabilization and Crisis Unit;

(C) Oregon State Hospital.

(27) "Weighing test" means a process carried out by the Department in which available information is considered to make a fitness determination.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050

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

Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0020

Criminal History Check Required

(1) The Department conducts criminal records checks on all SIs through LEDS maintained by OSP pursuant to ORS chapter 181 and the rules adopted pursuant thereto (see OAR Chapter 125, division 007 and Chapter 257, division 15).

(2) If a national criminal records check of an SI is necessary, OSP shall provide the Department the results of criminal records checks conducted pursuant to ORS 181A.195, including fingerprint identification, through the FBI.

(3) SIs must have a criminal records check in the following circumstances:

(a) If an individual becomes an SI on or after the effective date of these rules.

(b) Except as provided in section (3) of this rule, if the individual, whether previously considered an SI or not, changes positions, and the position requires a criminal records check. Change in a position may include but is not limited to promotion, transfer, demotion, re-employment, job rotation, developmental assignment, restoration, layoff, or recall.

(c) If the Department has reason to believe that a criminal records check is justified. Examples include but are not limited to any indication of possible criminal behavior by an SI or quality assurance monitoring of a previously conducted criminal records check.

(4) Human Resources may determine that conducting a new criminal records check and fitness determination for an employee is not required.

(a) After submission of a criminal records check, Human Resources may consider ending the criminal records check if:

(A) The SI who has been offered a new position has completed a previous criminal records check and fitness determination with an outcome of approved; and

(B) There has been no break in employment with the Department.

(b) Human Resources may cease the criminal records check without making a new fitness determination if there is no indication of new potentially disqualifying crimes or conditions, and at least one of the following is true:

(A) The previous criminal records check identified no potentially disqualifying crimes or conditions as defined at that time and Human Resources determines that the previous fitness determination is sufficient for the new position.

(B) Human Resources determines that the new position requires the same or less responsibility or access in the duties as described in OAR 407-007-0060(3).

(5) All SIs shall notify Human Resources within five days of being arrested, charged, or convicted of any crime.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050

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

Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0030

Criminal History Check Process

(1) Only Department employees who are ADs may be authorized and approved to receive and evaluate criminal offender information and other criminal records information, and to conduct fitness determinations.

(2) The Department shall submit the criminal records check to BCU in written form or through CRIMS. In addition to information required in OAR 125-007-0220, the criminal records check request shall include:

(a) Disclosure of criminal history;

(A) The SI must disclose all arrests, charges, and convictions regardless of outcome or date of occurrence. Disclosure includes any juvenile record of arrests, charges, or the outcome of arrests or charges against a juvenile.

(B) The disclosed crimes and the dates must reasonably match the SI's criminal offender information and other criminal records information, as determined by the Department.

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(b) Disclosure of other history required under OAR 407-007-0400 to 407-007-0460; and

(c) Disclosure of other information to be considered in the event of a weighing test if the SI discloses any criminal history or other history required under OAR 407-007-0400 to 407-007-0460.

(A) The SI may provide mitigating information for BCU to review in a weighing test.

(B) Human Resources or BCU may require the SI to provide other information as needed to conduct the weighing test.

(3) The criminal records check request, either in paper format or via CRIMS, shall include the following:

(a) A notice regarding disclosure of Social Security number indicating:

(A) The SI's disclosure is voluntary; and

(B) The Department requests the Social Security number solely for the purpose of positively identifying the SI during the criminal records check process.

(b) A notice that the SI may be subject to fingerprinting and a criminal records check.

(4) The Department shall verify the SI's identity using methods which include but are not limited to asking for current and valid government-issued photo identification and confirming the information on the photo identification with the SI, the information written in the criminal records check request, and the information taken for a fingerprint capture if a national criminal records check is conducted.

(5) BCU shall conduct an Oregon criminal records check after receiving a criminal records check request.

(a) Using information submitted, BCU may obtain criminal offender information from the LEDS system and may request other criminal records information as needed.

(b) The Department shall handle criminal offender information obtained through LEDS in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 125, division 007 and chapter 257, division 15).

(6) BCU may conduct a fingerprint-based national criminal records check after an Oregon criminal records check is completed.

(a) A fingerprint-based national criminal records check may be completed under any of the following circumstances:

(A) The SI has out of state residency evidenced by the SI's possession of an out of state driver license or being outside Oregon for 60 or more consecutive days during the previous five years.

(B) The LEDS check, SI disclosures, or any other criminal records information obtained by the Department indicates there may be criminal records.

(C) The Department has reason to question the identity or history of the SI.

(D) The SI's position is at Oregon state institutions under OAR 407-007-0010.

(E) The SI is assigned duties involving any aspect of a criminal records or abuse check process.

(F) A fingerprint-based criminal records check is required by federal or state laws or regulations, other rules adopted by the Department, or by contract with the Department.

(G) If the Department has reason to believe that fingerprints are needed to make a final fitness determination.

(b) BCU shall request fingerprints for an SI under the age of 18 in accordance with OAR 125-007-0220(3).

(c) The SI shall complete and submit a fingerprint capture when requested by the Department.

(A) The Department shall give the SI notice regarding the Social Security number as set forth in OAR 407-007-0030.

(B) The SI shall submit fingerprint capture to the BCU within the time frame indicated in a written notice.

(C) The Department may require new fingerprint capture if previous captures are rejected by OSP or the FBI.

(7) The Department may also conduct a state-specific criminal records check in lieu of or in addition to a national criminal records check. Reasons for a state-specific criminal records check include but are not limited to when:

(a) The Department has reason to believe that out-of-state criminal records may exist.

(b) The Department has been unable to complete a national criminal records check due to illegible fingerprints.

(c) The national criminal records check results show incomplete information about charges or criminal records without final disposition.

(d) There is indication of residency or criminal records in a state that does not submit all criminal records to the FBI.

(e) Based on available information, the Department has reason to believe that a state-specific criminal records check is necessary.

(8) In order to complete a criminal records check and fitness determination, the Department may require additional information from an SI.

(a) Additional information includes but is not limited to criminal, judicial, other background information, or proof of identity.

(b) If an SI who is a represented Department employee is required to provide additional information, the process for obtaining that information through investigatory interviews shall adhere to collective bargaining agreements on investigatory interviews.

(9) The Department may conduct a criminal records check in situations of imminent danger.

(a) If the Department determines there is indication of criminal behavior by an SI that could more likely than not pose an immediate risk to the Department, its clients, or vulnerable persons, the Department shall authorize a criminal records check without the completion of a criminal records check request.

(b) If the Department determines that a fitness determination based on the criminal records check would be adverse to the SI, the Department shall provide the SI, if available, the opportunity to disclose criminal records, potentially disqualifying conditions, and other information as indicated in OAR 407-007-0060 before the completion of the fitness determination.

(10) Criminal records checks conducted under this rule shall be documented in writing.

Stat. Auth.:ORS 181A.195, 181A.200 & 409.050

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

Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0050

Other Potentially Disqualifying Conditions

Pursuant to OAR 125-007-0270(5), the following are potentially disqualifying conditions:

(1) The SI makes a false statement to the Department, the Authority, or Human Resources, including providing materially false information, false information regarding criminal history, or failure to disclose information regarding criminal history. Nondisclosure of charges classified as less than a misdemeanor such as violations or infractions may not be considered as false statement.

(2) The SI is a registered sex offender in any jurisdiction. There is a rebuttable presumption that an SI is likely to engage in conduct that would pose a significant risk to the Department, its clients, or vulnerable individuals if the SI has been designated a predatory sex offender under ORS 181.585 or found to be a sexually violent dangerous offender under ORS 144.635 (or similar statutes in other jurisdictions).

(3) The SI has an outstanding warrant in any jurisdiction.

(4) The SI has a deferred sentence, conditional discharge, or is participating in a diversion program in any jurisdiction for any potentially disqualifying crime.

(5) The SI is currently on probation, parole, or post-prison supervision for any crime in any jurisdiction, regardless of the original conviction date or date of guilty or no contest plea if there is no conviction date.

(6) The SI is found in violation of post-prison supervision, parole, or probation for any crime in any jurisdiction regardless of the original conviction date or date of guilty or no contest plea if there is no conviction date, within five years or less from the date of the criminal records check request or the date the Department conducted a criminal records check due to imminent danger.

(7) The SI has an unresolved arrest, charge, or a pending indictment for any crime in any jurisdiction.

(8) The SI has been arrested in any jurisdiction as a fugitive from another state or a fugitive from justice, regardless of the date of arrest.

(9) An adjudication in a juvenile court in any jurisdiction, finding that the SI was responsible for a potentially disqualifying crime that would result in a conviction if committed by an adult. Subsequent adverse rulings from a juvenile court, such as probation violations, shall also be considered potentially disqualifying if within five years from the date of the criminal check request or the date BCU conducted a criminal records check due to imminent danger.

(10) A finding of "guilty except for insanity," "guilty except by reason of insanity," "not guilty by reason of insanity," "responsible except for insanity," "not responsible by reason of mental disease or defect," or similarly worded disposition in any jurisdiction regarding a potentially disqual-

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ifying crime, unless the local statutes indicate that such an outcome is considered an acquittal.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050
Stats. Implemented: ORS 181A.195, 181A.200 & 409.010
Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0060 Weighing Test

If the SI has potentially disqualifying convictions under OAR 125-007-0270 or potentially disqualifying conditions under OAR 407-007-0050, Human Resources shall conduct a weighing test. The weighing test shall include consideration of factors pursuant to ORS 181A.195 and the following if available at the time of the weighing test:

(1) Circumstances regarding the nature of potentially disqualifying crimes and conditions including but not limited to:

(a) Age of the SI at time of the potentially disqualifying crime or condition.

(b) Details of incidents leading to the charges of potentially disqualifying crimes or resulting in potentially disqualifying conditions.

(c) Facts that support the conviction or other potentially disqualifying condition.

(d) Passage of time since commission of the crime or potentially disqualifying condition.

(e) Consideration of state or federal laws, regulations, or rules covering the position or the Department, regarding the potentially disqualifying crimes or conditions.

(2) Other factors when available including but not limited to:

(a) Other information related to criminal activity including charges, arrests, pending indictments, or convictions. Other behavior involving contact with law enforcement may also be reviewed if information is relevant to other criminal records or shows a pattern relevant to criminal history.

(b) Periods of incarceration.

(c) Status of and compliance with parole, post-prison supervision, or probation.

(d) Evidence of drug or alcohol issues directly related to criminal activity or potentially disqualifying conditions.

(e) Evidence of other treatment or rehabilitation related to criminal activity or potentially disqualifying conditions.

(f) Likelihood of repetition of criminal behavior or behaviors leading to potentially disqualifying conditions, including but not limited to patterns of criminal activity or behavior or whether the SI appears to accept responsibility for past actions, as determined by the Department.

(g) Changes in circumstances subsequent to the criminal activity or disqualifying conditions including but not limited to:

(A) History of high school, college, or other education related accomplishments.

(B) Work history (employee or volunteer).

(C) History regarding licensure, certification, or training for licensure or certification.

(D) Written recommendations from current or past employers.

(h) Indication of the SI's cooperation, honesty, or the making of a false statement during the criminal records check process, including acknowledgment and acceptance of responsibility of criminal activity and potentially disqualifying conditions.

(3) The relevancy of the SI's criminal history or potentially disqualifying conditions to the position or to the environment of the position, shall be considered. Consideration includes the relation between the SI's potentially disqualifying crimes or conditions and the following tasks or duties in the position:

(a) Access to or direct contact with Department clients, client property, or client funds.

(b) Access to information technology services, or control over or access to information technology systems that would allow an individual holding the position to harm the information technology systems or the information contained in the systems.

(c) Access to information, the disclosure of which is prohibited by state or federal laws, rules, or regulations, or information that is defined as confidential under state or federal laws, rules, or regulations.

(d) Access to payroll functions.

(e) Responsibility for receiving, receipting, or depositing money or negotiable instruments.

(f) Responsibility for billing, collections, or other financial transactions.

(g) Access to mail received or sent to the Department, including inter-agency mail, or access to any mail facilities in the Department.

(h) Responsibility for auditing the Department or other governmental agencies.

(i) Responsibility for any personnel or human resources functions.

(j) Access to personal information about employees, clients, or members of the public including Social Security numbers, dates of birth, driver license numbers, residency information, medical information, personal financial information, criminal offender information, or other criminal records information.

(k) Access to medications, chemicals, or hazardous materials; access to facilities in which medications, chemicals, and hazardous materials are present; or access to information regarding the transportation of medications, chemicals, or hazardous materials.

(L) Access to property to which access is restricted in order to protect the health or safety of the public.

(m) Responsibility for security, design, or construction services. This includes government buildings, grounds, or facilities or buildings, owned, leased, or rented for government purposes.

(n) Access to critical infrastructure or security-sensitive facilities or information.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050

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

Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0065 Hired on a Preliminary Basis

The Department shall make a preliminary fitness determination to determine if an SI may work, volunteer, be employed, or otherwise perform in the position listed in the criminal records check request prior to a final fitness determination. The Department may not hire an SI on a preliminary basis prior to the completion of a preliminary fitness determination.

(1) The Department shall complete a preliminary fitness determination and send notice to the hiring manager.

(2) After review of the criminal records check request, the Department shall make one of the following determinations:

(a) An SI may be hired on a preliminary basis, only during the time period prior to a final fitness determination, into the position listed in the criminal records check request and allowed to participate in training, orientation, and position activities under the one of the following circumstances:

(A) If there is no indication of potentially disqualifying crimes or conditions in the criminal records check request and the Department has no reason to believe the SI has potentially disqualifying crimes or conditions.

(B) If an SI discloses potentially disqualifying crimes or conditions, the SI may be hired on a preliminary basis only after BCU completes a weighing test. The Department may hire an SI on a preliminary basis only if, based on information available at the time, BCU determines that more likely than not that the SI poses no potential threat to the Department, its clients, or vulnerable persons.

(b) The Department may not hire an SI on a preliminary basis if the BCU determines that:

(A) After a weighing test, the SI more likely than not poses a potential threat to the Department, its clients, or vulnerable persons;

(B) The SI's most recent criminal records check under these rules or other Department criminal records check rules resulted in a denial; or

(C) The SI is currently involved in contesting a criminal records check determination under these or other Department criminal records check or abuse check rules.

(3) An SI who is hired on a preliminary basis shall be actively supervised at all times by an individual who has been approved without restrictions pursuant to these rules or previous Department criminal records check rules. The individual providing active supervision shall do at all times the following:

(a) Be in the same building as the SI or, if outdoors of Department buildings or any location off Department property, be within line of sight and hearing of the SI;

(b) Know where the SI is and what the SI is doing; and

(c) Periodically observe the actions of the SI.

(4) An SI who was approved without restrictions within the previous 24 months through a documented criminal records check pursuant to these rules may work after being hired on a preliminary basis without active supervision. The 24 month time frame is calculated from the date of previous approval to the date starting the new position. This exemption is not allowed in any of the following situations:

(a) If the SI cannot provide documented proof that he or she worked continuously under the previous approval for at least one year.

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(b) If there is evidence of criminal activity within the previous 24 months.

(c) If the Department determines the job duties in the new position are so substantially different from the previous position that the previous fitness determination is inadequate for the new position.

(5) The Department may immediately remove an SI hired on a preliminary basis from the position. Removal is not subject to hearing or appeal. Reasons for removal include but are not limited to the following:

(a) There is any indication of falsification in the request.

(b) The SI fails to disclose convictions for any potentially disqualifying crimes, any arrests that did not result in convictions, or any out of state arrests or convictions.

(c) The Department determines that allowing the SI to be hired on a preliminary basis is not appropriate, based on the application, criminal records, position duties, or regulations regarding the position.

(6) Nothing in this rule is intended to require that an SI, who is eligible for being hired on a preliminary basis be allowed to work, volunteer, be employed, or otherwise perform in the position listed in the criminal records check request prior to a final fitness determination.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050

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

Hist.: DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0070

Final Fitness Determinations

The Department shall make a final fitness determination in accordance with OAR 125-007-0260 after all necessary criminal records checks and a weighing test, if necessary, have been completed. The Department may obtain and consider additional information as necessary to complete the final fitness determination.

(1) The final fitness determination may result in one of the following outcomes:

(a) The Department may approve an SI if:

(A) The SI has no potentially disqualifying crimes or potentially disqualifying conditions; or

(B) The SI has potentially disqualifying crimes or potentially disqualifying conditions and, after a weighing test with available information, the Department determines that more likely than not the SI poses no risk to the Department, its clients, or vulnerable persons.

(b) The Department may approve an SI with restrictions if, after a weighing test with available information, it determines that more likely than not that the SI poses no risk to the Department, its clients, or vulnerable persons, if certain restrictions are placed on the SI, such as but not limited to restrictions to one or more specific clients, position duties, or environments. The Department shall complete a new background check and fitness determination on the SI before removing a restriction. A fitness determination of approved with restrictions shall only be considered for the following SIs:

(A) An individual secured by the Department through the services of a temporary employment agency, staffing agency, or personnel services agency who is providing any of the duties or having access as described in OAR 407-007-0060(3).

(B) A volunteer or student under Department direction and control.

(C) A Department client who is placed in a Work Experience or JOBS Plus program at a Department site.

(D) Any individual who is required to complete a criminal records check pursuant to the statutory authority of ORS 181A.195 and 181A.200 or the authority of these rules pursuant to a contract with the Department.

(c) The Department shall deny an SI whom it determines, after a weighing test with available information, more likely than not poses a risk to the Department, its clients, or vulnerable individuals.

(d) The Department shall consider a criminal records check to have any outcome of incomplete fitness determination in the following circumstances:

(A) The Department or SI discontinues the application or the SI fails to cooperate with the criminal records check or fitness determination process, including but not limited to refusal to be fingerprinted or failing to respond in a timely manner to requests from the Department. The criminal records check request is considered closed and there are no hearing rights for the SI.

(B) BCU determines that the SI has no potentially disqualifying convictions under OAR 125-007-0270 and no potentially disqualifying conditions under OAR 407-007-0050, and has been denied under OAR 407-007-0400 to 407-007-0460 due to a weighing test involving potentially disqualifying abuse. The criminal records checks is considered completed and the SI has hearing rights under OAR 407-00-0400 to 407-007-0460.

(C) Human Resources determines that the SI is ineligible for the position due to federal requirements, state statutes, or for reasons other than criminal history. The criminal records check request is considered closed and SI has no hearing rights.

(D) BCU or the QE withdraws or closes the background check request before a final fitness determination for any reason. The background check request is considered closed and the SI has no hearing rights.

(E) The SI withdraws the application, leaves the position prior to completion of the background check, or the Department cannot locate or contact the SI. The background check request is considered closed and the SI has no hearing rights.

(2) Upon completion of a final fitness determination, the Department shall provide the SI with written notice, which shall:

(a) Be in a Department approved format;

(b) Include information regarding appeal rights for denied or approved with restrictions outcomes. The notice shall also include a statement that it becomes a final order by default in the event of a withdrawal or a failure to participate during the appeal or hearing; and

(c) Be mailed or hand-delivered to the SI no later than 14 calendar days after the decision. The effective date of action shall be recorded on the notice.

(d) Human Resources shall also provide employees with all formal disciplinary documents and letters up to and including a letter of dismissal.

(3) When an SI is denied, the Department may not allow the SI to work, volunteer, be employed, or otherwise perform in the position listed in the criminal records check request. A denial applies only to the position in question.

(a) The process for a Department employee's removal from service or dismissal shall adhere to Department-wide Support Services discharge policies, Department of Administrative Services' Human Resource Services Division dismissal policies, and collective bargaining agreements on discharge, as applicable.

(b) For all other SIs, a denial shall result in immediate dismissal.

(4) Final fitness determinations shall be documented in writing, including any other necessary details including but not limited to restrictions in a restricted approval or potentially disqualifying crimes or conditions in a denial.

(5) The Department shall make new fitness determinations for each application. The outcome of previous fitness determinations does not set a precedent for subsequent fitness determinations.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050

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

Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0080

Contesting a Final Fitness Determination

(1) An SI may contest a final fitness determination of denied or restricted approval pursuant to OAR 125-007-0300.

(2) If an SI is denied, then the SI may not work, volunteer, be employed, or otherwise perform in positions covered by these rules. An SI appealing a restricted approval may only work under the terms of the restriction during the appeal.

(3) If an adverse outcome is changed at any time during the appeal process, the change does not guarantee employment or placement.

(4) The SI may represent himself or herself or have legal representation during the appeal process. The SI may not be represented by a lay person. In this rule, the term "SI" shall be considered to include the SI's legal representative.

(5) An SI who is already employed by the Department at the time of the final fitness determination may appeal through applicable personnel rules, policies, and collective bargaining provisions. The SI's decision to do so is an election of remedies as to the rights of the SI with respect to the fitness determination and constitutes a waiver of the contested case process described in this rule.

(6) An SI who wishes to challenge an adverse fitness determination may appeal the determination by requesting a contested case hearing. The appeal process is conducted in accordance with OAR 125-007-0300, ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(a) To request a contested case hearing the SI shall complete and sign the Hearing Request form.

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(b) The completed and signed form must be received by the Department within the following time lines:

(A) For Department employees and SIs offered employment by the Department, no later than 15 calendar days after the effective date of action listed on the notice of the fitness determination.

(B) For all other SIs, no later than 45 calendar days after the effective date of action listed on the notice of the fitness determination.

(c) If a request for hearing is not timely, the Department shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(d) The Department may refer an untimely request to OAH for a hearing on the issue of timeliness.

(7) When an SI requests a contested case hearing, the Department may conduct an administrative review before referring the appeal to OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by the Department within a specified amount of time.

(b) The administrative review is not open to the public.

(8) The Department may conduct additional criminal records checks during the appeal process to update or verify the SI's criminal records. If needed, the Department shall amend the notice of fitness determination during the appeal process while still maintaining the original hearing rights and deadlines.

(9) A hearing representative shall represent the Department in contested case hearings. The Department may also be represented by the Department of Justice's Office of the Attorney General.

(a) The administrative law judge shall make a new fitness determination based on the evidence and the contested case hearing record.

(b) The only remedy that may be awarded is a fitness determination that the SI is approved or denied. Under no circumstances shall the Department be required to place an SI in any position, nor shall the Department be required to accept services or enter into a contractual agreement with an SI.

(10) The result of an appeal is a final order.

(a) In the following situations, the notice of fitness determination becomes the final order as if the SI never requested a hearing:

(A) Failure to request a hearing in the time allotted in this rule. No other document shall be issued after the notice of fitness determination.

(B) Withdrawal of the request for hearing at any time during the appeal process.

(b) The Department may make an informal disposition based on the administrative review. The Department shall issue a final order and new notice of fitness determination. If the resulting fitness determination is an adverse outcome, the appeal shall proceed to contested case hearing.

(c) The Department shall issue a dismissal order in the following circumstances:

(A) The SI may withdraw a hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to a withdrawal is effective the date the withdrawal is received by the Department or OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(B) The Department shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review. The Department shall review a good cause request to reinstate hearing rights if received in writing by the Department within 14 calendar days.

(C) The Department shall dismiss a hearing request when the SI fails to appear at the time and place specified for the contested case hearing. The order is effective on the date scheduled for the hearing. The Department shall review a good cause request to reinstate hearing rights if received in writing by the Department within 14 calendar days.

(d) After a hearing, the administrative law judge shall issue a proposed and final order.

(A) If no written exceptions are received by the Department within 14 calendar days after the service of the proposed and final order, the proposed and final order shall become the final order.

(B) If timely written exceptions to the proposed and final order are received by the Department, the Department's Director or designee shall consider the exceptions and serve a final order, or request a written response or a revised proposed and final order from the administrative law judge.

(11) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the final order is served, pursuant to OAR 137-003-0675.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 183.341 & 409.010

Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

407-007-0090

Record Keeping, Confidentiality

(1) All LEDS reports are confidential and the Department shall maintain the reports in accordance with applicable OSP requirements in ORS chapter 181 and OAR chapter 257, division 15.

(a) LEDS reports may only be shared with approved Department authorized designees if there is a need to know consistent with these rules.

(b) The LEDS report and any photocopies may not be shown or given to the SI.

(2) The results of a national criminal records check provided by the FBI or through OSP are confidential and may not be disseminated by the Department except:

(a) If a fingerprint-based criminal records check was conducted on the SI, the SI shall be provided a copy of the results upon request.

(b) During the contested case hearing, the Department shall provide state and national criminal offender information as exhibits.

(3) All completed criminal records check requests, other criminal records information, and other records collected or developed during the criminal records check process shall be kept confidential and disseminated only on a need-to-know basis.

(4) The Department shall retain and destroy all criminal records check documents pursuant to federal law and records retention schedules published by Oregon State Archives.

Stat. Auth.: ORS 181A.195, 181A.200 & 409.050

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

Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 9-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 2-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 4-2016, f. 6-9-16, cert. ef. 6-15-16

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

Adm. Order No.: DHSD 5-2016

Filed with Sec. of State: 6-10-2016

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Rules Adopted: 407-007-0279

Rules Amended: 407-007-0200, 407-007-0210, 407-007-0220, 407-007-0230, 407-007-0240, 407-007-0250, 407-007-0275, 407-007-0277, 407-007-0290, 407-007-0300, 407-007-0315, 407-007-0320, 407-007-0330, 407-007-0350, 407-007-0370

Rules Repealed: 407-007-0200(T), 407-007-0210(T), 407-007-0220(T), 407-007-0230(T), 407-007-0240(T), 407-007-0250(T), 407-007-0275(T), 407-007-0277(T), 407-007-0280, 407-007-0290(T), 407-007-0300(T), 407-007-0315(T), 407-007-0320(T), 407-007-0325, 407-007-0330(T), 407-007-0350(T), 407-007-0370(T)

Subject: ORS 181A.215 (formerly ORS 181.547) shifts the criminal records check rules from Oregon state agencies to the Oregon Department of Administrative Services (DAS). The DAS rules (OAR 125-007-0200 to 125-007-0330) became effective 1/4/2016. The Department of Human Services has filed temporary rules effective 1/14/2016 to 7/11/2016 to align with the DAS rules; these rules are being filed as permanent to be in alignment with the DAS rules.

These rules add language showing mandatory exclusions required under federal law for certain positions if the subject individuals has certain convictions or other conditions. These exclusions do not allow for a weighing test as required in Oregon statute and are there-

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fore included the background check rules to allow transparency for the general public.

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

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

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

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-007-0200

Purpose and Scope

(1) The purpose of these rules, OAR 407-007-0200 to 407-007-0370, is to supplement OAR 125-007-0200 to 125-007-0330 with guidelines and requirements specific to background checks for Department of Human Services (Department) and Oregon Health Authority (Authority) subject individuals (SIs). These rules provide for the reasonable screening under ORS 181A.195, 181A.200, and 409.027 of SIs to determine if they have a history of criminal or abusive behavior such that they should not be allowed to work, volunteer, be employed, reside, or otherwise perform in positions covered by these rules.

(2) These rules apply to evaluating criminal records and potentially disqualifying conditions of an SI when conducting fitness determinations based upon such information. The fact that an SI is approved does not guarantee employment or placement. These rules do not apply to individuals subject to OAR 407-007-0000 to 407-007-0060 (DHS Employees, Volunteers, and Contractors) or 407-007-0400 to 407-007-0460 (Abuse Check Rules for Department Employees and Volunteers).

(3) Providers for the Department and the Authority are subject to criminal records and abuse checks. The Authority authorizes the Department to act on its behalf in carrying out criminal and abuse checks associated with programs or activities administered by the Authority. References in these rules to the Department or Authority shall be construed to be references to either or both agencies.

Stat. Auth.: ORS 181A.195, 181A.200, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 411.122, 413.036, 418.016, 418.640, 441.055, 443.730, 443.735 & 678.153
Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.025, 409.027, 411.060, 411.122 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; Renumbered from 410-007-0200, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0210

Definitions

In addition to the definitions in OAR 125-007-0210 and 407-007-0010, the following definitions apply to OAR 407-007-0200 to 407-007-0370:

(1) "Appointing authority" means an individual designated by the qualified entity (QE) who is responsible for appointing QE designees (QEDs). Examples include but are not limited to human resources staff with the authority to offer and terminate employment, a business owner, a member of the board of directors, a director, or a program administrator.

(2) "Ineligible due to ORS 443.004" means BCU has determined that an SI, subject to ORS 443.004 and either OAR 407-007-0275 or 407-007-0277, has one or more convictions that prohibit the SI from holding the position listed in the background check request.

(3) "Mandatory exclusion" means BCU has determined that an SI, subject to federal law or regulation, has one or more convictions or conditions that prohibit the SI from holding the position listed in the background check request.

(4) "Qualified entity (QE)" means a community mental health or developmental disability program, local health department, or an individual, business, or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care, including a business or organization that licenses, certifies, or registers others to provide care (see ORS 181A.200).

(5) "QE designee (QED)" means an individual appointed by the QE's appointing authority to handle background checks on behalf of the QE.

(6) "QE Initiator (QEI)" means an approved SI to whom BCU has granted access to the Criminal Information Management System (CRIMS) for one QE for the purpose of entering background check request data.

(7) "Subject individual (SI)" means an individual on whom BCU conducts a criminal records check and an abuse check, and from whom BCU may require fingerprints for the purpose of conducting a national criminal records check.

(a) An SI includes any of the following:

(A) An individual who is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department or Authority and who provides care.

(B) An employee, contractor, temporary worker, or volunteer who provides care or has access to clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority.

(C) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

(i) Services within an adult foster home (defined in ORS 443.705); or

(ii) Services within a residential facility (defined in ORS 443.400).

(D) Any individual who works in a facility and provides care or has access to clients, client information, or client funds secured by any residential care or assisted living facility through the services of a personnel services or staffing agency.

(E) Any individual who works in a facility and provides care, or has access to clients, client information, or client funds secured by any nursing facility through the services of a personnel services or staffing agency.

(F) Except as excluded in section (7)(b)(C) and (D) of this rule, an individual who lives in a facility that is licensed, certified, registered, or otherwise regulated by the Department to provide care. The position of this SI includes but is not limited to resident manager, household member, or boarder.

(G) An individual working or volunteering for a private licensed child caring agency, an In-Home Safety and Reunification Services (ISRS) program, a Strengthening, Preserving and Reunifying Families (SPRF) provider, or system of care contractor providing child welfare services pursuant to ORS chapter 418.

(H) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a personal care services provider, or an independent provider employed by a Department or Authority client who provides care to the client if the Department or Authority helps pay for the services.

(I) A child care provider and their employees reimbursed through the Department's child care program and other individuals in child care facilities that are exempt from certification or registration by the Office of Child Care of the Oregon Department of Education. This includes all individuals listed in OAR 461-165-0180(4).

(J) An appointing authority, QED, or QEI associated with any entity or agency licensed, certified, registered, otherwise regulated by the Department, or subject to these rules.

(K) An individual providing on the job certified nursing assistant classes to staff within a long term care facility.

(L) A student enrolled in a Board of Nursing approved nursing assistant training program in which the instruction and training occurs solely in a nursing facility.

(M) Except for those excluded under section (7)(b)(B), a student or intern who provides care or has access to clients, client information, or client funds within or on behalf of a QE.

(N) Any individual serving as an owner, operator, or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(O) An employee providing care to clients of the Department's Aging and People with Disabilities (APD) programs who works for an in-home care agency as defined by ORS 443.305 who has a contract with the Department's APD programs.

(P) Any individual who is required to complete a background check pursuant to Department or Authority program rules or a contract with the Department or Authority, if the requirement is within the Department or Authority's statutory authority. Specific statutory authority or reference to these rules and the positions under the contract subject to a background check must be specified in the contract. The exceptions in section (7)(b) do not apply to these SIs.

(b) An SI does not include:

(A) Any individual under 16 years of age.

(B) A student or intern in a clinical placement at a clinical training setting subject to administrative rules implemented under ORS 413.435.

(C) Department, Authority, or QE clients. The only circumstance in which BCU shall allow a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in sections (7)(a)(A)-(E) and (7)(a)(G)-(P) of this rule, or if the

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facility is dually licensed for different populations of vulnerable individuals.

(D) Individuals working in child care facilities certified or registered by OED.

(E) Individuals employed by a private business that provides services to clients and the general public and is not regulated by the Department or Authority.

(F) Individuals employed by a business that provides appliance or structural repair for clients and the general public and who are temporarily providing these services in a licensed or certified QE. The QE shall ensure active supervision of these individuals while on QE property and the QE may not allow unsupervised contact with QE clients or residents. This exclusion does not apply to a business that receives funds from the Department or Authority for care provided by an employee of the business.

(G) Individuals employed by a private business in which a client of the Department or Authority is working as part of a Department- or Authority-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department or Authority for care provided by the employee.

(H) Employees, contractors, students, interns, and volunteers working in hospitals, ambulatory surgical centers, outpatient renal dialysis facilities, and freestanding birthing centers, as defined in ORS 442.015, and special inpatient care facilities as defined by the Authority in administrative rule.

(I) Volunteers, who are not under the direction and control of a licensed, certified, registered, or otherwise regulated QE.

(J) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure or certification by the State of Oregon.

(K) Individuals working in restaurants or at public swimming pools.

(L) Hemodialysis technicians.

(M) Employees, contractors, temporary workers, or volunteers who provide care, or have access to clients, client information, or client funds of an alcohol and drug program that is certified, licensed, or approved by the Authority's Health Systems Division to provide prevention, evaluation, or treatment services. This exclusion does not apply to programs specifically required by other Authority program rules to conduct criminal records checks in accordance with these rules.

(N) Individuals working for a transit service provider which conducts background checks pursuant to ORS 267.237.

(O) Emergency medical technicians and first responders certified by the Authority's Emergency Medical Services and Trauma Systems program.

(P) Employees, contractors, temporary workers, or volunteers of continuing care retirement communities registered under OAR chapter 411, division 67.

(Q) Individuals hired by or on behalf of a resident in a QE to provide care privately to the resident.

(R) An employee, contractor, temporary worker, or volunteer who provides care or has access to clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority, where the clients served permanently reside in another state.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050
Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0210, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 8-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2013(Temp), f. & cert. ef. 2-5-13 thru 8-2-13; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0220

Background Check Required

(1) BCU shall conduct criminal records checks on all SIs through LEDS maintained by the Oregon State Police (OSP) in accordance with ORS chapter 181 and the rules adopted thereto (see OAR chapter 125, division 007; and chapter 257, division 15).

(2) If a national criminal records check is necessary, OSP shall provide BCU results of national criminal records checks conducted pursuant to ORS 181A.195, including fingerprint identification, through the FBI.

(3) BCU shall conduct abuse checks using available abuse investigation reports and associated documents.

(4) Unless an SI meets a criterion under section (7) of this rule, an SI must have a background check in the following circumstances:

(a) An individual who becomes an SI on or after the effective date of these rules.

(b) The SI changes employers to a different QE.

(c) The individual, whether previously considered an SI or not, changes positions under the same QE, and the new position requires a background check.

(d) The individual, whether previously considered an SI or not, changes Department or Authority-issued licenses, certifications, or registrations, and the license, certification, or registration requires a background check under these rules.

(e) For a student enrolled in a long term care facility nursing assistant training program for employment at the facility, a new background check is required when the student becomes an employee at the facility. A new background check is not required by the Department or the Authority at graduation from the training program or at the granting of certification by the Board of Nursing unless the Department, the Authority, or the QE have reason to believe that a background check is justified.

(f) A background check is required by federal or state laws or regulations, other Department or Authority administrative rules, or by contract with the Department or Authority.

(g) When BCU or the QE has reason to believe that a background check is justified. Examples include but are not limited to:

(A) Any indication of possible criminal or abusive behavior by an SI.

(B) A lapse in working or volunteering in a position under the direction and control of the QE but the SI is still considered in the position. For example, an extended period of leave by an SI. The QE determines the need for a background check.

(C) Quality assurance monitoring by the Department or Authority of a previously conducted criminal records check or abuse check.

(5) If the SI is subject to a background check due to involvement with the foster or adoptive placement of a child and:

(a) Is subject to the Interstate Compact on Placement of Children (ORS 417.200 and OAR 413-040-0200 to 413-040-0330), the background check must comply with Interstate Compact requirements.

(b) Is subject to the Inter-County Adoption Act of 2000 (42 USC 14901 et seq.), the background check must comply with federal requirements and ORS 417.262.

(6) If QEs, Department program rules, or Authority program rules require an SI to report any new arrests, charges, or convictions, the QE may determine if personnel action is required if the SI does not report. Personnel action may include a new background check.

(7) A background check is not required under the following circumstances:

(a) A homecare worker or personal support worker, as defined in ORS 410.600, has a Department background check notice of final fitness determination dated within the recheck period according to Department program rules showing that the homecare worker or personal support worker has been approved or approved with restrictions, and listing a worksite of "various," "various clients," "statewide," or similar wording.

(b) A personal care services provider, lifespan respite or other respite care provider, or an independent provider paid with Department or Authority funds who changes or adds clients within the same QE, Department, or Authority district, and the prior, documented criminal records check or abuse check conducted within the previous 24 months through the Department or Authority has been approved without restrictions.

(c) The SI is a child care provider as described in OAR 461-165-0180 who changes or adds clients and who has been approved without restrictions within the required recheck period according to Department program rules.

(d) The SI remains with a QE in the same position listed on the background check request while the QE merges with another QE, is sold to another QE, or changes names. The changes may be noted in documentation attached to the notice of fitness determination but do not warrant a background check.

(e) The SI is on the background check registry maintained under OAR 407-007-0600 to 407-007-0640.

(8) Background checks are completed on SIs who otherwise meet the qualifications of the position listed on the background check request. A background check may not be used to screen applicants for a position.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050
Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0220, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09;

ADMINISTRATIVE RULES

DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0230

Qualified Entity

(1) A QE and its appointing authority must be approved in writing by the Department or Authority pursuant to these rules in order to appoint a QED. Documentation of a current and valid license, certification, contract, or letter of approval from the Department or Authority are considered proof of approval. Unless specifically indicated otherwise in these rules, all QEs and appointing authorities discussed in these rules are considered approved.

(2) A QE shall ensure the completion of background checks for all SIs who are the QE's employees, volunteers, or other SIs under the direction or control of the QE.

(3) BCU may allow a QE's appointing authority or the QED to appoint one or more QEIs based on the needs of the QE and the volume of SIs under the QE.

(4) A QE's appointing authority shall appoint QEDs as needed to remain in compliance with these rules and shall communicate any changes regarding QEDs or QEIs to BCU. BCU strongly recommends that the QE have at least one QED at any facility where clients are receiving care in order to handle any immediate QED responsibilities, such as removing an SI from work or placement when required.

(5) If for any reason a QE no longer has any QEDs, the QE or appointing authority shall ensure that the confidentiality and security of background check records by immediately providing all background check related documents to BCU or to another QE as determined by BCU.

(6) BCU shall provide QEs with periodic training and on-going technical assistance.

(7) Any decisions made by BCU in regard to these rules are final and may not be overturned by any QE.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050
Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 85-2004(Temp), f. & cert. ef. 11-4-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0230, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0240

QE Designees and QE Initiators

(1) All requirements in this section must be completed within 90 calendar days. To receive BCU approval, a QED must meet the following requirements:

(a) A QED must be one of the following:

(A) Employed by the agency for which the QED will handle criminal records check information.

(B) Contracted with the QE to perform as a QED.

(C) Employed by another similar QE or a parent QE. For example, an assisted living facility QED may act as QED for another assisted living facility.

(D) The licensee of the QE.

(b) A QED must be an approved SI with a record in CRIMS within the past three years for at least one of the QEs for which the QED will manage background checks.

(c) A QED must have:

(A) Competency in computer skills for accessing CRIMS online, entering data, corresponding via email, and managing background check records in CRIMS;

(B) Work-related access to a desktop or laptop computer and the internet; and

(C) A work-related email account.

(d) A QED must complete a certification program and successfully pass any BCU required testing.

(e) An appointing authority must appoint a QED. The applicant QED must complete and submit required documents and information to BCU for processing and registration.

(2) BCU shall deny the individual's status as a QED if the individual does not meet QED requirements. Once denied, the individual may no longer perform the duties of a QED. There are no exceptions for individuals who fail to meet QED requirements.

(3) An approved QED shall have the following responsibilities:

(a) Demonstrate understanding of and adherence to these rules in all actions pertaining to the background check process.

(b) Act as the Department's designee in any action pursuant to these rules and the background check process. A QED may not advocate for an SI during any part of the background check process, including contesting a fitness determination.

(c) Ensure that adequate measures are taken to protect the confidentiality of the records and documents required by these rules. A QED may not view criminal offender information. A QED may not view abuse investigation reports and associated abuse investigation exhibits or documents as part of the background check process.

(d) Verify the SI's identity or ensure that the same verification requirements are understood by each individual responsible for verifying identity. The QE may verify identity at any time during the hiring or placement process up to the submission of the background check request.

(A) If conducting a background check on the SI for the first time or at rehire of the SI, a QED shall verify identity or ensure identity is verified by using methods which include but are not limited to reviewing the SI's current and valid government-issued photo identification and confirming the information on the photo identification with the SI, the information included in the background check request, and the information written on the fingerprint card if a national criminal records check is conducted.

(B) If an SI is being rechecked for the same QE without any break in placement, service, or employment, review of government-issued photo identification may not be necessary. The QED shall verify the SI's name, current address, and any aliases or previous names, or ensure this information is verified.

(e) Ensure that an SI is not permitted to work, volunteer, reside, or otherwise hold any position covered by these rules before the submission of the background check request to BCU.

(f) Review the SI's background check request to ensure completeness of the information, to verify identity, and to determine if the SI has any disclosed criminal history. If the SI has adverse criminal history within the five year period from the date the SI signed the background check request, the QED may request that BCU make a preliminary fitness determination requiring a weighing test. The request must be through CRIMS or in writing.

(g) Ensure that the result of the preliminary fitness determination granting the QE to hire the SI on a preliminary basis, or prohibiting the QE from hiring the SI on a preliminary basis, is followed.

(h) Ensure that when an SI is hired on a preliminary basis, the need for active supervision is understood by each individual responsible for providing active supervision.

(i) Ensure that if an SI is removed from working on a preliminary basis, the SI is immediately removed from the position and remains removed until BCU reinstates hired on a preliminary basis or the completion of a final fitness determination allowing the SI to resume the position.

(j) Ensure that the SI has directions to complete a fingerprint capture and monitor the SI's process in getting the fingerprints taken in a timely manner.

(k) Notify BCU of any changes regarding an SI who still has a background check in process, including but not limited to address or employment status changes.

(L) Monitor the status of background check applications and investigate any delays in processing.

(m) Ensure that documentation required by these rules is processed and maintained in accordance with these rules.

(n) Notify BCU immediately if arrested, charged, or convicted of any crime, or if found responsible for abuse by the Department or Authority.

(4) BCU may change QED status in the following circumstances which include but are not limited to:

(a) When the position with the QE ends or when the QE terminates the appointment. The QE shall notify BCU immediately upon the end of the position or termination of the appointment and BCU shall inactivate QED status.

(b) If a QED fails to comply with responsibilities or fails to continue to meet the requirements for QED status, as applicable. After suspending or revoking the appointment, the QE must immediately notify the BCU in writing. If BCU takes the action to suspend or revoke the appointment, it must immediately notify the QE in writing.

ADMINISTRATIVE RULES

(c) If a QED fails to recertify, BCU shall revoke QED status.

(5) Any changes to QED status are not subject to appeal rights unless the denial or termination results in immediate loss of employment or position. A QED losing employment or position has the same hearing rights as other SIs under these rules.

(6) If a QED leaves employment or position with the QE for any reason, BCU shall inactivate QED status. If the individual finds employment with another QE, BCU shall determine the requirement for reactivation of QED status.

(7) BCU shall review and recertify appointments of QEDs, up to and including a new application, background check, and additional training under the following circumstances:

(a) Every three years; or

(b) At any time BCU has reason to believe the individual no longer meets QED requirements including but not limited to indication of criminal or abusive behavior or noncompliance with these rules.

(8) With BCU approval, QEs may appoint QEIs to enter background check request into CRIMS. QEIs must:

(a) Be currently approved SIs for the QE;

(b) Possess competency in computer skills for accessing CRIMS online and entering background check records into CRIMS;

(c) Maintain internet access and working email accounts to access CRIMS; and

(d) Meet other criteria as determined by BCU and the QE.

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

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

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0240, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0250

Background Check Process

(1) A QE and SI shall use CRIMS to request a background check. In addition to information required in OAR 125-007-0220, the background check request shall include the following information regarding an SI:

(a) Worksite location or locations where the SI will be working;

(b) Disclosure of all criminal history;

(A) The SI must disclose all arrests, charges, and convictions regardless of outcome or when the arrests, charges, or convictions occurred. Disclosure includes any juvenile record of arrests, charges, or the outcome of arrests or charges against a juvenile.

(B) The disclosed crimes and the dates must reasonably match the SI's criminal offender information and other criminal records information, as determined by BCU.

(c) Disclosure of other information to be considered in the event of a weighing test.

(A) The SI may provide mitigating information for BCU to review in a weighing test.

(B) BCU may require the SI to provide other information as needed to conduct the weighing test.

(2) The background check request shall include the following notices to the SI:

(a) A notice regarding disclosure of Social Security number indicating that:

(A) The SI's disclosure is voluntary; and

(B) The Department requests the Social Security number solely for the purpose of positively identifying the SI during the criminal records check process.

(b) A notice that the SI may be subject to fingerprinting as part of a criminal records check.

(c) A notice that BCU shall conduct an abuse check on the SI. Unless required by program rule, an SI is not required to disclose any history of potentially disqualifying abuse, but may provide BCU with mitigating or other information.

(3) Using identifying information submitted in a background check request, BCU shall conduct an abuse check to determine if the subject individual has potentially disqualifying abuse.

(4) BCU shall conduct an Oregon criminal records check. Using information submitted on the background check request, BCU may obtain criminal offender information from LEDS and may request other criminal records information as needed.

(5) BCU shall handle criminal offender information in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 125, division 007 and chapter 257, division 15).

(6) BCU may conduct a fingerprint-based national criminal records check.

(a) A fingerprint-based national criminal records check may be completed under any of the following circumstances:

(A) The SI has been outside Oregon:

(i) For 60 or more consecutive days during the previous 18 months and the SI is a child care provider or other individual included in OAR 461-165-0180(4).

(ii) For 60 or more consecutive days during the previous five years for all other SIs.

(B) The LEDS check, SI disclosures, or any other criminal records information obtained by BCU indicate there may be criminal records outside of Oregon.

(C) The SI has an out-of-state driver license or out-of-state identification card.

(D) BCU or the QE has reason to question the identity of the SI or the information on the criminal record found in LEDS.

(E) A fingerprint-based criminal records check is required by federal or state laws or regulations, other Department or Authority rules, or by contract with the Department or Authority.

(F) The SI is an employee of an agency which the Centers of Medicare and Medicaid Services has designated high risk pursuant to 42 CFR 424.518.

(G) Any SI applying to be or renewing the position with regard to child adoption or children in foster care licensed by the Department or private licensed child caring agencies. Renewing SIs do not need a fingerprint-based criminal records check if BCU has a record of a previous fingerprint-based criminal records checks that is within BCU's retention schedule. Applicable SI positions include:

(i) A relative caregiver, foster parent, or adoptive parent in Oregon;

(ii) An adult household member in an adoptive or child foster home 18 years of age and over;

(iii) A household member in an adoptive or child foster home under 18 years of age if there is reason to believe that the household member may pose a risk to children placed in the home; or

(iv) A respite care provider in an adoptive or child foster home.

(H) BCU has reason to believe that fingerprints are needed to make a final fitness determination.

(b) BCU shall request a fingerprint capture for an SI under the age of 18 in accordance with OAR 125-007-0220(3).

(c) The SI shall complete and submit a fingerprint capture when requested by BCU within the time frame indicated in a written notice. BCU shall send the request to the QE and the QED shall notify the SI.

(A) BCU shall give the SI notice regarding the Social Security number as set forth in section (2)(a) of this rule.

(B) BCU may require new fingerprint capture and its submission if previous fingerprint captures result in a rejection by OSP or the FBI.

(7) BCU may also conduct a state-specific criminal records check instead of or in addition to a national criminal records check. Reasons for a state-specific criminal records check include but are not limited to:

(a) When BCU has reason to believe that out-of-state criminal records may exist and a national criminal records check cannot be accomplished.

(b) When BCU has been unable to complete a national criminal records check due to illegible fingerprints.

(c) When the national criminal records check results show incomplete information about charges or criminal records without final disposition.

(d) When there is indication of residency or criminal records in a state that does not submit all criminal records to the FBI.

(e) When, based on available information, BCU has reason to believe that a state-specific criminal records check is necessary.

(8) In order to complete a background check and fitness determination, BCU may require additional information from the SI including but not limited to additional criminal, judicial, other background information, or proof of identity.

(9) BCU may conduct a background check in situations of imminent danger.

(a) If the Department or Authority determines there is indication of criminal or abusive behavior that could more likely than not pose an immediate risk to vulnerable individuals, BCU shall conduct a new criminal records check on an SI without the completion of a new background check request.

ADMINISTRATIVE RULES

(b) If BCU determines that a fitness determination based on the new background check would be adverse to the SI, BCU shall provide the SI, if available, the opportunity to disclose criminal records, potentially disqualifying conditions, and other information as indicated in OAR 407-007-0300 before completion of the fitness determination.

(10) All criminal records checks conducted under this rule shall be documented.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050
Stats. Implemented: ORS 181A.195, 181A.200, 409.010
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0250, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0275

Convictions Under ORS 443.004 Resulting in Ineligibility for Aging and People with Disabilities Program and Developmental Disabilities Program SIs

(1) Section (2) of this rule applies to an SI who:

(a) Works with clients of the Department's Office of Developmental Disabilities (DD) program.

(b) Works with clients of the Department's APD programs and who is:

(A) An individual who is paid directly or indirectly with public funds who has or will have contact with recipients of services within:

- (i) An adult foster home (defined in ORS 443.705); or
- (ii) A residential facility (defined in ORS 443.400).

(B) Any direct care staff secured by any residential care or assisted living facility through the services of a personnel services or staffing agency and the direct care staff works in the facility.

(C) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a personal care services provider, or an independent provider employed by a Department client who provides care to the client if the Department helps pay for the services.

(D) An employee providing care to the Department's APD program clients who works for an in-home care agency as defined by ORS 443.305 which has a contract with the Department's APD programs.

(E) An individual in a position specified as being subject in relevant Oregon statutes or Oregon administrative rules.

(2) If BCU determines that an individual subject to this rule has a conviction listed in ORS 443.004, BCU shall make the determination of "ineligible due to ORS 443.004." Under OAR 125-007-0260, this determination is considered an incomplete fitness determination. A fitness determination with a weighing test is not required regardless of any other potentially disqualifying convictions and conditions the SI has. BCU shall provide notice of ineligibility due to ORS 443.004 to the individual.

(3) An individual subject to this rule who is an employee and hired prior to July 28, 2009 is exempt from section (2) of this rule provided that the employee remains in the same position working for the same employer after July 28, 2009. This exemption is not applicable to licensees.

(4) If an individual subject to this rule is grandfathered or not found ineligible due to ORS 443.004, the individual is subject to a fitness determination under OAR 125-007-0260 and 407-007-0320.

(5) A determination of "ineligible due to ORS 443.004" is not subject to appeal rights under OAR 125-007-0300, 407-007-0330, 407-007-0335, 943-007-0335, or 943-007-0501.

Stat. Auth.: ORS 181A.195 & 409.050
Stats. Implemented: ORS 181A.195 & 443.004
Hist.: DHSD 3-2010(Temp), f. & cert. ef. 5-5-10 thru 10-31-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0277

Convictions Under ORS 443.004 Resulting in Ineligibility for Mental Health or Alcohol and Drug Program SIs

(1) This rule applies to subject individuals who are mental health or substance abuse treatment providers defined under ORS 443.004(8).

(2) If BCU determines that an individual is subject to this rule and has a conviction listed in ORS 443.004(5), BCU shall make the determination of "ineligible due to ORS 443.004." Under OAR 125-007-0260, this determination is considered an incomplete fitness determination. A fitness determination with a weighing test is not required regardless of any other poten-

tially disqualifying convictions and conditions the SI has. BCU shall provide notice of ineligibility due to ORS 443.004 to the individual.

(3) If an individual subject to this rule is not found ineligible due to ORS 443.004, the individual is subject to a fitness determination under OAR 125-007-0260 and 407-007-0320.

(4) A determination of "ineligible due to ORS 443.004" is not subject to appeal rights under OAR 125-007-0300, 943-007-0335 or 943-007-0501.

Stat. Auth.: ORS 181A.195 & 409.050
Stats. Implemented: ORS 181A.195 & 443.004
Hist.: DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0279

Federal Mandatory Exclusions

(1) Convictions and conditions under 42 USC 1320a-7(a) result in mandatory exclusion for Sis.

(a) This sub section applies to an SI who is:

(A) Home care worker or personal support worker as defined in ORS 410.600.

(B) Is employed by:

(i) A residential facility as defined in ORS 443.400 that receives Medicare or state health care funds;

(ii) An in-home care agency as defined in ORS 443.005 that receives Medicare or state health care funds;

(iii) A home health agency as defined in ORS 443.005 that receives Medicare or state health care funds;

(b) If BCU determines that an individual is subject to this rule and has an exclusion listed in 42 USC 1320a-7, BCU shall make the determination of mandatory exclusion. Convictions or conditions requiring mandatory exclusion include:

(A) Convictions related to the delivery of Medicare or State health care program services.

(B) Convictions related to the abuse of a client or patient.

(C) Felony convictions related to health care fraud, if the offense occurred after August 21, 1996.

(D) Felony convictions related to the manufacture, delivery, prescription or dispensing of a controlled substance, if the offense occurred after August 21, 1996.

(c) Under OAR 125-007-0260, the determination of mandatory exclusion is considered an incomplete fitness determination. A fitness determination with a weighing test is not required regardless of any other potentially disqualifying convictions and conditions the SI has.

(d) A determination of mandatory exclusion is subject to appeal rights only if allowed under 42 USC 1320a-7(c) or 42 USC 1320a-7(d). If allowed, appeals shall comply with OAR 125-007-0300, 943-007-0335 and 943-007-0501.

(2) Convictions and conditions under 42 USC 12645g result in mandatory exclusion for SIs.

(a) This subsection applies to a SIs who working or volunteering under the National and Community Service Act of 1990 as amended by the Serve America Act, including participants and employees in:

(A) Americorps;

(B) Foster Grandparents;

(C) Senior Companions; or

(D) Any other programs funded under national service laws.

(b) If BCU determines that an individual is subject to this rule and has an exclusion listed in 42 USC 12645g, BCU shall make the determination of mandatory exclusion. Exclusions include:

(A) Listing on, or requirement to be listed on a sex offender registry;

(B) Conviction for murder.

(C) Refusal to complete the background check.

(D) False statement by the SI in connection with criminal history disclosure.

(c) Under OAR 125-007-0260(2)(d), the determination of "mandatory exclusion" is considered an incomplete fitness determination. A fitness determination with a weighing test is not required regardless of any other potentially disqualifying convictions and conditions the SI has.

(d) A determination of "mandatory exclusion" due to 42 USC 12645g is not subject to appeal rights under OAR 125-007-0300, 407-007-0330, 407-007-0335, 943-007-0335, or 943-007-0501.

Stat. Auth.: ORS 181A.195 & 409.050
Stats. Implemented: ORS 181A.195
Hist.: DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

ADMINISTRATIVE RULES

407-007-0290

Other Potentially Disqualifying Conditions

Pursuant to OAR 125-007-0270, the following are potentially disqualifying conditions, if they exist on the date the Department receives the background check request:

(1) The SI makes a false statement to the QE or Department, including the provision of materially false information, false information regarding criminal records, or failure to disclose information regarding criminal records. Nondisclosure of violation or infraction charges may not be considered a false statement.

(2) The SI is a registered sex offender in any jurisdiction. There is a rebuttable presumption that an SI is likely to engage in conduct that would pose a significant risk to vulnerable individuals if the SI has been designated a predatory sex offender in any jurisdiction under ORS 181.585 or found to be a sexually violent dangerous offender under ORS 144.635 (or similar statutes in other jurisdictions).

(3) The SI has an outstanding warrant for any crime in any jurisdiction.

(4) The SI has a deferred sentence, conditional discharge, or is participating in a diversion program for any crime in any jurisdiction.

(5) The SI is currently on probation, parole, or post-prison supervision for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date).

(6) The SI has been found in violation of post-prison supervision, parole, or probation for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date) within five years from the date the background check request was electronically submitted to BCU through CRIMS or the date BCU conducted a criminal records check due to imminent danger.

(7) The SI has an unresolved arrest, charge, or a pending indictment for any crime in any jurisdiction.

(8) The SI has been arrested in any jurisdiction as a fugitive from another state or a fugitive from justice, regardless of the date of arrest.

(9) The SI has an adjudication in a juvenile court in any jurisdiction, finding that the SI was responsible for a potentially disqualifying crime that would result in a conviction if committed by an adult. Subsequent adverse rulings from a juvenile court, such as probation violations, shall also be considered potentially disqualifying if within five years from the date the background check request was signed or the date BCU conducted a criminal records check due to imminent danger.

(10) The SI has a finding of “guilty except for insanity,” “guilty except by reason of insanity,” “not guilty by reason of insanity,” “responsible except for insanity,” “not responsible by reason of mental disease or defect,” or similarly worded disposition in any jurisdiction regarding a potentially disqualifying crime, unless the local statutes indicate that such an outcome is considered an acquittal.

(11) Potentially disqualifying abuse as determined from abuse investigation reports which have an outcome of founded, substantiated, or valid and in which the SI is determined to have been responsible for the abuse.

(a) For SIs associated with child foster homes licensed by the Department’s DD programs, child foster homes licensed through the Department’s Child Welfare Division, child foster homes licensed through a private licensed child caring agency, adoptive families through a private licensed child caring agency, or adoptive families through the Department’s Child Welfare Division, potentially disqualifying abuse includes:

(A) Child protective services history held by the Department or the Office of Adult Abuse Prevention and Investigations (OAAPI) regardless of the date of initial report;

(B) Child protective services history reviewed pursuant to the federal Adam Walsh Act requirements, determined by BCU to be potentially disqualifying; and

(C) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by OAAPI and APD programs based on severity.

(b) For staff, volunteers, or contractors of a private licensed child caring agency, an ISRS program, a SPRF provider, or a System of Care contractor providing child welfare services pursuant to ORS chapter 418 potentially disqualifying abuse includes:

(A) Child protective services history held by the Department or OAAPI regardless of the date of initial report; and

(B) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by OAAPI and APD based on severity.

(c) For child care providers and associated subject individuals defined in OAR 407-007-0210:

(A) Child protective services history held by the Department or OAAPI regardless of the date of initial report, date of outcome, and considered potentially disqualifying pursuant to OAR 461-165-0420; and

(B) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the OAAPI and APD programs based on severity.

(d) For all other SIs, potentially disqualifying abuse includes founded or substantiated adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to the BCU by OAAPI and APD programs based on severity.

(12) Child protective services investigations open or pending through the Department or OAAPI as of the date the background check request was electronically submitted to BCU through CRIMS or the date BCU conducted a criminal records check due to imminent danger. This potentially disqualifying condition only applies to:

(a) SIs associated with child foster homes licensed by the Department’s DD programs, child foster homes licensed through the Department’s Child Welfare Division, child foster homes licensed through a private licensed child caring agency, adoptive families through a private licensed child caring agency, or adoptive families through the Department’s Child Welfare Division;

(b) Staff, volunteers or contractors of a private licensed child caring agency, an ISRS program, a SPRF provider, or a System of Care contractor, providing child welfare services pursuant to ORS chapter 418; or

(c) Child care providers and associated subject individuals defined in OAR 407-007-0210.

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

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

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0290, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2013(Temp), f. & cert. ef. 2-5-13 thru 8-2-13; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2015(Temp), f. & cert. ef. 2-3-15 thru 8-1-15; DHSD 4-2015, f. 7-31-15, cert. ef. 8-1-15; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0300

Weighing Test

If an SI has potentially disqualifying convictions under OAR 125-007-0270 or potentially disqualifying conditions under OAR 407-007-0290, BCU shall conduct a weighing test. The weighing test shall include consideration of factors pursuant to ORS 181A.195 and the following if available to the BCU at the time of the weighing test.

(1) Circumstances regarding the nature of potentially disqualifying convictions and conditions including but not limited to:

(a) The details of incidents leading to the charges of potentially disqualifying convictions or resulting in potentially disqualifying conditions.

(b) Age of the SI at time of the potentially disqualifying convictions or conditions.

(c) Facts that support the convictions or potentially disqualifying conditions.

(d) Passage of time since commission of the potentially disqualifying convictions or conditions.

(e) Consideration of state or federal laws, regulations, or rules covering the position, facility, employer, or QE regarding the potentially disqualifying convictions or conditions.

(2) If applicable, circumstances regarding the nature of potentially disqualifying abuse including but not limited to:

(a) The nature and type of abuse; and

(b) Other information gathered during the scope of the abuse investigation.

(c) The date of the abuse incident and abuse investigation.

(d) The quality of the abuse investigation including, if applicable, any exhibits and related documents with consideration taken into account regarding completeness, objectivity, and sufficiency.

(e) Due process provided to the SI after the abuse investigation.

(f) Required action resulting from the founded or substantiated abuse including but not limited to training, counseling, corrective or disciplinary action, and the SI’s compliance.

(3) Other factors when available including but not limited to:

(a) Other information related to criminal activity including charges, arrests, pending indictments, and convictions. Other behavior involving contact with law enforcement may also be reviewed if information is rele-

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vant to other criminal records or shows a pattern relevant to criminal history.

(b) Periods of incarceration.

(c) Status of and compliance with parole, post-prison supervision, or probation.

(d) Evidence of alcohol or drug issues directly related to criminal activity or potentially disqualifying conditions.

(e) Evidence of other treatment or rehabilitation related to criminal activity or potentially disqualifying conditions.

(f) Likelihood of repetition of criminal behavior or behaviors leading to potentially disqualifying conditions including but not limited to patterns of criminal activity or behavior.

(g) Information from the Department's or Authority's protective services, abuse, or other investigations in which the investigator documented behavior or conduct by the SI that would pose a risk to or jeopardize the safety of vulnerable individuals.

(h) Changes in circumstances subsequent to the criminal activity or disqualifying conditions including but not limited to:

(A) History of high school, college, or other education related accomplishments.

(B) Work history (employee or volunteer).

(C) History regarding licensure, certification, or training for licensure or certification.

(D) Written recommendations from current or past employers, including Department client employers.

(i) Indication of the SI's cooperation, honesty, or the making of a false statement during the criminal records check process, including acknowledgment and acceptance of responsibility of criminal activity and potentially disqualifying conditions.

(4) BCU shall consider the relevancy of the SI's criminal activity or potentially disqualifying conditions to the paid or volunteer position, or to the environment in which the SI will reside, work, or visit.

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

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

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0300, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0315

Hired on a Preliminary Basis

(1) A preliminary fitness determination is required to determine if an SI may participate in training or orientation, work, volunteer, or otherwise perform in the position listed on the background check request prior to a final fitness determination. An SI may not be hired on a preliminary basis prior to the completion of a preliminary fitness determination.

(2) An SI may be hired on a preliminary basis only during the period of time prior to a final fitness determination and into the position listed on the background check request.

(3) The SI must provide information required for a background check request and the QED must review the information.

(4) The QED shall make one of the following determinations:

(a) If the SI makes no disclosures of criminal history, the QED may hire the SI on a preliminary basis in accordance with relevant program rules or QE policies.

(b) If the SI discloses any criminal history and all of the history occurred outside the five year period from the date the SI manually or electronically signed the background check request, the QED may hire the SI on a preliminary basis in accordance with relevant program rules or QE policies.

(c) If the SI indicates any criminal history occurring within the five year period from the date the SI manually or electronically signed the background check request:

(A) The QED may allow the SI to be hired on a preliminary basis if the disclosed criminal history has the outcome of "dismissed," "no complaint filed," "expunged," or other outcome that BCU determines is not adverse.

(B) The QED may not allow the SI to be hired on a preliminary basis if the disclosed criminal history has an outcome of "pending outcome," "diversion or conditional discharge," "convicted," "on probation," "juvenile adjudication," "unknown," or other outcome that BCU determines is adverse.

(5) The QED shall submit the background check request to BCU immediately upon verification of the SI's identity, the SI's completion of the background check request, and the QED's completion of the preliminary fitness determination.

(6) If requested by the QED, BCU may conduct a preliminary fitness determination with a weighing test pursuant to OAR 125-007-0250.

(7) The QE may not hire a SI on a preliminary basis under any of the following circumstances:

(a) Being hired on a preliminary basis or probationary status is not allowed under program rules.

(b) The SI has disclosed criminal history occurring within the past five years that has an outcome of "pending outcome," "diversion or conditional discharge," "convicted," "on probation," "juvenile adjudication," "unknown" or other outcome BCU determines to be adverse and BCU has not completed a preliminary fitness determination resulting in the QE being allowed to hire the SI on a preliminary basis.

(c) The QE or BCU determines that:

(A) More likely than not, the SI poses a potential threat to vulnerable individuals, based on a preliminary fitness determination and weighing test;

(B) The SI's most recent background check under these rules or other Department or Authority criminal records check rules or abuse check rules resulted in a denial; or

(C) The SI is currently involved in contesting a background check under these or other Department or Authority criminal records check rules or abuse check rules.

(D) BCU has reason to believe hiring on a preliminary basis is not appropriate based on circumstances or compliance with the background check process of the SI, QED, or QE.

(d) An outcome of no hiring on a preliminary basis may only be overturned by the BCU.

(8) An SI hired on a preliminary basis shall be actively supervised at all times.

(a) The individual providing active supervision at all times shall do the following:

(A) Be in the same building as the SI or, if outdoors of QE buildings or any location off the QE property, be within line-of-sight and hearing, except as provided in section (8)(b)(B) of this rule;

(B) Know where the SI is and what the SI is doing; and

(C) Periodically observe the actions of the SI.

(b) The individual providing the active supervision may be either:

(A) An SI who has been approved without restrictions pursuant to these rules or previous Department or Authority criminal records check rules; or

(B) The adult client, an adult client's adult relation, the client's legal representative, or a child's parent or guardian. Active supervision by these individuals is appropriate in situations where care is given directly to clients usually in a home such as but not limited to in-home care, home health, or care by home care workers, personal care assistants, or child care providers.

(i) The adult client may actively supervise a homecare worker, personal care services provider, independent provider, or an employee of an in-home care agency or home health agency if the client makes an informed decision to employ the provider. Someone related to the client may also provide active supervision if the relative has been approved by the Department, the Authority, the QED, or the private-pay client receiving services through an in-home care or home health agency.

(ii) A child client's parent or guardian shall be responsible for providing active supervision in the case of child care providers. The supervision is not required to be performed by someone in the same building as the child.

(9) An SI approved without restrictions within the previous 24 months through a documented criminal records check or abuse check pursuant to these rules or prior Department or Authority criminal records check rules or abuse check rules may be hired on a preliminary basis without active supervision. Twenty-four months is calculated from date of previous approval to the date of hire in the new position. This exemption from active supervision is not allowed in any of the following situations:

(a) If the SI cannot provide documented proof that he or she worked continuously under the previous approval for at least one year.

(b) If there is evidence of criminal activity or potentially disqualifying abuse within the previous 24 months.

(c) If, as determined by the QE or BCU, the job duties in the new position are so substantially different from the previous position that the previous fitness determination is inadequate for the current position.

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(10) Revocation of hired on a preliminary basis is not subject to hearing or appeal. The QE or BCU may immediately revoke hired on a preliminary basis for any of the following reasons:

(a) There is any indication of falsification of application.

(b) The SI fails to disclose convictions for any potentially disqualifying crimes, any arrests that did not result in convictions or any out of state arrests or convictions.

(c) The QE or BCU determines that allowing the SI to be hired on a preliminary basis is not appropriate, based on the application, criminal record, position duties, or Department program rules.

(11) Nothing in this rule is intended to require that an SI who is eligible to be hired on a preliminary basis be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request prior to a final fitness determination.

(12) Preliminary fitness determinations must be documented in writing, including any details regarding a weighing test, if required.

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

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

Hist.: DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0320

Final Fitness Determinations

BCU shall make a final fitness determination pursuant to OAR 125-007-0260 after all necessary background checks have been received and a weighing test, if necessary, has been completed.

(1) The final fitness determination results in one of the following outcomes:

(a) BCU may approve an SI if:

(A) The SI has no potentially disqualifying convictions or potentially disqualifying conditions; or

(B) The SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, BCU determines that more likely than not, the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals.

(b) BCU may approve an SI with restrictions if BCU determines that more likely than not, the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals if certain restrictions are placed on the SI. Restrictions may include but are not limited to restrictions to one or more specific clients, job duties, or environments. A new background check and fitness determination shall be completed on the SI before removing a restriction.

(c) BCU shall deny an SI who the BCU determines, after a weighing test, more likely than not, poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(d) In the following situations, the SI shall have no hearing rights and BCU shall consider a background check to have an outcome of incomplete fitness determination:

(A) The QE or SI discontinues the application or fails to cooperate with the background check or fitness determination process, including but not limited to refusal to be fingerprinted or failing to respond in a timely manner to written correspondence from BCU. The background check request is considered closed.

(B) BCU determines that the SI is ineligible due to ORS 443.004 in accordance with OAR 407-007-0275 or 407-007-0277. The background check request is considered completed.

(C) BCU or the QE withdraws or closes the background check request before a final fitness determination for any reason. The background check request is considered closed.

(D) The SI withdraws the application, leaves the position prior to completion of the background check, or the Department cannot locate or contact the SI. The background check request is considered closed.

(E) The SI is determined to be ineligible for the position by the QE for reasons other than the background check. The background check request is considered closed.

(F) BCU determines that the SI is subject to OAR 407-007-0279 and has a conviction or condition listed. BCU makes a determination of mandatory exclusion if the background check request is considered completed. The SI has hearing rights only if granted in federal law.

(e) BCU shall issue an intent to deny if the fitness determination is made under OAR 407-007-0335. The SI has expedited hearings rights under OAR 407-007-0335.

(2) Upon completion of a final fitness determination, BCU or the QE shall provide notice to the SI.

(a) If approved, BCU shall provide notice to the QE through CRIMS. The QE shall provide the SI a copy of the notice or CRIMS documentation.

(b) If the final fitness determination is a denial based on potentially disqualifying abuse under OAR 407-007-0290(11)(d) and there are no other potentially disqualifying convictions or conditions, BCU shall issue a Notice of Intent to Deny and provide the SI hearing rights under OAR 407-007-0335.

(c) If denied or approved with restrictions, BCU shall issue a notice of fitness determination to the SI which includes the potentially disqualifying convictions or conditions that the outcome was based upon, information regarding appeal rights, and the notice becoming a final order in the event of a withdrawal or failure to appear at the hearing.

(d) The effective date of action shall be recorded on the notice or CRIMS documentation.

(3) BCU shall provide the QE notification of the final fitness determination when the SI is being denied or approved with restrictions.

(4) When an SI is denied, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request. A denial applies only to the position and application in question. A denial shall result in immediate termination, dismissal, or removal of the SI.

(5) When an SI is approved with restrictions, the SI shall only be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request and only under the stated restrictions. A restricted approval applies only to the position and application in question. A restricted approval shall result in immediate implementation of the restrictions.

(6) BCU shall maintain any documents obtained or created during the background check process.

(7) BCU shall make new fitness determinations for each background check request. The outcome of previous fitness determinations does not set a precedent for subsequent fitness determinations.

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

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

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0320, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0330

Contesting a Fitness Determination

(1) An SI may contest a final fitness determination of denied or restricted approval pursuant to OAR 125-007-0300 unless already granted contested case hearing rights under OAR 407-007-0335.

(2) If an SI is determined to have a mandatory exclusion pursuant to federal law and OAR 407-007-0279, the SI may have hearing rights only if allowed by federal law.

(3) If an SI is denied, the SI may not hold the position, provide services or be employed, licensed, certified, or registered, or otherwise perform in positions covered by these rules. An SI appealing a restricted approval may only work under the terms of the restriction during the appeal.

(4) If an adverse outcome is changed at any time during the appeal process, the change does not guarantee employment or placement.

(5) An SI may represent himself or herself or have legal representation during the appeal process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative.

(a) An SI who is appealing an adverse outcome regarding the position of homecare worker as defined in ORS 410.600 or personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay person.

(6) An SI may contest an adverse fitness determination by requesting a contested case hearing. The contested case hearing process is conducted in accordance with OAR 125-007-0300, ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(a) To request a contested case hearing, the SI shall complete and sign the Hearing Request form.

(b) The completed and signed form must be received by the Department within 45 calendar days after the effective date of action.

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(c) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(d) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(e) BCU may refer an untimely request to the OAH for a hearing on the issue of timeliness.

(7) BCU may conduct an administrative review before referring the appeal to the OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by the BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(8) BCU may conduct additional criminal records checks or abuse checks during the contested case hearing process to update or verify the SI's potentially disqualifying convictions or conditions and factors to consider in the weighing test. If needed, BCU shall amend the notice of fitness determination while still maintaining the original hearing rights and deadlines.

(9) The Department shall be represented by a hearing representative in contested case hearings. The Department may also be represented by the Office of the Attorney General.

(a) The administrative law judge shall make a new fitness determination based on evidence and the contested case hearing record.

(b) The only remedy an administrative law judge may grant is a fitness determination that the subject individual is approved, approved with restrictions, or denied. Under no circumstances shall the Department or the QE be required to place an SI in any position, nor shall the Department or the QE be required to accept services or enter into a contractual agreement with an SI.

(10) The notice of fitness determination issued is final as if the SI never requested a hearing in the following situations:

(a) The SI failed to request a hearing in the time allotted in this rule. No other document will be issued after the notice of fitness determination.

(b) The SI withdraws the request for hearing at any time during the appeal process.

(11) BCU may make an informal disposition based on the administrative review. The Department shall issue a final order and new notice of fitness determination. If the resulting fitness determination is an adverse outcome, the appeal shall proceed to a contested case hearing.

(12) BCU shall issue a dismissal order in the following situations:

(a) The SI may withdraw a hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by BCU or the OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(b) BCU shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days.

(c) BCU shall dismiss a hearing request when the SI fails to appear at the time and place specified for the contested case hearing. The order is effective on the date scheduled for the hearing. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days of the order.

(13) After a hearing, the administrative law judge shall issue a proposed and final order.

(a) If no written exceptions are received by BCU within 14 calendar days after the service of the proposed and final order, the proposed and final order becomes the final order.

(b) If timely written exceptions to the proposed and final order are received by BCU, the Department's Director or designee shall consider the exceptions and serve a final order, or request a written response or a revised proposed and final order from the administrative law judge.

(14) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

(15) BCU may provide the QED with the results of the appeal.

Stat. Auth.: ORS 181A.200, 183.459, 409.027 & 409.050

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

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0330, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08;

DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0350

Immunity from Liability

(1) The Department, the Authority, and the QE, acting within the course and scope of employment, have immunity from any civil liability that might otherwise be incurred or imposed for determining, in accordance with ORS 181A.200, that an SI is fit or not fit to hold a position, provide services, or be employed, licensed, certified, or registered.

(2) The Department, and Authority, and the QE, acting within the course and scope of employment, and an employer or employer's agent are not liable for the failure to hire a prospective employee or the decision to discharge an employee on the basis of a fitness determination or closed case if they in good faith comply with:

(a) ORS 181A.200 and ORS 409.027; and

(b) The decision of the QE or employee of the QE acting within the course and scope of employment.

(3) No employee of the state, a business, or an organization, acting within the course or scope of employment, is liable for defamation, invasion of privacy, negligence, or any other civil claim in connection with the lawful dissemination of information lawfully obtained under ORS 181A.200.

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

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

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0350, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

407-007-0370

Variances

(1) The Department and Authority may consider variance requests regarding these rules.

(a) The outcomes of a fitness determination made pursuant to these rules is not subject to variance. Challenges to fitness determinations may only be made by SIs through contested case hearing rights set forth in these rules.

(b) Neither the Department nor the Authority may grant variances to ORS 181A.195 and 181A.200.

(2) The Department or Authority may grant a variance to any section of these rules based upon a demonstration by the QE that the variance would not pose a significant risk to physical, emotional, or financial well-being of vulnerable individuals.

(3) The QE requesting a variance must submit, in writing, an application to the BCU that contains:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) The alternative practice, service, method, concept, or procedure proposed;

(d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and

(e) An explanation on how the welfare, health, or safety of individuals receiving care will be ensured during the time the variance is in effect.

(4) The Assistant Director or designee for the Department and Authority's Shared Services, Office of Human Resources shall approve or deny the request for a variance.

(5) BCU shall notify the QE of the decision within 60 calendar days of the receipt of the request and shall provide a copy to other relevant Department or Authority program offices.

(6) Appeal of the denial of a variance request must be made in writing to the Department or Authority's Director, whose decision is final.

(7) The Department or Authority shall determine the duration of the variance.

(8) The QE may implement a variance only after receipt of written approval from BCU.

(9) Granting a variance does not set a precedent that must be followed by the Department or Authority when evaluating subsequent variance requests.

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

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Stats. Implemented: ORS 181A.195, 181A.200 & 409.010
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05;
Renumbered from 410-007-0370, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16

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

Rule Caption: Amending rules about establishing savings accounts for children in Department custody

Adm. Order No.: CWP 7-2016(Temp)

Filed with Sec. of State: 5-17-2016

Certified to be Effective: 5-17-16 thru 11-12-16

Notice Publication Date:

Rules Amended: 413-010-0180, 413-040-0013

Subject: To implement HB 2889 (2015), OAR 413-010-0180 about the rights of children and young adults in Department custody is being amended to reflect the right of children to receive assistance in establishing a savings account as described in ORS 418.708 and OAR 413-040-0013 about the requirements for monitoring a case plan is being amended to allow the Department to monitor the child's account consistent with ORS 418.708(7).

Rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm.

Rules Coordinator: Kris Skaro—(503) 945-6067

413-010-0180

Rights of Children and Young Adults

(1) Every child and young adult in the legal custody of the Department has rights, including but not limited to the right:

(a) To be placed in the least restrictive environment that appropriately meets individual needs;

(b) To be provided basic needs such as adequate food, clothing, and shelter;

(c) To receive appropriate care, supervision, and discipline, and to be taught to act responsibly and respect the rights of others;

(d) To be provided routine and necessary medical, dental, and mental health care and treatment;

(e) To be provided with free and appropriate public education;

(f) To be protected from physical and sexual abuse, emotional abuse, neglect, and exploitation;

(g) To be provided services designed for reunification with the parent or guardian except when there is clear evidence that the parent or guardian may not protect the child's or young adult's welfare;

(h) To be provided services to develop a safe permanent alternative to the family, when family resources are not available;

(i) To be accorded the least restrictive legal status that is consistent with the need for protection, to have the Department present its position on best interests to the court, and to attend court hearings and speak directly to the judge;

(j) To receive respect, be nurtured, and attend activities in accordance with his or her background, religious heritage, race, and culture within reasonable guidelines as set by the case plan, the visitation plan, and the court;

(k) To visit and communicate with a parent or guardian, siblings, members of his or her family, and other significant people within reasonable guidelines as set by the case plan, the visitation plan, and the court;

(l) To be involved, in accordance with his or her age and ability and with the law, in making major decisions that affect his or her life, to participate in the development of his or her case plan, permanency plan, and comprehensive transition plan and to discuss his or her views about the plans with the judge;

(m) To receive encouragement and be afforded reasonable opportunities to participate in extracurricular, cultural, and personal enrichment activities consistent with his or her age and developmental level; and

(n) To earn and keep his or her own money and to receive guidance in managing resources to prepare him or her for living independently, including receiving assistance from the Department to establish a savings account as provided in ORS 418.708.

(2) This section establishes the Oregon Foster Children's Bill of Rights. In addition to the rights listed in section (1) of this rule, every child

and young adult in the legal custody of the Department who is or was in substitute care has the following rights, as provided in ORS 418.201:

(a) To have the ability to make oral and written complaints about care, placement, or services that are unsatisfactory or inappropriate, and to be provided with information about a formal process for making complaints without fear of retaliation, harassment, or punishment.

(b) To be notified of, and provided with transportation to, court hearings and reviews by local citizen review boards pertaining to the child's or young adult's case when the matters to be considered or decided upon at the hearings and reviews are appropriate for the child or young adult, taking into account the age and developmental stage of the child or young adult.

(c) To be provided with written contact information of specific individuals whom the child or young adult may contact regarding complaints, concerns, or violations of rights, that is updated as necessary and kept current.

(d) When the child or young adult is 14 years of age or older, to be provided with written information within 60 days of the date of any placement or any change in placement, regarding:

(A) How to establish a bank account in the child's or young adult's name as allowed under state law;

(B) How to acquire a driver license as allowed under state law;

(C) How to remain in foster care after reaching 18 years of age;

(D) The availability of a tuition and fee waiver for a current or former foster child under ORS 351.293;

(E) How to obtain a copy of the child's or young adult's credit report, if any;

(F) How to obtain medical, dental, vision, mental health services, or other treatment, including services and treatments available without parental consent under state law; and

(G) A transition toolkit, including a comprehensive transition plan.

(e) With respect to a child's or young adult's rights under the federal and state constitutions, laws, including case law, rules, and regulations:

(A) To receive a document setting forth such rights that is age and developmentally appropriate within 60 days of the date of any placement or any change in placement;

(B) To have a document setting forth such rights that is age and developmentally appropriate posted at the residences of all foster parents, child-caring agencies, and independent resident facilities; and

(C) To have an annual review of such rights that is age and developmentally appropriate while the child or young adult is in substitute care.

(f) To be provided with current and updated contact information for adults who are responsible for the care of the child or young adult and who are involved in the child's or young adult's case, including but not limited to caseworkers, caseworker supervisors, attorneys, foster youth advocates and supporters, court appointed special advocates, local citizen review boards, and employees of the Department that provide certification of foster parents, child-caring agencies, and independent resident facilities.

(g) To have a hotline phone number that is available to the child or young adult at all times for the purposes of enabling the child or young adult to make complaints and assert grievances regarding the child's or young adult's care, safety, or well-being.

(3) Children and young adults in the legal custody of the Department may have other rights not specified in this rule as appropriate to the child's or young adult's age and developmental stage.

Stat. Auth.: ORS 418.005, 418.202

Stats. Implemented: ORS 418.005, 418.200, 418.201, 418.202

Hist.: SOSCF 6-1998, f. 2-10-98, cert. ef. 2-15-98; CWP 14-2009, f. & cert. ef. 11-3-09; CWP 13-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 1-2015, f. & cert. ef. 1-1-15; CWP 7-2016(Temp), f. & cert. ef. 5-17-16 thru 11-12-16

413-040-0013

Requirements for Monitoring the Case Plan

(1) The caseworker must:

(a) Make reasonable efforts to:

(A) Reduce the stay of a child or young adult in substitute care;

(B) Reunify the child or young adult with the parents or guardians whenever possible; and

(C) Achieve a permanency plan when reunification is no longer possible.

(b) Monitor the case plan; and

(c) Terminate Department intervention services in a timely manner.

(2) The caseworker is responsible for all of the following actions:

(a) Contacting and communicating with each parent or guardian through monthly face-to-face contact about progress toward achieving the conditions for return and the expected outcomes.

(b) Contacting and communicating with the child or young adult during the monthly face-to-face contact required under OAR 413-080-0054.

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(c) Monitoring the child's or young adult's opportunities to participate in age-appropriate or developmentally appropriate activities, which include extracurricular, enrichment, cultural, and social activities.

(d) Monitoring the child's savings account when required to ensure continuation of receipt of state and federal benefits.

(e) Monitoring the services provided through the case plan through contact with each service provider a minimum of once every 90 days.

(f) Monitoring the ongoing safety plan.

(g) Monitoring action agreements.

(h) Monitoring the visitation and contact plan when a child or young adult is in substitute care.

(i) Monitoring the parent or guardian's progress toward meeting the conditions for return when a child or young adult is in substitute care.

(j) Monitoring the parent or guardian's progress toward meeting the expected outcomes of the case plan.

(k) Ensuring completion of the actions and activities that are the responsibility of the Department.

(l) Reviewing the progress the parent or guardian has made in reducing or eliminating identified impending danger safety threats and enhancing parental protective capacity during each monthly review of the ongoing safety plan.

(m) Arranging for supervision or other services to address the child or young adult's strengths and needs identified through the most recent CANS screening as required by OAR 413-020-0200 to 413-020-0255.

(n) Responding immediately to issues that may impact the safety of the child or young adult which become known to the caseworker.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 7-2016(Temp), f. & cert. ef. 5-17-16 thru 11-12-16

Rule Caption: Amending child welfare rules

Adm. Order No.: CWP 8-2016

Filed with Sec. of State: 6-1-2016

Certified to be Effective: 6-1-16

Notice Publication Date: 5-1-2016

Rules Amended: 413-040-0000, 413-040-0145, 413-040-0150, 413-120-0000, 413-120-0025, 413-120-0730, 413-120-0925

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

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

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

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

OAR 413-040-0150 about notification of administrative reviews, permanency hearings, and review hearings is amended to require the Department to notify grandparents of any court hearing concerning the child. This makes permanent a temporary rule adopted on December 31, 2015 to comply with ORS 419B.875 as amended by HB 3014 (2015).

OAR 413-090-0500 through 413-090-0550 are being repealed. These rules establish the conditions under which the Department will pay the cost of providing legal services to clients who are establishing a court-appointed guardianship of children in the care and

custody of the Department. These rules are obsolete and are no longer needed.

OAR 413-120-0025 about the composition of adoption committees is being amended to clarify that adoption committee members and the Adoption Decision Specialist must be knowledgeable of the importance of attachment and emotional ties to caregivers consistent with the intent of SB 741 (2015) which gives equal status to relatives and non-relative caregivers.

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

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

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

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

Rules Coordinator: Kris Skaro—(503) 945-6067

413-040-0000

Definitions

The following definitions apply to rules in OAR chapter 413, division 040 unless the context indicates otherwise:

(1) "AAICPC" means the Association of Administrators of the Interstate Compact on the Placement of Children, which is the national professional association of state administrators of the Interstate Compact on the Placement of Children, housed at the American Public Human Services Association (APHSA).

(2) "Action agreement" means a written document between the Department and a parent or guardian that identifies one or more of the services or activities provided by the Department or other community partners, in which the parent or guardian will participate to achieve an expected outcome.

(3) "Acquired Immune Deficiency Syndrome (AIDS)" is a disorder in which a person's immune system is severely suppressed. It is caused by the human immunodeficiency virus (HIV). In order for a person to be diagnosed as having AIDS, the virus, immune system suppression, and an opportunistic infection or other condition stipulated by the U.S. Centers for Disease Control must all be present. A laboratory diagnosis of a CD4 less than 200 also is an AIDS defined illness.

(4) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(5) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family.

(b) To determine the level of care payment while in substitute care with a certified family; and

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(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(6) "Case plan" means a written goal-oriented, time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(7) "Child" means a person under 18 years of age.

(8) "Compact administrator" means the person for each party to the Compact responsible for carrying out the provisions of the Compact. In Oregon, it is the Assistant Director, Children, Adults and Families, Department of Human Services.

(9) "Complete judicial review" means a hearing that results in a written order that contains the findings required under ORS 419B.476 or includes substantially the same findings as are required under ORS 419A.116.

(10) "Concurrent permanent plan" means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the child to the parents or legal guardians.

(11) "Conditions for return" mean a written statement of the specific behaviors, conditions, or circumstances that must exist within a child's home before a child can safely return and remain in the home with an in-home ongoing safety plan.

(12) "Counseling" means group and individual counseling, emotional support groups, one-on-one emotional support, AIDS education, and/or information services.

(13) "Date child entered substitute care" means the earlier of the following two dates:

(a) The date the court found the child within the jurisdiction of the court (under ORS 419B.100); or

(b) The date that is 60 days from the date of removal.

(14) "Department" means the Department of Human Services, Child Welfare.

(15) "Deputy compact administrator" means the person appointed by a compact administrator as the coordinator to assure compliance with the law.

(16) "Expected outcome" means an observable, sustained change in a parent or guardian's behavior, condition, or circumstance that, when accomplished, will increase a parent or guardian's protective capacity and reduce or eliminate an identified impending danger safety threat, and which, when accomplished, will no longer require Child Welfare intervention to manage a child's safety. It is a desired end result and takes effort to achieve.

(17) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge, and when the expert is evaluating a parent or guardian, whether the individual's functioning impacts his or her protective capacity.

(18) "Family member" means any person related to the child or young adult by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, or great-grandparents. Family member also includes the registered domestic partner of a person related to the child, a child 12 years of age or older, and when appropriate, a child younger than 12 years of age. In a case involving an Indian child under the Indian Child Welfare Act (ICWA), a "family member" is defined by the law or custom of the child's tribe.

(19) "Family plan" means a written document developed at the OFDM that includes family recommendations on planning for the child and may include a permanency plan, concurrent permanent plan, placement recommendations, or service recommendations. The "family plan" also includes expectations of the parents of the child and other family members; services the Department will provide; timelines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate. The "family plan" described in ORS 417.375(1) is incorporated into the case plan to the extent that it protects the child, builds on family strengths, and is focused on achieving permanency for the child within a reasonable time.

(20) "Grandparent" for purposes of notification, visitation, contact, or communication ordered by the court under ORS 419B.876 means the legal parent of the child or young adult's legal parent, regardless of whether the

parental rights of the child or young adult's legal parent have been terminated under ORS 419B.500 to 419B.524.

(21) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(22) "High risk behaviors" means the following:

(a) Having shared a needle with an intravenous drug abuser since 1977;

(b) For a man, having had sex with another man or men since 1977;

(c) Having been sexually active in an area where heterosexual transmission is believed to be high;

(d) Persons with hemophilia;

(e) Having been the sexual partner of a person in one of the previous categories;

(f) Being born to a woman whose history has put her in one of these other categories.

(23) "HIV" is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.

(24) "HIV Infection". People who have been tested and found to have the antibody are referred to as having HIV infection. These people are capable of transmitting the virus through risk behaviors, as described below.

(25) "HIV Positive" means that a blood test has indicated the presence of antibodies to HIV. This means that the person has been infected by the virus and the immune system has responded by producing antibodies. An exception is infants of HIV-infected mothers. They have been exposed to the mother's antibodies and carry these antibodies in their blood for a number of months after birth. A series of tests is necessary to determine if these infants are themselves infected with HIV.

(26) "ICPC approved family" means a family approved by the Interstate Compact on the Placement of Children (ICPC) deputy compact administrator or designee after reviewing a home study.

(27) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family function.

(28) "Local Citizen Review Board (CRB)" means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home placement (ORS 419A.090-419A.094).

(29) "OFDM" means the family decision-making meeting as defined in ORS 417.365, and is a family-focused intervention facilitated by professional staff that is designed to build and strengthen the natural care giving system for the child. These meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision-making meeting is to establish a plan that provides for the safety, attachment, and permanency needs of the child. The role of the "OFDM" is described in ORS 417.365 to 417.375.

(30) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more impending danger safety threats at the conclusion of a CPS assessment or anytime during ongoing work with a family.

(31) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(32) "Permanency hearing" means the hearing that determines the permanency plan for the child. The "Permanency Hearing" is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.

(33) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child or young adult in adulthood.

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(34) "Personal care services" means the provision of or assistance with those functional activities described in OAR 413-090-0120 consisting of mobility, transfers, repositioning, basic personal hygiene, toileting, bowel and bladder care, nutrition, medication management, and delegated nursing tasks that a child or young adult requires for his or her continued well-being.

(35) "Placement" means the arrangement for the care of a child in a foster home, relative foster home, non-paid relative home, or a child-caring agency or institution. It does not include the arrangement for care in an institute caring for the mentally ill, an institution primarily educational in character, or a hospital or other medical facility.

(36) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a child safe.

(37) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(38) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by a public authority or a private person or agency, whether for placement with a state or local public authority or with a private agency or person.

(39) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(40) "Reunification" means placement with a parent or guardian.

(41) "Safety threshold" means the point at which family behaviors, conditions, or circumstances are manifested in such a way that they are beyond being risk influences and have become an impending danger safety threat. In order to reach the "safety threshold" the behaviors, conditions, or circumstances must meet all of the following criteria: be imminent, be out of control, affect a vulnerable child, be specific and observable, and have potential to cause severe harm to a child. The "safety threshold" criteria are used to determine the presence of an impending danger safety threat.

(42) "SAIP" means Secure Adolescent Inpatient Program.

(43) "SCIP" means Secure Children's Inpatient Program.

(44) "Sending agency" means a party state or an officer or employee thereof; a subdivision of a party state or an officer or employee thereof; a court of a party state; or a person, corporation, association, charitable agency, or other entity that sends, brings, or causes to be sent or brought a child to another party state.

(45) "Sending state" means the state from which a proposed placement is made.

(46) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(47) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(48) "Termination of parental rights" means that a court of competent jurisdiction has entered an order terminating the rights of the parent or parents, pursuant to ORS 419B.500 through 419B.530 or the statutes of another state. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419A.200).

(49) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 29-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; CWP 8-2016, f. & cert. ef. 6-1-16

413-040-0145

Court Notification of Placement Changes

(1) The Department must notify the court when a permanent foster care placement disrupts so the court can take appropriate action, including scheduling a permanency hearing.

(2) Unless section (3) of this rule applies, the Department must file a report with the juvenile court when the Department has removed or plans to remove a child or young adult from a foster home as defined in ORS 418.625 that is certified under ORS 418.635 and the removal is for the pur-

pose of placing the child or young adult in a different substitute care placement if:

(a) The child or young adult has resided for 12 consecutive months or more in the foster home; or

(b) The child or young adult resides or resided in the foster home pursuant to a permanent foster care agreement.

(3) The Department is not required to file a report under section (2) of this rule when:

(a) The removal of the child or young adult was made following a founded allegation of abuse or neglect by the foster care provider of the child or young adult;

(b) The removal was made to address an imminent threat to the health or safety of the child or young adult pending completion of an investigation of reported abuse or neglect by the foster care provider of the child or young adult;

(c) The Department has placed the child with a person who has been selected by the Department to be the adoptive parent, when the selection has become final after the expiration of any administrative or judicial review procedures under ORS chapter 183; or

(d) The removal was made at the request of the foster care provider.

(4) The Department must attend a court review hearing scheduled by the court.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.373, 419B.376, 419B.440 - 419B.476, 419C.623 - 419C.656

Hist.: SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03; CWP 29-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; CWP 8-2016, f. & cert. ef. 6-1-16

413-040-0150

Participant Notification of Administrative Reviews, Permanency Hearings, and Review Hearings

(1) The local Department office shall provide correspondence information to the local CRB to assure that written notice of the review is provided to the Department, any other agency directly responsible for the care or placement of the child, the parents or their attorneys, foster parents, surrogate parents, persons granted intervener status, mature children or their attorneys, court-appointed attorney or court appointed special advocate for any child, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(2) The local Department office shall provide foster parent, pre-adoptive parent, grandparent, or relative who is actively providing care for a child, notice of any court hearing concerning the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 - 419A.122, 419B.440 - 419B.476, 419C.623 - 419C.656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; Administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03; CWP 29-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; CWP 8-2016, f. & cert. ef. 6-1-16

413-120-0000

Definitions

Unless the context indicates otherwise, the following definitions apply to OAR chapter 413, division 120:

(1) "Adoption" means a legal or administrative process that establishes a permanent legal parent-child relationship between a child and an adult who is not already the child's legal parent and terminates the legal parent-child relationship between the adopted child and any former parent.

(2) "Adoption agency" means an organization providing the services under any one of the following subsections:

(a) Identifying a child for adoption and arranging an adoption.

(b) Securing the necessary consent to relinquishment of parental rights and to adoption.

(c) Performing a background study on a child or a home study on a prospective adoptive parent and reporting on such a study.

(d) Making determinations of the best interests of a child and the appropriateness of adoption placement for a child.

(e) Monitoring a case after placement until final adoption.

(f) When necessary because of disruption before final adoption, assuming custody and providing child care or other social services for a child pending an alternative placement.

(3) "Adoption committee" means a group of individuals convened by Department staff to make recommendations to an Adoption Decision Specialist (ADS) regarding adoptive resources for a child.

(4) "Adoption decree" means a decree which a court issues, pursuant to a petition for adoption, setting forth the facts of the case and ordering that

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from the date of the decree the child, to all legal intents and purpose, is the child of the petitioner.

(5) "Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a child or children.

(6) "Adoption placement selection" means a decision made by the Department that an individual or individuals have been identified as the adoptive resource for the child.

(7) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.

(8) "Adoption transition" means activities related to the placement of a child or sibling group under consideration in the home of the family selected as the adoptive resource.

(9) "ADS" means an Adoption Decision Specialist, who is a Department employee appointed by the Adoption Program Manager to attend an adoption committee and make an adoption placement selection for a child.

(10) "Authorized designee" means a Department employee who is designated and authorized by the Department to receive and process criminal records check request forms from subject individuals, receive criminal records information from the Background Check Unit, and make fitness determinations as described in these rules.

(11) "Battery" means the use of physical force to injure, damage, or abuse or to cause offensive physical contact.

(12) "Birth Relatives" means birth parents, grandparents, siblings and other members of the child's birth family, pursuant to ORS 109.305.

(13) "Central authority" means the entity designated as such by a Convention country that is authorized to discharge the duties imposed on Convention countries.

(14) "Central authority functions" means any duty required to be carried out by a central authority or foreign authorized entity under the Convention.

(15) "Certified family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(16) "Child" means a person under 18 years of age.

(17) "Child welfare mediator" means a neutral third party who meets or exceeds Department qualifications to provide mediation services for mediation participants in the cooperative adoption mediation process, and has a legal assistance mediation contract with the Department.

(18) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency committee or adoption committee meeting.

(19) "Concurrent permanent plan" means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the child to the parents or legal guardians.

(20) "Consent to the Adoption": The "Consent to the Adoption" documents that the adoptive parents have been investigated and approved by the Department and gives permission for the adoption.

(21) "Contested case hearing" means a hearing conducted under ORS chapter 183 and applicable administrative rules.

(22) "Convention" means the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions, concluded at The Hague, the Netherlands, on May 29, 1993, which went into effect in the United States on April 1, 2008.

(23) "Convention adoption" means an adoption of a child who is a habitual resident in a Convention country by an individual in another Convention country when the child has been, is being, or will be moved between the two Convention countries for the purpose of adoption.

(24) "Convention country" means a country that is a party to the Convention.

(25) "Cooperative adoption mediation" or "Mediation" means a process in which a trained neutral third party assists parties in voluntarily reaching mutually acceptable resolution of issues, as well as assisting the parties in establishing relationships built on mutual trust and respect.

Throughout these rules, "cooperative adoption mediation" will be referred to as "mediation".

(26) "Current caretaker" means a foster parent who:

(a) Is currently caring for a child in the care and custody of the Department and has a permanency plan or concurrent permanent plan of adoption; and

(b) Has cared for the child or at least one sibling of the child for at least the past 12 consecutive months or for one-half of the child's or sibling's life if the child or sibling is younger than two years of age.

(27) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information obtained from other sources.

(b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information sources located in, or regarding, a state or jurisdiction outside Oregon.

(28) "Department" means the Department of Human Services, Child Welfare.

(29) "Disruption" means an approval by the Child Permanency Program Manager to end an adoption process after adoption placement selection but before the adoption is legally finalized.

(30) "Fitness determination" means the decision made by an authorized designee, with regard to information obtained through a criminal records check, to either approve or deny a subject individual under these rules. A subject individual who is approved following a criminal records based "fitness determination" may still be denied approval to be a relative caregiver, foster parent, adoptive resource or another person in the household if the subject individual does not meet other requirements contained in Department rules governing relative care, foster care, and adoption.

(31) "Foreign authorized entity" means a foreign central authority or an accredited entity authorized by the foreign country to perform central authority functions in Convention adoption cases.

(32) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(33) "General applicant" means an individual who:

(a) Is neither a relative or current caretaker; and

(b) Has submitted a completed application to adopt a child.

(34) "Hague adoption certificate" means a certificate issued by the Secretary of State in an outgoing Convention adoption certifying that the child has been adopted in the United States in conformity with the Convention and IAA.

(35) "Hague custody declaration" means a declaration issued by the Secretary of State in an outgoing Convention adoption declaring that custody of the child for purposes of adoption has been granted in the United States in conformity with the Convention and IAA.

(36) "Home Study" means a written evaluation of the prospective adoptive parent's suitability to adopt and parent a child who may be placed for adoption. The "home study" is completed prior to the filing of a petition to adopt, in accordance with the Department's reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes as set forth in OAR 413-120-0190 to 413-120-0246.

(37) "IAA" means the Intercountry Adoption Act of 2000, Public Law 106-279, 42 USC 14901 to 14954.

(38) "ICPC" means the Interstate Compact on the Placement of Children (see ORS 417.200).

(39) "Incoming Convention adoption" means a case in which a child who is a resident of another Convention country has been, is being, or will be moved to the United States for placement and adoption.

(40) "Indian child" means any unmarried person who is under 18 years of age and is either:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

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(41) "Legal Assistance Mediation Program" means, for the purpose of these rules, services contracted through the Department Legal Assistance program to assist the birth family and the identified adoptive family to participate in a cooperative adoption process that may result in a Post Adoption Communication Agreement (PACA).

(42) "Legal Assistance Referral" means an attorney-client privileged document used to prepare the termination of parental rights petition and/or trial preparation work.

(43) "Legal assistance specialist (LAS)" means a central office Department staff who provides a vital link in the execution of the technical and legal processes of the alternative permanent plans for children whose best interests are not served by returning to their families of origin.

(44) "Legalization" means the process of giving an adoptive placement legal validity.

(45) "Mediation communications" means, as defined in ORS 36.110(8):

(a) All communications that are made, in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and

(b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or by a mediator, a mediation program or a party to, or any other person present at, mediation proceedings.

(46) "Mediation participants" means persons who will be working directly with the mediator in the cooperative adoption mediation process and who will be responsible for the creation and implementation of any PACA that results.

(47) "OSP" means the Oregon State Police.

(48) "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. "Other criminal records information" includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(49) "Other person in the household" means any individual described in one or more of the following subsections:

(a) An individual 18 years of age or older, who is not in the care and custody of the Department pursuant to ORS 418.015, who is living in the home of --

(A) An applicant to adopt a child in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246; or

(B) An applicant to be a foster parent, relative caregiver, or adoptive resource as described in OAR 413-200-0301 to 413-200-0396.

(b) A respite care provider.

(c) A person who volunteers or is employed by a foster parent or relative caregiver to assist with the care of the children placed in the home.

(d) Any of the following individuals if there is reason to believe the individual may pose a risk to children placed in the home: A member of the household under 18 years of age, a babysitter, or a person who frequents the home.

(50) "Outgoing Convention adoption" means a case in which a child in the United States has been, is being, or will be moved to another Convention country for placement and adoption.

(51) "Parties" means those participants whose signatures are necessary for the PACA to be implemented and are subject to enforcement of ORS 109.305.

(52) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.

(53) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other individuals who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(54) "Petition for Adoption" means a petition, filed in circuit court by any person, for leave to adopt another person.

(55) "Placement Report" means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department's prescribed reporting format and includes information about the child's background and placement; medical and genetic history; birth parents' history; status and adjustment of the child in the adoptive home; and status and adjustment of the child's prospective adoptive parents.

(56) "Post-adoption communication" means the manner and frequency of contact and communication between the birth family and the child and/or the birth family and the adoptive family.

(57) "Post Adoption Communication Agreement (PACA)" means a written agreement for post-adoptive communication, signed by birth parents and adoptive parents and is based on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.

(58) "Post-placement supervision" means the supervision of a child following placement with an adoptive resource.

(59) "Prospective adoptive parents" means the parents, family members, or other people who reside in the residence, or the physical home location of the family, who have been studied and approved by a foreign authorized entity to adopt a child in the legal and physical custody of the Department and with whom the Department has made an official decision to place the child in the family home for the purpose of adoption.

(60) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(61) "Receiving Convention country" means a Convention country in which a child who is the subject of an outgoing adoption will be placed for the purpose of adoption.

(62) "Refugee child" has the meaning given that term under ORS 418.925.

(63) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young

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adult by blood, adoption, or marriage to a degree other than an individual specified as a “relative” in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a “relative” for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a “relative” for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(64) “Relative caregiver” means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

(65) “Respite care” means a formal planned arrangement to relieve a certified family’s responsibilities by an individual temporarily assuming responsibility for the care and supervision of a child or young adult in the home of the respite provider or certified family. “Respite care” must be less than 14 consecutive days.

(66) “Secretary of State” means the Secretary of the United States Department of State, the central authority for the United States.

(67) “Sibling” means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(68) “Subject individual” means an individual who:

(a) Applies to adopt a child in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246;

(b) Applies to be a foster parent, relative caregiver, or adoptive resource as described in OAR 413-200-0301 to 413-200-0396; or

(c) Is an other person in the household.

(69) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(70) “Substitute caregiver” means a relative caregiver, foster parent, or provider who is authorized to provide care to a child or young adult who is in the legal or physical custody of the Department.

(71) “U.S. State Department” means the United States Department of State.

(72) “Violence” means the use of physical force to injure, damage, or abuse.

(73) “Weighing test” means the process in which an authorized designee considers available information to make a fitness determination when a subject individual has potentially disqualifying convictions, arrests, or conditions.

(74) “Young adult” means an individual aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15; CWP 8-2016, f. & cert. ef. 6-1-16

413-120-0025

Composition of an Adoption Committee

(1) An adoption committee must be composed of the following individuals:

(a) The caseworker of each child for whom adoption placement selection is being made;

(b) Three individuals appointed by the Child Welfare Program Manager or designee for a local adoption committee, and by the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for a central office adoption committee:

(A) The committee facilitator, who must be a Department staff person; and

(B) Two other individuals, who may be a community partner or a Department staff person.

(2) In addition to the committee members identified in section (1), the following individuals for each child for whom adoption placement selection is being made must be notified of the adoption committee and may be adoption committee members, if they so choose, under OAR 413-120-0053(1):

(a) The CASA;

(b) The child’s attorney;

(c) A tribal representative if the child is an Indian child; and

(d) A member of the RCWAC, if the child is a refugee child.

(3) The adoption worker for each identified potential adoptive resource must attend the full adoption committee.

(4) With the approval of the committee facilitator, the following individuals may attend the adoption committee:

(a) The supervisor for an individual identified in section (1), (2), or (3) of this rule;

(b) Department staff who may have information about the child or sibling group under consideration for adoption or the potential adoptive resources being considered; and

(c) Department staff, for training or observation purposes.

(5) Committee members appointed under subsection (1)(b) of this rule must meet the following requirements:

(a) Be knowledgeable of adoption and permanency issues;

(b) Be knowledgeable of the importance of lifelong family and cultural connections;

(c) Be knowledgeable of the importance of attachment and emotional ties to caregivers; and

(d) Have no personal or current professional relationship to any of the children for whom adoption placement selection is being made or to the potential adoptive resources being considered.

(6) The committee facilitator appointed under paragraph (1)(b)(A) of this rule must comply with all of the following subsections:

(a) Hold the meeting in accordance with the requirements of Chapter 413 of the Oregon Administrative Rules;

(b) Inform each individual who is present of the responsibilities of the committee;

(c) Have each individual who is present sign a confidentiality agreement for the proceedings of the adoption committee meeting;

(d) Ensure the individuals who are invited to attend and present information to the committee as described in OAR 413-120-0035(5) are:

(A) Allowed to present information appropriate for consideration for each child for whom adoption placement selection is being made; and

(B) Excused in a timely manner.

(e) Give the committee recommendations to the ADS at the end of the adoption committee meeting.

(7) The ADS:

(a) Is appointed by the Child Permanency Program Manager or designee and must:

(A) Have significant expertise in the areas of adoption and permanency issues;

(B) Have experience with adoption placement planning;

(C) Be knowledgeable of the importance of lifelong family and cultural connections;

(D) Be knowledgeable of the importance of attachment and emotional ties to caregivers; and

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(E) Have no personal or current professional relationship to the child, sibling group under consideration for adoption, or the potential adoptive resources being considered.

(b) Must attend the adoption committee and may ask clarifying questions, but does not participate in the deliberations or recommendations of the adoption committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

Hist.: CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15; CWP 8-2016, f. & cert. ef. 6-1-16

413-120-0730

Order of Preference for Identification of Potential Adoptive Resources

(1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a child or sibling group, the caseworker must consider the needs and the best interest of each child, and assess the knowledge, skills, and abilities of each potential adoptive resource in the following order of preference:

(a) Except when (c) of this section applies, a relative as defined in OAR 413-120-0000(63)(a)-(c).

(b) Except when (c) of this section applies, a relative as defined in OAR 413-120-0000(63)(d).

(c) When a child or sibling group has a current caretaker as defined in OAR 413-120-0000(26), the current caretaker and a relative as defined in OAR 413-120-0000(63)(a)-(d).

(d) A general applicant.

(e) When an individual would otherwise meet the definition of current caretaker, except for being a relative as defined in OAR 413-120-0000(d), the individual is considered a current caretaker for purposes of this section.

(2) For an Indian child, the caseworker must comply with ICWA and OAR 413-070-0100 to 413-070-0260.

(3) For a refugee child, the caseworker must comply with OAR 413-070-0300 to 413-070-0380.

(4) When an exception to the order of preference in section (1) of this rule is determined in the best interest of the child, the Child Welfare Program Manager must submit a written request to the Child Permanency Program Manager

(5) When a request for exception is received, the Child Permanency Program Manager must submit it to the Director of the Department or designee for review and consideration. Within 30 days of receipt of the written request, the Director of the Department or designee must determine whether to grant the exception.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15; CWP 3-2016(Temp), f. & cert. ef. 2-24-16 thru 8-21-16; CWP 8-2016, f. & cert. ef. 6-1-16

413-120-0925

Adoption of a Child Emigrating from the United States (Outgoing Convention Adoption)

(1) The Department may pursue an outgoing Convention adoption provided that:

(a) It is in the best interest of the child;

(b) The child has not been abducted, sold, or trafficked in connection with the adoption; and

(c) The prospective adoptive parent meets all of the following requirements:

(A) Is one of the following:

(i) A relative as described in OAR 413-120-0000(63)(a)(A), (B), or (C);

(ii) A relative as described in OAR 413-120-0000(63)(b)(A) or (G); or

(iii) An individual with a relationship to the child or young adult's half-sibling through the half-sibling's legal or biological father or mother as described in subparagraph (i) or (ii) of this paragraph for the purpose of placing the half-siblings together.

(B) Has been assessed, approved, and trained; and

(C) Has been determined able and willing to permanently provide for the safety, well-being, and special needs of the child.

(2) An outgoing Convention adoption may involve a child who meets the requirements of one of the following subsections:

(a) The child is, or is eligible to become, a:

(A) United States citizen;

(B) Legal United States resident; or

(C) Dual United States and foreign citizen.

(b) The child is undocumented, but the foreign authorized entity of the child's birth country has determined that the Convention applies to the adoption.

(3) Adoption planning for a child that may be the subject of an outgoing Convention adoption must comply with other Department rules, including Child Welfare polices: I-AB.4 "CPS Assessment", OAR 413-015-0400 to 413-015-0485; I-F.2 "Determining the Appropriateness of Adoption as a Permanency Plan for a Child", OAR 413-110-0300 to 413-110-0360; I-E.1.1 "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0087; I-F.6 "Sibling Adoption Placement Planning", OAR 413-110-0100 to 413-110-0150; I-G.1.2 Identification and Consideration of Potential Adoptive Resources", OAR 413-120-0700 to 413-120-0760; I-G.1.5 "Adoption Placement Selection", OAR 413-120-0000 to 413-120-0060; and I-G.1.10 "Supervision and Support of an Adoptive Placement", OAR 413-120-0800 to 413-120-0880.

(4) Before a child may be placed in a prospective adoptive home in another Convention country the Department must meet the requirements of each of the following subsections:

(a) Make a written determination that the child is eligible for adoption, that an outgoing Convention adoption is in the child's best interests, and that placement with the prospective adoptive parents is in the best interests of the child.

(b) Complete or obtain a written child background study that includes information about the child's identity; upbringing; adoptability; ethnic, religious, and cultural background; social environment; family history; personal medical history; family medical history; and special needs.

(c) Determine that the prospective adoptive parents meet the requirements of paragraph (1)(c)(A) of this rule and document that determination.

(d) Work with the foreign authorized entity in the receiving Convention country to determine whether the prospective adoptive parents are suitable, qualified, and eligible to adopt the child. To do so the Department must meet the requirements in each of following paragraphs:

(A) Provide a copy of the child's background study to the foreign authorized entity in the receiving Convention country.

(B) Obtain from the foreign authorized entity a comprehensive home study on the prospective adoptive parents that is prepared in accordance with the laws of the receiving country; meets the standards established by the Department using the Department's Hague Home Study template; addresses the capacity of the prospective adoptive parents to meet the child's safety, permanency and well-being needs; and includes all of the following:

(i) Information on the prospective adoptive parents, including: identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an inter-country adoption, and the characteristics of a child for whom they would be qualified to care;

(ii) Confirmation that a foreign authorized entity has determined that the prospective adoptive parents are eligible and suitable to adopt and has ensured that the prospective adoptive parents have been counseled as necessary;

(iii) The results of a criminal background check; and

(iv) Information from competent references for the prospective adoptive parents.

(C) Obtain written confirmation from the foreign authorized entity that the prospective adoptive parents have completed a minimum of 10 hours of Department-approved training that includes training on all of the following:

(i) The effects of physical, emotional, and sexual abuse and neglect on a child;

(ii) The effects of drugs and alcohol on a child;

(iii) The effects of relocating a child and transition issues;

(iv) The significance of the birth family, include grief and loss issues;

(v) Openness in adoption;

(vi) Attachment process and attachment difficulties;

(vii) Positive behavior management; and

(viii) The specific needs of the child to be adopted by the prospective adoptive parents.

(D) Provide notice to the foreign authorized entity studying the prospective adoptive family and providing required training to the prospective adoptive parents that the Department does not condone the use of corporal punishment.

(E) Obtain from the foreign authorized entity a written, signed Supervision Agreement using the approved Department form that describes the responsibilities of the Department and foreign authorized entity with

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regard to the child's placement with the prospective adoptive parents and includes each of the following:

(i) Requirements for face-to-face visits with the child and the prospective adoptive parents at least every 30 days. These meetings must occur in the prospective adoptive home at least once every 60 days.

(ii) Requirements for face-to-face visits in the prospective adoptive home with other individuals living in the home who can provide information about the child's safety and well-being, as well as any concerns with the placement.

(iii) Requirements for contact at least once every 30 days with professional persons who have established a relationship to the child who can provide collateral observations regarding the child's functioning and the adoptive placement.

(iv) Minimum standards for written reports to be provided every 90 days on contacts with the child, prospective adoptive family, other family members, and collateral contacts.

(v) Confirmation that the child will be authorized to enter and reside in the receiving country permanently or on the same basis as the prospective adoptive parents.

(vi) Confirmation that the foreign authorized entity consents to the adoption of the child by the prospective adoptive family.

(vii) Confirmation that the foreign authorized entity agrees that the child's adoption by the prospective adoptive family may proceed.

(e) After the child is fully free for adoption, establish proof of citizenship for the child and apply for applicable passports.

(f) Submit to the foreign authorized entity written confirmation of the reasons the Department determined that the proposed adoptive placement is in the best interests of the child.

(g) Establish a direct means for the child's collateral contacts in the receiving Convention country to communicate any health or safety concerns about the child to the Department.

(h) Counsel and inform the child, as appropriate in light of the child's age and maturity, of the effects of the adoption, consider the child's views regarding the adoption, and document the discussion and how the child's views were considered.

(i) If the child's consent to the adoption is required, counsel and inform the child about the effects of granting consent, obtain written consent from the child in a manner that assures the consent is given freely and without any inducement by compensation of any kind, and document the discussion.

(j) Determine whether the receiving Convention country requires a Hague custody declaration prior to placement of the child in the home of the prospective adoptive parents, and, if required, apply for and obtain a Hague custody declaration from the U.S. State Department, as provided in OAR 413-120-0970.

(k) Assure that the child's move to the receiving Convention country will be made under secure and appropriate circumstances and in the company of the child's prospective adoptive parents, caseworker, or with another adult.

(5) Following completion of all of requirements in section (4) of this rule and prior to the child traveling to the receiving Convention country for placement with the prospective adoptive parents, the Department must obtain an order from the court that makes findings:

(a) In support of an application for a Hague adoption certificate;

(b) That the prospective adoptive placement is in the best interests of the child;

(c) Authorizing the child to travel to the foreign country for placement with the prospective adoptive parents; and

(d) Authorizing release of the court order for purposes of affecting the child's placement.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14; CWP 28-2015(Temp), f. 12-30-15, cert. ef. 1-1-16 thru 6-28-16; CWP 8-2016, f. & cert. ef. 6-1-16

Rule Caption: Adopting and incorporating by reference the updated Behavior Rehabilitation Services (BRS) Rates Table

Adm. Order No.: CWP 9-2016(Temp)

Filed with Sec. of State: 6-14-2016

Certified to be Effective: 6-14-16 thru 12-10-16

Notice Publication Date:

Rules Amended: 413-090-0085

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.

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.

These rates will be effective for services provided on or after May 1, 2016. The table showing all changes is available at http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm.

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 410-170-0020) and placement-related activities (see 410-170-0020) rates on a fee-for-service basis in accordance with 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

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Department of Human Services, Home Care Commission Chapter 418

Rule Caption: Homecare Choice Program

Adm. Order No.: HCC 1-2016

Filed with Sec. of State: 6-13-2016

Certified to be Effective: 6-20-16

Notice Publication Date: 5-1-2016

Rules Adopted: 418-040-0000, 418-040-0010, 418-040-0020, 418-040-0030, 418-040-0040, 418-040-0050, 418-040-0060, 418-040-0070, 418-040-0080, 418-040-0090

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

Subject: The Oregon Home Care Commission (Commission) is permanently adopting rules for the Homecare Choice Program in OAR chapter 418, division 040. The Commission is legislatively mandated to establish and administer a program to enable individuals using private funds to purchase home care services through the Commission's Registry. These rules establish a consumer-directed program that enables individuals with disabilities to access the Commission's Registry to locate and hire a provider as an employee and purchase services through the Commission. The Commission may also contract with a fiscal intermediary that would be able to pay the individual's employee on the individual's behalf, withhold and report payroll taxes, and assist consumers with meeting the legal requirements of being a household employer.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

418-040-0000

Purpose

The rules in OAR chapter 418, division 40 establish the rules for the Homecare Choice Program administered by the Oregon Home Care Commission. The purpose of the program is to provide private pay individuals with access to the Commission's statewide Registry to hire employees to provide in-home services and to assist participants in meeting the legal responsibilities of being a household employer.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0010

Definitions

(1) "Abuse" means "abuse" as defined in OAR 407-045-0260, 411-020-0002, 413-015-0115, and OAR 943-045-0250.

(2) "Active" means a homecare or personal support worker has a current provider number and has worked and been paid with public funds in any of the past 12 months as a homecare or personal support worker.

(3) "Activities of Daily Living (ADLs)" means daily self-care activities such as eating and feeding, dressing, grooming, bathing, personal hygiene, mobility and movement, toileting and elimination, cognitive and emotional support, and communication.

(4) "Background Check" means a criminal records and abuse check conducted in accordance with OAR chapter 407, division 007.

(5) "Chargeback" means a reversal of a credit card charge after an individual successfully disputes a program charge on his or her credit card.

(6) "Commission" means the Oregon Home Care Commission established and operated pursuant to Article XV, Section 11, of the Oregon Constitution and ORS 410.595 to 410.625.

(7) "Communication" means assistance that enables an individual to communicate with another person.

(8) "Companionship" means engaging a participant in social, physical, and mental activities and includes, but is not limited to, conversation, reading, games, hobbies, crafts, and accompanying the participant during social activities and outings. Companionship also means being present to monitor safety and well-being or to protect an individual who requires assistance in caring for him or herself.

(9) "Continuing Education" means specific minimum education requirements defined by the Commission.

(10) "Credit Card Refund" means a refund of an unused account balance that is credited to the same credit card that originated the payment.

(11) "Department" means the Department of Human Services (DHS).

(12) "Enrollment Agreement" means the program-specific document an individual must complete to be approved to participate in the Homecare Choice Program.

(13) "FICA" is the acronym for the Social Security payroll taxes collected under authority of the Federal Insurance Contributions Act.

(14) "Fiscal Improprieties" means a provider committed financial misconduct involving a participant's money, property, or benefits. Fiscal improprieties include, but are not limited to:

(a) Financial exploitation, as defined in OAR 407-045-0260 and OAR 411-020-0002;

(b) Borrowing money from the participant;

(c) Taking a participant's property or money;

(d) Having a participant purchase items for the provider;

(e) Forging a participant's signature;

(f) Falsifying payment records;

(g) Claiming payment for hours not worked; or

(h) Other similar acts intentionally committed for financial gain.

(15) "Fiscal Intermediary" means an entity that provides fiscal intermediary services that support all programmatic, policy, and financial aspects of the Homecare Choice Program. Fiscal Intermediary services include, but are not limited to, enrollment functions, processing payroll, and paying state and federal taxes on behalf of participants.

(16) "FUTA" is the acronym for Federal Unemployment Tax Assessment, which is a United States payroll (or employment) tax imposed by the federal government on both employees and employers.

(17) "Guardian" means the parent of an individual less than 18 years of age or a person who has been appointed by a court to make personal, health, or other decisions for a functionally incapacitated individual under ORS chapter 125.

(18) "Homecare Choice Provider" means a person who has met the enrollment standards described in OAR 418-040-0040(1)(a)(A)-(N) and is authorized to provide services to program participants.

(19) "Homecare Worker" means a homecare worker as defined in OAR 411-031-0020.

(20) "Imminent Danger" means there is reasonable cause to believe an individual's life or physical, emotional, or financial well-being is in danger if an intervention is not immediately initiated.

(21) "Individual" means a person enrolled as a participant in the Homecare Choice Program. The term "individual" is synonymous with "consumer-employer" and "participant."

(22) "Instrumental Activities of Daily Living" means self-management activities, other than activities of daily living, required by an individual to live independently at home and includes housekeeping, laundry, meal preparation, shopping and errands, transportation, medication assistance, medication reminding, assistance with oxygen, and arranging for medical appointments.

(23) "Medication Assistance" means helping a participant with one or more steps in the process of taking medication including, but not limited to, opening medications containers, helping the participant self-administer his or her own medications, and assisting the participant with one or more steps of medication administration at the participant's direction.

(24) "Medication Reminding" means providing a participant with an audio, visual, or verbal reminder to take his or her medications when a participant is able to direct services.

(25) "Non-Sufficient Fund Fee" means the charge an individual pays if a payment check is denied or is unable to be processed by the individual's banking institution due to lack of sufficient funds to pay the check.

(26) "OHA" means the Oregon Health Authority.

(27) "Orientation" means an introduction to the Homecare Choice Program and a review of basic expectations and requirements for Homecare Choice providers.

(28) "Payment Method" means the financial instrument used to pay for services.

(29) "Personal Support Worker" means a personal support worker as defined in OAR 410-172-0190 and 411-375-0010.

(30) "Prepayment" means the advance payment of two weeks of service hours multiplied by the service rate.

(31) "Program" means the Homecare Choice Program governed by these rules and administered by the Oregon Home Care Commission.

(32) "Program Service Rate" means the hourly rate for homecare services established by the Home Care Commission and charged to Homecare Choice Program participants.

(33) "Provider" means Homecare Choice provider as defined in these rules.

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(34) "Provider Number" means an identifying number issued to each homecare and personal support worker enrolled as a provider through DHS or OHA.

(35) "Readiness Assessment" means a tool used to evaluate whether a provider can demonstrate understanding of basic skills and processes determined to be foundational concepts needed to work successfully with participants.

(36) "Refund" means a return of the unused balance of a participant's prepayment.

(37) "Registry" means the Commission's online listing of Homecare Choice providers who are available to work.

(38) "Relief Care" means the temporary provision of services with the primary purpose of relieving the individual's caregiver.

(39) "Representative" means a person designated by a participant, or the participant's legal guardian, who is authorized to assist with the program enrollment process, fulfilling consumer-employer responsibilities, and directing homecare services.

(40) "Self-Assessment" means an assessment tool completed by a Homecare Choice Program participant, or the representative of a participant, to evaluate the capacity and willingness of the participant or the participant's representative, to effectively manage and direct homecare services provided to the participant and to fulfill consumer-employer responsibilities. The self-assessment identifies the participant's need for the specific services that are included in the participant's service plan.

(41) "Service Period" means the 14 consecutive days of each provider pay period.

(42) "Service Plan" means a written document that details a participant's self-identified service needs.

(43) "SUTA" is the acronym for State Unemployment Tax Assessment. State unemployment taxes are paid by employers to finance the unemployment benefit system that exists in each state.

(44) "These Rules" mean the rules in OAR chapter 418, division 040.

(45) "Unacceptable Background Check" means a check that produces information related to the person's background that precludes the person from being a provider in the Homecare Choice Program for the following reasons:

(a) The person applying to be a provider has been disqualified under OAR 407-007-0275;

(b) A background check and fitness determination has been conducted resulting in a "denied" status as defined in OAR 407-007-0210; or

(c) A background check and fitness determination has been conducted resulting in an "approved with restrictions" status as defined in OAR 407-007-0210.

(46) "Work week" means the period of time that begins on 12:00 a.m. on Sunday and ends on 11:59 p.m. Saturday.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0020

Participant Eligibility

(1) In order to enroll as a participant in the Homecare Choice Program, an individual, or the individual's representative, must:

(a) Complete a self-assessment developed by the Oregon Home Care Commission.

(b) Enter into a written service plan with a Homecare Choice provider before the commencement of services.

(c) Pay the Commission in advance for services.

(d) Be able to comply with state and federal wage and tax laws and recordkeeping requirements by completing, submitting, and retaining necessary documents provided by the fiscal intermediary contracted by the Commission.

(e) Complete a Homecare Choice Program enrollment agreement.

(f) Provide information, when requested, for workers' compensation claims related to the individual's provider.

(g) Be able and willing to effectively manage and direct homecare services by performing the functions of an employer, including:

(A) Locating, screening, and hiring a qualified provider.

(B) Evaluating whether the provider has the skills and abilities to meet the individual's specific service needs.

(C) Assigning and directing the provider's work.

(D) Supervising and training the provider.

(E) Scheduling the providers' work, leave, and coverage.

(F) Tracking the hours worked and validating the authorized hours were completed by the provider.

(G) Recognizing, discussing, and attempting to correct any performance deficiencies with the provider.

(H) Discharging an unsatisfactory provider.

(2) An individual becomes ineligible to participate in the Homecare Choice Program when:

(a) The individual, or individual's representative, fails to pay for services in advance.

(b) The individual, or the individual's representative, fails to maintain an account balance equal to one service period.

(c) The individual, or the individual's representative, is unable or unwilling to effectively manage and direct homecare services by failing to meet the requirements outlined in OAR 418-040-0020(1)(g)(A)-(H).

(d) The individual, or the individual's representative, is unable or unwilling to comply with state and federal wage and tax laws or record-keeping requirements by failing to complete, submit, and retain necessary documents provided by a fiscal intermediary contracted with the Oregon Home Care Commission.

(e) Dangerous conditions in the individual's service setting jeopardize the health or safety of the individual or provider, and the individual, or the individual's representative, is unable or unwilling to implement necessary safeguards to minimize the dangers.

(f) Services are not able to be provided safely or adequately by the provider based on:

(A) The extent of the participant's service needs; or

(B) The choices or preferences of the participant or the participant's representative.

(3) Participants determined to be ineligible for continued participation in the Homecare Choice Program will be sent written notice 10 days in advance of the proposed action.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0030

Services

(1) Services available through the Homecare Choice Program are intended to support a participant in the participant's home and in the community. Services are identified by the participant through a self-assessment developed by the Oregon Home Care Commission.

(2) The program is responsible to review the results of an individual's self-assessment with the participant or the participant's representative and provide information about the scope of services offered through the program, the long-term care services and supports not available through the program, and other community resources that are available to individuals seeking long-term care services and supports.

(3) The service plan is determined by the participant based on the participant's self-assessment and the participant or the participant's representative determines the number of purchased service hours per service period.

(4) Services are performed by providers enrolled in the Homecare Choice Program based on the service plan. Providers are selected by the participant from the Oregon Home Care Commission's Registry.

(5) Services available through the Homecare Choice Program include assistance with:

(a) Activities of Daily Living (ADLs).

(b) Instrumental Activities of Daily Living (IADLs).

(c) Pet care.

(d) Companionship.

(e) Relief Care.

(6) Assistance with tasks related to the following activities are not available through the Homecare Choice Program:

(a) Case management. Case management means an ongoing process that includes:

(A) Assessing a participant's service needs.

(B) Evaluating the options and services required to meet the participant's needs.

(C) Developing and implementing a service plan.

(D) Coordinating services and referrals.

(E) Conducting risk assessments.

(F) Monitoring.

(b) Chore services and yard work.

(A) Chore services are services intended to ensure the individual's home is safe and allows for independent living.

(B) Chore services include:

(i) Heavy housecleaning;

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- (ii) Removal of hazardous debris or dirt from the home or yard; and
- (iii) Moving heavy furniture.
- (c) Home adaptations or modifications.
- (d) Money management.
- (e) Moving.
- (f) Medical and nursing services.
- (g) Purchasing services and supplies, such as home delivered meals, emergency response systems, adaptive equipment, and personal protective equipment.

Stat. Auth.: ORS 410.602
Stats. Implemented: ORS 410.595-625
Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0040

Provider Qualifications

- (1) Provider Enrollment:
 - (a) ENROLLMENT STANDARDS. To be enrolled as a provider in the Homecare Choice Program a provider must meet the following standards:
 - (A) Submit a completed application and provider enrollment agreement to the Oregon Home Care Commission.
 - (B) Possess an active, unrestricted homecare or personal support worker provider number issued by DHS or OHA.
 - (C) Have completed the background check process described in OAR 407-007-0200 to 407-007-0370 as a homecare or personal support worker with an outcome of approved. A background recheck must occur at least every two years or sooner, if requested.
 - (D) Complete Homecare Choice Program orientation.
 - (E) Be 18 years of age or older without exception.
 - (F) Possess a Social Security Number that matches the individual's legal name, as verified by the Internal Revenue Service or Social Security Administration.
 - (G) Be legally eligible to work in the United States.
 - (H) Have sufficient communication and language skills to enable him or her to perform duties and interact effectively with participants and Commission staff.
 - (I) Be capable of performing essential functions to safely provide necessary services or be capable of learning essential functions to safely provide necessary services, as determined by the individual or his or her representative.
 - (J) Immediately report abuse or suspected abuse to DHS.
 - (K) Maintain confidentiality and safeguard the participant and the participant's family's information.
 - (L) Not be listed on the Health and Human Services, Office of Inspector General or the U.S. General Services Administration's Exclusion lists.
 - (M) Complete and pass an on-line readiness assessment. The readiness assessment includes, but is not limited to, concepts on:
 - (i) Effective communication skills;
 - (ii) Professional boundaries;
 - (iii) Preventing fraud and abuse;
 - (iv) Problem solving;
 - (v) Universal precautions and disease prevention;
 - (vi) Proper body mechanics; and
 - (vii) Medication safety.
 - (b) DENIAL OF PROVIDER ENROLLMENT. The Oregon Home Care Commission may deny an application for provider enrollment in the Homecare Choice Program when:
 - (A) The applicant has a history of violating protective service and abuse rules in OAR chapter 407, division 45, OAR chapter 411 division 20, OAR chapter 413, division 15, or OAR chapter 943, division 45.
 - (B) The applicant has an unacceptable background check.
 - (C) The applicant is under 18 years of age.
 - (D) The applicant is listed on the Health and Human Services, Office of Inspector General or the U.S. General Services Administration's Exclusion lists.
 - (E) The applicant has committed fiscal improprieties.
 - (F) The Oregon Home Care Commission has information that enrolling the applicant as a provider may put vulnerable individuals at risk.
 - (G) The applicant's Social Security Number does not match the applicant's legal name, as verified by the Internal Revenue Service or Social Security Administration.
 - (H) The applicant is not capable of performing essential functions to safely provide necessary services or is not capable of learning essential functions to safely provide necessary services.

(L) The applicant does not have sufficient communication and language skill to enable him or her to perform duties and interact effectively with participants and Commission staff.

(J) The applicant does not complete and pass a readiness assessment.

(c) VIOLATIONS RESULTING IN TERMINATION OF PROVIDER ENROLLMENT. The Oregon Home Care Commission may terminate a provider enrolled in the Homecare Choice Program in the following circumstances:

(A) The provider's enrollment as a homecare worker has been terminated based on violations described in OAR 411-031-0050.

(B) The provider's enrollment as a personal support worker has been terminated based on violations described in OAR 410-172-0200 or 411-375-0070.

(C) There is a substantiated complaint against a provider for:

(i) Being impaired by alcohol, inhalants, prescription drugs, or other drugs, including over-the-counter medications, while responsible for the care of a participant, in the participant's home, or transporting the participant; or

(ii) Manufacturing, possessing, selling, offering to sell, trading, or personally using illegal drugs while providing authorized services to a participant or while in the participant's home.

(D) The provider has a founded or substantiated allegation of abuse as described in OAR chapter 407, division 045, OAR chapter 411, division 20, OAR chapter 413, division 15, or OAR chapter 943, division 45.

(E) The provider fails to provide services as required.

(F) The provider lacks the ability or willingness to maintain confidentiality and safeguard the participant and the participant's family's information.

(G) The provider has an unacceptable background check.

(H) The provider has repeatedly demonstrated he or she is unable or unwilling to safely provide necessary services.

(I) The provider has repeatedly engaged in any of the following behaviors:

(i) Unscheduled late arrival to work or absences from work that are unsatisfactory to the participant or neglect the participant's service needs; or

(ii) Inviting unwelcome guests or pets into a participant's home, resulting in dissatisfaction or inattention to the participant's required service needs.

(J) The provider commits fiscal improprieties.

(K) The provider is listed on the Health and Human Services, Office of Inspector General or the U.S. General Services Administration's Exclusion lists.

(L) The provider fails to provide a Social Security Number that matches the provider's legal name, as verified by the Internal Revenue Service or Social Security Administration.

(d) INACTIVATION OF PROVIDER ENROLLMENT. A Homecare Choice provider's enrollment may be inactivated when his or her homecare or personal support worker enrollment has been inactivated for reasons described in OAR chapter 411, division 31 or OAR chapter 411, division 375.

(A) Homecare Choice providers will be notified in writing of the reason for inactivation and the actions required to maintain eligibility as a provider in the Homecare Choice Program.

(B) A Homecare Choice provider who fails to restore his or her homecare or personal support worker enrollment to active status within 30 days of inactivation will not be eligible to participate in the Homecare Choice Program until his or her homecare or personal support worker enrollment is restored to active status.

(2) Registry referrals.

(a) To be available for referral on the Registry, the provider must:

(A) Have an active, unrestricted provider number.

(B) Meet the Commission's annual continuing education requirements as a homecare worker or personal support worker.

(C) Be seeking employment.

(D) Maintain a complete and accurate profile.

(E) Update his or her profile information every 30 days.

(F) Have a valid telephone number.

(G) Have a valid email address.

(H) Authorize the release of contact information to perspective participants.

(b) If a provider does not meet the requirements in subsection (2)(a), the provider will not be eligible for referral on the Registry until the requirements of (2)(a) are met.

ADMINISTRATIVE RULES

(3) A provider is responsible to review qualification requirements and background check due dates and take appropriate action to prevent lapse.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0050

Participant and Provider Employment Relationship

(1) The relationship between a provider and a program participant is that of employee and employer. Participants are required to meet the employer responsibilities described in OAR 418-040-0020(1)(g)(A)–(H).

(2) Homecare Choice providers are not state employees and are not entitled to state funded benefits, including participation in the Public Employees Retirement System or the Oregon Public Service Retirement Plan.

(3) Participants must establish the terms of an employment relationship with a provider at the time of hire.

(a) The terms of employment may include dismissal or resignation notice, work scheduling, absence reporting, and whether sleeping arrangements or meals are provided to employees.

(b) A participant has the right to terminate an employment relationship with a provider at any time and for any reason.

(4) Unless permission has been granted through the court, a participant's legal guardian may not be paid as the individual's Homecare Choice provider and serve as the employer.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0060

Homecare Choice Program Service Rate

(1) The Commission shall establish the service rate charged to program participants for homecare services at a level expected to generate total revenue sufficient to reimburse up to 107 percent of the costs associated with the program. The rate equals the actual costs incurred plus seven percent of the cost of administering the program and may include, but is not limited to:

(a) Homecare Choice Provider wages, taxes, and benefits:

- (A) Federal Unemployment Tax Act (FUTA);
- (B) State Unemployment Tax Authority (SUTA);
- (C) Workers' Compensation Assessment;
- (D) Health insurance; and
- (E) Paid time off.

(b) Homecare Choice Program staff wages, taxes, and benefits:

- (A) Federal Unemployment Tax Act (FUTA);
- (B) State Unemployment Tax Authority (SUTA);
- (C) Public Employee's Retirement contribution;
- (D) Pension bond contribution;
- (E) Social security tax;
- (F) Workers' compensation assessment;
- (G) Mass transit tax; and
- (H) Flexible benefits.

(c) Homecare Choice Program service and supply expenses:

- (A) Office expenses;
- (B) Publicity and publications;
- (C) Professional services;
- (D) Registry maintenance and expansion;
- (E) Legal fees;
- (F) Cost allocation fees;
- (G) Translation fees;
- (H) Americans with Disabilities Act (ADA) accommodation requests;
- (I) Credit card processing fees;
- (J) Fiscal intermediary administration fees; and
- (K) Workers' compensation premiums.

(d) Any other activities undertaken to ensure:

- (A) The quality of Homecare Choice providers;
- (B) The adequacy of homecare services being provided; and
- (C) Costs of other administrative expenses associated with the program are covered.

(2) The service payment rate is set forth in the participant enrollment agreement between the program and participant. Information about the rate shall be available from the Commission and posted online at www.oregon.gov/DHS/Seniors-Disabilities/HCC/Pages/Homecare-Choice-Program.aspx.

(3) If additional revenue is needed to sufficiently cover program costs, the Commission reserves the right to modify the service rate at any time. To modify the service rate, the Commission will give 30-days advance written notice to program participants.

(4) If the Commission determines adjusting the service rate will not generate sufficient revenue to pay the costs of the program, the Commission may suspend the program following 30-days advance written notice to participants and providers. If the program is suspended, the Commission shall report to the Legislative Assembly, no later than 30 days after the suspension begins. The report must include the following information:

(a) The reason for the suspension;

(b) Any costs incurred that exceed the revenue generated by program payments; and

(c) Any additional costs during the remainder of the biennium that the suspension occurs in that are anticipated to exceed the revenue generated by program payments.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0070

Suspension or Reduction of Homecare Choice Program Referrals

If the Commission, with the assistance of DHS, determines the available provider workforce is inadequate to meet the needs of those who qualify for Medicaid funded in-home services, the Commission may suspend or reduce the number of provider referrals under the Homecare Choice Program.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0080

Fiscal Responsibilities

(1) Oregon Home Care Commission Fiscal Responsibilities.

(a) The Commission shall establish the Homecare Choice provider wage rate.

(b) The Commission may contract with a fiscal intermediary for the following responsibilities:

(A) Making payments to Homecare Choice providers on behalf of participants for services rendered. Payment is considered payment in full.

(B) Acting on behalf of participants, by applying applicable Federal Insurance Contributions Act (FICA) regulations, to:

(i) Withhold Homecare Choice provider contributions from payments; and

(ii) Submit participant contributions, and the amounts withheld from provider payments, to the Social Security Administration.

(C) Applying standard income tax withholding practices in accordance with 26 CFR 31 and withholding state and federal income taxes on all payments to Homecare Choice providers.

(c) The Commission will issue a refund of a participant's unused service payment after all expenses of the participant have been paid. The portion of the service payment intended to reimburse the Commission for its costs shall not be refunded.

(A) Refunds may only be issued to the individual who authorized the original payment.

(B) Refunds shall not be issued in cash.

(d) The Commission is not a trustee and has no fiduciary obligation to the participant or payer with respect to advance service payments.

(e) Advance payments may be commingled with other advance payments from participants in the Homecare Choice Program, but will be accounted for separately in the records of the Commission. The participant, or payer, is not entitled to any interest earnings on the funds and no interest will be credited to the participant or payer, or paid in the event of a refund.

(f) The state will honor a garnishment or attachment of the participant's or payer's advance payment in the event it is served with a writ.

(g) If funds are not available to pay a provider because the Commission is required to hold or transfer funds under a legal proceeding involving the participant, or payer, participant's participation in the Homecare Choice program will be terminated as provided for in OAR 418-040-0020.

(2) Homecare Choice Participant Fiscal Responsibilities.

ADMINISTRATIVE RULES

(a) Participants shall pay the Commission in advance for homecare services. Services may not commence until payment is received and verified by the Commission.

(b) Upon enrollment in the program, participants must submit an initial prepayment to cover two service periods. The amount of the prepayment is calculated by multiplying the program service rate by the number of anticipated service hours for each service period. Thereafter, participants must submit a prepayment equal to the current service period, while enrolled in the program, and maintain an account balance equal to a two-week service period.

(A) If the account balance does not equal an amount necessary to pay the hours to be worked in the current service period, the participant must submit additional funds to restore the balance to the required level.

(B) If the participant increases the number of purchased hours per service period after the initial prepayment is established, the on-going prepayment must also be increased to equal the current service period.

(C) The funds are held for the convenience of the participant or payer.

(D) Advance payments may be considered part of the participant's or payer's estate in the event of a bankruptcy and subject to the automatic stay, or in the event of participant's death, will be refunded to the participant's estate, less any administrative fee due to the Commission.

(c) The participant is subject to the U.S. Department of Labor Fair Labor Standards Act and may elect to have a provider work more than 40 hours per week. The purchase of service hours that exceed 40 hours per week for an individual provider is considered overtime and shall be calculated in the pre-payment.

(A) The overtime rate equals one and one-half of the provider's hourly wage rate plus the increased cost of any payroll taxes as a result of overtime.

(B) In the event of unanticipated overtime, the additional cost will be deducted from the participant's account balance and the account balance must be replenished in the next service payment.

(d) Acceptable payment methods for services include, credit or debit card transactions, personal checks, certified checks, cashier's checks, and money orders.

(A) As allowed by law, the Commission may charge a Non-Sufficient Fund fee if the participant's personal check is not processed by his or her issuing bank due to insufficient funds.

(B) Participants must provide an alternate form of payment method if the credit card used to purchase services is invalid or if a personal check is returned due to insufficient funds.

(C) If a participant challenges program charges on the participant's credit card and the charges are found to be valid after a chargeback investigation, the participant must pay by personal check, cashier's check, or money order for the disputed charges.

(e) Participants must submit payment to the Commission for mileage reimbursement for providers that use his or her personal vehicle for authorized service related transportation.

(A) Providers are reimbursed at the mileage reimbursement rate determined by the participant.

(B) The Commission, participant, and DHS are not responsible for vehicle damage when a provider uses his or her personal motor vehicle.

(C) The Commission, participant, and DHS are not responsible for personal injury sustained when a provider uses his or her personal vehicle, except as may be covered under workers' compensation.

(3) Homecare Choice Provider Fiscal Responsibilities. Homecare Choice providers:

(a) Must comply with state and federal wage and tax laws by completing, submitting, and retaining necessary documents provided by a fiscal intermediary contracted by the Commission.

(b) Must not accept any additional compensation for hours of work that were compensated by the Homecare Choice Program.

(c) Must only claim payment for authorized services provided that have been validated by participants with whom they are employed.

(d) Shall not claim payment for services delivered by another individual.

(e) Are responsible for the completion and accuracy of timekeeping records and all submitted claims.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

418-040-0090

Provider Termination and Hearing Rights

(1) The Commission delegates authority to the Executive Director of the Oregon Home Care Commission to act on behalf of the Commission for the purposes of making decisions related to a provider's eligibility to provide services under the Homecare Choice Program. This includes:

(a) Provider enrollment;

(b) Denial or revocation of provider enrollment; and

(c) Provider sanctions, which may include, suspension of Registry referrals.

(2) When a Homecare Choice provider is terminated based on violations described in OAR 418-040-0040(1)(c)(A) - (L), the Commission shall issue a written notice to the provider.

(a) The written notice must include:

(A) The effective date of the termination.

(B) An explanation of the reason for terminating the provider enrollment.

(C) The alleged violation as listed in OAR 418-040-0040(1)(c)(A)-(L).

(D) The provider's right to a contested case hearing and where to file the hearing request.

(b) For terminations based on substantiated protective services allegations, the notice may only contain the information allowed by law. In accordance with ORS 124.075, 124.085, 124.090, OAR 407-045-0330, 411-020-0030, 413-015-0485, and 943-045-0330, complainants, witnesses, the name of the alleged victim, and protected health information may not be disclosed.

(3) BURDEN OF PROOF. The Commission has the burden of proving the allegations of the complaint by a preponderance of the evidence. Evidence submitted for the administrative hearing is governed by OAR 137-003-0610.

(4) IMMEDIATE TERMINATION. The Commission may immediately terminate a provider's enrollment on the date the violation is discovered, before the outcome of the administrative review, when an alleged violation presents imminent danger to current or future participants. In order for a provider's hearing request to be timely, any hearing request must be filed with the Commission within 10 business days from the date of the notice.

(5) TERMINATIONS PENDING APPEAL. When a violation does not present imminent danger to current or future participants, the provider's enrollment may not be terminated during the first 10 business days after the termination notice. In order for a provider's hearing request to be timely, any hearing request must be filed with the Commission within 10 business days from the date of the notice. If the provider appeals in writing before the deadline for the appeal, the enrollment may not be terminated until the conclusion of the contested case proceeding.

(6) TERMINATION IF NO APPEAL FILED. The decision of the Commission's Executive Director becomes final if the Homecare Choice provider does not appeal within 10 business days from the date of the notice of the decision.

(7) CONTESTED CASE PROCESS. A Homecare Choice provider may request an administrative hearing after the conclusion of the administrative review process if the provider continues to dispute the decision to terminate his or her enrollment in the Homecare Choice Program.

(a) A request for hearing must be filed with the Commission within 10 business days of the date of the written notice from the Commission.

(b) When the Commission or the Department refers a contested case under these rules to the Office of Administrative Hearings, the referral will indicate whether the Commission is authorizing a proposed order, a proposed and final order, or a final order.

(c) Subject to approval of the Attorney General, an officer or employee of the Department or the Commission, is authorized to appear on behalf of the Commission for hearings conducted by the Office of Administrative Hearings related to provider enrollment, denial, or revocation of provider enrollment, and provider sanctions. Contested case hearings and the use of lay representation in contested case hearings related to this rule shall be in accordance with OAR chapter 411, division 001.

(d) No additional hearing rights have been granted to Homecare Choice providers by this rule other than the right to a hearing on the Commission's decision to terminate the individual's provider enrollment.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.595-625

Hist.: HCC 1-2015(Temp), f. 12-31-15, cert. ef. 1-1-16 thru 6-28-16; HCC 1-2016, f. 6-13-16, cert. ef. 6-20-16

ADMINISTRATIVE RULES

Department of Human Services, Self-Sufficiency Programs Chapter 461

Rule Caption: Amending rule relating to ERDC child care provider requirements

Adm. Order No.: SSP 22-2016(Temp)

Filed with Sec. of State: 5-23-2016

Certified to be Effective: 5-23-16 thru 11-18-16

Notice Publication Date:

Rules Amended: 461-165-0180

Rules Suspended: 461-165-0180(T)

Subject: OAR 461-165-0180 about child care provider eligibility requirements is being amended to state that to be eligible, a provider may not be the sibling living in the home of a child in the filing group.

Rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-165-0180

Eligibility of Child Care Providers

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a preliminary or final fitness determination (see OAR 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see 407-007-0210(30)(a)(A), (B), (F), (I), and (P)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of “denied”. A provider may be denied under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in 407-007-0210, the Department finds substantial risk to the health or safety of a child (see 461-001-0000) in the care of the provider, the provider must be denied and is ineligible for payment. A provider who has been denied has the right to a hearing under 407-007-0330.

(b) A finding of “failed”. A provider may be failed if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet an eligibility requirement of this rule not covered in subsection (d) of this section. While the provider is in failed status:

(A) The Department does not pay any other child care provider for child care at the failed provider’s site.

(B) The Department does not pay a child care provider at another site if the failed provider is involved in the child care operation unless the Department determines that the reasons the provider is in failed status are not relevant to the new site.

(c) A provider with a status of “failed” may reapply at any time by providing the required documents and information to the Department for review.

(d) A finding of “non-compliant”. A provider may be non-compliant if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (7) of this rule: (d), (e), (h), (i), (j), (k), (L), (o)(H), (I) (L), or (u) or in section (10) of this rule. A provider who has been determined non-compliant may challenge this status by requesting a contested case hearing subject to the requirements and limitations of OAR 461-025. While the provider is in non-compliant status:

(A) The provider is ineligible for payment for at least six months.

(B) The Department does not pay any other child care provider for child care at the non-compliant provider’s site.

(C) The Department does not pay a child care provider at another site if the non-compliant provider is involved in the child care operation unless the Department determines that the reasons the provider is in non-compliant status are not relevant to the new site.

(e) A provider with a status of “non-compliant” may be eligible for payments after the six month ineligibility period ends if the provider has been approved following reapplication, including providing the required documents and information to the Department for review.

(f) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete

and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each subject individual described in OAR 407-007-0210(30)(a)(A), (B), (F), (I) or (P) must fully disclose all requested information as part of the records check.

(4) This rule also establishes additional requirements for the following individuals:

(a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a child in care.

(b) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(c) In the case of a provider who provides care for a child in the provider’s home;

(A) Each individual 16 years of age or older who lives in the provider’s home; and

(B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(5) To receive payment or authorization for payment, the provider must meet the requirements of either subsection (a) or (b) of this section:

(a) Currently be certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 unless legally exempt, and be in compliance with the applicable rules. The provider must also complete the Department’s listing process and be approved by the Department.

(b) If legally exempt from being certified or registered with the OCC, complete the Department’s background check process and be approved by the Department.

(6) Each individual described in section (4) of this rule must:

(a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.

(b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.

(c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.

(7) Each provider must:

(a) Obtain written approval from their certifier or certifier’s supervisor if the provider is also certified as a foster parent.

(b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care.

(c) Not be in the same filing group (see OAR 461-110-0350) as the child cared for; the parent (see OAR 461-001-0000) of a child in the filing group; or a sibling living in the home of a child in the filing group.

(d) Allow the Department to inspect the site of care while child care is provided.

(e) Keep daily attendance records showing the arrival and departure times for each child in care and billing records for each child receiving child care benefits from the Department. The provider must keep written records of any attendance that is not able to be recorded in the Child Care Billing and Attendance Tracking (CCBAT) system. These written records must be retained for a minimum of 12 months and provided to the Department upon request.

(f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department’s Direct Pay Unit.

(g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(h) Report to the Department’s Direct Pay Unit within five days of occurrence:

(A) Any arrest or conviction of any subject individual or individual described in section (4) of this rule.

(B) Any involvement of any subject individual or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.

(C) Any change to the provider’s name or address including any location where care is provided.

ADMINISTRATIVE RULES

(D) The addition of any subject individual or individual described in section (4) of this rule.

(E) Any reason the provider no longer meets the requirements under this rule.

(i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(j) Supervise each child in care at all times.

(k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (11) of this rule).

(L) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.

(m) Inform a parent of the need to obtain immunizations for a child.

(n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.

(o) Ensure that the home or facility where care is provided meets all of the following standards:

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.

(B) The home or facility has safe drinking water.

(C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Gates and enclosures have the Juvenile Products Manufacturers Association (JPMA) certification seal to ensure safety.

(E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.

(G) The home or facility has a telephone in operating condition.

(H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.

(I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (11) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.

(K) Is not a structure:

(i) Designed to be transportable; and

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.

(L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(r) Complete registration for the CCBAT system within 45 days of the date of the registration notice.

(s) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.

(t) Place infants to sleep on their backs.

(u) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).

(8) Child Care providers who are License Exempt or Registered Family Child Care Providers with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170 must complete the "Basic Child Care Health and Safety" two-hour, web-based training or the three-hour Oregon Kids Healthy and Safe (OKHS) classroom training prior to being approved by the Department.

(a) Prior to June 16, 2014, a provider who sends the Department a Child Care Provider Listing and Provider Information Sheet (DHS 7494) with a revision date of March 2013, or those who attempt to take the web-based training but are unable due to technical difficulties at the training site, will not be failed for not meeting this training requirement.

(b) License Exempt or Registered Family Child Care Providers who are exempt from this training are those who state at least one of the following:

(A) English is a second language.

(B) No internet access is available.

(9) A child care provider not subject to certification or registration with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250, must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:

(a) Receives funds from the Department; and

(b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

(10) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(11) For purposes of these rules:

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

Stat. Auth.: ORS 181.537, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2005(Temp), f. & cert. ef. 4-25-05 thru 9-30-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 5-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14; SSP 10-2014(Temp), f. & cert. ef. 4-1-14 thru 8-28-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 21-2014(Temp), f. & cert. ef. 8-13-14 thru 2-9-15; SSP 6-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 3-2016(Temp), f. & cert. ef. 1-20-16 thru 7-17-16; SSP 12-2016(Temp), f. & cert. ef. 3-14-16 thru 7-17-16; SSP 22-2016(Temp), f. & cert. ef. 5-23-16 thru 11-18-16

ADMINISTRATIVE RULES

Department of Justice Chapter 137

Rule Caption: Model Escrow Agreement

Adm. Order No.: DOJ 7-2016(Temp)

Filed with Sec. of State: 5-23-2016

Certified to be Effective: 5-23-16 thru 11-18-16

Notice Publication Date:

Rules Adopted: 137-105-0025

Subject: ORS 180.415(2) requires a tobacco product manufacturer that has not joined the master settlement agreement (“nonparticipating manufacturer”) to maintain a qualified escrow fund and execute a qualified escrow agreement that has been reviewed and approved by the Attorney General. ORS 180.415(2) also requires the Attorney General to adopt rules defining the form and content of a model escrow agreement. If the nonparticipating manufacturer executes the model escrow agreement, it is deemed to have satisfied the requirement that is use a form of escrow agreement that has been reviewed and approved by the Attorney General. This rule defines the form and content of the model escrow agreement.

Rules Coordinator: Carol Riches—(503) 378-5987

137-105-0025

Model Escrow Agreement

(1) The model escrow agreement set forth in OAR 137-105-0025(2) is provided for use by tobacco product manufacturers who are required to execute a qualified escrow agreement. A tobacco product manufacturer that executes the model escrow agreement set forth in 137-105-0025(2) is deemed to have satisfied the requirement of ORS 180.415(2)(b) that it use a form of escrow agreement that has been reviewed and approved by the Attorney General.

(2) [Model Escrow Agreement] [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 180.415(2)(b)

Stats. Implemented: ORS 180-415(2)(b)

Hist.: DOJ 7-2016(Temp), f. & cert. ef. 5-23-16 thru 11-18-16

Department of Revenue Chapter 150

Rule Caption: Marijuana Tax; Receipt Requirements for Marijuana Retailers

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

Filed with Sec. of State: 5-18-2016

Certified to be Effective: 6-2-16 thru 11-28-16

Notice Publication Date:

Rules Adopted: 150-475B.705

Subject: This rule specifies information required on receipts from marijuana retailers.

Rules Coordinator: Lois Williams—(503) 945-8029

150-475B.705

Marijuana Retailer Receipt Requirements

(1) Definitions:

(a) For purposes of this rule, “marijuana retailer” means:

(A) A registered medical marijuana dispensary that elects to sell limited marijuana retail products, as defined under section 21, chapter 83, Oregon Laws 2016, between and including January 4, 2016 and December 31, 2016; or

(B) A marijuana retailer licensed by the Oregon Liquor Control Commission who sells marijuana items on or after January 4, 2016.

(b) “Early Start” means the tax imposed under sections 21a and 24, chapter 699, Oregon Laws 2015.

(c) “Marijuana Retail Tax” means the tax imposed under ORS 475B.705.

(d) “Category of taxed product” means each of the marijuana items listed in ORS 475B.705(2)(a) through (g) for the Marijuana Retail Tax, and each of the limited marijuana retail products listed in section 21, chapter 83, Oregon Laws 2016, for Early Start.

(2) A marijuana retailer must provide customers a written or printed receipt at the point-of-sale of all marijuana items or limited marijuana retail products that includes, but is not limited to:

(a) The marijuana retailer’s business name and address;

(b) An identification of items or products on which tax was charged;

(c) The category of taxed product for each item or product sold, either as a heading for a group of items or products or as information associated with the item or product name;

(d) The total amount of the sale prior to tax;

(e) The total state tax amount;

(f) The total local tax amount, if applicable;

(g) The total cost to the customer at the point-of-sale; and

(h) An alphanumeric or numeric identification that differs on each receipt issued.

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

Stats. Implemented: ORS 475B.705

Hist.: REV 2-2016(Temp), f. 5-18-16, cert. ef. 6-2-16 thru 11-28-16

Department of State Lands Chapter 141

Rule Caption: General Authorization for Recreational Placer Mining within ESH that is Not Designated SSW

Adm. Order No.: DSL 3-2016

Filed with Sec. of State: 6-15-2016

Certified to be Effective: 6-15-16

Notice Publication Date: 5-1-2016

Rules Amended: 141-089-0820, 141-089-0825, 141-089-0835

Subject: A legislatively established moratorium (Enrolled Senate Bill 838—2013) on some motorized placer mining began on January 2, 2016. It was necessary to revise the Department’s General Authorization in response to SB 838 statutory changes, including implementing the moratorium for some motorized placer mining. The Department adopted a temporary rule to clarify the process for determining eligibility for the General Authorization and removing certain limitations on placer mining that were established for the period ending January 2, 2016. The agency conducted a permanent rule-making to replace the temporary rule, took public comment and is now proposing that the permanent rule take effect on June 30, 2016, the day after the temporary rule expires.

Rules Coordinator: Sabrina L. Foward—(503) 986-5236

141-089-0820

Purpose

(1) These rules set forth conditions under which a person may, without an individual removal-fill permit from the Department, fill, remove and move material in waters of this state for the purpose of recreational placer mining within areas designated as Essential Indigenous Anadromous Salmonid Habitat (ESH) that is not designated as State Scenic Waterway (SSW) and that is not subject to a legislatively established moratorium.

(2) There is a legislatively established moratorium from January 2, 2016, to January 2, 2021. This moratorium applies for all placer deposits of the beds or banks of all waters of this state, or other placer deposits, up to the line of ordinary high water, and 100 yards upland perpendicular to the line of ordinary high water, that is located above the lowest extent of the spawning habitat in any river and tributary thereof in this state containing either essential indigenous anadromous salmonid habitat or naturally reproducing populations of bull trout, except for the following two areas:

(a) Areas that do not support populations of anadromous salmonids or naturally reproducing populations of bull trout due to a naturally occurring or lawfully placed barrier to fish passage.

(b) Any area where an operating permit that was issued by the State Department of Geology and Mineral Industries under ORS 517.702 to 517.989 authorizes a person to conduct recreational placer mining.

Stat. Auth.: ORS 196.600 - 196.692, 196.795 - 196.990

Stats. Implemented: ORS 196.600 - 196.692, 196.795 - 196.990

Hist.: DSL 2-2011, f. & cert. ef. 3-1-11; DSL 4-2013, f. 12-13-13, cert. ef. 1-1-14; DSL 4-2015(Temp), f. 12-28-15, cert. ef. 1-2-16 thru 6-29-16; DSL 3-2016, f. & cert. ef. 6-15-16

141-089-0825

Eligibility Requirements

(1) Purpose. The activity is for the specific purpose of recreational placer mining.

(2) Limited Number. Notwithstanding OAR 141-089-0640, the Department shall limit the total number of authorizations and permits for motorized mining in any river and tributary thereof, of which any portion contains ESH or naturally reproducing populations of bull trout, to 850 annually using the following process:

(a) For eligible notifications that are received between January 1 and the last business day in February of each year, priority, to the greatest extent

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practicable, will be given to persons who have held a general authorization for recreational placer mining or an individual permit for motorized placer mining from the Department of State Lands, or a 700PM permit from the Department of Environmental Quality, for the longest period of time between 2006 and 2014. The Department will assign one point for each year a person has held an authorization or permit from either agency between 2006 and 2014, for a possible total of up to nine points.

(b) The persons that receive the highest number of points will receive authorizations or permits. If there are more persons that have the same number of points compared to the number of permits or authorizations available, permits or authorizations will be awarded through random selection.

(c) If fewer than 850 eligible notifications are received between January 1 and the last business day in February of each year and there is a balance of permits or authorizations to distribute, priority will be given according to date of notification.

(d) Individual permit applications for motorized placer mining received between January 1 and the last business day in February of each year will be included in the process described in (a) through (b) above, and those received after the last business day in February of each year will be included in the process described in (c) above.

(e) The Department will notify persons of the issuance or denial of an authorization by April 30 of each year. The notice is served when deposited in the United States Mail.

(3) Threshold. The activity will remove, fill or move cumulatively less than twenty-five (25) cubic yards of material annually from or within the bed and banks of waters of this state that are designated as ESH.

(4) Expiration of Recreational Placer Mining Authorizations and Permits. Authorizations issued under the Recreational Placer Mining GA expire on December 31 of each year. Individual permits issued for recreational placer mining shall expire December 31 of each year.

(5) Report. A completed Recreational Placer Mining Report for the previous year must be submitted to the Department by the last business day in February of each year.

(6) Transfer of Authorization is not Allowed. An authorization cannot be transferred to another person.

Stat. Auth.: ORS 196.600 - 196.692, 196.795 - 196.990

Stats. Implemented: ORS 196.600 - 196.692, 196.795 - 196.990

Hist.: DSL 2-2011, f. & cert. ef. 3-1-11; DSL 3-2012, f. 9-28-12, cert. ef. 9-29-12; DSL 4-2013, f. 12-13-13, cert. ef. 1-1-14; DSL 4-2015(Temp), f. 12-28-15, cert. ef. 1-2-16 thru 6-29-16; DSL 3-2016, f. & cert. ef. 6-15-16

141-089-0835

Activity-Specific Conditions

Proposed projects eligible for this General Authorization must adhere to the general conditions in OAR 141-089-0650, unless otherwise specified in these rules. The following activity-specific conditions also apply:

(1) Prevent Fish Stranding. Upon completion of the activity at any given location, the responsible party must level all piles and fill all furrows, potholes and other depressions created by the activity. The activity is complete if the responsible party does not return to that location to conduct the activity within 24 hours.

(2) Wet Perimeter. The activity is confined to the wet perimeter. The wet perimeter is the area of the stream that is under water or is exposed as a non-vegetated, dry gravel-bar island surrounded on all sides by actively moving water at the time the activity occurs.

(3) Disturbance of the Bank and Riparian Vegetation. The activity must not disturb the bank. Undercutting or eroding banks and removal or disturbance of boulders, rooted vegetation or embedded woody material and other habitat structure from the bank is prohibited. Creation of new access routes that disturb or destroy woody riparian vegetation is not allowed.

(4) Fish Passage. The activity does not divert a waterway or obstruct fish passage.

(5) Minimization of Impounded Water. The activity may impound only the minimal area of water necessary to operate the dredge under the following conditions:

(a) The temporary dam does not extend across more than 75% of the wetted perimeter;

(b) The designs for the temporary dam are consistent with ODFW requirements set forth in ORS 509.580 through 509.901 and OAR 635-412-0005 through 635-412-0040;

(c) The impoundment structure is removed immediately upon completion of the mining activity. The activity is complete if the responsible party does not return to that location to conduct the activity within 24 hours.

(6) No Disturbance of Stream Structure. No movement of boulders, logs, stumps or other woody material from the bed is allowed, other than

movement by hand and non-motorized equipment. The boulders and other stream structure must be returned to its original position upon completion of the mining activity. The activity is complete if the responsible party does not return to that location to conduct the activity within 24 hours.

(7) Dredge Intake Nozzle Limited. The suction dredge must have an intake nozzle that has an inside diameter not exceeding four inches.

(8) Refueling. All fuel and oil must be stored in an impermeable container and must be located at least 25 feet from the wet perimeter of the stream. For dredge locations where a 25 foot buffer is not possible, secondary containment is required.

(9) Annual Report Required. The responsible party must maintain a monitoring log and record the date, location, nozzle diameter and amount of material disturbed for each day of operation. By February 28 of each year, the responsible party must submit to the Department an annual report, on a form provided by the Department, which states the estimated amount of material that was filled, removed or moved in each specific waterway during the preceding calendar year. If no jurisdictional activity was conducted, the report must be submitted reporting zero cubic yards for the year. Authorizations will not be renewed for the following calendar year if the annual report is not filed by February 28.

(10) Responsible Party Must be Present. Alternate persons may operate the suction dredge, provided the responsible party listed on the authorization is present at all times during suction dredge operation.

(11) Limited to One Suction Device. Only one suction dredge, one hose, and one nozzle may be operated at any given time under this authorization.

(12) Wheeled or Tracked Equipment not Allowed. Operation of motorized wheeled or tracked equipment, except for the suction dredge and life support systems, is prohibited below ordinary high water.

(13) Operation Limited to Locations Listed. The operation is limited to the locations listed on the authorization. Written requests to modify locations for this authorization will be reviewed within 14 days of the request, upon which time the Department may issue a revised authorization.

(14) Obstructions to Navigation and Recreation Prohibited. In no circumstance shall anchoring or operation of suction dredges interfere with navigation or cause a safety hazard to public recreation.

Stat. Auth.: ORS 196.600 - 196.692, 196.795 - 196.990

Stats. Implemented: ORS 196.600 - 196.692, 196.795 - 196.990

Hist.: DSL 2-2011, f. & cert. ef. 3-1-11; DSL 3-2012, f. 9-28-12, cert. ef. 9-29-12; DSL 4-2013, f. 12-13-13, cert. ef. 1-1-14; DSL 4-2015(Temp), f. 12-28-15, cert. ef. 1-2-16 thru 6-29-16; DSL 3-2016, f. & cert. ef. 6-15-16

Higher Education Coordinating Commission Chapter 715

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

Adm. Order No.: HECC 4-2016

Filed with Sec. of State: 6-14-2016

Certified to be Effective: 6-14-16

Notice Publication Date: 5-1-2016

Rules Adopted: 715-015-0005

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

Rules Coordinator: Kelly Dickinson—(503) 947-2379

715-015-0005

Collection and Reporting of Sexual Orientation Data

Public universities listed in ORS 352.002 shall collect, report, and retain voluntarily submitted information on the sexual orientation, gender and gender identity, and legal sex of students and employees in a manner established by the Commission. Universities shall report this data to the Higher Education Coordinating Commission, Office of Research and Data by June of every year.

Stat. Auth.: ORS 352.274

Stats. Implemented: 2015 SB 473

Hist.: HECC 4-2016, f. & cert. ef. 6-14-16

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Landscape Architect Board Chapter 804

Rule Caption: Update of Continuing Education (CE) Program Rules for Registered Landscape Architects

Adm. Order No.: LAB 1-2016

Filed with Sec. of State: 5-25-2016

Certified to be Effective: 5-25-16

Notice Publication Date: 4-1-2016

Rules Amended: 804-025-0000, 804-025-0010, 804-025-0015, 804-025-0020, 804-025-0030, 804-025-0035

Subject: OSLAB adopted comprehensive updates to its continuing education (CE) rules to increase clarity and address lessons learned in 10 years of program implementation. The rules were also amended to provide OSLAB with more discretion about options for addressing registrant non-compliance with CE requirements. Basic requirements for registrant completion of CE and auditing were not changed.

Rules Coordinator: Christine Valentine—(503) 589-0093

804-025-0000

Effective Date for Compliance with Continuing Education Requirements

Requirements for Continuing Education went into full effect on July 1, 2006.

Stat. Auth.: ORS 671.395, 671.415

Stat. Implemented: ORS 671.395

Hist.: LAB 1-2005, f. & cert. ef. 2-14-05; LAB 1-2016, f. & cert. ef. 5-25-16

804-025-0010

Continuing Education Requirements

(1) Upon Board review and approval, a registrant may be exempted from continuing education requirements in any of the following situations:

(a) A registrant is called to active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a calendar year. This registrant may request an exemption from completing the required continuing education during any renewal period in which the registrant is on active duty.

(b) A registrant experiences physical disability, illness, or other extenuating circumstances that prevents the registrant from practicing landscape architecture for a specified period of time. The registrant may request a full exemption from or reduction in the required continuing education hours during the renewal period(s) in which unable to practice or practice is restricted.

(c) A registrant working or travelling outside of the U.S. for an extended period of time as part of government employment, for humanitarian service, or for another similar purpose in areas where continuing education activities cannot readily be accessed or completed may request a full exemption from or reduction in the required continuing education hours during the renewal period(s) in which the work or travel outside the U.S. is occurring.

(d) A registrant requesting an exemption shall provide supporting documentation for the Board's review. The Board may request additional documentation as deemed necessary to consider the request. Each exemption is granted at the sole discretion of the Board.

(e) Instead of requesting an exemption, a registrant in good standing and facing circumstances described under (1)(a), (b), or (c) may request to be placed on inactive status under ORS 671.376(4) and OAR 804-022-0025. A registrant on inactive status can request a return to active practice within a five (5) year period counted forward from the date inactive status was granted by the Board.

(2) The Board may delegate the authority to approve continuing education exemptions to the Board Administrator.

(3) Any exemption approved will be documented in a written letter from the Board to the registrant.

(4) Exemptions will not be approved retroactively.

Stat. Auth.: ORS 671.395, 671.415

Stat. Implemented: ORS 671.376, 671.395

Hist.: LAB 1-2005, f. & cert. ef. 2-14-05; LAB 4-2008, f. & cert. ef. 11-7-08; LAB 2-2013(Temp), f. & cert. ef. 6-20-13 thru 12-17-13; LAB 5-2013, f. & cert. ef. 12-12-13; LAB 1-2016, f. & cert. ef. 5-25-16

804-025-0015

Continuing Education Requirements for Reactivation or Reinstatement of Registration

(1) An inactive registrant must provide proof of completion of the continuing education requirements of OAR 804-025-0020(2) for the equivalent of 1 renewal period as part of a request for reactivation of registration.

(2) PDH activities must have been completed within the two year period immediately preceding the request for reactivation of registration.

(3) Delinquent (lapsed) registrants seeking reinstatement must provide proof of compliance with the requirements of OAR 804 Division 025 for the equivalent of each year the registration has been delinquent up to a maximum of the PDH required over 3 renewal periods. Activities must have been completed within the two year period immediately preceding the request.

Stat. Auth.: ORS 671.395, 671.415

Stat. Implemented: ORS 671.376, 671.395

Hist.: LAB 4-2008, f. & cert. ef. 11-7-08; LAB 1-2016, f. & cert. ef. 5-25-16

804-025-0020

Uniform Continuing Education Standards

(1) Definitions: The following are definitions of terms used in this Division.

(a) "Activity" — any course or educational endeavor that has a clear purpose and objective and maintains, improves or expands the professional knowledge or skill of the registrant in relation to the practice of landscape architecture.

(b) "Audit period" — the renewal period for which the registrant's continuing education activities are subject to audit.

(c) "Health, safety, and welfare (HSW)" — any issue related to the practice of landscape architecture exemplified by the examination required for registration or that is otherwise related to safeguarding of public HSW as related to proper evaluation, planning, design, construction and utilization of the natural and built environment. HSW issues include but are not necessarily limited to the following list related to the practice of landscape architecture:

(A) Codes, acts, ordinances, laws, and regulations governing the practice of landscape architecture;

(B) Construction administration, including the administration of construction contracts;

(C) Construction documentation;

(D) Design of environmental systems and use of site materials and methods of site construction;

(E) Environmental process and analysis;

(F) Erosion control methods, including storm water management;

(G) Grading and drainage;

(H) Horticulture, planting design, and vegetation management;

(I) Irrigation methods;

(J) Land planning and land use analysis;

(K) Landscape preservation, landscape restoration and adaptive reuse;

(L) Natural hazards impacts related to site design;

(M) Pedestrian and vehicular circulation;

(N) Preparedness and resiliency design and related construction details;

(O) Resource conservation and management;

(P) Risk management in practice and design;

(Q) Site accessibility, including American with Disabilities Act standards for accessible site design;

(R) Site and soils analysis;

(S) Site design;

(T) Specifications writing; and

(U) Sustainable design.

(d) "Outside the normal performance of occupation" — refers to continuing education activities that are completed separate from professional services provided and that are not customarily associated with or part of the registrant's normal employment duties. Required workplace orientations or training activities are generally considered part of normal employment duties. Training received on a voluntary basis at the workplace may qualify as PDH.

(e) "Pro-bono service" — refers to professional services provided without fee or anticipation of other compensation to the public or an organization where such services are provided outside the normal performance of occupation. Services must draw upon the knowledge and skills of the registrant while also helping to maintain, improve, or enhance the registrant's practice. Unbilled hours from a project done for compensation do not qualify as pro-bono service.

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(f) "Professional development hour (PDH)" — one hour (with no less than 50 minutes of direct involvement, commonly referred to as a contact hour) of an activity that meets the requirements of these regulations.

(g) "Renewal period" — the one-year period immediately preceding each annual renewal date. For example, the renewal period for a registrant with a renewal date of May 31 runs from June 1 to the next renewal date of May 31.

(h) "Self-directed activity" — Any continuing education activity that:

(A) Does not have a third-party sponsor;

(B) Is completed outside the normal performance of occupation; and

(C) Is accounted for in terms of time spent completing the activity by the registrant.

(i) "Structured educational activity" — any continuing education activity that:

(A) Has a third-party sponsor, i.e. sponsor other than the registrant;

(B) Is characterized by pre-planning including a written objective and format;

(C) Is documented and verifiable; and

(D) For academic coursework, the following credit conversions apply:

(i) One university or college quarter credit hour = 30 PDHs; and

(ii) One university or college semester credit hour = 45 PDHs.

(E) One International Association For Continuing Education And Training (IACET) Continuing Education Unit (CEU) = 10 PDHs.

(2) Basic Requirements for Renewal:

(a) An active Registered Landscape Architect shall complete 12 PDH of acceptable continuing education activities during the renewal period. However, an active Registered Landscape Architect with 25 consecutive years of registration with the Board or other landscape architecture regulatory boards shall only need to complete 4 PDH during the renewal period.

(A) At least 75% of the PDH must be earned by completing activities that directly address the HSW issues of the public as related to the practice of landscape architecture; and

(B) If a registrant exceeds the PDH requirement in a renewal period, the registrant may carry forward into the next renewal period a maximum of the PDH needed to cover that next renewal period.

(3) Conditions For Acceptance:

(a) To be accepted as a PDH, an activity must be related to the practice of landscape architecture, performed outside of the normal performance of one's occupation, and contemporaneously documented.

(b) The Board encourages registrants to seek diversified continuing education activities. In addition to structured educational activities, the following types of self-directed activities related to the practice of landscape architecture may be accepted as PDH by the Board:

(A) Professional or Technical Presentations: Making professional or technical presentations at recognized professional meetings, conventions or conferences may qualify the registrant for up to 1 PDH per renewal period for each presentation given on a distinct topic. PDH cannot be claimed for repeating the same presentation or for substantially similar presentations made during the renewal period. A maximum of 4 PDH of this type may be accepted per renewal period.

(B) Teaching or Instructing: Teaching or instructing a qualified presentation to a group may qualify the registrant for up to 2 PDH for each contact hour spent in the classroom. Teaching PDH may be available only for teaching a course or seminar in its initial presentation. Teaching PDH are not available to faculty of any college or university where teaching or instructing was part of the normal performance of the registrant's occupation. A maximum of 4 PDH of this type may be accepted per renewal period.

(C) Authoring: Authoring (publishing) or presenting an original paper, article or book may qualify the registrant for up to 20 PDH per publication in the renewal period. PDH value will be commensurate with the type, length, and complexity of the publication. The Board may also consider whether the publication was peer reviewed in determining PDH value. PDH may be available for either authorship or presentation of the publication but not for both. PDH cannot be requested until the paper, article, or book is actually published or presented and is limited to authorship or presentation in its initial version.

(D) Professional societies, organizations, boards or commissions: Service during the renewal period as an elected officer, appointed member, or appointed committee member of a professional society, organization, board or commission with a mission related to the practice of landscape architecture may qualify the registrant for PDH. The registrant is responsible for documenting how the service improved or expanded his or her professional knowledge or skills. 4 PDH of this type per society, organization,

board or commission may be accepted per renewal period but only after the registrant has completed one year of service. Maximum PDH of this type per renewal period is 8 PDH.

(E) Professional examination writing: Serving on a committee writing exam materials for a professional registration examination may be eligible for up to 1 PDH per 4 hours of exam writing efforts. A maximum of 4 PDH of this type may be accepted per renewal period.

(F) Specialty Certifications: Attaining specialty certifications through examination from a qualified professional society or organization may qualify the registrant for PDH equal to two times the allotted examination time (i.e., 4 PDH may be granted for a certification exam of 2 hours in length). A maximum of 4 PDH of this type may be accepted per renewal period.

(G) Pro-bono Service: Pro-bono service that has a clear purpose and objective and meets the requirements of 804-025-0020(1)(e) may qualify the registrant for up to 1 PDH for every 4 hours of service. A maximum of 4 PDH of this type may be accepted per renewal period.

(H) Travel: Extended travel outside the registrant's state of residency may be eligible for up to 2 PDH per week (7 calendar days) of travel. The registrant is responsible for documenting how the travel experience improved or expanded professional knowledge or skills. A maximum of 4 PDH of this type may be accepted per renewal period.

(I) Industry-Related Exhibitions: Attendance at industry-related exhibitions such as home and garden shows, may qualify the registrant for up to 1 PDH per exhibition. A maximum of 2 PDH of this type may be accepted per renewal period.

(J) University-Based Mentoring: Mentoring one or more students enrolled at a university that has an accredited landscape architectural degree program as part of a Landscape Architecture Shadow Mentor Day or another similar academic-based mentoring event may qualify the registrant for up to 1 PDH per mentor day. A maximum of 2 PDH of this type may be accepted per renewal period.

(K) Design Critiques and Juries: Serving on a jury of student or professional work may qualify the registrant for up to 1 PDH per 4 hours of advanced preparation, project review, and critique time. A maximum of 4 PDH of this type may be accepted per renewal period.

(L) Landscape Architecture Regulatory Board: Membership on a regulatory board for the practice of landscape architecture may qualify the registrant for up to 8 PDH per year of service as an appointed member.

(4) The Board has final authority with respect to acceptance of PDH as meeting the requirements of OAR 804 Division 25. Board decisions to accept or reject specific PDH will be based on these rules and the documentation submitted by the registrant.

Stat. Auth.: ORS 671.395, 671.415

Stat. Implemented: ORS 671.395

Hist.: LAB 1-2005, f. & cert. ef. 2-14-05; LAB 1-2008, f. & cert. ef. 2-4-08; LAB 1-2010, f. & cert. ef. 2-17-10; LAB 1-2016, f. & cert. ef. 5-25-16

804-025-0030

Documentation of PDH

(1) Each active registrant must maintain the following continuing education documentation for at least those activities completed during the 3 most recent renewal periods:

(a) A PDH log using a Board-approved form showing the activity subject, type of activity, any sponsoring organization, location, duration and any instructor or speaker name; and

(b) Documentation sufficient to prove completion of activities claimed on the PDH log.

(2) If audited, the registrant must submit the documentation specified in this rule for the audit period.

(3) The registrant is responsible for obtaining verification of participation or otherwise documenting PDH as required under this rule.

(4) The following types of documentation from a third party provider qualify as verification of completion of a PDH activity. The registrant is responsible for requesting this documentation from the third-party provider. The documentation must include the name of the provider, the title of the event, dates attended, and the anticipated PDH value:

(a) Certificate of completion;

(b) Certificate of attendance;

(c) Letter of confirmation of attendance; or

(d) Transcript.

(5) If proof of attendance as described in (4) of this rule was not provided by the third party provider and is not made available upon request made by the registrant to the third party provider, then a copy of the sign-in sheet which includes the date, title, and presenter along with the agenda

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may be submitted to validate participation for purposes of PDH compliance.

(6) In the absence of the documentation described in (4) and (5) or for a self-directed activity including those described in 804-025-0020(3), a summary may be submitted to the Board for review and must include at a minimum the following:

- (a) Name/Title of the activity;
- (b) Date(s) and hours of the activity;
- (c) Location of the activity;
- (d) Presenter or instructor of the activity;
- (e) Written summary of the subject matter; and
- (f) PDH anticipated and whether PDH subject was HSW or other:

(A) If the activity is to fulfill HSW PDH, the summary must describe key elements which addressed HSW as related to the practice of landscape architecture.

(B) If the activity is not to fulfill HSW PDH or for any self-directed PDH, the summary must identify the benefit of the activity to the registrant's practice.

Stat. Auth.: ORS 671.395, 671.415
Stats. Implemented: ORS 671.395
Hist.: LAB 2-2010, f. & cert. ef. 10-19-10; LAB 1-2016, f. & cert. ef. 5-25-16
; LAB 1-2016, f. & cert. ef. 5-25-16

804-025-0035

Auditing of PDH

- (1) Each active registrant is subject to being audited annually.
- (2) The Board randomly selects registrants for audit on a quarterly basis during each year.
- (3) Registrants receiving an audit notification shall provide documentation of satisfying the continuing education requirements for the audit period within 21 days or by the deadline set by the Board in writing. Documentation shall at a minimum include:

(a) The Board-approved PDH log identifying all PDH activities for the audit period; and

(b) Supporting documentation validating all PDH for the audit period for which the registrant is seeking credit, except that:

(A) The registrant is not required to submit PDH documentation for PDH activities identified on the log beyond the annual PDH requirement unless the registrant is requesting Board confirmation of carryover hours that can be applied to the subsequent renewal period; and

(c) Proof of exemption from the continuing education requirements per OAR 804-025-0010(1), where applicable.

(4) PDH documentation received from the registrant is reviewed by the Board's Continuing Education Coordinator (CEC). If the documentation is incomplete, the audited registrant will be given notice and be provided with at least 21 days after such notice to provide additional documentation.

(5) The CEC recommendation will be presented for approval to the Board, except for audits completed for reinstatement of registration purposes as per OAR 804-022-0020(7).

(6) If the Board disallows one or more continuing education activities claimed, the Board may, at its discretion, allow the registrant up to 90 days after notification to substantiate the original claim or to complete other continuing education activities sufficient to meet the minimum requirements for the audit period.

(7) If the registrant fails to furnish the information required by the Board or if the information is ultimately not sufficient to satisfy Board requirements, the registration may not be renewed. Alternatively or in addition to non-renewal of registration, the Board may pursue other disciplinary action, civil penalties, or both as sanction for non-compliance per ORS 671.404, 671.408, and 671.995.

(8) Written notification of the Board's decision on the audit will be issued to the registrant.

(9) It is the responsibility of the registrant to identify all PDH completed on the PDH log. Any carryover PDH may be used only in the renewal period immediately following the audit period. A letter informing the registrant of approved carryover hours may be submitted without additional documentation for those PDH if the registrant is selected for audit in the next year.

Stat. Auth.: ORS 671.395, 671.404, 671.408, 671.415, 671.995
Stats. Implemented: ORS 671.395
Hist.: LAB 2-2010, f. & cert. ef. 10-19-10; LAB 1-2016, f. & cert. ef. 5-25-16

Landscape Contractors Board Chapter 808

Rule Caption: Updates examination rules to accommodate for the practical skills testing

Adm. Order No.: LCB 2-2016

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Rules Amended: 808-003-0030, 808-003-0045, 808-030-0020, 808-030-0040

Rules Repealed: 808-003-0055, 808-003-0060, 808-003-0065, 808-003-0075, 808-003-0080, 808-003-0081, 808-003-0085

Subject: Updates examination rules to accommodate for the practical skills testing

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-003-0030

Expiration of Application; Change of Application

Applicants who fail to complete the license process within the following time periods must submit a new application and fee and, if applicable, retake and pass the exam.

(1) A landscape contracting business license application will expire one year from the date the application was received by the agency.

(2) Except as provided in subsection (3), an individual landscape construction professional license application will expire two years after the last examination sitting or two years after the application was received by the agency, whichever is later. Exam results are subject to OAR 808-003-0730, 808-003-0820, 808-003-0930.

(3) An individual landscape construction professional application for a Probationary All Phase Plus Backflow license will expire two years after the application is received by the agency or, one year after the first sitting for any section of the exam, whichever is first. Exam results are subject to OAR 808-003-0730(1).

(4) An applicant for a Probationary All Phase Plus Backflow license may submit another application for a Probationary All Phase Plus Backflow license after the previous application has expired. Exam results are subject to OAR 808-003-0730(1).

(5) An applicant that applied for a Probationary All Phase Plus Backflow license may submit an application for a regular landscape construction professional license at any time prior to being issued a probationary license along with the required documentation pursuant to ORS 671.570 or OAR 808-003-0025. If a Probationary All Phase Plus Backflow license is issued the licensee must comply with 808-003-0045(5) to obtain removal from probationary status. Exam results are subject to 808-003-0730, 808-003-0820, 808-003-0930.

Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.670
Hist.: LC 1-1980, f. & ef. 2-5-80; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0017; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 2-2008, f. & cert. ef. 6-2-08; LCB 15-2011, f. 12-29-11, cert. ef. 1-1-12; LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0045

Change to Limited Licenses; Removal from Probationary Status

(1) If the phase of license for a landscape contracting business license changes, the landscape contracting business must immediately stop advertising for or performing those phases of landscaping work for which the business no longer holds a license.

(2) Probationary license holders may obtain removal from probationary status by:

(a) Demonstrating one or more of the following after the date of obtaining the probationary license:

(A) Completion of 24 months or more of employment with an active-ly licensed landscape contracting business under the direct supervision of a non-probationary licensed landscape construction professional,

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(B) Completion of 24 months or more as an owner or employee of an actively licensed landscape contracting business providing supervision as described in ORS 671.540(1)(q) or 671.565(1)(b) for a period of 24 months where the landscaping work performed on any landscape job by the landscape contracting business did not exceed \$15,000 and where the landscape contracting business filed and maintained with the board a bond, letter of credit or deposit in the amount of \$15,000, or

(C) Completion of 24 months or more as an actively licensed construction contractor under ORS Chapter 701.

(b) Submitting a written request to the board for removal of the probationary status.

Stat. Auth.: ORS 183 & 671

Stats. Implemented: ORS 671.560

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; Renumbered from 808-010-0022; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 9-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 8-2008, f. & cert. ef. 9-5-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08; LCB 10-2008, f. & cert. ef. 11-6-08; LCB 4-2009, f. 6-1-09 cert. ef. 7-1-09; LCB 7-2010, f. & cert. ef. 10-25-10; LCB 2-2013, f. 5-31-13, cert. ef. 6-1-13; LCB 2-2014, f. 2-20-14, cert. ef. 3-1-14; LCB 3-2014(Temp), f. 2-21-14, cert. ef. 3-1-14 thru 8-28-14; Administrative correction, 9-17-14; LCB 9-2014(Temp), f. & cert. ef. 9-25-14 thru 3-24-15; LCB 1-2015, f. 1-21-15, cert. ef. 2-1-15; LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0700

Applications, Generally

(1) Applications for a landscape construction professional license must be submitted on a form provided by the agency and must be accompanied by the appropriate fee(s). The act of filing an application with the agency constitutes an agreement by the applicant to observe and comply with the procedures and policies of any exam provider, including, but not limited to deadlines, payment requirements, and review, appeal, or cheating policies.

(2) An application will not be reviewed by the agency until the appropriate fee(s) and all required supporting documents have been received.

(3) Applicants shall pay the application fee and, if required, the exam fee designated in OAR 808-003-0710 to the agency. All other fees associated with the exam are required to be paid to the exam provider. Application and exam fees are non-refundable. If an applicant fails to appear for a scheduled test at an approved test center, all fees paid will be forfeited for the examinations scheduled on that day.

(4) Applicants shall specify on the application the type of exam they wish to take (written exam or the practical skills test).

(5) An applicant may change the type of exam they wish to take.

(a) If an applicant wishes to take the practical skills test after submitting an application for the written exam, the applicant needs to submit a registration form as required in OAR 808-003-0910.

(b) If an applicant wishes to take the written exam after submitting an application for the practical skills test, the applicant must schedule the written exam with the exam provider.

Stat. Auth.: ORS 671

Stats. Implemented: ORS 671.561 & 671.570

Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0710

Fees

(1) Landscape Construction Professional License Application Fee, \$100

(2) Written exam fee:

(a) Written exam taken through PSI, pay directly to the exam provider.

(b) Written exam taken same day as practical skills exam, \$75 for the first section & \$10 for each additional section per sitting, pay the agency.

(3) Practical skills test fee, pay the agency:

(a) \$120 Administrative fee; and

(b) \$60 per practical skills section.

(4) Retake fees. An applicant must pay the fees in subsection (2) & (3) of this rule if an applicant wants to retake any sections/modules of the exam/test.

(5) Expiration of application. An applicant must pay the application fee in subsection (1) of this rule if the application has expired as stated in OAR 808-003-0030(2) & (3).

Stat. Auth.: ORS 671

Stats. Implemented: ORS 671.561 & 671.570

Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0720

Change to Limited Licenses, Generally

(1) Landscape construction professionals holding limited licenses may change that phase of license by passing additional sections of the

exam. Licensees shall submit a registration form to take the additional sections of the practical skills test as required in OAR 808-003-0910 or obtain their candidate identification number from the agency to take the written exam.

(2) To change a license to a Standard license:

(a) Holders of a Sod & Seed License or Tree license must pass:

(A) The following written exam sections: Plants and Turf, Design, Grading and Drainage, and Hardscaping sections, or

(B) The written Hardscaping exam section and the following practical skills modules: Plant ID, Tree Planting and Staking, Sod Installation, Plant Layout, Grading & Drainage, and Instruments and the practical skills written modules for Plants and Turf and for Design, Grading and Drainage; or

(C) A combination of written exam sections and practical skills modules and written modules as stated in OAR 808-003-0750.

(b) Holders of a Planting license must pass the written Hardscaping exam section.

(3) To change to a Planting License holders of a Sod & Seed license or a Tree license must pass:

(a) The following written exam sections: Plants and Turf and Design, Grading and Drainage, or

(b) The following practical skills modules: Plant ID, Tree Planting and Staking, Sod Installation, Plant Layout, Grading & Drainage, and Instruments and the practical skills written modules for Plants and Turf and for Design, Grading and Drainage; or

(c) A combination of written exam sections and practical skills modules and written modules as stated in OAR 808-003-0750.

(4) To change a license to an All Phase Plus Backflow license:

(a) Holders of a Sod & Seed license or Tree license must pass:

(A) The following written exam sections: Plants and Turf, Design, Grading and Drainage, Hardscaping, Irrigation, and Backflow; or

(B) The following practical skills test modules: Plant ID, Tree Planting and Staking, Sod Installation, Plant Layout, Grading & Drainage, and Instruments and the practical skills written modules for Plants and Turf and for Design, Grading and Drainage, and Irrigation; or

(C) A combination of written exam sections and practical skills modules and written modules as stated in OAR 808-003-0750.

(b) Holders of a Planting license must pass

(A) The following written exam sections: Hardscaping, Irrigation and Backflow exam sections; or

(B) The following written exam sections: Hardscaping and Backflow sections and the following practical skills test modules: Lateral Repair & Head Adjustment, Lateral Installation, Mainline Installation, Valve Repair, and Valve Wiring and the practical skills written modules for Irrigation; or

(c) A combination of written exam sections and practical skills modules as stated in OAR 808-003-0750.

(5) To add Planting to holders of an Irrigation plus Backflow license the landscape construction professional must pass:

(a) The following written exam sections: Plants and Turf and Design, Grading and Drainage sections, or

(b) The following practical skills modules: Plant ID, Tree Planting and Staking, Sod Installation, Plant Layout, Grading & Drainage, and Instruments and the practical skills written modules for Plants and Turf and for Design, Grading and Drainage; or

(c) A combination of written exam sections and practical skills modules and written modules as stated in OAR 808-003-0750.

(6) To add Irrigation plus Backflow to holders of a Planting license the landscape construction professional must pass:

(a) The following written exam sections: Irrigation and Backflow; or

(b) The written Backflow section and the following practical skills modules: Lateral Repair & Head Adjustment, Lateral Installation, Mainline Installation, Valve Repair, and Valve Wiring and the practical skills written modules for Irrigation; or

(c) A combination of written exam sections and practical skills modules as stated in OAR 808-003-0750.

Stat. Auth.: ORS 671

Stats. Implemented: ORS 671.560, 671.561 & 671.570

Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0730

Passing Scores, Probationary and Owner, Managing Employee

(1) A passing score for an applicant for a Probationary All Phase Plus Backflow license will expire upon expiration of the application as stated in OAR 808-003-0030(3).

(2) A passing score of the Laws, Rules, and Business Practice section will remain valid for any applicant that passed this section and has been the

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managing employee or managing owner of a licensed landscape contracting business within two years; otherwise the scores will remain valid for up to one year from the date of the receipt of an application for licensing.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 571
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0740

Translation of Exam

(1) Pursuant to ORS 671.570(3) & ORS 671.617(2) all exams will be given in the English language, unless otherwise requested as required in subsection (2) of this rule.

(2) An applicant must notify the exam provider if they wish to take any section of the exam in Spanish.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.570
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0750

Combination of Written Exam Sections and Practical Skills Modules and Written Modules

(1) Pursuant to OAR 808-003-0750 an applicant may pass a combination of specific sections of the written exam and specific sections of the practical skills test to obtain the license or change the license phase.

(2) If an applicant passes all the required modules of the practical skills test as stated in OAR 808-003-0920, the applicant must pass the:

(a) Hardscaping section of the written exam in order to hold a Standard license.

(b) Backflow section of the written exam in order to hold an Irrigation plus Backflow license.

(c) Hardscaping and Backflow written exam in order to hold an All Phase plus Backflow license.

(3) An applicant taking the practical skills test may take and pass the Laws, Rules & Business Practices exam section in lieu of completing the business class required under ORS 671.561(6).

(4) Except as provided in subsection 5 of this rule an applicant taking only the written exam sections cannot take the business class in lieu of passing the Laws, Rules & Business Practices exam.

(5) An applicant may take the business class in lieu of the Laws, Rules & Business Practices written exam section if at least the Plants & Turf or Design, Grading & Drainage or Irrigation modules and written modules of the practical skills test is passed.

(6) Except as provided in subsection (9) & (10) of this rule, a passing score on the written exam shall be valid for one year from the date the exam section was taken. An applicant who fails to pass all the sections required for a particular license and obtain that license within one year of passing a section shall retake that section.

(7) Except as provided in subsection (9) & (10) of this rule, a passing score for the practical skill modules and the practical skills written modules are valid for two years from the date the module was taken. An applicant who fails to pass all the modules required for a particular license and obtain that license within two years of passing a module shall retake that module.

(8) A combination of subsection (6) & (7) of this rule does not change the length of time scores are valid.

(9) A passing score for an applicant for a Probationary All Phase Plus Backflow license will expire as stated in OAR 808-003-0030(3).

(10) A passing score of the Laws, Rules and Business Practice section will remain valid for any applicant that passed this section and has been the managing employee or managing owner of a licensed landscape contracting business within two years; otherwise the scores will remain valid for up to one year from the date of the receipt of an application for licensing.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561 & 671.570
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0800

Written Examination Sections

(1) The exam will consist of the following sections:

(a) Laws, Rules and Business Practice

(b) Plants and Turf;

(c) Design, Grading and Drainage;

(d) Hardscaping;

(e) Irrigation Systems; and

(f) Backflow installation of irrigation and ornamental water feature backflow assemblies.

(2) To obtain an All Phase plus Backflow License, the applicant must successfully pass the Laws, Rules and Business Practice, Plants and Turf,

Design, Grading and Drainage, Hardscaping, Irrigation and Backflow sections.

(3) To obtain a Standard license, the applicant must successfully pass the Laws, Rules and Business Practice, Plants and Turf, Design, Grading and Drainage, and Hardscaping sections.

(4) To obtain an Irrigation license, the applicant must successfully pass the Laws, Rules and Business Practice, Irrigation and Backflow sections.

(5) To obtain a Planting license the applicant must successfully pass the Laws, Rules and Business Practice, Plants and Turf, and Design, Grading and Drainage sections.

(6) To obtain a Probationary All Phase plus Backflow License, the applicant must successfully pass the Laws, Rules and Business Practice, Plants and Turf, Design, Grading and Drainage, Hardscaping, Irrigation and Backflow Prevention sections within 12 months after the first sitting of any section of the examination.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.570
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0810

Written Examination Testing Requirements

(1) An applicant may schedule testing at an approved testing center in Oregon or in another jurisdiction after receipt of a letter of authorization from the agency.

(2) An applicant must pay the exam fee directly to the approved exam provider.

(3) Applicants may bring:

(a) A non-programmable calculator that is silent, battery operated, does not have paper tape printing capabilities, and does not have a keyboard containing the alphabet.

(b) One language translation dictionary or electronic translating device if English is not the first language of the applicant. No notes or writing on or in these translation aids is allowed.

(4) Applicants will be provided all other exam material by the testing center in Oregon. If an applicant takes the exam in another state, that testing center may not have the exam materials. In those cases, the applicant must complete the exam without the exam materials. Except as provided in subsection (3) of this rule the applicant's own exam materials are not allowed in a testing center.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.570
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0820

Scoring of Written Examinations

(1) Each written exam section shall be scored separately.

(2) Based on 100 percent, the passing score for a written exam shall be 75 percent or higher for each section.

(3) Except as provided in OAR 808-003-0730 a passing score for a written exam section shall be valid for one year from the date the exam section was taken. An applicant who fails to pass all the sections required for a particular license within one year of passing a section shall retake that section.

(4) A passing score for a written exam section taken on July 1, 2016 or later shall be valid for two years from the date the exam section was taken. An applicant who fails to pass all the sections required for a particular license within two years of passing a section shall retake that section.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.570
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0830

Written Examination Retakes

(1) An applicant wanting to retake any written exam section must schedule testing at an approved testing center in Oregon or in another jurisdiction as stated in OAR 808-003-0810.

(2) An applicant must pay the exam fee directly to the approved testing center.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.570
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0840

Appeal of Written Exam Results

An applicant who fails any section of the written exam may not appeal those results to the agency.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.570
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

ADMINISTRATIVE RULES

808-003-0850

Cheating on the Exam

- (1) An applicant who is caught cheating during the examination:
 - (a) May not receive a result for any sections of the exam for the current sitting;
 - (b) Will forfeit the exam fee;
 - (c) May not retake any sections of the exam for 30 days; and
 - (d) Must submit a new exam fee.
- (2) Actions that may be considered cheating include, but are not limited to:
 - (a) Copying answers from another applicant during the examination;
 - (b) Giving, receiving, soliciting, or attempting to give, receive, or solicit aid or examination data during the exam process, either directly or indirectly;
 - (c) Unauthorized communication with another individual, in or out of the examination room, during the examination;
 - (d) Using unauthorized written materials, notes or equipment during the examination; or
 - (e) Removing examination materials, such as a question booklet page, in whole or in part, from the exam.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.570
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0900

Practical Skills Testing, Generally

(1) As used in OAR Chapter 808, Division 003 LICT-E is the Landscape Industry Certified Technician Exterior test (commonly known as the CLT) that is owned and governed by the National Association of Landscape Professionals (NALP) and offered by the Oregon Landscape Contractors Association (OLCA) in Oregon.

(2) The practical skills test will consist of specific modules of the LICT-E exam and practical skills written modules of specific sections of the written exam as stated in OAR 808-003-0920.

(3) The number of applicants allowed to participate in the LICT-E test offered by OLCA may be limited based on OLCA's ability to accommodate all applicants.

(4) To obtain a specific phase of a landscape construction professional license by taking only the practical skills test, an application must:

- (a) Pass all modules as required in OAR 808-003-0920; and
- (b) Pass the practical skills written modules of the written exam as required in OAR 808-003-0920; and
- (c) Pass the written Backflow section for an irrigation license; and
- (d) Complete the business class as required in OAR 808-003-0980 or pass the Laws, Rules & Business Practices Section of the written exam.

(5) The practical skills written modules of the written exam shall be offered on paper on the same day as the practical skills test and offered throughout the year at the approved testing centers in Oregon or in another jurisdiction.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0910

Registration for the Practical Skills Test

An applicant that wishes to take the practical skills test must submit a registration form to the agency no later than June 15th to take the LICT-E test in July of that same year.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0920

Practical Skills Test Modules

(1) Specific modules of the LICT-E test must be passed to obtain a landscape construction professional license phase for Planting or Irrigation.

(2) The Backflow section shall remain a written examination and is not available to be taken through the practical skills test provider.

(3) The practical skills modules will consist of the following:

- (a) Modules from the LICT-E exam:
 - (A) Plant ID;
 - (B) Tree Planting and Staking;
 - (C) Sod Installation;
 - (D) Plant Layout;
 - (E) Grading & Drainage;
 - (F) Instruments;
 - (G) Lateral Repair & Head Adjustment;
 - (H) Lateral Installation;

- (I) Mainline Installation;
- (J) Valve Repair;
- (K) Valve Wiring; and
- (b) Written questions from the LCB written exam from the following sections:

- (A) Plants and Turf;
- (B) Design, Grading & Drainage; and
- (C) Irrigation.

(4) The practical skills written modules will consist of the following:

- (a) Plants and Turf;
- (b) Design, Grading and Drainage; and
- (c) Irrigation.

(5) Except as provided in subsection (6) of this rule to obtain a Planting license through the practical skills test, the applicant must:

(a) Complete the business class required in ORS 671.561(6) and OAR 808-003-0980;

(b) Pass the Plant ID, Tree Planting and Staking, Sod Installation, Plant Layout, Grading & Drainage, and Instruments modules of the LICT-E exam; and

(c) Pass the practical skills written modules for the Plants & Turf section and the Design, Grading & Drainage section.

(6) Except as provided in subsection (6) of this rule to obtain an Irrigation plus backflow license through the practical skills test, the applicant must:

- (a) Complete the business class required in ORS 671.561(6);
- (b) Pass the written Backflow exam as stated in subsection (2) of this rule;

(c) Pass the Lateral Repair & Head Adjustment, Lateral Installation, Mainline Installation, Valve Repair, and Valve Wiring modules of the LICT-E exam; and

(d) Pass the practical skills written modules for the Irrigation section.

(7) An applicant may successfully pass the Laws, Rules & Business Practices section of the written test in lieu of the business class required under ORS 671.561(6) and OAR 808-003-0980.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0930

Scoring of Practical Skills Test Modules

(1) Each practical skills module and written module will be scored separately.

(2) Pursuant to ORS 671.561(5), the passing score for a practical skills test shall be 70 percent or higher for each section.

(3) Except as provided in OAR 808-003-0730 a passing score for a practical skills module and written module shall be valid for two years. An applicant who fails to pass all the modules required for a particular license and obtain that license within two years of passing a module shall retake that module.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0940

Practical Skills Test Retakes

(1) An applicant wanting to retake any practical skills test modules must schedule testing by submitting a registration form to the LCB office no later than June 15th of each year.

(2) An applicant wanting to retake any of the practical skills written modules may do so by either:

(a) Submitting a Registration Form to the LCB office no later than June 15th to take these tests at the practical skills test site in July of that year; or

(b) Scheduling an exam appointment at an approved testing center.

(3) An applicant must pay the exam fee as required in OAR 808-003-0710 to retake any modules or sections.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0950

Cheating on Any Portion of the Practical Skills Test

(1) An applicant caught cheating during a practical skills test module that is referred to the agency by the LICT-E exam provider may not receive a result for any modules of that exam.

(2) An applicant caught cheating on the practical skills written modules:

- (a) May not receive a result for any sections of that exam sitting;

ADMINISTRATIVE RULES

- (b) Will forfeit the exam fee; and
 - (c) Must submit a new exam fee.
- (3) Actions that may be considered cheating include, but are not limited to:

- (a) Copying answers from another applicant during the examination;
- (b) Giving, receiving, soliciting, or attempting to give, receive, or solicit aid or examination data during the exam process, either directly or indirectly,
- (c) Unauthorized communication with another individual, in or out of the examination room or site, during the examination;
- (d) Using unauthorized written materials, notes or equipment during the examination; or
- (e) Removing examination materials from the exam.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0960

Transfer and Conversion of Exam Scores

(1) Effective July 2016 the agency will grant credit to an applicant who has passed the specific modules of the LICT-E exam as stated in OAR 808-003-0760 if:

(a) The agency is able to obtain the scores from that exam provider; and

(b) Those scores are within the last two years.

(2) To be considered equivalent to passing the Plants and Turf written exam section, an applicant must pass the following LICT-E modules:

(a) Plant ID, Tree Planting and Staking, Sod Installation, and Plant Layout; and

(b) The practical skills written modules for plants & turf.

(3) To be considered equivalent to passing the Design, Grading and Drainage written exam section, an applicant must pass the following LICT-E modules:

(a) Grading & Drainage, and Instruments; and

(b) The practical skills written modules for Design, Grading & Drainage.

(4) To be considered equivalent to passing the Irrigation written exam section, an applicant must pass the following LICT-E modules:

(a) Lateral Repair & Head Adjustment, Lateral Installation, Mainline Installation, Valve Repair, and Valve Wiring; and

(b) The practical skills written modules for Irrigation.

(5) An applicant must pass all practical skills modules and written modules of the practical skills test for each section as stated in subsections (2) through (4) of this rule to be considered equivalent to the LCB written examination.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0970

Appeal of Practical Skills Test Results

An applicant who fails any modules or written section of the test may not appeal those results to the agency.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0980

Business Practices Class Requirement

(1) An applicant who wishes to obtain a landscape construction professional license through the practical skills test may take a board approved class on landscape contracting business practices in lieu of the written Laws, Rules & Business Practices exam.

(2) The business class must be completed within two years prior to obtaining the landscape construction professional license or the class will need to be retaken.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0985

Business Practices Class

(1) The class required in ORS 671.561(6) shall cover the subjects listed in OAR 808-003-0990

(2) The class must be offered by the LCB or a provider approved by the agency as provided in OAR 808-030-0990.

(3) An applicant may complete the Owner, Managing Employee course in lieu of the business class required in ORS 671.561(6) and OAR 808-003-0980.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0990

Requirements of Provider of Business Practices Class

(1) In order for individuals or organizations to be listed as a provider of the board approved business practices class the individual or organization must submit an application to the agency on forms provided by the agency.

(2) All providers must receive written agency approval prior to offering or providing the class.

(3) A provider must comply at all times with the following requirements:

(a) The provider will use agency-approved course materials;

(b) The provider will send electronic records of completion to the agency within 14 days in a format approved by the agency and keep records of completion for a minimum of two years;

(c) The provider will communicate law changes and program procedural changes received from the agency to the provider's instructors and will implement these changes within 30 calendar days;

(4) The agency may revoke a provider's approval and right to offer the class at any time if the provider fails to comply with these rules.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-003-0995

Business Practices Class Material and Subjects

The class required under ORS 671.561(6) must consist of the following subjects:

- (1) License Requirements;
- (2) Insurance/Bonding;
- (3) Employment Law;
- (4) Contracts;
- (5) Supervision;
- (6) Claims/Dispute Resolution;
- (7) Lien Law;
- (8) Building Codes/Permits;
- (9) Safety/Hazard Communication;
- (10) Communications;
- (11) Estimating.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.561
Hist.: LCB 2-2016, f. & cert. ef. 5-23-16

808-030-0020

Course Requirements

(1) The course required in ORS 671.595(4) shall cover the subjects listed in OAR 808-030-0040.

(2) The course shall consist of 16 classroom hours. For the purposes of this rule a classroom hour is a minimum of 50 minutes in length.

(3) The Course must be offered by a provider approved by the agency as provided in OAR 808-030-0030.

(4) The business class associated with the practical skills test may not be taken in lieu of the course requirement for the managing owner or employee.

Stat. Auth.: ORS 670.310, 671.670
Stats. Implemented: Ch. 249 OL 2007
Hist.: LCB 5-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2016, f. & cert. ef. 5-23-16

808-030-0040

Course Material and Subjects

The course required under ORS 671.595 must consist of the following subjects:

- (1) License Requirements.
- (2) Insurance/Bonding.
- (3) Employment Law.
- (4) Contracts.
- (5) Supervision.
- (6) Claims/Dispute Resolution.
- (7) Lien Law.
- (8) Building Codes/Permits.
- (9) Safety/Hazard Communication.
- (10) Communications.
- (11) Estimating.

Stat. Auth.: ORS 670.310, 671.670
Stats. Implemented: Ch. 249 OL 2007
Hist.: LCB 5-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2016, f. & cert. ef. 5-23-16

ADMINISTRATIVE RULES

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

Adm. Order No.: LCB 3-2016

Filed with Sec. of State: 5-23-2016

Certified to be Effective: 5-23-16

Notice Publication Date: 3-1-2016

Rules Amended: 808-001-0005

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

Rules Coordinator: Kim Gladwill-Rowley — (503) 967-6291, ext. 223

808-001-0005

Model Rules

The Landscape Contractors Board adopts the most current version of the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act, with the following exceptions: OAR137-005-0050, 137-005-0060, and 137-005-0070.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Landscape Contractors Board.]

Stat. Auth.: ORS 671

Stats. Implemented: ORS 183.341 & 279

Hist.: LC 2, f. & ef. 5-18-76; LC 3, f. & ef. 2-7-77; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1996, f. & cert. ef. 6-18-96; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 5-2008, f. & cert. ef. 4-25-08; LCB 3-2012, f. 5-30-12, cert. ef. 6-1-12; LCB 3-2016, f. & cert. ef. 5-23-16

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

Adm. Order No.: LCB 4-2016

Filed with Sec. of State: 5-23-2016

Certified to be Effective: 5-23-16

Notice Publication Date: 3-1-2016

Rules Amended: 808-002-0200, 808-002-0480, 808-002-0620

Subject: Updates definition of landscape maintenance and clarifies exemption of casual, minor or inconsequential work

Rules Coordinator: Kim Gladwill-Rowley — (503) 967-6291, ext. 223

808-002-0200

Casual, Minor, or Inconsequential

(1) "Casual, Minor, or Inconsequential" work, as used in ORS 671.540(1)(c)(C), includes:

(a) The replacement of shrubs, vines, trees and nursery stock with varieties that are similar in habit and culture;

(b) The replacement of existing lawns;

(c) The planting of annuals, perennials and bulbs in existing beds and outdoor pots and containers that are part of a structure or require power equipment to be placed when empty or filled. This does not include the commercial production of nursery stock;

(d) The replacement of non-concrete landscape edging;

(e) In an irrigation system, the replacement of three or fewer malfunctioning sprinkler heads with heads of the same or of a similar type and hydraulic equivalency without raising the grade by cutting or lengthening the existing head to lateral piping more than four (4) inches;

(2) "Casual, minor or inconsequential" work does not include:

(a) The construction of new planting areas;

(b) The construction or repair of arbors, decks, driveways, fences, retaining walls, walkways, patios, concrete landscape edging, or ornamental water features, drainage systems or irrigation systems; or

(c) The maintenance of irrigation systems with the use of compressed air.

(d) The placement of outdoor pots and containers where the use of powered equipment is required when the pots or containers are empty or filled.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.520 & 671.540

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99,

Renumbered from 808-002-0010; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 3-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08; LCB 12-2009, f. 12-23-09, cert. ef. 1-1-10; LCB 8-2011, f. 7-26-11, cert. ef. 8-1-11; LCB 9-2015, f. 12-22-15, cert. ef. 1-1-16; LCB 4-2016, f. & cert. ef. 5-23-16

808-002-0480

Irrigation Systems

"Irrigation systems" as used in ORS 671.520(1)(e):

(1) Includes, but are not limited to, assemblies of station or master valves, piping, sprinklers, nozzles, emitters, filters, or controllers and the positioning and piping of pumps; that are installed for the purpose of watering lawns, trees, shrubs or nursery stock.

(2) If an irrigation system is connected to a water supply that is used for multiple purposes, the irrigation system begins immediately downstream of a backflow device (if required) or any shut-off valve installed at the point of connection in the water supply line separating the irrigation system from the other functions of the water supply.

(3) Irrigation systems do not include systems used to irrigate agricultural products including nursery stock grown for sale or for pastures used for the grazing or raising of animals unless done in conjunction with a landscape job.

(4) For the purpose of this rule, a shut-off valve is any valve installed solely for the purpose of isolating all functions of an irrigation system from the supply source and a station or master valve is a valve installed for the purpose of distributing a controlled amount of water to the other components of the irrigation system.

(5) Installation. For the purposes of ORS 671.520(1)(e), to install irrigation systems includes, but is not limited to:

(a) Trenching;

(b) Installing irrigation pipe or pipe fittings, valves, control wires, sprinkler heads, emitters, nozzles, controllers or other elements of an irrigation system;

(c) Altering an existing irrigation systems; or

(d) Backfilling.

(6) Maintenance requiring licensure. Maintenance of irrigation systems includes, but is not limited to:

(a) The use of compressed air. "Use of compressed air," as used in ORS 671.520(1)(d), means the use of an air compressor or air storage tank to introduce air into an irrigation system to remove water within the system for winter;

(b) Replacing debris screens in nozzles and drip irrigation;

(c) Any project that includes cutting, raising and changing irrigation head grade more than four (4) inches; or

(d) Replacement of irrigation heads.

(7) Repair.

(a) As used in ORS 671.520(1)(c), to "repair" irrigation systems includes, but is not limited to:

(A) Replacing any irrigation water line;

(B) Disassembling and replacing the internal parts of backflow assembly when performed pursuant to ORS 447.060(32).

(b) The repair of irrigation systems does not include adjusting sprinkler head nozzles to adjust the spray pattern; or programming irrigation controllers.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.520

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 3-2009, f. & cert. ef. 6-1-09; LCB 9-2015, f. 12-22-15, cert. ef. 1-1-16; LCB 4-2016, f. & cert. ef. 5-23-16

808-002-0620

Landscape Maintenance

"Landscape Maintenance" means the regular and practical care of existing landscapes and would include, but is not limited to:

(1) The mowing, trimming and edging of lawns;

(2) The placement of mulching materials including, but not limited to, bark dust, chips, husks, shells or compost when a tree, shrub, vine, and/or nursery stock have not been planted within the last 30 days; or

(3) The application of fertilizer to lawns, trees and shrubs using fertilizer as defined in ORS 633.311.

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(4) The planting of outdoor pots and containers when the pots and containers can be placed without the assistance of power equipment when empty or filled.

(5) In an irrigation system landscape maintenance is:

(a) The adjustment of sprinkler head nozzles to adjust the spray pattern;

(b) Raising sprinkler heads without cutting or lengthening the existing head to lateral piping four (4) inches or less;

(c) The programming of irrigation controllers;

(d) Winterization without the use of compressed air; or

(e) Irrigation activation.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.540

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LC 1-1988, f. & ef. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LC 1-1991, f. & cert. ef. 7-22-91; LC 3-1991(Temp), f. & cert. ef. 12-3-91; LC 1-1992, f. & cert. ef. 2-1-92; LC 2-1992, f. & cert. ef. 7-14-92, cert. ef. 7-15-92; LC 3-1992(Temp), f. & cert. ef. 7-16-92; LC 1-1993, f. & cert. ef. 1-19-93; LC 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LC 1-1998, f. & cert. ef. 2-6-98; LC 3-1998(Temp), f. & cert. ef. 11-17-99 thru 5-15-99; LC 1-1999, f. & cert. ef. 2-11-99; LC 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LC 4-2003, f. & cert. ef. 5-27-03, cert. ef. 6-1-03; LC 1-2004, f. & cert. ef. 2-1-04; LC 12-2009, f. & cert. ef. 1-1-10; LC 8-2011, f. & cert. ef. 8-1-11; LC 4-2016, f. & cert. ef. 5-23-16

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

Adm. Order No.: LCB 5-2016

Filed with Sec. of State: 5-23-2016

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

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-003-0025

Alternative Experience

(1) An applicant will be deemed to have qualifying experience under ORS 671.570(2) if the applicant submits documentation verifying they have:

(a) Two years of related landscaping experience; or

(b) Successful completion of the Landscape Industry Certified Technician - Exterior program administered by the Oregon Landscape Contractors Association (OLCA) or another entity licensed to the National Association of Landscape Professionals; or

(c) An Associate, Bachelors or Masters Degree in horticulture or other related fields from an accredited school or college, which includes the completion of a cooperative work experience requirement in landscaping. If no cooperative work experience, six months of related landscape experience may substitute; or

(d) A Certificate in horticulture or other related fields from an accredited school or college that requires a minimum of 72 credit hours, which includes the completion of a cooperative work experience requirement in landscaping. If no cooperative work experience, six months of related landscape experience may substitute; or

(e) A current certification with the International Society of Arboriculture (ISA) as a Certified Arborist; or

(f) A current membership as a Certified Professional Member of APLD; or

(g) Completion of an Oregon Drinking Water Program approved Backflow Assembly Tester five (5) day course or a current Oregon Backflow Assembly Tester certification; or

(h) Any other landscaping related certified membership on an individual basis to be determined by the Board.

(2) Military Experience, Training and Education

(a) Military experience, training, and education may be considered as qualifying experience under ORS 671.570(2) under this rule if it is evaluated by the Joint Services Transcript (JST) and the Board determines that it is substantially equivalent to the requirements in ORS 671.570(1).

(b) The Board will determine the amount of education credit, if any, the military training, experience, and education will be given towards qualifying the applicant for licensing as a landscape construction professional.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 671.670

Stats. Implemented: ORS 671.570

Hist.: LC 1-1985, f. & ef. 7-1-85; LC 1-1988, f. & ef. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0016; LSCB 2-1994, f. & cert. ef. 11-8-94, cert. ef. 11-15-94; LC 2-1998, f. & cert. ef. 4-30-98; LC 4-2002, f. & cert. ef. 12-4-02; LC 4-2003, f. & cert. ef. 5-27-03, cert. ef. 6-1-03; LC 2-2005, f. & cert. ef. 4-5-05; LC 14-2011, f. & cert. ef. 1-1-12; LC 5-2016, f. & cert. ef. 5-23-16

808-003-0130

Fees

(1) Initial license:

(a) Initial landscape contracting business license, \$275 effective November 1, 2015.

(b) Initial landscape construction professional license, \$100 effective November 1, 2015.

(c) Initial landscape construction professional license, \$95 for licenses issued on or before October 31, 2015.

(d) Initial landscape contracting business license, \$260 for licenses issued on or before October 31, 2015.

(2) Renewal of active license:

(a) Renewal of active landscape contracting business license with an expiration date of November 30, 2015 or later, \$275.

(b) Renewal of active landscape construction professional license with an expiration date of November 30, 2015 or later, \$100.

(c) Renewal of active landscape contracting business license with an expiration date of October 31, 2015 or later, \$260.

(d) Renewal of active landscape construction professional license with an expiration date of October 31, 2015 or later, \$95.

(3) Renewal of inactive license:

(a) Renewal of inactive landscape contracting business, \$275 effective November 30 1015.

(b) Renewal of inactive landscape construction professional, \$100 effective November 30, 2015.

(c) Renewal of inactive landscape contracting business license with an expiration date of October 31, 2015, \$260

(d) Renewal of inactive landscape construction professional license with an expiration date of October 31, 2015, \$95.

(4) Late penalty fee:

(a) Landscape contracting business, \$35.

(b) Landscape construction professional, \$35

(5) Landscape Construction Professional License Application fee: \$100.

(6) Landscape Contracting Business License Application fee: \$150.

(7) Probationary Landscape Construction Professional License Application: \$75

(8) Owner or Managing Employee Application fee: \$60.

(9) Request from license holder for a replacement license card: \$20

(10) Reinstatement of suspended license: \$50. The reinstatement date will be the date the agency updates the record.

(11) To convert a license from an inactive status to an active status or from an active status to an inactive status at a time other than at renewal: \$50. The status change date will be the date the agency updates the record.

(12) If a landscape construction professional license expires, the amount to be paid for reinstatement to active or inactive status equals the required fee for each year of expiration (up to two years) plus a late penalty fee for each year. The reinstatement date will be the date the agency updates the record.

(13) If a Landscape contracting business license expires, the amount to be paid for reinstatement to active or inactive status equals the required fee for each year of expiration (up to two years) plus a late penalty fee for each year. The reinstatement date will be the date the agency updates the record.

(14) Payments received after board deadlines, including, but not limited to payments for renewals, applications and civil penalties will be considered late and penalties shall be assessed.

(15) The board may waive the late fee if:

(a) The properly completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(b) The licensee's failure to meet the renewal date was caused entirely or in part by a board error or omission.

(16) Active duty military personnel are exempt from renewal fees if they place their licenses on "inactive military" status. To place a license on, or renew a license to, inactive military status, this request must be received in writing in the LCB office. No renewal fee will be charged until the renewal cycle following the licensee's honorable discharge or, for National Guard and reserve servicemembers, once the licensee is no longer on active duty. No late fees shall accrue for active duty military personnel while they

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are on active duty. Only active duty military personnel are exempt from LCB license renewal and late fees. Civilian and dishonorably discharged military personnel are not exempt.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.595, 671.650 & 671.660

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1983(Temp), f. 10-14-83, ef. 10-15-83; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0035; LCB 3-1988(Temp), f. 4-11-88, cert. ef. 5-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1989(Temp), f. 5-16-89, cert. ef. 7-1-89; LCB 2-1989, f. & cert. ef. 7-24-89; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1997(Temp), f. & cert. ef. 6-10-97; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-2002, f. & cert. ef. 7-1-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 5-2004, f. & cert. ef. 10-4-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 7-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08; LCB 10-2008, f. & cert. ef. 11-6-08; LCB 4-2009, f. 6-1-09 cert. ef. 7-1-09; LCB 9-2009(Temp), f. & cert. ef. 10-28-09 thru 4-25-10; Administrative correction 5-19-10; LCB 4-2010, f. & cert. ef. 6-2-10; LCB 5-2010(Temp), f. & cert. ef. 7-20-10 thru 1-16-11; LCB 6-2010, f. 8-12-10, cert. ef. 8-13-10; LCB 2-2011, f. & cert. ef. 1-27-11; LCB 16-2011, f. 12-29-11, cert. ef. 1-1-12; LCB 8-2015, f. 10-21-15, cert. ef. 11-1-15; LCB 5-2016, f. & cert. ef. 5-23-16

808-003-0230

Renewal of Landscaping Contracting Business and Landscape Construction Professional License

(1) Application for renewal of a landscape contracting business license shall comply with ORS 671.660 and be:

(a) Accompanied by:

(A) Required renewal fee; and

(B) Documentation of any unpaid court judgment, arbitration award or administrative agency final order entered or issued in any state that requires the applicant to pay damages arising out of the performance of, or a contract for, landscaping work issued on or after January 1, 2008, along with the status of any appeal or exceptions. For purposes of this rule and ORS 671.560 and 671.563, "applicant" has the same meaning as owner as defined in OAR 808-002-0734.

(b) On forms provided by the agency and the licensee shall update the following items:

(A) Mailing address;

(B) Assumed business name;

(C) Entity type;

(D) Employer status as required by ORS 671.525 and OAR 808-003-0090;

(E) Listing of owners/officers and percentage of ownership of each owner;

(F) List of landscape construction professional(s), with accompanying license numbers employed by the business;

(G) Bond amount as required by ORS 671.690 and OAR 808-003-0613;

(H) Insurance expiration date as required by OAR 808-003-0095; and

(I) Name of the owner/managing employee, if applicable as required by ORS 671.595

(2) Application for renewal of a landscape construction professional license shall comply with ORS 671.660 and be:

(a) Accompanied by:

(A) Required renewal fee; and

(B) Documentation of any unpaid court judgment, arbitration award or administrative agency final order entered or issued in any state that requires the applicant to pay damages arising out of the performance of, or a contract for, landscaping work issued on or after January 1, 2008, along with the status of any appeal or exceptions. For purposes of this rule and ORS 671.560 and 671.563, "applicant" has the same meaning as owner as defined in OAR 808-002-0734.

(b) On forms provided by the agency and the licensee shall update the following items:

(A) Mailing address;

(B) Name of landscape contracting business(es) individual is employed by, if applicable;

(C) Listing of continuing education courses completed, if applicable; and

(D) Signature of applicant.

(3) If a landscape construction professional is on active military duty, that servicemember may place a license on "inactive military" status, and may renew the license to "inactive military" status without paying the renewal fee. The servicemember must submit a request in writing for "inactive military" status and submit written documentation that substantiates the licensee's call to active duty. Only active duty and honorably discharged military personnel are exempt from LCB license renewal fees; but civilian and dishonorably discharged military personnel are not exempt.

(4) To convert an inactive military status license to active or inactive status upon an honorable discharge, the servicemember must submit a written request within 60 days from the date of discharge. If the holder of an inactive military status license does not make a timely application for reinstatement, the license will expire upon its expiration date and the holder must meet all reinstatement requirements in effect at the time of the reinstatement.

(5) If an applicant as defined in subsections (1) and (2) of this rule has any unpaid damages as stated in subsections (1) and (2) of this rule and there are no appeals or exceptions filed, the applicant must show current payments are being made. If payments are not being made, the Landscape Contractors Board may refuse to renew the license.

(6) If an applicant satisfies all requirements for license renewal before the expiration date:

(a) The license is renewed;

(b) The effective date of the license is the expiration date; and

(c) The license is valid until the last day of the anniversary month of the initial issues of the license.

(7) If an applicant satisfies all requirements for license renewal within two years after the expiration date:

(a) The license will be renewed;

(b) The effective date of the license is the date the agency updates the record; and

(c) The license is valid until the last day of the anniversary month of initial issuance of the license

(8) If an applicant satisfies all requirements for renewal more than two years after the expiration date, the license cannot be renewed or reissued. The applicant must apply for a new license under OAR 808-003-0015.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.568 & 671.574

Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 6-2010, f. 8-12-10, cert. ef. 8-13-10; LCB 4-2012, f. 5-30-12, cert. ef. 6-1-12; LCB 9-2015, f. 12-22-15, cert. ef. 1-1-16; LCB 5-2016, f. & cert. ef. 5-23-16

808-003-0234

Inactive Military Status

(1) Active duty military licensees may place their license on inactive military status by submitting documentation that substantiates the call to active duty.

(2) Active duty military personnel are exempt from renewal and late fees. Civilian military personnel are not exempt from renewal and late fees.

(3) To renew a license to inactive military status, this request must be received in writing in the LCB office along with documentation that substantiates the call to active duty.

(4) Inactive military status licensees do not need to comply with the CEH requirements while on inactive military status and up to 60 days after an honorable discharge.

(5) Upon honorable discharge to convert a license from inactive military status to active status, the servicemember must submit a written request within 60 days from the date of discharge. No renewal or late fee will be charged until the first renewal date after conversion of that license. No CEH will be required until the first renewal date after conversion of that license.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented:

Hist.: LCB 5-2016, f. & cert. ef. 5-23-16

808-040-0020

Continuing Education Biennial and Reporting Requirement

(1) Biennial CEH requirement. To maintain licensing, a landscape construction professional:

(a) Licensed for six (6) years or less must complete sixteen (16) hours of continuing education hours (CEH) every two years unless such requirement is waived by the Board under ORS 671.676(4)) and OAR 808-040-0070.

(b) Licensed for more than six years must complete eight (8) hours of continuing education hours (CEH) every two years unless such requirement is waived by the Board under ORS 671.676(4)) and OAR 808-040-0070.

(2) The required hours must be completed during the two-year period immediately preceding the renewal date of the landscape construction professional license.

(3) The required hours must conform to OAR 808-040-0040.

(4) Reporting Requirement at Renewal. As a requirement of renewal of an active landscape construction professional license, licensees are required to certify that the licensee has fulfilled the CEH requirement.

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(5) Licensees with even numbered licenses must report the CEH requirement by the license expiration date in even numbered years.

(6) Licensees with odd numbered licenses must report the CEH requirement by the license expiration date in odd numbered years.

(7) New Licensees. CEH requirements for new licensees are as follows:

(a) New licensees who receive an even numbered license in an odd numbered year must report 8 CEH the first reporting cycle.

(b) New licensees who receive an even numbered license in an even numbered year must report 16 CEH the first reporting cycle.

(c) New licensees who receive an odd numbered license in an even numbered year must report 8 CEH the first reporting cycle.

(d) New licensees who receive an odd numbered license in an odd numbered year must report 16 CEH the first reporting cycle.

(e) CEH obtained by new licensees during the two-year period immediately preceding the renewal date of the landscape construction professional license will be eligible to meet the initial CEH requirement.

(8) Active duty military licensees may convert a license to inactive military status military as per OAR 808-003-0234. Inactive military status licensees do not need to comply with the CEH requirements while on inactive military status and up to 60 days from an honorable discharge.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: 2007 OL Ch. 550

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 1-2010, f. & cert. ef. 1-27-10; LCB 18-2011, f. 12-29-11, cert. ef. 1-1-12; LCB 2-2012, f. 3-30-12, cert. ef. 4-1-12; LCB 9-2015, f. 12-22-15, cert. ef. 1-1-16; LCB 5-2016, f. & cert. ef. 5-23-16

808-040-0070

Waivers

(1) CEH waivers. The Board, in its discretion, may waive CEH requirements for:

(a) Reasons of health, certified by a medical doctor, that prevents the licensee from complying with CEH requirements;

(b) A licensee who is on active military duty and who provides a copy of orders to active military duty; or

(c) Other good cause, to be demonstrated as the Board requests.

(2) Requests for waivers. A request for waiver of CEH requirements must be submitted in writing for each renewal period during which the conditions supporting the waiver exist.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: Ch. 550 OL 2007

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 5-2016, f. & cert. ef. 5-23-16

808-040-0080

CEH Requirement for Reinstatement to Active Status

(1) Except as provided for in subsection (2) of this section any licensee that reinstates an inactive or expired landscape construction professional license to active status must:

(a) Comply with OAR 808-003-0255;

(b) Submit documentation as per the audit requirements of OAR 808-040-0060 for the 16 CEH obtained within the two years immediately preceding the renewal date of the landscape construction professional license; and

(c) Meet the CEH requirement for each subsequent renewal period.

(2) Any licensee that reinstates an expired landscape construction professional license to active status more than 14 days after the expiration of the license and the license was subject to audit prior to its expiration, the licensee must submit documentation as per the audit requirement of OAR 808-040-0060.

(3) Upon honorable discharge to convert a license from inactive military status to active status, the servicemember must submit a written request within 60 days from the date of discharge. No renewal or late fee will be charged until the first renewal date after conversion of that license. No CEH will be required until the first renewal date after conversion of that license.

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 18-2011, f. 12-29-11, cert. ef. 1-1-12; LCB 2-2012, f. 3-30-12, cert. ef. 4-1-12; LCB 9-2015, f. 12-22-15, cert. ef. 1-1-16; LCB 5-2016, f. & cert. ef. 5-23-16

Rule Caption: Clarifies the claim process

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Rules Repealed: 808-004-0180, 808-004-0240, 808-004-0460, 808-004-0470, 808-004-0550, 808-004-0560

Subject: Clarifies the claim process.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-004-0160

Establishment of Co-Claimant

The agency may allow a person to become a co-claimant, with the claimant's permission and if the person otherwise qualifies as a claimant, even if the co-claimant did not sign the Statement of Claim form.

Stat. Auth.: ORS 183.670.310 & 671.670

Stats. Implemented: ORS 183.455 & 671.703

Hist.: LCB 1-2000, f. & cert. ef. 2-1-00; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0211

Address of Claimant and Respondent

(1) Initial notice of a contested case or arbitration directed to the last known address of record of a party to a claim shall be considered delivered when deposited in the United States mail and sent registered or certified or post office receipt secured.

(2) All other communication directed to the last known address of record of a party to a claim shall be considered delivered when deposited in the United States mail and sent by regular mail.

(3) A party must notify the agency in writing within 10 days of any change in the party's address, withdrawal or change of the party's attorney, or change of address of the party's attorney during the processing of the claim and until 90 days after the date the agency notifies the parties that the claim is closed.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.603

Hist.: LCB 6-2004(Temp), f. & cert. ef. 12-15-04 thru 6-10-05; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 9-2015, f. 12-22-15, cert. ef. 1-1-16; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0250

Exclusion of Certain Damages from Award

(1) Except as provided in section (2) of this rule and subject to OAR 808-008-0420, an order of the board or arbitration award for monetary damages in a claim, including but not limited to an order of the Board arising from a court judgment, award or decision by a court, arbitrator or other entity may not include an award for:

(a) Attorney fees;

(b) Court costs;

(c) Interest;

(d) Costs to pursue litigation or the claim;

(e) Service charges or fees; or

(f) Other damages not directly related to negligent or improper work under the contract or breach of the contract that is the basis of the claim.

(2) An order by the board or arbitration award for monetary damages that are payable from the respondent's bond required under ORS 671.690 may include an award for attorney fees, costs, interest or other costs as follows:

(a) An order or arbitration award in an owner claim may include interest expressly allowed as damages under a contract that is the basis of the claim.

(b) An order in a construction lien claim may include attorney fees, court costs, interest and service charges allowed under OAR 808-004-0530(4).

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 183.415 & 183.460

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0260

Order Dismissing a Claim

(1) If the agency dismisses a claim because the claimant did not allow the person against whom the claim was filed to be present at any on-site investigation made by the board, or because the claimant does not permit the person against whom the claim was filed to comply with recommenda-

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tions made by the board through the mediation process, the dismissal of the claim is an order in other than a contested case.

(2) Before a claim is dismissed, the agency shall, in writing, provide the claimant an opportunity, to offer evidence that the basis for dismissal was due to excusable neglect. An order to dismiss a claim shall be made in writing and issued to the claimant and the person against whom the claim was filed.

(3) The agency may determine not to dismiss a claim closed under this rule if the claimant, within 30 days of the Board offering the claimant an opportunity to demonstrate excusable neglect, provides the board with evidence that the cause of the claimant's failure to allow the person against whom the claim was filed to be present at any on-site investigation or failure to permit the person against whom the claim was filed to comply with recommendations made by the board through the mediation process was due to excusable neglect by the claimant.

Stat. Auth.: ORS 670.310 & 671.703

Stats. Implemented: ORS 183.480 & 671.703

Hist.: LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0310

Notice Required by ORS 671.700

A Statement of Claim in compliance with OAR 808-004-0340 filed with the agency is notice of the claim for purposes of ORS 671.700.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 671.700

Hist.: LCB 1-2000, f. & cert. ef. 2-1-00; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0320

Jurisdictional Requirements

(1) A claim must be of a type described under ORS 671.690(2) & (3), OAR 808-002-0220 and ORS 671.695.

(2) A claim may be accepted for negligent or improper work for the following activities performed or contracted to be performed on or after January 1, 2012:

(a) Backflow assembly testing services provided by employees of the landscape contracting business who are certified under ORS 448.279; and

(b) The installation, repair or maintenance by the landscape contracting business of backflow assemblies for irrigation systems and ornamental water features as described in ORS 447.060; and

(c) The installation by the landscape contracting business of landscape irrigation control wiring and outdoor landscape lighting as described in ORS 479.940.

(3) The agency will only process a claim that is filed within the following time limitations:

(a) State tax and contribution claims must be filed within one year of the due date of the tax or contribution.

(b) Labor, material and equipment claims must be filed within one year of the delivery date of the labor, material or equipment.

(c) Negligent or improper work claims must be filed within one year following the date the work was completed.

(d) Breach of contract claims must be filed within one year of the contract date or the last date of work on the project, whichever is later.

(4)(a) A claim will be processed only against a licensed landscape contracting business.

(b) For a State tax and contribution claim, the landscape contracting business against which the claim is filed will be considered licensed if the tax and contribution liability arose while the business was licensed.

(c) For a material claim, the landscape contracting business against which the claim is filed will be considered licensed if one or more invoices involve material delivered while the landscaping business was actively licensed. Damages will be awarded only for material delivered within the period of time that the landscape contracting business was actively licensed.

(d) For any other claim, the landscape contracting business against which the claim is filed will be considered licensed if the landscape contracting business was actively licensed during all or part of the work period.

(5) A labor, material and equipment claim, negligent or improper work claim or breach of contract claim will be accepted only when one or more of the following relationships exist between the claimant and the licensed landscape contracting business:

(a) A direct contractual relationship based on a contract entered into by the claimant and the landscape contracting business, or their agents; or

(b) An employment relationship or assigned relationship arising from a Bureau of Labor and Industries employee claim.

(6) A claim by a person furnishing material, or renting or supplying equipment to a landscape contracting business may not include a claim for non-payment for tools sold to a landscape contracting business, for equipment sold to the landscape contracting business that is not incorporated into the job site, for interest or service charges on an account or for materials purchased as stock items.

(7) Claims will be accepted only for work performed within the boundaries of the State of Oregon or for materials or equipment supplied or rented for installation or use on property located within the boundaries of the State of Oregon.

(8)(a) Except as provided in subsection (b) of this section, the agency may refuse to accept a claim or any portion of a claim that includes an allegation of a breach of contract, negligent or improper work or any other act or omission within the scope of ORS 671.510 to 671.710 that is the same as an allegation contained in a claim previously filed by the same claimant against the same landscape contracting business.

(b) The agency may accept a claim that would otherwise be refused under subsection (a) of this section if the previously filed claim was:

(A) Withdrawn prior to the on-site meeting.

(B) Dismissed with an explicit provision allowing the subsequent filing of a claim containing the same allegations as the dismissed claim.

(c) Nothing in this section extends the time limitation for filing a claim under ORS 671.710.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 671.690, 671.695, 671.703 & 2011 OL Ch. 104

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0020; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 17-2011, f. 12-29-11, cert. ef. 1-1-12; LCB 9-2015, f. 12-22-15, cert. ef. 1-1-16; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0350

Procedure if Information on Statement of Claim is Incomplete

The agency may refuse to accept a claim if:

(1) The Statement of Claim does not meet the requirements of OAR 808-004-0340; and

(2) The claimant fails to provide the missing information in response to a written request from the agency for the information within 30 days.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 5-2003, f. & cert. ef. 8-1-03; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0400

Initial Administrative Processing of Claims

(1) Upon receipt of a claim, the agency shall

(a) Make a preliminary determination that the board has or lacks jurisdiction over the claim based on the information provided by the claimant;

(b) Verify that claimant has provided information required under OAR 808-004-0340 and request additional information from claimant if necessary;

(2) If the agency determines that the claim should be accepted based on the information submitted by the claimant, the agency shall:

(a) Furnish the landscape contracting business with a copy of the claim; and

(b) Request the landscape contracting business respond to the claim items.

(3) The agency may initiate an investigation to determine the validity of the claim. The investigation may include an on-site meeting.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 183.415, 183.460 & 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 5-2003, f. & cert. ef. 8-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0440

Contracts With Mediation or Arbitration Agreements

If a claim is received that is based upon a contract that contains an agreement by the parties to mediate or arbitrate disputes arising out of the contract, the specific terms of the mediation or arbitration agreement supersede agency rules except as provided in this rule. Unless the contract requires mediation or arbitration by the agency, the agency will take the following action:

(1) The agency shall inform the claimant by written notice that the agency will not accept the claim unless it receives, within 60 days of the date of the notice:

(a) A written waiver of mediation or arbitration under the contract signed by the claimant and respondent;

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(b) Documentation showing that the claimant or respondent initiated mediation under the contract to resolve the same facts and issues raised in the claim and the mediation failed; or

(c) Documentation showing the claimant or Respondent has already initiated mediation or arbitration under the contract.

(2) The agency may accept a claim, but will suspend processing of the claim if respondent or claimant has initiated mediation or arbitration under the contract, until arbitration or the mediation process is complete.

(3) The agency will not accept claims based on a contract that includes a requirement of binding arbitration unless the claimant provides a written waiver or arbitration signed by the claimant and respondent.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 1-2000, f. & cert. ef. 2-1-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0450

On-site Meeting and Attendance

(1) If the parties agree to agency mediation, the agency may schedule an on-site meeting among the parties for the purpose of discussion of a mediation settlement of a claim and investigation of the claim. The agency shall mail notice of the meeting no less than 14 days prior to the date scheduled for the meeting.

(2) If the agency schedules an on-site meeting, the following apply:

(a) The claimant must allow access to the property that is the subject of the claim.

(b) The claimant or an agent of the claimant must attend the meeting. An agent of the claimant must have knowledge of all claim items included in the claim and must have authority to enter into a mediation settlement of the claim. The agency may waive the requirement that an agent have authority to enter into a settlement of the claim if there is evidence that the respondent will not attend the on-site meeting.

(c) The claimant must allow the respondent to be present at the on-site meeting as required under ORS 671.703.

(d) The individual landscape construction professional whose phase of license is the basis for the landscape contracting business license and who supervised the project must attend the meeting as required by OAR 808-003-0018.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 4-2002, f. & cert. ef. 12-4-02; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0480

Resolution by Settlement and Construction of Settlement Agreement

(1) The agency may present a mediation settlement proposal to the claimant and respondent for their consideration and agreement at an on-site meeting conducted under OAR 808-004-0450.

(2) If the claimant and respondent sign a mediation settlement agreement, the agreement shall be binding upon each party unless breached by the other.

(3) Mediation settlement agreements may be considered by the agency to be substituted contracts and damages may be based on the settlement.

(4) If at any time during the processing of the claim, the claimant accepts a promissory note from the respondent or other compromise as settlement of the claim, the agency may consider the agreement to be a substituted contract, and base the continued processing of the claim on the substituted contract.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 183.415, 183.460 & 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0500

Closure of Claim After Settlement

If claimant and respondent agree to a mediation settlement, the following apply:

(1) The agency shall notify the claimant that the claimant must notify the agency in writing whether the terms of the settlement have been fulfilled within 30 days of the date shown on the mediation settlement for completion of the terms of the settlement.

(2) If the claimant notifies the agency that the terms of the mediation settlement agreement have been fulfilled, or fails within 30 days to notify

the agency that terms of the mediation settlement have not been fulfilled, the agency shall consider the claim satisfied.

(3) If the claimant notifies the agency within 30 days of the date shown on the mediation settlement for completion that the terms of the mediation settlement have not been fulfilled, the agency shall make inquiry, investigation, or both into what is alleged not to have been fulfilled.

(a) If the agency agrees that those terms have not been fulfilled, the agency may provide the respondent an opportunity to fulfill the terms and forward the claim to the board for issuance of an order for award of damages if the terms remain unfulfilled for a period of time determined by the agency, or may forward the claim directly to the board for issuance of an award for damages.

(b) If the agency determines those terms have been fulfilled, the agency may consider the claim satisfied.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 183.415, 183.460 & 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0510

Court Judgments and Other Authorized Entity Determinations

(1) As used in this rule "a court judgment, arbitration award or other entity determination" means a judgment, award or determination by a court, arbitrator or other entity, as that phrase is defined in Division 2 of these rules.

(2) The agency will not accept a claim based on a court judgment, arbitration award or other entity determination, but such determination may constitute a landscaping contracting business debt under ORS 671.607, and be the basis for suspension of a license issued by the board.

(3) The agency may accept a claim based on facts and issues within the jurisdiction of the agency not previously determined by a court, arbitrator or other entity, even if those facts and issues are related to landscape contracting work that was subject to a determination previously made by a court, arbitrator or other entity.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991 (Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0040; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; Renumbered from 808-004-0200; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0520

Processing of Claim Submitted to Court, Arbitrator or Other Entity

(1) "Court, arbitrator or other entity" has the meaning given that phrase in division 2 of this chapter.

(2) The agency may suspend processing a claim if:

(a) Either party transfers a claim to a court, arbitrator or other entity, to address the same facts and issues contained in the statement of claim filed against respondent, including but not limited to suits based on breach of contract, negligence or incompetence, damages, a complaint for declaratory judgment, another complaint that arises from the contract or work that is the subject of the claim, and suits to foreclose a lien involving the same contract at issue in the claim; or

(b) The agency requires the claimant to submit the claim to a court of competent jurisdiction because the agency determined that a court is the appropriate forum for the adjudication of the claim due to the nature or complexity of the claim.

(3) If the agency suspends processing a claim under subsection (2) of this rule, the agency shall notify the claimant on the date it suspends processing the claim that processing has been suspended.

(4) Within 30 days of the date of final action by the court, arbitrator or other entity, the claimant shall deliver to the agency a certified copy of the final judgment; a copy of the arbitration award, or a copy of the decision by another entity, as well as copy of the complaint or other pleadings on which the judgment, award or decision was based. The agency shall accept a final judgment, award or decision of the court, arbitrator or other entity as the final determination of the merits of the claim, with respect to any and all issues from the claim addressed by the final judgment, award or decision. If the final judgment, award or decision includes a requirement for the Respondent to pay the claimant, such award, judgment or decisions qualifies as a landscaping debt. If all issues of the claim are addressed by the final judgment, award or decision, the claim shall be closed.

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(5) If any issues from the claim are not addressed by the final judgment, award, or decision, the agency may resume processing the claim, with respect to those issues from the claim that are not addressed by the final judgment, award, or decision.

Stat. Auth.: ORS 183.670.310 & 671.670

Stats. Implemented: ORS 183.415, 183.460, 671.703 & 671.575

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0530

Construction Lien Claims

(1) For a construction lien claim to be accepted, the following conditions must be met:

(a) The claimant must have paid the respondent in full for the landscape job or paid in full for the materials supplied or equipment rented and the landscape contracting business must have failed to pay the subcontractor or material or equipment supplier, thereby causing the subcontractor or material or equipment supplier to file a lien against the claimant's property;

(b) The lienor must have delivered to the claimant a "Notice of the Right to Lien" as specified in ORS 87.018, 87.021 and 87.025; and

(c) The lienor must have filed the lien with the recording officer of the county in accordance with ORS 87.035.

(2) If the respondent contends that payment has been made to the lienor, either directly or by the return of goods constituting a credit to the respondent's account, the respondent may subpoena the lienor and pertinent records to an arbitration or contested case hearing on a claim processed under this rule in accordance with OAR 808-009-0095.

(3) If at any time before the issuance of an order the agency determines that the lien is unenforceable or invalid, the agency must dismiss the claim. Before the proposed order of dismissal is issued by the agency, the lienor must be notified, by certified mail, of the lienor's opportunity to become a party, as that term is defined in ORS 183.310, to the claim and to request arbitration or a hearing.

(4) A construction lien claim may include attorney fees, court costs, interest and service charges if these items are included as part of the lien or incurred as costs to discharge the lien. An award to the claim for attorney fees incurred to discharge the lien must not exceed the amount of the lien or \$3,000, whichever is less.

(5) The agency may reduce the amount awarded to the claimant by:

(a) Any amount the claimant owes the landscape contracting business; and

(b) Any amount included for tools sold to a landscape contracting business, for equipment sold to the landscape contracting business that is not incorporated into the job site, for interest or service charges on an account or for materials purchased as stock items.

(6) If a claimant files two or more claims against the respondent relating to work performed under the same contract and if the claimant has not paid the respondent the full amount of the contract, the amount awarded on each claim will be reduced on a pro rata basis. A proposed or final order may not be issued on a claim until all claims involving the claimant and the respondent filed within the same 90-day period are ready for an order.

(7) If an action is filed to enforce a lien that is the subject of a claim, the agency must send notice to the claimant that:

(a) The agency will hold the claim open for 60 days from the date of the notice to allow the claimant to file a counter-suit or complaint in the foreclosure action; and

(b) The agency may close the claim under section (10) of this rule if the agency does not receive evidence within 60 days from the date of the notice that the claimant filed a complaint as a counter-suit or complaint in the court.

(8) Upon timely receipt of evidence that the claimant filed a counter-suit or complaint in the court under paragraph (7)(b) of this rule, the agency must suspend processing the claim and send notice to the claimant of the requirements of OAR 808-004-0520(3). Further processing of the claim must be under OAR 808-004-0520.

(9) Time limitations in this rule supersede conflicting time limitations in OAR 808-004-0520.

(10) The agency may close a construction lien claim under OAR 808-004-0260 if the agency does not receive evidence that the claimant obtained a stay or filed a counter-suit or complaint within the time limitation in the notice required under section (7) of this rule.

(11) If a construction lien claim involves the same facts and issues as any other open claim, the agency must process the claims together.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: CH. 149 OL 2007

Hist.: LCB 6-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0540

Establishing Monetary Damages, Issuing Proposed Default Order or Referring Claim for Hearing

If the claimant seeks monetary damages or the agency so requests, the claimant shall file a declaration of damages stating the amount the claimant alleges the respondent owes the claimant, limited to claim items listed in the Statement of Claim. The agency may require the claimant to submit, in support of the amount alleged:

(1) One or more estimates from licensed landscape contracting businesses for the cost of correction of each of the claim items; or

(2) Other basis for monetary award.

Stat. Auth.: ORS 183.670.310, 671.670

Stats. Implemented: ORS 183.415, 183.460, 183.470, 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 6-2016, f. & cert. ef. 5-23-16

808-004-0590

Referral of Claim to Arbitrator or Contested Case Hearing or Removal to Court

(1) If a hearing on a claim is conducted by the Office of Administrative Hearings:

(a) The hearing shall be held as an arbitration under the rules in Division 8 of this chapter, unless a party requests that the hearing be held as a contested case hearing under subsection (b) of this section or files the dispute in court under section (2) of this rule.

(b) Except as provided in sections (2) and (6) of this rule, the hearing shall be held as a contested case hearing under OAR 137-003-0501 to 137-003-0700 and the rules in division 9 of this chapter if:

(A) A party to the claim makes a timely written request under section (4) of this rule that the claim be heard as a contested case; or

(B) The agency requests under sections (4) and (6) of this rule that the claim be heard as a contested case.

(2) Subject to section (3) of this rule, a claim shall be decided in court if:

(a) The claimant files a complaint in court that alleges the elements of the claim in the complaint; or

(b) The respondent files a complaint in court for damages, a complaint for declaratory judgment, or another complaint that arises from the contract or work that is the subject of the claim and that allows the claimant to file a response alleging the elements of the claim; or

(c) The Board requires the claimant to move the claim to a court of competent jurisdiction, due the nature and complexity of the claim.

(3) A copy of a complaint filed under section (2) of this rule must be received by the agency or the Office of Administrative Hearings no later than 30 days after the Office of Administrative Hearings sends the first notice that an arbitration or contested case hearing is scheduled. Failure to deliver the copy of the complaint within the time limitation in this rule constitutes waiver of the right to have the claim decided in court and consent to the hearing being held as binding arbitration or a contested case hearing under section (1) of this rule. Delivery shall be either to the agency or the Office of Administrative Hearings as required by OAR 137-003-0520 or 808-010-0085, whichever is applicable.

(4) A request that a claim be heard as a contested case filed under section (1)(b) of this rule is subject to the following:

(a) The request by a party or the agency must be in writing and received by the agency or the Office of Administrative Hearings no later than 30 days after the Office of Administrative Hearings sends the first notice that an arbitration is scheduled. Delivery shall be either to the agency or the Office of Administrative Hearings as required by OAR 137-003-0520 or 808-008-0085, whichever is applicable.

(b) A referral of a claim to the Office of Administrative Hearings by the agency for a contested case hearing shall be deemed a request that the claim be heard as a contested case under section (1)(b) of this rule.

(c) A party or the agency may not withdraw a request made under this section without the written consent of the agency and all parties to the claim.

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(5) Failure to deliver a timely written request for a contested case hearing under sections (1)(b) and (4) of this rule or a copy of a filed complaint under sections(2) and (3) of this rule constitutes consent to the hearing on the claim being held as binding arbitration through the Office of Administrative Hearings under section (1)(a) of this rule.

(6) The agency may request under section (1)(b)(B) of this rule that a hearing be held as a contested case hearing if:

(a) The agency's jurisdiction to decide the claim under ORS 671.690 to 671.710 is at issue; or

(b) The agency determines that the agency has an interest in interpreting the rules and statutes that apply to the claim.

Stat. Auth: ORS 670.310 & 671.703

Stats. Implemented: ORS 671.703

Hist. LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 6-2016, f. & cert. ef. 5-23-16

Oregon Business Development Department Chapter 123

Rule Caption: These rules relate to the Credit Enhancement Fund.

Adm. Order No.: OBDD 7-2016

Filed with Sec. of State: 6-3-2016

Certified to be Effective: 6-3-16

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Rules Amended: 123-021-0010, 123-021-0015, 123-021-0020, 123-021-0050, 123-021-0080, 123-021-0090, 123-021-0110

Rules Repealed: 123-021-0010(T), 123-021-0015(T), 123-021-0020(T), 123-021-0050(T), 123-021-0080(T), 123-021-0090(T), 123-021-0110(T)

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

program.

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

Rules Coordinator: Mindie Sublette—(503) 986-0036

123-021-0010

Definitions

For the purposes of these rules, additional definitions may be found in OAR chapter 123, division 1. The following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) "Authorized loan amount" means the amount of a loan authorized by the Department to be under the CEF Program pursuant to a loan insurance authorization issued by the Department to the financial institution making the loan.

(2) "CEF Program" means the Credit Enhancement Fund Insurance Program established under ORS 285B.200 to 285B.218.

(3) The "deficiency" of a loan means the amount of principal outstanding upon default, accrued interest and the financial institution's reasonable costs of collection, exclusive of costs attributable to environmental problems, remaining unpaid after liquidation of collateral and collection of guarantees.

(4) "Financial institution" has the meaning set forth in ORS 706.008.

(5) "Fund" means the Credit Enhancement Fund created by ORS 285B.215.

(6) "Loan insurance authorization" means a letter from the director or deputy director or designee to a financial institution agreeing to insure a loan to a borrower on the terms and conditions and subject to the requirements stated therein.

(7) "Loan insurance agreement" means the agreement between the financial institution and the Department required by OAR 123-021-0100.

(8) "Principal" in regards to a borrower is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each managing partner and each partner who is a natural person and holds a twenty percent (20%) or more ownership interest in the partnership; and,

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(9) "Principal" in regards to a financial institution is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each partner; and

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(10) "Substantial benefit" may include, but is not limited to:

(a) Job creation or retention.

(b) Increased sales or profit, or higher revenue paid to the State of Oregon.

(c) Access to new markets for the borrower's product or service

(d) Diversification of the local or regional economy.

(e) Revitalization of a neighborhood or community.

(11) "SSBCI Funds" means U.S. Treasury funds allocated to the Department under the State Small Business Credit Initiative Act of 2010 (title III of the Small Business Jobs Act of 2010, P.L. 111-240, 124 Stat. 2568, 2582).

(12) "Working capital loan" means any loan, the proceeds of which are to be used for operating, maintenance and other costs and expenses, or for purposes other than acquiring real property, production equipment, or other capital assets.

Stat. Auth.: ORS 285A.075

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 12-1997(Temp), f. & cert. ef. 10-7-97; EDD 11-1998, f. & cert. ef. 5-22-98; EDD 8-1999, f. & cert. ef. 10-1-99; EDD 4-2007(Temp), f. & cert. ef. 8-28-07 thru 2-22-08; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; OBDD 7-2016, f. & cert. ef. 6-3-16

123-021-0015

Qualified Business

(1) An existing or proposed business without an existing or about to be without an existing revolving line of credit is a Qualified business for the Evergreen Entrants Insurance.

(2) An existing or proposed business with an existing revolving line of credit is a Qualified business for the Evergreen Plus Insurance.

(3) Any existing or proposed business is a Qualified business for the Conventional Insurance, First Loss Insurance, or Collateral Support Insurance.

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

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

Hist.: EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; OBDD 7-2016, f. & cert. ef. 6-3-16

123-021-0020

Eligibility

(1) In order for a loan to a Qualified business to be eligible for insurance, the project must be expected to result in a substantial benefit that is realized primarily in Oregon and the project must meet one or more of the following purposes: the acquisition, improvement, or rehabilitation of real or personal property; or working capital for operations, export transactions, maintenance and other business costs and expenses which are used for purposes other than acquiring real or personal property. Eligible purposes do not include:

(a) Any personal, family, or household expenses of the Qualified business or any owner or guarantor;

(b) Construction financing; however, permanent term financing after completion of construction of real property for business use may be insured;

(c) Purchase or construction of residential housing;

(d) A loan made primarily to pay off or refinance an existing debt to a creditor whose loan is inadequately secured or who is in danger of sustaining a loss;

(e) Repayment of delinquent federal or state income taxes unless the Qualified Business has a payment plan in place with the relevant taxing authority;

(f) Repayment of taxes held in trust or escrow;

(g) Finance lobbying activities (as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended); or,

(h) Acquiring or holding passive investments such as commercial real estate for future use or the purchase of securities; this does not include acquisitions of businesses through 100% stock transfer.

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(i) Reimbursement or payment of funds to any owner or borrower, including any equity injection or injection of business capital for the business' continuance, or the purchase of assets from any owner;

(j) (For loans insured by SSBCI Funds) Purchase of any portion of the ownership interest of any owner of the business;

(k) Purchase of an existing Qualified business, except for:

(A) Expansions where the majority of loan proceeds are used to support expansion improvements;

(B) Purchase of all or substantially all of the assets of a Qualified business,

(C) (For loans not insured by SSBCI Funds) Purchase of 100% of the stock of a Qualified business, including stock held by employee stock ownership plans, where jobs will be created or retained; provided that the Department's liability for any loss resulting from a loan made for such purchase shall not exceed \$500,000.

(2) The Department will consider, on a case by case basis, requests to insure loans where proceeds are used to pay down or pay off an existing debt of the Qualified business. In evaluating such requests, the Department will consider the financial benefits to the borrower, the prospects for success, the expected resulting public benefit, the extent to which financial institutions agree to extend terms or provide other favorable financing to a borrower, and the extent to which collateral securing an insured loan is improved. The Department's maximum liability for any loss resulting from an insured loan used to refinance debt will be limited to no more than \$500,000 and no more than 75% of the authorized loan amount. Unless specifically waived by the Department, all business and personal assets securing a refinance may require an appraisal or other third party valuation to determine liquidation values at the time of application. The Department reserves the right to set the enrollment terms at the time of approval for loan insurance, including but not limited to the Department's maximum liability or the insured percentage and in its sole discretion may, when setting the Department's maximum liability or the insured percentage or both, consider whether a loan is less than fully secured, as determined by the estimated liquidation value of the collateral.

(3) Eligible borrowers are Qualified businesses as defined in OAR 123-021-0015.

(4) Eligible financial institutions are financial institutions as defined by ORS 706.008.

(5) Any loans insured by SSBCI Funds will be required to meet additional U.S. Treasury requirements including, but not limited to:

(a) The loan has not been made in order to place under the protection of the CEF Program prior debt that is not covered by the CEF Program and that is or was owed by the borrower to the financial institution or to an affiliate of the financial institution.

(b) The insured loan is not used to refinance a loan previously made to that borrower by the financial institution or an affiliate of the financial institution making the loan to be insured, unless the prior loan has matured and new funds are being added to the loan.

(c) No Principal of the borrower or the financial institution has been convicted of a sex offense against a minor as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911).

(d) The borrower, or any principal of the borrower, is not:

(A) an executive officer, director, or principal shareholder of the financial institution, or

(B) a member of the immediate family of an executive officer, director or principal shareholder of the financial institution; or

(C) a related interest of any such executive officer, director, principal shareholder or member of the immediate family. For the purposes of this OAR 123-021-0020(6)(d), the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to the financial institution as the relationship described in 12 C.F.R. Part 215.2 (1990), whether or not the financial institution is a member bank of the Federal Reserve System.

(e) The activities of the borrower are not activities currently prohibited by U.S. Treasury, such as, but not limited to:

(A) The borrower is a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade unless those activities are incidental to the regular activities of the business and are part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business;

(B) The borrower is a business that earns more than half of its annual net revenue from lending activities unless the business is a non-bank or non-bank holding company community development financial institution;

(C) The borrower is a business engaged in pyramid sales, or engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted; or,

(D) The borrower is a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales and gambling activities.

(f) The financial institution is in compliance with requirements of 31 C.F.R. § 103.121.

(g) At the time of approval the borrower does not employ more than 750 employees in the United States.

(h) Total financing for the project is \$20,000,000 or less.

(i) No Principal of the borrower is a current member or delegate to the United States Congress or resident U.S. Commissioner.

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

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 8-1999, f. & cert. ef. 10-1-99; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 14-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; OBDD 7-2016, f. & cert. ef. 6-3-16

123-021-0050

Application Procedure

(1) The Department shall determine when an application is complete.

(2) It shall be the responsibility of the financial institution to submit a complete application.

(3) The Department will review an application based on the following criteria and considerations:

(a) An application will not be approved unless the Department determines that there is a reasonable prospect that the borrower will repay a loan according to its terms.

(b) An application will only be approved to the extent, in terms of amount, percentage and period of insurance that is necessary and prudent for the Department to provide to complete the financing.

(c) No application will be approved unless the Department determines that the insured loan will be serviced by a financial institution as required by the Department.

(d) No application will be approved unless the Department determines that the borrower is eligible and the proceeds of the insured loan will be used for an eligible purpose.

(e) No application will be approved unless the Department determines that the application is complete and that information sufficient to make an informed decision on the application has been received.

(f) In reviewing applications, the Department will consider the following, as applicable:

(A) The extent to which the borrower demonstrates a need for an insured loan.

(B) The economic feasibility of the business endeavor as evidenced by the borrower's present and past financial situation and business experience and the general reasonableness of the business proposal and financial projections for the future.

(C) Whether the borrower and any guarantors have satisfactory credit histories.

(D) Whether the borrower has sufficient capital and other resources to conduct the business as planned, and the amount and source of equity contributed.

(E) The adequacy of the security offered for the loan.

(F) The extent to which the risk of financial loss is shared by others.

(G) The viability of the industry of which the borrower is a part and the contribution of the borrower to that industry.

(H) The extent to which the borrower contributes to local economic development, market development and employment opportunities.

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

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 12-1997(Temp), f. & cert. ef. 10-7-97; EDD 11-1998, f. & cert. ef. 5-22-98; EDD 4-2007(Temp), f. & cert. ef. 8-28-07 thru 2-22-08; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; OBDD 7-2016, f. & cert. ef. 6-3-16

123-021-0080

Loan and Insurance Terms and Conditions

(1) Interest rate and term. The rate of interest on the insured loan and the term of the loan shall be agreed between the financial institution and a borrower. The maximum term for insurance per borrower project is:

(a) the lesser of fifteen (15) years or the useful life of the assets being financed or the useful life of the assets securing the loan for the

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Conventional Insurance, First Loss Insurance, or Collateral Support Insurance, or

(b) one year plus four annual renewals for the Evergreen Entrants Insurance or Evergreen Plus Insurance.

(2) Collateral. Repayment of an insured loan shall be secured by collateral as the Department deems prudent.

(a) Insured loans may, at the discretion of the Department, be secured by collateral valued for collateral purposes at less than the amount of the insured loan, provided the borrower, its principals, and the guarantors, to the satisfaction of the Department, are of good character, have good credit histories, and exhibit the ability to service the proposed and existing debt;

(b) Real estate or unmovable machinery or equipment constituting a significant portion of collateral for an insured loan shall be located within the state. Mobile machinery or equipment, including vessels, constituting a significant portion of collateral for repayment of an insured loan shall be registered with and taxed by the state or municipal authorities, if the State or municipal authorities register or tax machinery or equipment of a type similar to the collateral, and shall be stored or berthed in the state when not in use.

(c) The Department may, at its sole discretion, require independent collateral valuation and appraisal of the real property or other assets securing the loan.

(3) Covenants. The covenants and requirements of the loan shall be established by the financial institution in accordance with prudent lending practices. The Department may require such additional covenants and requirements as may be necessary, prudent or desirable. At a minimum, the loan documents should require the borrower to:

(a) Make periodic payments of principal and interest, with the exception of short term working capital loans or evergreen working capital loans or lines of credit where periodic interest payments with a balloon principal payment and/or term options may be acceptable, as determined by the Department;

(b) Make any lease payments;

(c) Maintain adequate insurance on collateral, and maintain books and records on the business;

(d) Pay any taxes or governmental charges assessed against the collateral and comply with all applicable laws and regulations;

(e) Keep the collateral free of liens and encumbrances except for as may be expressly accepted by the financial institution and Department;

(f) Provide for periodic financial reports to the financial institution;

(g) Pay advances necessary to protect the collateral and all expenses of protecting or enforcing the rights of the financial institution and Department.

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

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; OBDD 7-2016, f. & cert. ef. 6-3-16

123-021-0090

Loan Insurance Programs

The Department shall offer the following insurance programs:

(1) Conventional Insurance, under which the Department may insure

(a) Up to 80 percent of a loan in which case the Department's maximum liability for any loss under the Conventional Insurance is the lesser of \$2,000,000 or an amount equal to the insured percentage times the authorized loan amount, or

(b) Up to 90 percent of a loan in which case the Department's maximum liability for any loss under the Conventional Insurance is the lesser of \$500,000 or an amount equal to the insured percentage times the authorized loan amount. Should a borrower which receives an insured loan default or otherwise be unable to make loan payments, the Department will pay the financial institution the deficiency of a loan times the insured percentage, subject to the limitation set forth above. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Conventional Insurance and the uninsured portion of the loan.

(2) First Loss Insurance, under which the Department will pay 100 percent of the deficiency of a loan, but the Department's maximum liability under the First Loss Insurance shall be the lesser of (a) the insured percentage (which shall not exceed 25 percent) times the authorized loan amount, (b) the insured percentage (which shall not exceed 25 percent) times the outstanding balance of the loan, including accrued interest and

reasonable costs and expenses of collection and liquidation of collateral exclusive of costs attributable to environmental problems, but not taking into account the proceeds of collateral liquidation and payments by guarantors, or (c) \$500,000. Any recovery after payment of a deficiency is applied first to the uninsured portion of the loan and then to the portion of a loan insured through First Loss Insurance.

(3) First Loss Collateral Support Insurance (aka Collateral Support Insurance), under which the Department will pay up to a maximum of 100 percent of the deficiency of a loan as follows. The Department's maximum liability under the Collateral Support Insurance per enrolled loan shall be the lesser of:

(a) The insured percentage times the authorized and enrolled loan amount;

(b) The insured percentage times the outstanding balance of the enrolled loan, including accrued interest and reasonable costs and expenses of collection and liquidation of collateral exclusive of costs attributable to environmental problems, after taking into account payments by guarantors but not taking into account the proceeds of collateral liquidation; or,

(c) 25% of the enrolled loan or \$1,000,000. Collateral Support Insurance may not exceed a term of 5 years. Loan payments, the proceeds of collection of guarantees, and recovery after payment of a deficiency from any source other than liquidation of collateral are applied pro rata to the portion of a loan insured through Collateral Support Insurance and the uninsured portion of the loan; the proceeds of collateral are applied first to the uninsured portion of the loan and then to the portion of a loan insured through Collateral Support Insurance. Loans covered by Collateral Support Insurance must meet a participating Lender's credit underwriting criteria with the exception of loan collateral adequacy. Borrowers with loans covered by Collateral Support Insurance must:

(A) Demonstrate significant current and historical cash flow coverage,

(B) Demonstrate strong credit history,

(C) Provide personal guarantees of significant owners; and,

(D) Meet other criteria as determined by the Department.

(d) In contrast to First Loss Insurance, Collateral Support Insurance is only intended to mitigate a collateral shortfall and is not intended to mitigate other or additional credit deficiencies. Collateral Support Insurance will only be provided to the extent necessary to facilitate making a qualified loan, not on a maximum allowable basis for each loan. Loan proceeds may be used to pay off an existing loan where the collateral value is no longer adequate to secure the loan due to a decline in the value of the existing collateral (not due to the loan having been less than fully secured at inception). If any proceeds of the new insured loan are used to refinance an existing loan of the lender making application for Collateral Support Insurance, in order for the new loan to be eligible for Collateral Support Insurance the existing loan must have reached its maturity date and the new loan must also include new monies advanced to the borrower. If proceeds of the new loan are applied to an existing loan which is secured by collateral that secures the new loan, enrollment of the new loan in the Collateral Support Insurance will be limited to the amount of the collateral shortfall or the decline in the collateral value from the origination date of the existing loan, whichever is less. For the Collateral Support Insurance, the maximum insured percentage for insurance up to \$500,000 shall be 25% of the loan. For insurance above \$500,000 and up to \$1,000,000 the maximum insured percentage shall be 20% of the loan.

(4)(a) Evergreen Entrants Insurance, under which the Department may insure up to 75 percent of a line of credit working capital loan. Should a borrower which receives an insured loan default or otherwise be unable to make loan payments, the Department will pay the financial institution the deficiency of the line of credit working capital loan times the insured percentage; provided that the Department's maximum liability for any deficiency under the Evergreen Entrants Insurance is the lesser of \$1,500,000 or an amount equal to the insured percentage of the authorized loan amount. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Evergreen Entrants Insurance and the uninsured portion of the loan.

(b) Eligible borrowers include persons or enterprises without or about to be without existing line of credit working capital loans.

(c) To obtain Evergreen Entrants Insurance, a financial institution must have the capacity to service the loan effectively, including monitoring compliance with any audit and control procedures prescribed by the Department or comparable procedures of the financial institution approved by the Department and must have in place and operating a lending program

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specializing in line of credit loans secured by or with advances based upon eligible accounts receivable and inventory or other assets. The Department must be satisfied that the financial institution is sufficiently experienced and capable of operating such a lending program effectively.

(5)(a) Evergreen Plus Insurance, under which the Department may insure up to 75 percent of a new increment of a line of credit; provided that the Department's maximum liability under the Evergreen Plus Insurance is \$1,500,000. If the insured loan is a renewal of a loan where the Department insured more than 75% of the loan, the Department may, in its sole discretion, insure the new loan up to the percentage insured on the immediately previous loan being renewed. If a financial institution makes a payment request for any deficiency, the Department will pay to the financial institution the lesser of:

(A) A ratable share of the total default charges; or

(B) The deficiency times the insured percentage. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Evergreen Plus Insurance and the uninsured portion of the loan.

(b) The formula for calculating the Department's ratable share of total default charges is:

$$R = (G \div T) \times P$$

R represents the ratable share of total default charges.

G represents the amount of the new increment of the line of credit.

T represents the total credit facility made available.

P represents the principal outstanding upon default plus accrued unpaid interest and costs of collateral liquidation and collection of guarantees exclusive of costs attributable to environmental problems.

(c) To obtain the Evergreen Plus Insurance, a financial institution must have in place and operating a lending program specializing in line of credit loans secured by or with advances based upon eligible accounts receivable and inventory or other assets. The Department must be satisfied that the financial institution is sufficiently experienced and capable of operating such a lending program effectively.

(6) The Conventional Insurance, First Loss Insurance, and Collateral Support Insurance are available for all types of non-revolving loans with regular periodic payments of principal and interest no less often than annually for eligible purposes, including working capital loans that are secured by fixed assets or other collateral determined to be sufficient by the Department.

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

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 13-2002(Temp), f. & cert. ef. 6-18-02 thru 12-13-02; Administrative correction 4-15-03; EDD 6-2005(Temp), f. & cert. ef. 8-5-05 thru 1-31-06; EDD 1-2006, f. & cert. ef. 2-10-06; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; OBDD 7-2016, f. & cert. ef. 6-3-16

123-021-0110

Insurance Premiums

(1) The Department shall charge a one-time (up-front) insurance premium. Premiums are due at the time financial institutions originate loans and execute loan authorizations with the Department. The Department's insurance is not effective until premiums are paid. It is expected that financial institutions will pass along the cost of premiums to borrowers. Premiums, expressed as a percentage of the Department's maximum liability, shall be charged in accordance with the schedule for the programs available from the agency.

(2) For revolving lines of credit or evergreen facilities, the premium is based on the Department's maximum liability in regard to the credit facility made available to a borrower, regardless of whether or not the line of credit is fully drawn down.

(3) Examples:

(a) The premium due on a \$200,000, five year loan with 80% Conventional Insurance would be \$3,200 (\$200,000 x .80 x .02);

(b) The premium for a \$200,000, eight year loan with 25% First Loss Insurance is \$2,500 (\$200,000 x .25 x .05);

(c) The premium for a \$1,000,000 five-year loan with a 15% Collateral Support Insurance is \$5,250 (\$1,000,000 x .15 x .035).

(d) The premium for a \$200,000 loan with 75% Evergreen Entrants Insurance is \$2,625 (\$200,000 x .75 x .0175); this amount would be due every year thereafter for up to four additional years, assuming the loan and amount is renewed each year for the maximum term permitted under the Evergreen Entrants program (5 years);

(e) The premium for a \$700,000 increment to the line of credit with 30% Evergreen Plus Insurance is \$3,675 (\$700,000 x .30 x .0175); this

amount would be due every year thereafter for up to four additional years, assuming the loan and amount is renewed each year for the maximum term permitted under the program (5 years);

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

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15; OBDD 6-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; OBDD 7-2016, f. & cert. ef. 6-3-16

Oregon Department of Aviation Chapter 738

Rule Caption: Financial Aid to Municipalities (FAM) Grant Program

Adm. Order No.: AVIA 2-2016

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Rules Amended: 738-125-0010, 738-125-0015, 738-125-0020, 738-125-0025, 738-125-0030, 738-125-0035, 738-125-0040, 738-125-0045, 738-125-0050, 738-125-0055

Subject: Department of Aviation has amended its division 125 rules to include language that allows the Department to distribute revenue derived from ORS 319.020.

Rules Coordinator: Lauri Kunze—(503) 986-3171

738-125-0010

Purpose

The purpose of this rule is to establish fair, reasonable and nondiscriminatory processes and criteria to govern the Department's Financial Aid to Municipalities (FAM) Grant Program. The FAM Grant Program fosters a statewide system of airports through discretionary award of financial assistance for airport planning, development and capital improvement projects. Monies eligible for distribution under the FAM Grant Program include revenue derived from ORS 319.020.

Stat. Auth.: ORS 835.035, 835.040 & 835.112

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

Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0015

General Provisions

The FAM Grant Program is a discretionary grant program of the Department. Program funding depends upon:

- (1) The dedicated FAM Grant Program line item amount(s) in the Department's biennial budget, as approved by the Oregon Legislature; and
- (2) Department policies and priorities, as described in these rules.
- (3) The FAM Grant Program is available to the following categories:
 - (a) Emergency Preparedness Funding Grants
 - (b) Economic Development Opportunity Funding Grants
 - (c) Grant matching — FAA Airport Improvement Program Funding Match

(4) The maximum amount of money available from a FAM Grants is \$150,000 per application, and a minimum of \$25,000 per application.

Stat. Auth.: ORS 835.035, 835.040 & 835.112

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

Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0020

Applicant Eligibility

(1) Public Use Airport Owners and Airport Sponsors, both private and public, including Oregon municipalities, as defined by ORS 836.005, may apply for FAM Grant Program assistance. In these rules a municipality is called "applicant" or "airport sponsor."

(2) To qualify to apply for a FAM grant, an applicant must:

(a) Own or operate a public-use airport included in the current Oregon Aviation Plan (OAP), or be building or purchasing a public-use airport;

(b) Unless the application is for developing airport zoning, have enacted, or begun the process of enacting, airport zoning for the airport in accordance with OAR 660-013; and

(c) Unless the application is for developing an Airport Layout Plan (ALP), a non-NPIAS (National Plan of Integrated Airport System), the applicant must have a current ALP for the airport, consistent with Federal Aviation Administration (FAA) requirements, that meets these criteria:

(A) The ALP was completed within the last 10 years;

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(B) The ALP has been accepted by the FAA or the Department; and
(C) The ALP has been adopted or is pending adoption by the municipality's governing body. Adoption shall be by ordinance or by inclusion in the municipality's comprehensive plan. More specifically:

(i) Adoption may occur after notification that the municipality has received a tentative award of FAM grant funds; however,

(ii) Adoption must occur before detailed project planning and engineering; and

(iii) Adoption must occur prior to disbursement of FAM grant funding to the municipality.

(3) Applicant must warrant that any grant award will be spent or obligated within the fiscal year for which the grant is made, or have an approved schedule showing completion of the project within 2 years.

(4) Applicant must warrant availability of required dollar match for any potential grant, as described in OAR 738-125-0030.

(5) Any municipality that is past due on any outstanding financial obligation to ODA cannot receive a FAM grant.

Stat. Auth.: ORS 835.035, 835.040 & 835.112

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

Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0025

FAM Grant Application Criteria

(1) To be eligible for FAM grant funds, the applicant's project must meet at least one of the following criteria:

(a) Prevent future deficiencies and preserve existing facilities;

(b) Eliminate existing deficiencies as described in the current OAP;

(c) Modernize the airport by exceeding state or federal minimum standards as stated in the current OAP and identified by FAA Advisory Circulars (AC's) or other regulations;

(d) Leverage available state and federal funds for airport planning and capital improvements; or

(e) Contribute to the airport's financial self-sufficiency.

(2) Capital construction projects at airports included in the National Plan of Integrated Airport Systems (NPIAS) must meet current FAA design criteria and grant assurances.

(3) Applicant shall include a project narrative which:

(a) Describes benefits of proposed improvements;

(b) Describes and confirms existence of local airport zoning;

(c) Provides details of future maintenance commitments;

(d) Describes potential for on-airport expansion; and

(e) Shows availability of adequate surface access to the airport.

(4) The applicant shall address the potential environmental impacts of the project by providing:

(a) A written "Negative Environmental Declaration" or a FAA Environmental Checklist to confirm there will be no significant environmental impact (for NPIAS airports).

(b) If an FAA Environmental Checklist is not required for the project, applicant shall certify it will satisfy all federal National Environmental Protection Act (NEPA) requirements as required or provide documentation showing there are no state or federal environmental requirements.

(c) If an Environmental Impact Statement (EIS) is required by the FAA, it shall satisfy the requirements of sections (4)(a) and (b).

(d) If an EIS is required to complete a project, it shall conform to the NEPA requirements.

(e) Airport planning projects are exempt from the requirements of this section, (Section 738-125-0025(4)).

(5) If the application requests funding to develop an ALP or to establish airport zoning, the applicant need not meet the requirements of (1) through (4), but must comply with all other application requirements of these rules.

(6) An application must include a formal certification asserting that all rules and regulations of federal, state and local regulatory agencies pertaining to the airport and the proposed project are known and will be complied with, including particularly those of the following agencies:

(a) Oregon Department of Aviation;

(b) Oregon Department of Land Conservation and Development;

(c) Oregon Department of Environmental Quality;

(d) Oregon Department of Fish & Wildlife;

(e) Local planning commissions;

(f) Army Corps of Engineers;

(g) Federal Aviation Administration; and

(h) Any other state, local or federal agencies having jurisdiction over the use or environmental regulation of land potentially affected by the application.

Stat. Auth.: ORS 835.035, 835.040 & 835.112

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

Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0030

Matching Requirements

(1) All applicants must show the ability to provide a dollar match if awarded a FAM grant. This match can be either in cash or in-kind services.

(2) FAM grants may be made to the applicant for a minimum of \$25,000 and up to a maximum of \$150,000 per application per airport, per grant cycle.

(3) FAM grant funds may be used as:

(a) Local match for a federally funded Airport Improvement Program (AIP) grant or planning grant to develop or update an airport ALP or Master Plan;

(b) Local match for a project eligible under the AIP but not funded by that program; and

(c) Local match for other federal grants.

(4) FAM grant match requirements are based on the airport's category as listed in the current OAP. This match will be:

(a) Category 1a — Commercial Primary: 50%

(b) Category 1b — Other Commercial Non-Primary (less than 10,000 enplanements): 35%

(c) Category 2 — Business: 25%

(d) Category 3 — Regional: 10%

(e) Category 4 — Community: 10%

(f) Category 5 — Low Activity: 5%

(5) Labor costs and equipment rental related to the project may be submitted as in-kind contributions; however, a list of all proposed hourly labor costs or equipment rental fees must be submitted with the grant application. If proposed rates and fees are not approved by the Department, the applicant may substitute cash. Labor hourly rates may not include overhead.

(6) The following are not eligible as in-kind resources:

(a) Land values for previously acquired land;

(b) Value of buildings or other improvements; and

(c) Non-capital expenditures or expenditures that may be properly designated as "operations and maintenance," including but not limited to:

(A) Wages or salaries;

(B) Utilities;

(C) Service vehicles;

(D) Professional services, except for engineering services for the proposed capital improvements under the program;

(E) Supplies;

(F) Value of construction equipment; or

(G) Upkeep and landscaping.

(7) FAM grant funds will not be used as a match for any other Department funded program, such as the Pavement Maintenance Program or ODOT ConnectOregon.

Stat. Auth.: ORS 835.035, 835.040 & 835.112

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

Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0035

Project Eligibility, Prioritization, and Legislative Reporting

(1) Department will review all grant applications received by the grant deadline date established by Department to ensure that both the municipality and the proposed project meet all program requirements.

(2) Applications associated with revenues derived from fuel taxes as per ORS 319.020 will be forwarded to selection review committee for review and ranking prior to submittal to the Oregon Aviation Board for final review and selection; the criteria specified in ORS 367.084(3) apply to the review process of the review committee:

(a) Whether a proposed project reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor;

(b) Whether a proposed project results in an economic benefit to this state.

(c) Whether a proposed project is a critical link connecting elements of Oregon's transportation system that will measurably improve utilization and efficiency of the system;

(d) How much of the cost of a proposed project can be borne by the applicant for the grant or loan from any source other than the Multimodal Transportation Fund.

(e) Whether a proposed project is ready for construction.

(f) Whether a proposed project has a useful life expectancy that offers maximum benefit to the state.

(3) The review committee shall recommend applications to the State Aviation Board, which shall select applications with the following priority:

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(a) First, to applications to assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants;

(b) Second, to applications filed with respect to safety and infrastructure development;

(c) Third, to applications filed with respect to aviation-related economic benefits related to airports.

(4) Applications for FAM Grant distributions may not be approved unless the applicant demonstrates a commitment to contribute at least five percent of the costs of the project to which the application relates.

(5) FAM grants will be distributed for the following purposes:

(a) To assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants.

(b) To make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan, including grants for emergency management plan development, seismic studies and emergency generators and similar equipment.

(c) To make grants for services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment.

(d) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities.

(e) Airport development for local economic benefit, including, but not limited to, signs and marketing.

(6) After all items in sections (2) through (5) have been met or adequately addressed:

(a) First priority will be given to those projects which address airport minimum standard deficiencies listed in the current OAP. These will be further prioritized according to the extent to which they:

- (A) Ensure geographic coverage;
- (B) Leverage federal funds;
- (C) Consider the costs and benefits of improvements;
- (D) Demonstrate local support by:
 - (i) Existence of airport zoning;
 - (ii) Availability of local match;
 - (iii) Maintenance commitment;
- (E) Show the potential for expansion, both on and off airport, as defined by applicant's current ALP;

- (F) Support economic development;
- (G) Provide adequate surface access to airport;
- (H) Environmentally impact the airport; and
- (I) Enhance any emergency role of the airport.

(b) Second priority will be given to projects which do not address airport minimum standard deficiencies. These will also be further prioritized according to the extent to which they meet the criteria listed in (6)(a)(A)–(I) above.

(c) Consistent with sections (6)(a) and (6)(b) above, the following are examples of projects eligible for FAM grants:

- (A) Developing an airport business plan;
- (B) Developing or updating an ALP;
- (C) Developing or updating a Master Plan;
- (D) Developing or updating a Land Use Plan;
- (E) Acquiring land to develop or improve aircraft landing facilities, including protecting against encroachment or environmental problems and acquiring "runway safety zones" and "runway protection zones". (A FAM grant for land acquisition shall be limited to the appraised value, unless a different value is judicially established following condemnation proceedings.);

(F) Acquiring easements or other interests in airspace, as may be reasonably required to safeguard aircraft operations in the vicinity of an aircraft landing facility as published in Federal Aviation Regulations (FAR) Part 77;

(G) Grading and drainage needed to construct or reconstruct runways, taxiways or aprons;

(H) Constructing or reconstructing runways, taxiways or aircraft parking aprons;

(I) Removing obstructions from runway protection zones or other safety areas affecting the airport;

(J) Installing or replacing "segmented circle airport marker systems" and "lighted wind cones" as defined in current FAA directives;

(K) Installing or replacing runway, taxiway, boundary, obstruction, beacon or apron security lights, together with directly related electrical equipment;

- (L) Installing or replacing security or game deterrent fencing;
- (M) Marking runways, taxiways and aprons for safety purposes;
- (N) Air navigational facilities;

(O) Constructing terminal or maintenance buildings or hangars;

(P) Constructing air cargo facilities at airports;

(Q) Seal-coating runways, taxiways and aprons;

(R) Constructing or purchasing aviation-related, income-producing facilities that will be owned by the municipality, including but not necessarily limited to cardlock or retail aviation fuel facilities;

(S) Purchasing aircraft rescue and firefighting equipment;

(T) Purchasing snow removal equipment, tractors or mowers subject to subsection (g) below; and

(U) Improving infrastructure for aviation related development.

(d) Minimum dimensional standards for non-AIP projects at general aviation airports shall conform to those included in OAR 738-020-0020, as depicted for general aviation community airports.

(e) All airport projects shall be designed consistent with projected needs as shown on the airport's current ALP.

(f) Projects for improvements to facilities under exclusive lease or monopoly control of private persons or entities are not eligible for projects located on airports recognized as NPIAS.

(g) In the case of projects listed in (6)(e)(T), the applicant shall identify in the FAM grant application the percentage of anticipated on-airport and off-airport use of the equipment. The FAM grant funding grant offer percentage for the equipment shall not exceed the percentage estimated for on-airport use, not to exceed \$150,000.

(7) The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and subsections (a) and (b) of this section, that describe in detail the projects for which applications have been submitted and approved, the airports affected, the names of the applicants and the persons who will perform the work proposed in the applications, the progress of projects for which applications have been approved and any other information the board considers necessary for a comprehensive analysis of the implementation of this section. The reports described in this section shall be submitted:

(a) Not later than February 10 of each year to the committees of the Legislative Assembly related to air transportation; and

(b) Not later than September 30 of each year to the interim committees of the Legislative Assembly related to air transportation.

Stat. Auth.: ORS 835.035, 835.040, 835.112

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

Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0040

Application Process

(1) The Department shall provide potential applicants with an application package for the FAM Grant Program, to include:

(a) A copy of OAR 738-125 "Financial Aid to Municipalities (FAM) Grant Program."

(b) An application form requiring full disclosure of all information needed to fairly evaluate the applicant's need for a grant;

(c) Clear instructions for completing the grant application;

(d) A list and samples of mandatory supporting documents and addenda, including instructions for their preparation; and

(e) A sample grant agreement.

(2) The Department shall, on an annual basis, inform all Oregon municipalities with public use airports, and sponsors of privately owned public-use airports, that FAM grants are available, and how to obtain an application packet. The notice shall include a list of all application deadlines.

(3) To be considered for a FAM grant, a completed application package, including all required information, materials, attachments and addenda must be submitted to the Department by the application deadline.

(4) If additional FAM grant funds become available between annual grant cycle deadlines, the Department will:

(a) Award grants to applicants who submitted an eligible grant application but did not receive a first-round grant.

(b) If all applicants received funding in the first-round, inform all eligible municipalities, and establish a supplemental application cycle. The supplemental application process shall conform to this rule.

(c) Award no more than \$150,000 per application, per airport.

Stat. Auth.: ORS 835.035, 835.040, 835.112

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

Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0045

Project Selection and Fund Allocation

(1) The Department shall consider the following factors in its review of all eligible projects:

(a) Funds budgeted for the FAM Grant Program;

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- (b) Demand for program assistance by applicants; and
- (c) Total available funds compared to total numbers of applicant projects.

(2) The State Aviation Board shall establish a review committee composed of one member from each of the area commissions on transportation chartered by the Oregon Transportation Commission.

(a) The review committee shall meet as necessary to review applications for distribution of funds for the FAM Grant Program. ORS 367.084 (3) applies to the review process of the review committee.

(b) The review committee shall recommend applications to the State Aviation Board.

(3) Applications must be formally approved by the Aviation Board before the Department may commit to any grant or enter into a grant agreement with the airport sponsor.

Stat. Auth.: ORS 835.035, 835.040, 835.112
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0050

Grant Agreements

(1) The Department shall enter into a Grant Agreement with municipality selected to receive a FAM grant prior to distributing program funds.

(2) FAM Grant Agreements shall include the following elements:

(a) General terms of agreement, including but not limited to:

(A) The specific airport project receiving grant funding;

(B) Maximum dollar allocation;

(C) Effective dates of the grant;

(D) Rights to terminate the grant agreement;

(E) Inspection and reporting requirements to verify project work and expenditures before distribution of grant program funds; and

(F) Other terms and conditions as specified in the Sample Grant Agreement provided with the application packet.

(b) Municipality obligations, including but not limited to:

(A) The cash or in-kind match required from the municipality;

(B) A requirement that grant recipients must maintain and operate the airport as an airport in a usable, safe, and orderly manner at all times for a period of at least 20 years from the date of the agreement;

(C) A financial requirement that grant recipients must deposit all income derived from the airport into an airport account for a period of at least 20 years from the date of the agreement, with those funds used only for the operation, maintenance or capital improvement of the airport;

(D) A prohibition against the applicant and its contractors and lessees or any successor thereto granting any exclusive right to use the airport or airport improvements, or to provide services at the airport during the life of the agreement, or for 20 years, whichever is longer; and

(E) A requirement that applicant will insert provisions in future lease agreements or contracts requiring all aircraft based at the airport to be registered with Department in accordance with ORS 837.040. Based aircraft is defined as those aircraft based at an airport for more than 30 days.

(c) Department's obligations, including but not limited to:

(A) Conditions of disbursement of grant funds including obligation to repay funds if the terms of the agreement are not complied with; and

(B) Other Department obligations as specified in the Sample Grant Agreement provided with the application packet.

Stat. Auth.: ORS 835.035, 835.040, 835.112
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

738-125-0055

Waivers and Exceptions

The Board may, in its discretion and/or upon the recommendation of the Department, waive any provision of this rule upon a finding that there is an imminent and likely loss of a facility, or of funds available to a facility, or that a condition exists causing imminent danger to pilots or aircraft using an airport, and that an immediate FAM grant is reasonably likely to alleviate the loss or danger. The Board may also, in its discretion and/or upon the recommendation of the Department, make exceptions to the minimum and maximum allowable limits of a grant award. In making such a finding the Board must find:

(1) The project proposed meets the overall purpose of the FAM program, and is consistent with the provisions and policies of the OAP;

(2) There is in the Board's reasonable judgment evidence showing that any of the following would be adversely affected unless FAM funds were made available:

(a) Aviation safety;

(b) Community safety;

(c) Airport viability;

(d) Availability of federal funds; and

(3) Alternate funding sources are inadequate to meet the need addressed by the proposed exception.

Stat. Auth.: ORS 835.035, 835.040, 835.112
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16

Oregon Department of Education Chapter 581

Rule Caption: Amends rules to reflect abolishment of Oregon Education Investment Board

Adm. Order No.: ODE 34-2016

Filed with Sec. of State: 5-17-2016

Certified to be Effective: 5-17-16

Notice Publication Date: 1-1-2016

Rules Amended: 581-017-0010, 581-017-0020, 581-017-0215, 581-017-0301, 581-017-0312, 581-017-0318, 581-017-0335, 581-017-0347, 581-018-0010, 581-018-0020, 581-018-0110, 581-018-0125, 581-018-0215, 581-018-0265, 581-018-0325, 581-018-0336, 581-018-0509, 581-018-0529, 581-018-0575, 581-018-0584, 581-018-0590, 581-022-2130

Subject: SB 215 (2015) eliminated the Oregon Education Investment Board, maintained the position of Chief Education Officer, shifted a majority of OEIB duties to the Chief Education Office and modified the purpose of the office to one of coordination. The bill also extended the sunset date to June 30, 2019 of the CEO and eliminated the requirements related to achievement compacts. Changes the term "Oregon Education Investment Board" to "Chief Education Office" in department administrative rules. Eliminates references to district achievement compacts.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0010

Equity Lens

(1) The Department of Education will apply the Equity Lens adopted by the Chief Education Office when administering the strategic investments including when determining resource allocation and making strategic investments.

(2) Specifically the Department shall consider the following:

(a) Who are the racial or ethnic and underserved groups affected? What is the potential impact of the resource allocation and strategic investment to these groups?

(b) Does the decision being made ignore or worsen existing disparities or produce other unintended consequences? What is the impact on eliminating the opportunity gap?

(c) How does the resource allocation or strategic investment advance the 40-40-20 goal?

(d) What are the barriers to more equitable outcomes? (e.g., mandated, political, emotional, financial, programmatic or managerial)

(e) How has the Department intentionally involved stakeholders who are also members of the communities affected by the resource allocation or strategic investment? How does the Department validate its assessment in paragraphs (a), (b) and (c) of this subsection?

(f) How will the Department modify or enhance the strategic investment to ensure each learner and communities' individual and cultural needs are met?

(g) How is the Department collecting data on race, ethnicity, and native language relating to the strategic investments?

(h) What is the Department's commitment to P-20 professional learning for equity? What resources is the Department allocating for training in cultural responsive instruction.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)
Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)
Hist.: ODE 15-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 28-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0020

Timelines and Performance Measures

Recipients of strategic investment grant funds shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Chief Education Office and the Oregon Department of Education.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)
Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

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Hist.: ODE 15-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 28-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0215

Implementation of Grant Funding

(1) The Department of Education will make awards between \$50,000 and \$250,000 for use during the 2013–2014 or 2014–2015 school year for each eligible Mentoring, Monitoring, Accelerated grant program. The Department may not award more than \$3 million in total per biennium for the grants.

(2) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Mentoring, Monitoring, Acceleration program funds. All proposals will comply with the requirements of ORS 327.800 and 327.815 and rules adopted to implement those sections.

(3) Awards will be based on the following criteria:

(a) Whether the proposal identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for underserved and at risk and accelerating students as identified by the Chief Education Office Equity Lens document.

(b) Whether the applicant proposal demonstrates support, commitment and readiness to design or revise culturally competent programming specifically for underserved/at-risk eighth and ninth grade students.

(4) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the program funding has ended.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out programming and services for students achieving a “C” or higher in core academic subjects within the current academic year.

(5) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Organizations that have documented evidence of serving underserved/at-risk eighth and ninth grade students or drop outs.

(b) Organizations designed to return or advance eighth or ninth grade students to a “C” or higher grade in core academic subjects within the same academic year using a systematic program design.

(c) Geographic location of the program organization to ensure geographic representation of the targeted student groups are included throughout the state.

(d) Organizations currently serving eighth and ninth grade underserved or at risk students that could improve academic levels to “C” or higher in core academic subjects with additional resources.

(e) Organizations that have a high number of students who are at or below a “C” in core academic subjects.

(f) Give preference to organizations that have demonstrated success by improving student academic outcomes.

(6) Each award may be up to \$250,000 which shall be given during the following phases based on a detailed budget narrative and budget template:

- (a) Planning phase;
- (b) Implementation phase; and
- (c) Evaluation phase.

(7) Grant recipients shall use funds received for the planning, implementation, and evaluation phases of the grant for activities outlined in the request for proposal.

(8) Grant recipients must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.815

Hist.: ODE 23-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 1-2014, f. & cert. ef. 2-19-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0301

Definitions

The following definitions apply to 581-017-0300 TO 581-017-0332:

(1) “Achievement Gap” means the gap in achievement (state test scores in science and mathematics as well as postsecondary degree attainment in STEM) that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American compared to their peers.

(2) “Authentic Problem-Based Learning” means using real world questions, problems, and tasks—often drawn from local community issues and industries — as the focus to drive the learning experiences, deepen

understanding, and developing rich contextual connections across a variety of STEM and non-STEM disciplines.

(3) “Career and Technical Education (CTE)” is a comprehensive educational program for students based on industry needs. CTE includes coursework in areas such as health care, engineering, and computer science.

(4) “Community Engagement” means a broad collaboration and participation between multiple sectors of the community for the mutually beneficial exchange of knowledge and resources to identify local needs and contribute to larger conversations on visioning planning which may include, but not limited to parent groups and advocacy groups, industry and STEM agencies, economic and workforce groups, student input, and educators.

(5) “Effective STEM Instruction” means the use of evidence-based practices that support interconnected, relevant STEM instruction as stated in definition number one.

(6) “Effective STEM Leadership” means identifying schools, school districts, postsecondary institutions, business & industry, student-focused nonprofits and community leadership to support implementing and improving STEM teaching and learning in addition to creating a culture that fosters STEM learning with evidence-based resources. Effective STEM leadership develops an understanding of what effective and interconnected STEM education looks like in the classroom and supports the development of learning environments that empower educators to implement innovative STEM education approaches.

(7) “Effective STEM Learning Environments” means supporting student interaction with STEM education during formal and informal settings in ways that promote deeper understanding of real-world complex concepts. Such learning environments need to engage all students in solving complex problems, using highly interactive learning opportunities that create new opportunities for STEM learning across the core curriculum.

(8) “Equity Lens” refers to the commitment and principles adopted by the Chief Education Office to address inequities of access, opportunity, interest, and attainment for underserved and underrepresented populations in all current and future strategic investments.

(9) “Postsecondary Institution” means a:

(a) A community college operated under ORS Chapter 341.

(b) The following public universities within the Higher Education Coordinating Commission:

- (A) University of Oregon.
- (B) Oregon State University.
- (C) Portland State University.
- (D) Oregon Institute of Technology.
- (E) Western Oregon University.
- (F) Southern Oregon University.
- (G) Eastern Oregon University.

(c) Oregon Health and Science University.

(d) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(10) “Regional STEM Hub” means a commitment of a group of key stakeholders from different sectors such as, but not limited to school districts, informal education providers, postsecondary institutions, business & industry, student-focused nonprofits, students, families, community members and policy makers to advance state and local educational goals related to science, technology, engineering, mathematics (STEM) and career & technical education (CTE).

(11) “Statewide STEM Network” means a supportive collaboration between and across Regional STEM Hubs to share knowledge, expertise, insights, and leadership to assist other communities in their efforts to create similar STEM partnerships.

(12) “STEM Education” means an approach to teaching and lifelong learning that emphasizes the natural interconnectedness of the four separate STEM disciplines. Developing and deepening content knowledge and skills in science and mathematics is the foundation of STEM teaching and learning. The natural connections among science, mathematics and STEM are made explicit through collaboration between educators resulting in real and appropriate context built into instruction, curriculum, and assessment. The common element of problem solving is emphasized across all STEM disciplines allowing students to discover, explore, and apply critical thinking skills as they learn.

(13) “STEM Practitioners” refers to individuals engaged in STEM-related professions such as but not limited to, natural resources management, high-tech manufacturing and product development, information technology, industrial design, health sciences, software, scientific research, engineering, data analytics, etc.

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(14) “Student-Focused Nonprofits” means an organization that meets all of the following requirements:

(a) Is established as a nonprofit organization under the laws of Oregon;

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011; and

(c) Is focused on providing services to students and whose goal or mission is focused on improving student outcomes in STEM education.

(15) “Underserved Students” are students whom systems have placed at risk because of their race, ethnicity, English language proficiency, socioeconomic status, gender, sexual orientation, differently abled, or geographic location.

(16) “Underrepresented Students” in STEM are from demographic groups whose representation in STEM fields and industries does not mirror regional and national focus populations specifically, women, African American, Native American, Hispanic and Pacific Islander students which systems have provided insufficient or inadequate balance of opportunity.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0312

Criteria of Regional STEM Hubs Awards

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which the Regional STEM Hub grant funds are available. All proposals must comply with the requirements of section 1, Chapter 661, Oregon Law 2013 (Enrolled House Bill 3232) and rules adopted to implement that section.

(2) The Oregon Department of Education may only award grants to Regional STEM Hubs which meet the minimum criteria by having a record of success in or clearly established plans for addressing the following:

(a) Each eligible recipient must establish a partnership for a Regional STEM Hub consisting of a school district, post-secondary, student-focused nonprofit, and industry, business.

(b) In creating a Regional STEM Hub, network leadership that has a plan to demonstrate the needs of ALL students and incorporate the principles of the Equity Lens adopted by the Oregon Education Investment Board.

(c) Regional STEM Hubs must identify a common agenda that contributes to the achievement of STEM to the State 40/40/20 goal and the STEM-related goals, which states by 2025 to:

(A) Double the percentage of students in 4th and 8th grades who are proficient or advanced in mathematics and science.

(B) Double the number of students who earn a post-secondary degree requiring proficiency in science, technology, engineering or mathematics.

(d) Regional STEM Hub Partnerships will be expected to:

(A) Participate in the development and dissemination of a minimum set of shared measurements and reporting of progress as determined by Oregon Department of Education in collaboration with the Chief Education Office.

(B) Engage in mutually reinforcing activities for improving STEM/CTE education that will focus on instructional systems, communication, student support systems, human resource systems, and governance

(C) Engage in continuous communication both within and between Regional STEM Hubs

(D) Establish a backbone support organization to manage and support the Regional STEM Hub Partnership by serving the roles of project manager, data manager, communications hub and professional development facilitators.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0318

Reporting of Regional STEM Hubs

The Department of Education shall develop partnership-reporting requirements for allocation of funds for implementation of Regional STEM Hubs as required by the Chief Education Office.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0335

Definitions and Establishment of STEM Lab Schools

(1) The following definitions apply to 581-017-0335 TO 581-017-0347:

(a) “Achievement Gap” means the gap in achievement (state test scores in science and mathematics as well as postsecondary degree attainment in STEM) that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American compared to their peers.

(b) “Authentic Problem-Based Learning” means using real world questions, problems, and tasks — often drawn from local community issues and industries — as the focus to drive the learning experiences, deepen understanding, and developing rich contextual connections across a variety of STEM and non-STEM disciplines.

(c) “Career and Technical Education (CTE)” is a comprehensive educational program for students based on industry needs. CTE includes coursework in areas such as health care, engineering, and computer science.

(d) “Community Engagement” means a broad collaboration and participation between multiple sectors of the community for the mutually beneficial exchange of knowledge and resources to identify local needs and contribute to larger conversations on visioning planning which may include, but not limited to parent groups and advocacy groups, industry and STEM agencies, economic and workforce groups, student input, and educators.

(e) “Effective STEM Instruction” means the use of evidence-based practices that support interconnected, relevant STEM instruction as stated in definition number fourteen.

(f) “Effective STEM Leadership” means identifying schools, school districts, postsecondary institutions, business & industry, student-focused nonprofits and community leadership to support implementing and improving STEM teaching and learning in addition to creating a culture that fosters STEM learning with evidence-based resources. Effective STEM leadership develops an understanding of what effective and interconnected STEM education looks like in the classroom and supports the development of learning environments that empower educators to implement innovative STEM education approaches.

(g) “Effective STEM Learning Environments” means supporting student interaction with STEM education during formal and informal settings in ways that promote deeper understanding of real-world concepts. Such learning environments must engage all students in solving complex problems, using highly interactive learning opportunities that create new opportunities for STEM learning across the core curriculum.

(h) “Equity Lens” refers to the commitment and principles adopted by the Chief Education Office to address inequities of access, opportunity, interest, and attainment for underserved and underrepresented populations in all current and future strategic investments.

(i) “Postsecondary Institution” means:

(A) A community college operated under ORS Chapter 341.

(B) The following public universities within the Higher Education Coordinating Council:

(i) University of Oregon.

(ii) Oregon State University.

(iii) Portland State University.

(iv) Oregon Institute of Technology.

(v) Western Oregon University.

(vi) Southern Oregon University.

(vii) Eastern Oregon University.

(viii) Oregon Health and Science University.

(C) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(j) “Regional STEM Hub” means a commitment of a group of key stakeholders from different sectors such as, but not limited to school districts, informal education providers, postsecondary institutions, business & industry, student-focused nonprofits, students, families, community members and policy makers to advance state and local educational goals related to science, technology, engineering, mathematics and career & technical education (CTE).

(k) “School” means a public middle school, high school, community college, or postsecondary institution offering a comprehensive instructional program. A school may include a discreet comprehensive instructional program within a larger school or college.

(l) “Statewide STEM Network” means a supportive collaboration between and across Regional STEM Hubs to share knowledge, expertise,

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insights, and leadership to assist other communities in their efforts to create similar STEM partnerships.

(m) "STEAM Education" means the incorporation of strategies to enhance science, technology, engineering and mathematics (STEM) education by integrating art and design, and promoting creative possibilities.

(n) "STEM Education" means an approach to teaching and lifelong learning that emphasizes the natural interconnectedness of the four separate STEM disciplines which mirrors the practices and rich contexts of STEM practitioners. Developing and deepening content knowledge and skills in science and mathematics is the foundation of STEM teaching and learning. The natural connections among science, mathematics and STEM are made explicit through collaboration between educators resulting in authentic and appropriate context built into instruction, curriculum, and assessment. The common element of problem solving is emphasized across all STEM disciplines allowing students to discover, explore, and apply critical thinking skills as they learn.

(o) "STEM Lab School" means to establish a school that has a student-centered school culture of inquiry with meaningful and authentic learning environments that integrate STEM and/or STEAM education aligned with state, national and industry standards. This cutting-edge learning center will deepen connections between other educational institutions, business, industry, out-of-school educators, and the local community to create and promote STEM career pathways for students. An intentional focus of a lab school is to support the professional learning of current and future educators, the implementation of innovative education models, and educational research in a manner that increases knowledge and capacity of systems and institutions beyond the school itself.

(p) "STEM Practitioners" refers to individuals engaged in STEM-related professions such as but not limited to, natural resources management, high-tech manufacturing and product development, information technology, industrial design, health sciences, software, scientific research, engineering, data analytics, etc.

(q) "Student-Focused Nonprofits" means an organization that meets all of the following requirements:

(A) Is established as a nonprofit organization under the laws of Oregon;

(B) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011; and

(C) Is focused on providing services to students or educators whose goal or mission is focused on improving student outcomes in STEM education.

(r) "Underserved Students" are students whom systems have placed at risk because of their race, ethnicity, English language proficiency, socioeconomic status, gender, sexual orientation, differently abled, or geographic location.

(s) "Underrepresented Students" in STEM are from demographic groups whose representation in STEM fields and industries does not mirror regional and national focus populations specifically, women, African American, Native American, Hispanic and Pacific Islander students which systems have provided insufficient or inadequate balance of opportunity.

(2) The STEM Lab Schools Grant is established as part of the Connecting to the World of Work Program.

(3) The purpose of the STEM Lab School Grant is to:

(a) Engage middle school, high school and/or community college students in authentic, inquiry-based learning environments that increase experiential learning opportunities focused on Science, Technology, Engineering, and Mathematics (STEM) education and design-related industries to improve, enhance, and enrich students' problem-solving capabilities and to foster 21st Century Skills.

(b) Address ongoing access, opportunity, interest and attainment gaps for underserved and underrepresented students in STEM and design-related industries consistent with the Equity Lens.

(c) Promote more effective STEM and design-related industries instructional practices consistent with Common Core State Standards, Oregon State Science Standards and Oregon State Arts Standards by offering educator professional learning opportunities.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 2-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 31-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0347

Reporting of STEM Lab Schools

The Department of Education shall develop partnership-reporting requirements for allocation of funds for implementation of STEM Lab Schools as required by the Chief Education Office. .

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 2-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 31-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0010

Equity Lens

(1) The Department of Education will apply the Equity Lens adopted by the Chief Education Office when administering the network including when determining resource allocation and awarding grants and contracts.

(2) Specifically the Department shall consider the following issues:

(a) Who are the racial or ethnic and underserved groups affected? What is the potential impact of the resource allocation and grant or contract award to these groups?

(b) Does the decision being made ignore or worsen existing disparities or produce other unintended consequences? What is the impact on eliminating the opportunity gap?

(c) How does the resource allocation or grant or contract award advance the 40-40-20 goal?

(d) What are the barriers to more equitable outcomes? (e.g., mandated, political, emotional, financial, programmatic or managerial)

(e) How has the Department intentionally involved stakeholders who are also members of the communities affected by the resource allocation or grant or contract? How does the Department validate its assessment in paragraphs (a), (b) and (c) of this subsection?

(f) How will the Department modify or enhance the grant or contract to ensure each learner and communities' individual and cultural needs are met?

(g) How is the Department collecting data on race, ethnicity, and native language relating to the grants and contracts?

(h) What is the Department's commitment to P-20 professional learning for equity? What resources is the Department allocating for training in cultural responsive instruction.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 16-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 30-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0020

Timelines and Performance Measures

Recipients of network grant or contract funds shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Chief Education Office and the Oregon Department of Education.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 16-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 30-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0110

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for when District Implementation and Design Collaboration grant funds are available. The Department shall notify eligible applicants of the proposal process and the due dates, and make available necessary guidelines and application forms.

(2) All proposals must comply with the requirements of ORS 329.838, section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement those laws. Grants shall be awarded based on whether the grant application identifies how the funds will be used to improve education outcomes identified by the Chief Education Office, contained in achievement compact or set forth in ORS 350.014.

(3) Prior to applying for a grant, the school district must receive the approval to apply for the grant from:

(a) The exclusive bargaining representative for the teachers of the school districts, or if the teachers are not represented by an exclusive bargaining representative, from the teachers of the school districts;

(b) The chairperson of the school district board; and

(c) The superintendent of the school district.

(4) Districts shall establish a collaborative leadership team to oversee the design and implementation process. The collaborative leadership team shall include the exclusive bargaining representative for the teachers of the school district or, if the teachers are not represented by an exclusive bargaining representative, the teachers of the school district.

(5) Districts shall display readiness and eligibility for an implementation grant by submitting detailed blueprints, developed collaboratively by teachers, administrators, and the teacher bargaining unit, in the four required areas:

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- (a) Career pathways processes for teachers and administrators;
- (b) Evaluation processes for teachers and administrators;
- (c) Compensation models for teachers and administrators, and
- (d) Enhanced professional development opportunities for teachers and administrators.

(6) The Department of Education shall award design and implementation grants based on the evaluation of the district application, eligibility criteria, and the following considerations:

(a) Geographic location of districts to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts that have an achievement gap as defined in 581-018-0005;

(c) Districts that have a high number of economically disadvantaged students as defined in 581-018-0005.

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 9-2016, f. & cert. ef. 2-5-16; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0125

Reporting

(1) Districts shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Chief Education Office and the Oregon Department of Education.

(2) Districts shall submit interim and final grant reports describing progress toward grant requirements and goals as defined by the Department of Education.

(3) Districts shall share lessons learned and school district models on the design and implementation of the four blueprint areas.

(4) The Department of Education shall disseminate best practices from the grant districts to districts statewide.

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0215

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which the Dual-Language/Two-Way Bilingual grant funds are available. All proposals must comply with the requirements of section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes.

(b) Whether the grant application demonstrates school district or public charter school support, commitment and readiness to design a Dual Language/Two-Way Bilingual Grant program.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two additional years after the third year of the grant.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out the Dual-Language/Two-Way Bilingual program, including demonstrated intentions to work in a collaborative way with other grantees.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of district to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts who have achievement gap between subgroup populations;

(c) Districts who have a high level of students who are economically disadvantaged; and

(d) Give preference to entities that have demonstrated success in improving student outcomes.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 17-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 32-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0265

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Closing the Achievement Gap for African American Students Grant funds. All proposals must comply with the requirements of section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for African American students as identified by the Chief Education Office Equity Lens document.

(b) Whether the grant applicant demonstrates support, commitment and readiness to design or revise programming specifically for African American students.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out programming and services for closing the achievement gap for African American student populations, including demonstrated intentions to work in a collaborative way with school districts, other non-profits or post-secondary institutions.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of the non-profit organization to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Organizations who have documented evidence of serving a primarily African American student population;

(c) Organizations who have a high level of students who are economically disadvantaged; and

(d) Give preference to entities that have demonstrated success in improving student outcomes.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 24-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 34-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0325

Reporting

The Department of Education shall develop district reporting requirements for allocation of funds for Educator Effectiveness and CCSS implementation as required by the Chief Education Office and the Network for Quality Teaching and Learning.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stats. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14; ODE 4-2014, f. & cert. ef. 2-19-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0336

Reporting

(1) Districts shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Chief Education Office and the Oregon Department of Education.

(2) Districts shall submit interim and final grant reports describing progress toward grant requirements and goals as defined by the Department of Education.

Stat. Auth.: ORS 342.950

Stats. Implemented: ORS 342.950

Hist.: ODE 5-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 28-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0509

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Culturally Responsive Pedagogy and Practices Grant funds. All proposals must comply with the requirements of section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for stu-

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dents of color and English learners as identified by the Chief Education Office Equity Lens document.

(b) Whether the grant applicant demonstrates commitment and readiness to use best practice around culturally responsive pedagogy and practice to close opportunity gaps for culturally and/or linguistically diverse learners.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(b) The extent to which the applicant clearly documents its capacity to design and implement preparation and/or professional development that focuses on culturally responsive pedagogy and practices that:

(A) Increase academic achievement, retention, and graduation rates for students of color;

(B) Increase student engagement and participation;

(C) Increase of the presence of culturally competent teachers and teaching;

(D) Strengthen the bond and communication between home, school, tribe, and the larger community;

(E) Effectively utilize the local community as an extension of the classroom learning environment;

(F) Use any exemplary multicultural curricula or strategies identified by the Department of Education pursuant to the Oregon Multicultural Act under ORS 336.113, as a guide for curriculum and development; and

(G) Implement professional development that is culturally responsive and extends throughout the entire school year;

(H) Revise course offerings and field experiences for pre-service teachers that explicitly prepares educators to implement culturally responsive teaching and practices.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of applicants to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Applicants who demonstrate evidence of prior design/planning of a robust culturally responsive learning environment as a way to close achievement gaps for culturally and/or linguistically diverse learners;

(c) Applicants who have a high level of culturally and/or linguistically diverse learners, and those who experience economic disparities.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 6-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 24-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0529

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program funds. All proposals must comply with the requirements of ORS 342.950 and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for American Indian/Alaskan Native students as identified by the Chief Education Office Equity Lens document;

(b) Whether the grant application describes a strong and robust plan to close achievement gaps for American Indian/Alaskan Native students;

(c) Whether the grant application describes expected outcomes and a strong and robust plan to achieve those outcomes; and

(d) Whether the grant applications demonstrates how partners will collaborate on a mutually designed proposal in which all essential parties participate.

(3) The Department shall give priority to proposals that meet the minimum criteria and that demonstrate the use of evidence-based or best practice models of the required elements specific to American Indian/Alaskan Native:

(a) Culturally Responsive Pedagogy:

(A) Communication of high expectations.

(B) Teacher as facilitator within classroom.

(C) Integration of students' prior knowledge and skills through cultural activities, language, ways of life, the arts, and traditional knowledge system.

(D) Positive perspectives on parents and families of culturally and linguistically diverse students.

(E) Cultural sensitivity.

(F) Curricular decisions.

(G) Culturally mediated instruction.

(H) Student-centered, student-controlled classroom discourse.

(b) Culturally Responsive Leadership:

(A) Commitment to reform the educational system to reflect cultural-ly responsiveness through organization of the school and school policies and procedures.

(B) Reshaping the curriculum.

(C) Professional development that is grounded in the principles of culturally responsive teaching.

(c) Culturally Responsive Community Engagement:

(A) Collaboration with one or more of the Tribes in Oregon or Title VII Indian Education Program.

(B) Postsecondary institution.

(C) Education Service Districts.

(D) Local American Indian/Alaskan Native communities and organizations.

(E) Community involvement of stakeholders (families, advocacy organizations, and other private, non-profit, business, faith-based organizations).

(F) Communication with families that is regular, uses diverse media and shares student achievement status and goals.

(d) Culturally Responsive Pre-Service and In-Service for Teachers:

(A) Coursework and field experiences for pre-service teachers that focuses on culturally responsive teaching, learning, and practice that:

(i) Reflects relevant research;

(ii) Uses local data;

(iii) Ensures principles of culturally responsive pedagogy.

(B) Includes collaboration with institutes of higher education (specifically Oregon Native American Indian Education Teacher Programs).

(c) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(f) The extent to which the proposal clearly documents its capacity to implement and carry out programming and services for American Indian/Alaskan Native culturally responsive pedagogy, practices, and professional development and demonstrates intentions to work in a collaboration with identified partners.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 23-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0575

Definitions

The following definitions apply to OAR 581-018-0575 to 581-018-0590:

(1) "Early Learning workforce" means those individuals employed in the provision of services to children who are zero through six years of age.

(2) "Equity Lens" means the Equity Lens adopted by the Chief Education Office and described in OAR 581-018-0010.

(3) "Non-profit organization" means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(4) "Postsecondary Institution" means a:

(a) A community college operated under ORS Chapter 341.

(b) The following public universities within the Oregon University System:

(A) University of Oregon.

(B) Oregon State University.

(C) Portland State University.

(D) Oregon Institute of Technology.

(E) Western Oregon University.

(F) Southern Oregon University.

(G) Eastern Oregon University.

(c) Oregon Health and Science University.

(d) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(5) "Underserved student" means a student (English language learner, student of color, an economically disadvantaged student or a student

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with disabilities) who has not historically considered enrolling in a post-secondary education program.

Stat. Auth. ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0584

Criteria

(1) Applicants for grant funds must demonstrate a commitment and readiness to design or revise programming that address the following features:

- (a) Transferability across post-secondary institutions;
- (b) Provide direct support for students; and
- (c) Program designed for underserved students.

(2) Priority for funding shall be given to applicants that have met the grant requirements along with the following considerations regarding communities to be served by the grant:

- (a) Communities that have a high percentage of culturally or linguistically diverse young children;
- (b) Communities that have a high percentage of culturally or linguistically diverse candidates in the local early childhood workforce;
- (c) Location of the community to support geographic diversity among the recipients of grant program funds across the state.

(3) Consideration shall also be given to whether the grant application identifies how the funds will be used to improve education outcomes set forth in ORS 351.009.

Stat. Auth. ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0590

Reporting

Recipients of the Early Learning Professional Development grant funds must report on the grant to the Department of Education and Chief Education Office. The report must include:

- (1) Evidence toward meeting defined outcomes as articulated in the grant; and
- (2) Description of outputs and activities related to creation of Early Learning Professional Development program.

(3) Data related to the impact of the project on students, teachers and community partners. These data may include but are not limited to the following:

- (a) Number of students enrolled in the program(s).
- (b) Interviews or surveys conducted by Department staff or evaluators.
- (c) Data on specific measures of teacher knowledge and skills related to project outcomes.

Stat. Auth. ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-022-2130

Kindergarten Assessment

(1) The Department of Education shall implement a kindergarten assessment as part of the statewide assessment system implemented pursuant to ORS 329.485. The kindergarten assessment shall allow for the assessment of children to determine their readiness for kindergarten.

(2) The Department shall work jointly with the Early Learning Council to adopt a tool to be used for the kindergarten assessment. The kindergarten assessment shall measure areas of school readiness, which may include physical and social-emotional development, early literacy, language, cognitive (including mathematics), and logic and reasoning. The tool selected will be appropriate for all children including children with high needs and English language learners, and will align with Oregon's early learning and development standards as well as the adopted Common Core State Standards.

(3) Prior to November 1, 2013 the department shall make the kindergarten assessment available to school districts.

(4) Beginning with the 2013–2014 school year, all school districts shall administer the kindergarten assessment to students who are enrolled in kindergarten.

(5) The Department shall include the results of the kindergarten assessment in the statewide longitudinal data system .

Stat. Auth. ORS 326.051 & 329.485
Stats. Implemented: ORS 329.485 & 2013 OL Ch. 37, Sec. 14 (Enrolled HB 4165)
Hist.: ODE 8-2013, f. & cert. ef. 4-5-13; ODE 34-2016, f. & cert. ef. 5-17-16

Rule Caption: African American/Black Student Success Plan Grant

Adm. Order No.: ODE 35-2016

Filed with Sec. of State: 6-15-2016

Certified to be Effective: 6-15-16

Notice Publication Date: 5-1-2016

Rules Adopted: 581-017-0550, 581-017-0553, 581-017-0556, 581-017-0559, 581-017-0562, 581-017-0565

Subject: Establishes African American/Black Student Success Grant Funding process. Includes eligibility, criteria, funding and reporting.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0550

Definitions

The following definitions apply to OAR 581-017-0550 to 581-017-0682:

(1) "Achievement gap" means the research-based gap in achievement that often exists between students who are economically disadvantaged, students learning English as a second language and students who are African American, Hispanic or Native American and their peers.

(2) "African American" means a person from African descent living in America and also means a person referred to in census data as "Black."

(3) "African American/Black Student Success Plan Grant" means the Grant established in OAR 581-017-0553 to implement ORS 329.841.

(4) "Community-based organization" means a nonprofit organization that is representative of a community or significant segments of a community, which is located within or in close proximity to the community it serves.

(5) "Culturally responsive" means the implicit use of the cultural knowledge, prior experiences, frames of reference, and performance styles of diverse students to make learning more appropriate and effective for them.

(6) "Disproportionate discipline" means disproportionate rates of suspensions and expulsions for African American/Black students compared to their white classmates "who commit similar infractions and who have similar discipline histories."

(7) "Non-profit organization" means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(8) "Opportunity gap" means the ways in which race, ethnicity, socioeconomic status, English proficiency, community wealth, familial situations, or other factors contribute to or perpetuate lower educational aspirations, achievement, and attainment for certain groups of students.

(9) "Plan student" means a student enrolled in early childhood through post-secondary education who is black or African American or a member of a student group that is not covered under an existing culturally specific statewide education plan.

Stat. Auth.: ORS 329.841
Stat. Implemented: ORS 329.841
Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0553

Establishment

(1) There is established the African American/Black Student Success Plan Grant to support early learning hubs, providers of early learning services, school districts, post-secondary institutions of education and community based organizations who are working to design, implement, improve, expand, or otherwise revise programs and services for African American and Black students. The programs and services to be provided under the grant will:

(a) Assist African American and Black students to develop a range of knowledge, skills, abilities and dispositions that will lead to successful student outcomes in educational achievement;

(b) Address issues such as attendance, chronic absenteeism and elementary, middle, high school and postsecondary transitions; and

(c) Will include a variety of supports including the involvement of parents and communities across the state.

(2) Subject to available funds, the Department of Education shall award up to four grants based on a detailed description of proposed programming or services. The programs or services may include:

(a) The scale-up of an existing program or service; and

(b) The implementation of a new program or service.

(3) The purpose of the grant program is to provide funds to applicants that can document an understanding of the unique needs of African

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American and Black students, and who have the potential to become exemplary programs and who create collaborative practices relating to:

(a) Promoting regular and consistent school attendance and active parent engagement to eliminate chronic absenteeism;

(b) Addressing parent and community engagement on the importance of the role of the parent offering training or professional development for parents, educators, and interested community members on closing the achievement gaps for African American and Black students; and

(c) Addressing early childhood to kindergarten, middle to high school and high school to post-secondary transitions for African American and Black students. Programs promote student engagement and literacy development and college and career readiness and transition to college and career.

Stat. Auth.: ORS 329.841
Stat. Implemented: ORS 329.841
Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0556

Eligibility

(1) To be eligible to receive the African American/Black Student Success Grant, an organization must:

(a) Be an early learning hub, a provider of early learning services, a school district, an education service district, a post-secondary institution of education or a community based organization.

(b) For existing programs or services that are being scaled up, provide data to the Department of Education documenting that the majority of their students who are served through the programming or services by the organization are African American/Black.

(c) For new programs or services, provide information to the Department about how the program or services will serve African American/Black students.

(2) A single grant proposal may include more than one eligible applicant, but the fiscal agent must be one of the eligible applicants identified in subsection (1) of this rule.

Stat. Auth.: ORS 329.841
Stat. Implemented: ORS 329.841
Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0559

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the African American/Black Student Success Plan for Grant funds. All proposals must comply with the requirements of the Department's Procurement process. Grants shall be awarded based on the following criteria:

(a) Ability of the applicant to identify how funds will be used to address school attendance and chronic absenteeism, Pre-K to 3rd grade, middle and high school, utilizing programs that create educational supports and developmental assets leading to continual and increased attendance for African American and Black students. In Pre-K programs, this is specific to increased attendance in early learning programs which foster success upon entering the K-12 education system. A critical examination of the negative impact of disproportionate rates of African American/Black students named in discipline behaviors leading to suspensions and expulsions is also a key component in this area;

(b) Ability of the applicant to demonstrate knowledge, experience, and expertise in addressing parent and community engagement to improve academic achievement and graduation rates for African American and Black students; and

(c) Ability of the applicant to increase student participation in summer school, improved academic preparation, transitions from early childhood to kindergarten, middle school to high school, high school to college and/or increase graduation rates and decreased dropout rates.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out programming and services for addressing the needs of African American and Black student populations, including demonstrated intentions to work in a collaborative way with school districts or post-secondary institutions.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of applicant to ensure geographic diversity within the recipients of grant program funds throughout the state;

(b) Applicants/organizations who have documented evidence of having programs or services which serve a primarily African American/Black student population;

(c) Applicants/organizations who have a high level of students who are economically disadvantaged; and

(d) Give preference to organizations that have demonstrated success in improving student outcomes for African American/Black students.

Stat. Auth.: ORS 329.841
Stat. Implemented: ORS 329.841
Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0562

Funding

(1) Grantees shall submit a detailed budget narrative and complete a budget template for the program or service that being funded through the grant.

(2) Grantees shall use funds received for the current program scale-up and new program planning and implementation as outlined in the request for proposal.

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 329.841
Stat. Implemented: ORS 329.841
Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0565

Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: ORS 329.841
Stat. Implemented: ORS 329.841
Hist: ODE 35-2016, f. & cert. ef. 6-15-16

Rule Caption: Dental Screening for Students

Adm. Order No.: ODE 36-2016

Filed with Sec. of State: 6-15-2016

Certified to be Effective: 6-15-16

Notice Publication Date: 5-1-2016

Rules Adopted: 581-021-0017

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

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0017

Dental Screening Certification

(1) Definitions:

(a) "Dental screening" means a dental screening test to identify potential dental health problems that is conducted by:

(A) A dentist licensed under ORS Chapter 679;

(B) A dental hygienist licensed under ORS 680.010 to 680.205

(C) A health care practitioner as defined in (1)(c) of this rule;

(D) An employee of the education provider or a volunteer designated by the education provider to perform a dental screening who has completed training on how to perform a dental screening in accordance with guidelines established by the Dental Director appointed by the Oregon Health Authority.

(b) "Education provider" means:

(A) An entity that offers a program that is recognized as an Oregon prekindergarten program under ORS 329.170 to 329.200.

(B) A school district board as defined in ORS 332.002.

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(c) "Health Care Practitioner" means a Physician, Physician's Assistant, Doctor of Osteopathic Medicine licensed by the Oregon Medical Board, a Nurse Practitioner licensed by the Oregon State Board of Nursing, or a Naturopathic Physician licensed by the Oregon State Board of Naturopathic Medicine.

(d) "Dental health record," for purposes of this rule, has the same meaning as "Education Records" in OAR 581-021-0220.

(2) Each education provider must:

(a) Require a student who is seven years of age or younger and who is beginning an educational program with the education provider for the first time to submit certification within 120 days of the student beginning school that the student received a dental screening within the previous 12 months;

(b) File in the student's dental health record any dental screening certifications and any results of a dental screening known by the education provider;

(c) Provide the parent or guardian of each student with standardized information developed by the dental director appointed by the Oregon Health Authority regarding dental screenings, further examinations or necessary treatments, and preventative care including fluoride varnish, sealants and daily brushing and flossing; and

(d) No later than October 1 each year, submit to the Department of Education a report that identifies the percentage of students who failed to submit the certification required under this rule for the previous school year.

(3) A student is not required to submit a dental screening certification required under subsection (2) of this rule if the student provides a statement from the parent or guardian of the student that:

(a) The student submitted certification to a prior education provider;

(b) The dental screening is contrary to the religious beliefs of the student or the parent or guardian of the student; or

(c) The dental screening is a burden for the student or the parent or guardian of the student in one of the following ways:

(A) The cost of obtaining the dental screening is too high;

(B) The student does not have access to an approved screener identified in (1)(a) of this rule; or

(C) The student was unable to obtain an appointment with an approved screener identified in (1)(a) of this rule.

(4) Certification of a dental screening:

(a) May be provided by a person identified in subsection (1)(a) of this rule who conducts regular dental screenings of the student; and

(b) Must include the following information:

(A) Student's name;

(B) Screening date; and

(C) Name of entity conducting the dental screening

Stat. Auth.: Chapter 558, Sec 1 & 3, 2015 OL (Enrolled HB 2972)

Stats. Implemented: Chapter 558, Sec 1, 2015 OL (Enrolled HB 2972)

Hist.: ODE 36-2016, f. & cert. ef 6-15-16

Oregon Government Ethics Commission Chapter 199

Rule Caption: Amends definition of "Director" and language regarding advisory opinions issued by the Commission.

Adm. Order No.: GEC 1-2016

Filed with Sec. of State: 6-1-2016

Certified to be Effective: 6-1-16

Notice Publication Date: 4-1-2016

Rules Amended: 199-001-0010, 199-001-0030

Subject: The amendment to the definition of "Director" allows the director of the Oregon Government Ethics Commission to designate a person to carry out specific tasks assigned to the director. This will increase efficiency of the agency and is particularly important in case of director absence, illness or injury.

The changes to the language regarding Advisory Opinions are being made to better reflect the language in ORS 244.280(3), which authorizes the Commission to issue Advisory Opinions. ORS 244.280(3) uses the term "person," not "public official or business with which a public official is associated," and uses the term "good faith action" rather than merely "action." This more accurately reflects the fact that Advisory Opinions may be issued regarding questions about lobbyists and their clients, not just questions regarding public officials. There was also a typographical error that result-

ed in an incomplete sentence. The correction reads, "A typed notice in uppercase letters not less than 10 point that states the following:"

Rules Coordinator: Virginia Lutz—(503) 378-5105

199-001-0010

Commission Meetings

(1) Definitions:

(a) "Commission" means Oregon Government Ethics Commission;

(b) "Commissioner" means a duly appointed member of the Oregon Government Ethics Commission;

(c) "Director" means the Executive Director appointed by the Commission pursuant to ORS 244.310 or a person designated by the Executive Director to carry out specific tasks;

(d) "Public Official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee or agent, irrespective of whether the person is compensated for such services;

(e) "Staff" means the Executive Director and all other persons employed by the Commission.

(2) The Commission shall be governed by the statutes of the State of Oregon, these rules and the Attorney General's Model Rules of Procedure for the conduct of contested cases as provided in ORS Chapter 183. In event of a conflict, precedence shall be in that order.

(3) The Commission has adopted the following rules of procedure:

(a) A quorum consists of four Commissioners. No decision may be made without an affirmative vote of four members. In the absence of a quorum, Commissioners present may meet to discuss any matter before the Commission, but no action shall be taken.

(b) The Commission shall vote by roll call vote on any action taken to initiate or conclude preliminary review or investigative phases, adopt any final order, or adopt an advisory opinion.

(c) The Commission may utilize a consent calendar for action on agenda items when appropriate. In preparation of the consent calendar, the Director shall group together as separate categories preliminary reviews, dismissal of a case at conclusion of investigation, stipulated final orders, and default final orders on the agenda. The Director shall also submit a recommended action for each item. Any Commissioner may request of the chair to have a matter removed from the consent calendar and considered separately. All consent calendar items not removed as such, shall be disposed of upon the motion of any Commissioner and a roll call vote.

(d) The Commission will use the following processes in making decisions:

(A) Consensus to approve meeting minutes;

(B) Voice vote of a quorum of Commissioners in all other matters.

(C) A motion does not require a second.

(e) Annually, at the last regular meeting of the Commission before January 1, the Commission shall select from its members a Chair and a Vice-Chair who shall serve until their successors are selected and qualified. The Chair or Vice-Chair may resign as such or may be removed from that position by vote of four Commissioners. If the Chair or Vice-Chair shall cease to be a Commissioner, the position shall be vacant and a successor shall be selected at the next regular meeting of the Commission.

(g) The Chair shall preside over all meetings of the Commission. Except for final orders and advisory opinions, the Director may execute all documents that are executed in the name of the Commission. Only the Chair shall execute final orders and advisory opinions in the name of the Commission.

(h) The Vice-Chair shall act in lieu of the Chair when the Chair is unable to perform the duties of the office of Chair or while the office is vacant.

(i) The Director shall serve as Secretary to the Commission.

(j) Where permitted by law and conforming to the requirement of the Public Meetings Law, ORS 192.670, the Commission may meet by means of a telephone conference.

(k) The Director, in consultation with the Chair, shall set the agenda and cause all notices of time and place of the meeting of the Commission to be given. Commissioners may request items to be placed on the agenda prior to its being distributed.

(l) All meetings of the Commission shall be open to the public unless otherwise permitted or required by statute.

(m) The agenda of meetings of the Commission shall set forth all matters expected to come before the Commission. The Agenda shall contain items in the following order:

(A) Minutes of previous meetings;

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(B) A consent calendar composed of reports of investigation with dismissal recommended by staff, stipulated final orders and final orders by default;

(C) Adoption of contested case final orders, including those which impose a civil penalty or financial forfeiture;

(D) Reports of investigation with preliminary finding of violation recommended by staff;

(E) Adopt advisory opinions pursuant to ORS 171.776 and 244.280;

(F) Presentation of correspondence, publications, or any issue introduced by the Chair related to the Commission and its duties.

(n) Exercising the authority provided by ORS 192.660 and 244.260, the Commission may meet in executive session.

(o) In action on any agenda item, the Commission may dismiss any proceeding or rescind any motion.

(p) The Chair shall be responsible for order and decorum at all meetings of the Commission.

(q) The Chair may suspend or bar from further participation any person who engages in conduct which intentionally delays or disrupts commission proceedings.

(r) Parties may appear in person or be represented by attorneys who are active members of the Oregon State Bar. Others may appear before the Commission on behalf of a party with the permission of the Chair.

(s) The Chair may, at the Chair's discretion, change the order of an agenda in order to accommodate parties appearing before the Commission or for other cause shown.

(t) Commissioners will be advised in writing by the Director or staff of the issues, perceived facts, and arguments during the preliminary review phase. An oral statement from the public official or other respondent will be permitted at the discretion of the Chair when the Commissioners are considering any matter during this phase. The Chair will determine the duration of any oral statement permitted.

(u) Oral statements by the affected public official or any other respondent, their representative or Staff may be permitted by the Chair at any consideration of a motion to move to a contested case, approval of a stipulated disposition of a matter or the adoption of any final order.

(v) The Director shall maintain complete files of all documents submitted in any matter and shall summarize for the Commissioners in an impartial and objective manner all relevant favorable and unfavorable material collected and all documents filed in the Commission's office on any matter before the Commission. At the request of any respondent or complainant any written material submitted to the Director in a timely manner will be reviewed and if the Director determines the information is relevant the material may be provided to each Commissioner for consideration. A document shall be considered filed in a timely manner if submitted in a form permitting it to be copied no less than eight business days before any meeting of the Commission in which the subject matter of the document will be an item on the agenda.

(w) Ex-parte communications with Commissioners by persons other than the staff are not permitted. Documents must be submitted to the Commission through the Director. Oral and written communications to Commissioners concerning matters pending before the Commission other than during the course of formal Commission proceedings, are ex-parte communications.

(x) A subpoena authorized by ORS 244.260(6)(b) may be issued by the Chair, Vice-Chair, or Director:

(A) The subpoena may require the witness to testify to an inquiry which is not privileged and which is relevant to an investigation or inquiry of the Commission including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. It is not grounds for objection that the information sought will be inadmissible at a hearing pursuant to ORS 183.413 et seq. if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(B) Upon motion by the witness subpoenaed, or the person under investigation or inquiry, and for good cause shown, the Commission may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including one or more of the following:

(i) That the inquiry not be had;

(ii) That the inquiry may be had only on specified terms and conditions, including a designation of the time or place;

(iii) That certain matters not be inquired into, or that the scope of the inquiry be limited to certain matters;

(iv) That the inquiry be conducted with no one present except persons designated by the Commission; or

(v) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(C) A motion for a protective order under this subsection shall be in writing filed with the Director and shall be heard and first decided by the Chair, or in the absence of the Chair, the Vice-Chair, within three business days of the date filed. If the motion for a protective order is denied in whole or in part by the Chair or Vice-Chair, the person making the motion may within three business days thereafter request that the full Commission hear and decide the motion which shall occur within three business days. If the full Commission denies the motion, the party making the motion may within three business days request a contested case hearing pursuant to ORS 183.413 et seq.

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

Stat. Auth.: ORS 244.290

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

Hist.: EC 1-1993, f. & cert. ef. 4-22-93; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10; GEC 1-2016, f. & cert. ef. 6-1-16

199-001-0030

Advisory Opinions

(1) The Oregon Government Ethics Commission may, upon the written request of any person, or upon its own motion, issue opinions on the requirements of ORS Chapter 244 and of ORS 171.725 to 171.785.

(2) The Oregon Government Ethics Commission will issue an Advisory Opinion based on real or hypothetical facts or circumstances but not upon actual events that have already occurred.

(3) The Oregon Government Ethics Commission shall issue an Advisory Opinion only after approval from a majority of Commissioners at a regular meeting of the Commission.

(4) An Advisory Opinion shall contain:

(a) A short and plain statement of the real or hypothetical facts or circumstances on which it is based;

(b) Relevant statutes;

(c) A short and plain statement of the question presented;

(d) A short and plain statement of the opinion of the Commission based on the real or hypothetical facts in answer to the question. The opinion of the Commission may cite relevant statutes of the State of Oregon, opinions of the Oregon appellate courts, opinions of the Attorney General of Oregon, and previous opinions of the Oregon Government Ethics Commission;

(e) A typed notice in uppercase letters not less than 10 point that states the following:

"THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT ETHICS COMMISSION PURSUANT TO (INSERT ORS 171.776 OR 244.280). A PERSON SHALL NOT BE LIABLE UNDER (INSERT ORS CHAPTER 244 OR ORS 171.725 TO 171.785) FOR ANY GOOD FAITH ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN".

(5) All draft Advisory Opinions shall be reviewed and signed by the Commission's legal counsel before being submitted to the Commission for adoption.

(6) When issued, an Advisory Opinion shall be assigned a sequential number. Thereafter, the Opinion may be cited as "Oregon Government Ethics Commission Advisory Opinion No. _____".

(7) An Advisory Opinion of the Oregon Government Ethics Commission shall have precedential effect. A person shall not be liable under ORS Chapter 244 or under 171.725 to 171.785 for any good faith action or transaction carried out according to an Advisory Opinion of the Oregon Government Ethics Commission.

(8) In addition to an Advisory Opinion of the Oregon Government Ethics Commission, the Director may issue informal written opinions of the staff on actual or hypothetical facts or circumstances when requested by any person. The informal written opinion of the Director shall have no precedential effect and the Oregon Government Ethics Commission shall not be bound by any informal written opinion of the Director. The opinion of the Director shall be clearly labeled as such and that it is not issued under authority of the Commission, but is only the informal opinion of the Director. At the next regular meeting of the Commission, all informal written opinions of the Director shall be reported to the Commission and the Commission on its own motion may thereafter issue an Advisory Opinion of the Commission on the same facts or circumstances.

(9) The issuance of an advisory opinion by the Oregon Government Ethics Commission is at its discretion and the failure of the Commission to issue an Advisory Opinion shall have no precedential effect.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 244.280(3), 244.282 & 244.284

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Hist.: EC 1-1993, f. & cert. ef. 4-22-93; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 4-2010, f. & cert. ef. 8-4-10; GEC 1-2016, f. & cert. ef. 6-1-16

Rule Caption: Adopts rules clarifying procedures and requirements for governing bodies holding executive sessions.

Adm. Order No.: GEC 2-2016

Filed with Sec. of State: 6-1-2016

Certified to be Effective: 6-1-16

Notice Publication Date: 4-1-2016

Rules Adopted: 199-040-0020, 199-040-0025, 199-040-0030, 199-040-0050

Subject: Rule 199-040-0020 clarifies limitations on topics that may be addressed in executive session, including the fact that compensation is not a proper topic for executive session. Rule 199-040-0025 explains the Commission's procedure for opening complaints about alleged violations of the executive session provisions of ORS 192.660, providing notice that a complaint made about an executive session will be opened against each member of the governing body who attends the executive session. Rule 199-040-0030 provides guidance to governing bodies that intend to hold an executive session to review, evaluate, discipline or dismiss a public official, or to consider a complaint or charge against a public official. Rule 199-040-0050 clarifies that the attorney being consulted must be present at an executive session that is held to consult with counsel concerning the legal rights and obligations of a public body with regard to current litigation or litigation likely to be filed.

Rules Coordinator: Virginia Lutz—(503) 378-5105

199-040-0020

Permitted Topics for Executive Session

(1) The purpose of this rule is to clarify that an executive session may only be held when permitted by a specific provision of ORS 192.660 or other state law authorizing an executive session. Each prerequisite and requirement of the specific provision of ORS 192.660 must be met before an executive session may be convened. The topic(s) discussed in an executive session must be limited to those topics expressly permitted by the specific provision(s) under which the executive session was convened. Members of governing bodies may not discuss topics in executive session other than those delineated in ORS 192.660 or other state law permitting an executive session, even if the additional topics are related to the issue concerning which the governing body convened the executive session.

(2) Compensation, including salaries and benefits, must not be discussed or negotiated during an executive session under ORS 192.660(2)(a), (b) or (i).

Example: City A interviews candidates for the position of city manager in an executive session held under ORS 192.660(2)(a). The governing body wishes to discuss non-salary compensation with the candidates, including access to a city vehicle and membership in a professional organization. This is not a topic permitted in executive session.

Stat. Auth.: ORS 244.290
Stat. Implemented: ORS 192.660
Hist.: GEC 2-2016, f. & cert. ef. 6-1-16

199-040-0025

Complaints

(1) The purpose of this rule is to clarify procedures regarding the opening of one or more preliminary reviews based on a complaint of violations of ORS 192.660 made against member(s) of a governing body.

(2) Attendance at any executive session by a member of the governing body will be considered participation in the executive session.

(3) When the Director makes a determination to open a preliminary review based on a complaint alleging violations of ORS 192.660 by one or more members of a governing body, the Director will open preliminary reviews on each member of the governing body who the Director has reason to believe participated in the alleged violation of ORS 192.660, even if all of the participating members of the governing body are not named or identified in the original complaint. Any preliminary reviews against members of the governing body not named or identified in the original complaint will be opened as soon as practicable based on available information. If the Director receives subsequent information that names or identifies additional members of the governing body who participated in the executive session, preliminary reviews will be opened against them as soon as practicable.

Stat. Auth.: ORS 244.290
Stat. Implemented: ORS 192.660
Hist.: GEC 2-2016, f. & cert. ef. 6-1-16

199-040-0030

Notice to Public Official under ORS 192.660(2)(b) or (i)

(1) In order to afford to the chief executive officer of any public body, a public officer, employee, staff member or individual agent the opportunity to request an open hearing under ORS 192.660(2)(b) or (i), the public official must receive written notice of the meeting no less than one business day or 24 hours, whichever is greater, in advance of the meeting.

(2) At a minimum, the written notice shall include:

(a) Identification of the governing body before which the matter will be considered;

(b) The time, date and location of the meeting;

(c) The purpose for which the governing body proposes to convene the executive session, including the citation to the applicable section of ORS 192.660 and the fact that the governing body will be considering the dismissal or disciplining of, hearing complaints or charges against, or reviewing and evaluating the performance of the public official receiving the notice;

(d) Information on how the public official may make a request for an open hearing.

Stat. Auth.: ORS 244.290
Stat. Implemented: ORS 192.660(2)(b), 192.660(2)(i)
Hist.: GEC 2-2016, f. & cert. ef. 6-1-16

199-040-0050

Consultation with Legal Counsel

(1) The purpose of this rule is to provide guidance to governing bodies when the governing body holds an executive session permitted by ORS 192.660(2)(h): "To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed."

(2) In order to meet the requirements for an executive session permitted by ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present at the executive session, either in person or by telephone or by other concurrent means of oral or video electronic communication.

Stat. Auth.: ORS 244.290
Stat. Implemented: ORS 192.660(2)(h)
Hist.: GEC 2-2016, f. & cert. ef. 6-1-16

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

Rule Caption: Income Eligibility Guidelines for OCCS Medical Programs

Adm. Order No.: DMAP 22-2016

Filed with Sec. of State: 5-18-2016

Certified to be Effective: 5-18-16

Notice Publication Date: 4-1-2016

Rules Amended: 410-200-0315

Rules Repealed: 410-200-0315(T)

Subject: Every year the Federal Poverty Levels (FPL) are adjusted and published to the Federal Register. A number of OCCS medical programs eligibility and income disregards are based on percentages of the FPL and must be updated now that the FPLs have been published and align with the Oregon Eligibility (ONE) system implementation timeline.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-200-0315

Standards and Determining Income Eligibility

(1) MAGI-based income not specifically excluded is countable, and its value is used in determining the eligibility and benefit level of an applicant or beneficiary.

(2) MAGI-based income is considered available on the date it is received or the date a member of the household group 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.

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(3) In determining financial eligibility for each applicant, the sum of the budget month MAGI-based income of all household group members is combined and compared to the applicable income standard for the family size. If the income is at or below the MAGI income standard, the individual meets the financial eligibility requirements. Except as provided in section (4) (a), if income exceeds the MAGI income standard, the individual is ineligible.

(4) This section applies to MAGI Medicaid/CHIP programs:

(a) If an individual is ineligible for MAGI Medicaid based solely on income and would otherwise be eligible for MAGI CHIP or be referred to the Exchange for APTC, a disregard equivalent to five percentage points of the federal poverty level for the applicable family size shall be applied to the household group's income. If the resulting amount is below the income standard for the applicable program and family size, the individual meets the financial eligibility requirements in the following programs:

- (A) The MAGI Parent or Other Caretaker Relative Program;
- (B) The MAGI Child Program;
- (C) The MAGI Adult Program; and
- (D) The MAGI Pregnant Woman Program;

(b) If an individual is ineligible for MAGI CHIP based solely on income and would otherwise be referred to the Exchange for APTC, a disregard equivalent to five percentage points of the federal poverty level for the applicable family size shall be applied to the household group's income. If the resulting amount is below the income standard for the applicable program and family size, the individual meets the financial eligibility requirements in the MAGI CHIP;

(c) The MAGI income standard for the MAGI Parent or Other Caretaker-Relative program is set as follows: [Table not included. See ED. NOTE.]

(d) Effective March 1, 2016, the MAGI income standard for the MAGI Child Program and the MAGI Adult Program is set at 133 percent of the FPL as follows. If an individual's household group income exceeds the income standard for their family size, the appropriate disregard for their family size described in section (4) (a) shall be applied: [Table not included. See ED. NOTE.] (e) Effective March 1, 2016, the MAGI income standard for the MAGI Pregnant Woman Program and for MAGI Child Program recipients under age one is set at 185 percent FPL. If an individual's household group income exceeds the income standard for their family size, the appropriate disregard for their family size described in section (4) (a) shall be applied: [Table not included. See ED. NOTE.]

(f) Effective March 1, 2016, the MAGI income standard for the MAGI CHIP program is set through 300 percent of FPL as follows. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for MAGI CHIP, the appropriate disregard for their family size described in section (5) (a) (B) shall be applied: [Table not included. See ED. NOTE.]

(g) When the Department makes an ELE determination and the child meets all MAGI CHIP or MAGI Child Program nonfinancial eligibility requirements, the household size determined by the Department is used to determine eligibility regardless of the family size. The countable income of the household is determined by the ELA. A child is deemed eligible for MAGI CHIP or MAGI Child Program as follows:

(A) Effective March 1, 2016, if the MAGI-based income of the household group is below 163 percent of the 2016 federal poverty level as listed below, the Department deems the child eligible for the MAGI Child Program; [Table not included. See ED. NOTE.]

(B) If the MAGI-based income of the household group is at or above 163 percent of the FPL through 300 percent of the FPL as listed in section (4) (f) of this rule, the Agency deems the child eligible for MAGI CHIP.

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

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 411.447 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 25-2014(Temp), f. & cert. ef. 4-14-14 thru 10-11-14; DMAP 53-2014, f. & cert. ef. 9-23-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 6-2015(Temp), f. 2-13-15, cert. ef. 3-1-15 thru 8-27-15; DMAP 27-2015, f. 4-21-15, cert. ef. 4-22-15; DMAP 12-2016(Temp), f. 2-25-16, cert. ef. 3-1-16 thru 8-27-16; DMAP 22-2016, f. & cert. ef. 5-18-16

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Rule Caption: Former Foster Care Youth Medical-Specific Requirements

Adm. Order No.: DMAP 23-2016

Filed with Sec. of State: 6-2-2016

Certified to be Effective: 6-2-16

Notice Publication Date: 5-1-2016

Rules Adopted: 410-200-0407

Rules Repealed: 410-200-0407(T)

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

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-200-0407

Specific Requirements—Former Foster Care Youth Medical Program

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

(1) Individuals may not be eligible for the Former Foster Care Youth Medical Program with an effective date prior to January 1, 2014.

(2) There is no income test for the Former Foster Care Youth Medical Program.

(3) An individual is eligible for the Former Foster Care Youth Medical Program if the individual meets the requirements of all of the following:

- (a) Is an adult at least age 18 and under age 26;
- (b) Is not eligible for MAGI Child, MAGI CHIP, MAGI Pregnant Woman, or MAGI Parent or Other Caretaker Relative benefits;
- (c) Was in foster care under the responsibility of the Oregon Department of Human Services or tribe and enrolled in Child Welfare Title XIX Medicaid upon attaining:

(A) Age 18; or

(B) If over 18, the age at which Oregon Medicaid or Oregon tribal foster care assistance ended under Title IV-E of the Act.

(d) Is not receiving Supplemental Security Income (SSI);

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

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

Hist.: DMAP 73-2015(Temp), f. & cert. ef. 12-18-15 thru 6-14-16; DMAP 23-2016, f. & cert. ef. 6-2-16

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

Adm. Order No.: DMAP 24-2016

Filed with Sec. of State: 6-2-2016

Certified to be Effective: 6-3-16

Notice Publication Date: 5-1-2016

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

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

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

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-200-0015

General Definitions

(1) "Action" means a termination, suspension, denial, or reduction of Medicaid or CHIP eligibility or covered services.

(2) "Address Confidentiality Program (ACP)" means a program of the Oregon Department of Justice that provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(3) "AEN" means Assumed Eligible Newborn (OAR 410-200-0115).

(4) "Affordable Care Act" means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152), as amended by the Three Percent Withholding Repeal and Job Creation Act (Pub. L. 112-56).

(5) "Agency" means the Oregon Health Authority and Department of Human Services.

(6) "American Indian and Alaska Native income exceptions" means:

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(a) Distributions from Alaska Native Corporations and Settlement Trusts;

(b) Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation or otherwise under the supervision of the Secretary of the Interior;

(c) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest, including farming, from:

(A) Rights of ownership or possession in any lands described in section (b) of this part; or

(B) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.

(d) Distributions resulting from real property ownership interests related to natural resources and improvements:

(A) Located on or near a reservation or within the most recent boundaries of a prior federal reservation; or

(B) Resulting from the exercise of federally-protected rights relating to such real property ownership interests.

(e) Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom;

(f) Student financial assistance provided under the Bureau of Indian Affairs education programs.

(7) "Applicant" means an individual who is seeking an eligibility determination for themselves or someone for whom they are applying through an application submission or a transfer from another agency, insurance affordability program, or the FFM.

(8) "Application" means:

(a) The single streamlined application for all insurance affordability programs developed by the Authority or the FFM; or

(b) An application designed specifically to determine eligibility on a basis other than the applicable MAGI standard, submitted by or on behalf of the individual who may be eligible or is applying for assistance on a basis other than the applicable MAGI standard.

(9) "APTC" means advance payments of the premium tax credit, which means payment of the tax credits specified in section 36B of the Internal Revenue Code (as added by section 1401 of the Affordable Care Act) that are provided on an advance basis to an eligible individual enrolled in a QHP through an Exchange in accordance with sections 1402 and 1412 of the Affordable Care Act.

(10) "Assumed eligibility" means an individual is deemed to be eligible for a period of time based on receipt of another program benefit or because of another individual's eligibility.

(11) "Authorized Representative" means an individual or organization that acts on behalf of an applicant or beneficiary in assisting with the individual's application and renewal of eligibility and other on-going communications with the Agency (OAR 410-200-0111).

(12) "Beneficiary" means an individual who has been determined eligible and is currently receiving OCCS medical program benefits, Aging and People with Disability medical program benefits, or APTC.

(13) "BRS" means Behavior Rehabilitation Services.

(14) "Budget Month" means the calendar month from which financial and nonfinancial information is used to determine eligibility.

(15) "Caretaker" means a parent, caretaker relative, or non-related caretaker who assumes primary responsibility for a child's care.

(16) "Caretaker Relative" means a relative of a dependent child by blood, adoption, or marriage with whom the child is living who assumes primary responsibility for the child's care, which may but is not required to be indicated by claiming the child as a tax dependent for federal income tax purposes, and who is one of the following:

(a) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece;

(b) The spouse of the parent or relative even after the marriage is terminated by death or divorce;

(c) An individual described in this section who is a relative of the child based on blood, including those of half-blood, adoption, or marriage.

(17) "CAWEM" means Citizen/Alien-Waived Emergency Medical, which is Medicaid coverage for emergency medical needs for individuals who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements (OAR 410-200-0240).

(18) "CAWEM Prenatal" means medical services for pregnant CAWEM beneficiaries.

(19) "Child" means an individual including minor parent, under the age of 19. Child does not include an unborn. Child includes a natural or biological, adopted, or step child.

(20) "Children's Health Insurance Program" also called "CHIP" means Oregon medical coverage under Title XXI of the Social Security Act.

(21) "Citizenship" includes status as a "national of the United States" defined in 8 U.S.C. 1101(a) (22) that includes both citizens of the United States and non-citizen nationals of the United States.

(22) "Claim" means a legal action or a demand by, or on behalf of, an applicant or beneficiary for damages for or arising out of a personal injury that is against any person, public body, agency, or commission other than the State Accident Insurance Fund Corporation or Worker's Compensation Board.

(23) "Claimant" means an individual who has requested a hearing or appeal.

(24) "Code" means Internal Revenue Code of 1986 as amended.

(25) "Combined eligibility notice" means an eligibility notice that informs an individual, or multiple family members of a household when feasible, of eligibility for each of the OCCS Medical Programs for which a determination or denial was made by the Authority.

(26) "Community partner" means all external entities that partner with the Authority and enter into formal agreement with the Authority to conduct outreach or enrollment assistance, whether or not they are funded or compensated by the Authority. Insurance agents are not considered community partners.

(27) "Coordinated content" means information included in eligibility notice regarding the transfer of the individual's or household's electronic account to another insurance affordability program for a determination of eligibility.

(28) "Custodial Parent" means, for children whose parents are divorced, separated, or unmarried, the parent for whom:

(a) If living with one parent, a court order or binding separation, divorce, or custody agreement establishes physical custody controls; or

(b) If living with one parent and there is no such order or agreement described in section (a), or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights;

(c) If a child does not live with either parent, the parent who claims the child as a tax dependent is treated as the custodial parent for the purposes of OCCS medical program eligibility.

(29) "Date of Request" means the earlier of:

(a) The date the request for medical benefits is received by the Agency, the FFM, or a community partner; or

(b) The date the applicant received a medical service, if the request for medical benefits is received by midnight of the following business day.

(30) "Decision notice" means a written notice of a decision made regarding eligibility for an OCCS medical program benefit. A decision notice may be a:

(a) "Basic decision notice" mailed no later than:

(A) The date of action given in the notice; or

(B) When suspending benefits due to incarceration (OAR 410-200-0140), the effective date is the day following the date on which the individual became incarcerated.

(b) "Combined decision notice" informs an individual or multiple family members of a household, when feasible, of the eligibility decision made for each of the MAGI insurance affordability programs;

(c) "Timely continuing benefit decision notice" informs the client of the right to continued benefits and is mailed no later than ten calendar days prior to the effective date of the change, except for clients in the Address Confidentiality Program, for whom it shall be mailed no later than 15 calendar days prior to the effective date of the change.

(31) "Department" means the Department of Human Services.

(32) "Dependent child" means a child who is under the age of 18 or age 18 and a full-time student in a secondary school or equivalent vocational or technical training, if before attaining age 19 the child may reasonably be expected to complete the school or training.

(33) "ELA" (Express Lane Agency) means the Department of Human Services making determinations regarding one or more eligibility requirements for the MAGI Child or MAGI CHIP programs.

(34) "ELE" (Express Lane Eligibility) means the Oregon Health Authority's option to rely on a determination made within a reasonable period by an ELA finding that a child satisfies the requirements for MAGI Child or MAGI CHIP program eligibility.

(35) "Electronic account" means an electronic file that includes all information collected and generated by the Agency regarding each individ-

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ual's Medicaid or CHIP eligibility and enrollment, including all required documentation and including any information collected or generated as part of a fair hearing process conducted by the Authority or the FFM appeals process.

(36) "Electronic application" means an application electronically signed and submitted through the Internet.

(37) "Eligibility determination" means an approval or denial of eligibility and a renewal or termination of eligibility.

(38) "Expedited appeal" also called "expedited hearing" means a hearing held within five working days of the Authority's receipt of a hearing request, unless the claimant requests more time.

(39) "Family size" means the number of individuals used to compare to the income standards chart for the applicable program. The family size consists of all members of the household group and each unborn child of any pregnant members of the household group.

(40) "Federal data services hub" means an electronic service established by the Secretary of the Department of Health and Human Services through which all insurance affordability programs can access specified data from pertinent federal agencies needed to verify eligibility, including SSA, the Department of Treasury, and the Department of Homeland Security.

(41) "Federal poverty level (FPL)" means the federal poverty level updated periodically in the Federal Register by the Secretary of the Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) as in effect for the applicable budget period used to determine an individual's eligibility in accordance with 42 CFR 435.603(h).

(42) "Federally Facilitated Marketplace" also called "FFM" means a website used by consumers.

(43) "Hearing Request" means a clear expression, oral or written, by an individual or the individual's representative that the individual wishes to appeal an Authority or FFM decision or action.

(44) "Household group" consists of every individual whose income is considered for determining each medical applicant's eligibility as defined in OAR 410-200-0305.

(45) "Inmate" means:

(a) An individual living in a public institution that is:

(A) Confined involuntarily in a local, state, or federal prison, jail, detention facility, or other penal facility, including being held involuntarily in a detention center awaiting trial or 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 receiving inpatient care at a medical institution not associated with the public institution where the individual is an inmate;

(D) 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

(E) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(46) "Insurance affordability program" means a program that is one of the following:

(a) Medicaid;

(b) CHIP;

(c) A program that makes coverage available in a qualified health plan through the FFM with advance payments of the premium tax credit established under section 36B of the Internal Revenue Code available to qualified individuals;

(d) A program that makes coverage available in a qualified health plan through the FFM with cost-sharing reductions established under section 1402 of the Affordable Care Act.

(47) "Lawfully present" means an individual:

(a) Is a qualified non-citizen, as defined in this section;

(b) Has valid non-immigrant status, as defined in 8 U.S.C. 1101(a) (15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a) (17));

(c) Is paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than one year, except for an individual paroled for prosecution, for deferred inspection, or pending removal proceedings; or

(d) Belongs to one of the following classes:

(A) Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;

(B) Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. 1254a and individuals with pending applications for TPS who have been granted employment authorization;

(C) Granted employment authorization under 8 CFR 274a.12(c);

(D) Family Unity beneficiaries in accordance with section 301 of Public Law 101-649, as amended;

(E) Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;

(F) Granted Deferred Action status;

(G) Granted an administrative stay of removal under 8 CFR part 241;

(viii) Beneficiary of approved visa petition that has a pending application for adjustment of status.

(e) Is an individual with a pending application for asylum under 8 U.S.C. 158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who:

(A) Has been granted employment authorization; or

(B) Is under the age of 14 and has had an application pending for at least 180 days.

(f) Has been granted withholding of removal under the Convention Against Torture;

(g) Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a) (27) (J);

(h) Is lawfully present in American Samoa under the immigration laws of American Samoa;

(i) Is a victim of a severe form of trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106-386, as amended (22 U.S.C. 7105(b)); or

(j) Exception: An individual with deferred action under the Department of Homeland Security's deferred action for childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, may not be considered to be lawfully present with respect to any of the above categories in sections (a) through (i) of this rule.

(48) "Legal Argument" has the meaning given that term in OAR 137-003-0008(c).

(49) "Medicaid" means Oregon's Medicaid program under Title XIX of the Social Security Act.

(50) "MAGI" means Modified Adjusted Gross Income and has the meaning provided at IRC 36B(d)(2)(B) and generally means federally taxable income with the following exceptions:

(a) The income of the following individuals is excluded when they are not expected to be required to file a tax return for the tax year in which eligibility is being determined. This subsection applies whether or not the child or tax dependent actually files a tax return:

(A) Children, regardless of age, who are included in the household of a parent;

(B) Tax dependents.

(b) In applying subsection (a) of this section, IRC § 6012(a) (1) is used to determine who is required to file a tax return.

(51) "MAGI-based income" means income calculated using the same financial methodologies used to determine MAGI as defined in section 36B(d)(2)(B) of the Code with the following exceptions:

(a) American Indian and Alaska Native income exceptions;

(b) Child support;

(c) Life insurance proceeds;

(d) Non-taxable Veterans' benefits;

(e) Non-taxable workers' compensation benefits;

(f) Scholarships, awards, or fellowship grants used for educational expenses;

(g) Supplemental Security Income (SSI);

(h) An amount received as a lump sum is counted as income only in the month received. Lump sum income includes but is not limited to:

(A) Winnings;

(B) Countable educational income;

(C) Capital gains;

(D) Dividends, interest, royalties.

(i) Scholarships, awards, or fellowship grants used for education purposes and not for living expenses;

(j) Self-employment and business entity income is determined by adding gross receipts and other business income and subtracting deductions

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described in Internal Revenue Code (IRC) §§ 161 through 249. Items not deductible are described in IRC §§ 261 through 280 include, but are not limited to, most capital expenditures, such as business start-up costs, buildings, and furniture and payments or deductions for personal, living, or family use. Business structures are determined by state statutes and are dependent on elections made by business owners. Each state may use different regulations for business structures. Salaries and wages paid to employees, including those who are owners or stockholders, are countable income to the employees. Business income is countable to owners and stockholders as described below:

(A) Sole proprietors, independent contractors, and Limited Liability Companies (LLC) who choose to file federal taxes as a sole proprietor: The necessary and ordinary costs of producing income are subtracted from gross receipts and other business income to determine countable income. Expenses related to costs for both business and personal use are prorated according to the proportions used for each purpose. Costs are limited to those described in IRC §§161 through 199 and Treasury Regulations §§ Sec. 1.162 through 1.263;

(B) Partnerships that are not publicly traded and LLCs who choose to file federal taxes as a partnership: Owners' income is determined as follows:

(i) The distributive share of income, gain, and loss is determined proportionately according to the partnership agreement or the LLC agreement;

(ii) Income from other partnerships, estates, and trusts is added to the amount in paragraph (A) of this subsection;

(iii) The costs of producing income described in subsection (4) (a) except for oil and gas depletion and costs listed below are proportionately subtracted from gross receipts to determine each partner's countable income:

- (I) Bad debts;
- (II) Guaranteed payments to partners;
- (III) Losses from other partnerships, farms, estates, and trusts;
- (IV) Retirement plans.

(C) S Corporations and LLCs who choose to file federal taxes as an S Corporation: Shareholders' income is determined as follows:

(i) The distributive share of profits, gain, and loss are determined proportionately on the basis of the stockholders' shares of stock;

(ii) The costs of producing income described in subsection (a) are proportionately subtracted from gross receipts to determine each stockholder's countable income;

(iii) The distributive share of profits is countable income to the shareholders whether or not it is actually distributed to the shareholders.

(D) C Corporations and LLCs who choose to file taxes as C Corporations: Shareholders' income is countable when it is distributed to them through dividends.

(52) "MAGI income standard" means the monthly income standard for the relevant program and family size described in OAR 410-200-0315.

(53) "Minimum essential coverage" means medical coverage under:

(a) A government-sponsored plan, including Medicare Part A, Medicaid (excluding CAWEM), CHIP, TRICARE, the veterans' health care program, and the Peace Corps program;

(b) Employer-sponsored plans with respect to an employee, including coverage offered by an employer that is a government plan, any other plan or coverage offered in the small or large group market within the state, and any plan established by an Indian tribal government;

(c) Plans in the individual market;

(d) Grandfathered health plans; and

(e) Any other health benefits coverage, such as a state health benefits risk pool, as recognized by the HHS secretary in coordination with the Treasury Secretary.

(54) "Non-applicant" means an individual not seeking an eligibility determination for him or herself and is included in an applicant's or beneficiary's household to determine eligibility for the applicant or beneficiary.

(55) "Non-citizen" has the meaning given the term "alien" as defined in section 101(a)(3) of the Immigration and Nationality Act (INA), (8 U.S.C. 1101(a)(3)) and includes any individual who is not a citizen or national of the United States, defined at 8 U.S.C. 1101(a)(22).

(56) "OCCS" means the Office of Client and Community Services, part of the Health Systems Division, Medical Assistance Programs (Division) under the Oregon Health Authority.

(57) "OCCS Medical Programs" means all programs under the Office of Client and Community Services including:

(a) "CEC" means Continuous Eligibility for OHP-CHP pregnant women. Title XXI medical assistance for a pregnant non-CAWEM child found eligible for the OHP-CHP program who, for a reason other than mov-

ing out of state or becoming a recipient of private major medical health insurance, otherwise would lose her eligibility;

(b) "CEM" means Continuous Eligibility for Medicaid: Title XIX medical assistance for a non-CAWEM child found eligible for Medicaid who loses his or her eligibility for a reason other than turning 19 years of age or moving out of state;

(c) "EXT" means Extended Medical Assistance. The Extended Medical Assistance program provides medical assistance for a period of time after a family loses its eligibility for the MAA, MAF, or PCR program due to an increase in their spousal support or earned income;

(d) "MAA" means Medical Assistance Assumed;

(e) "MAF" means Medical Assistance to Families. The Medical Assistance to Families program provides medical assistance to people who are ineligible for MAA but are eligible for Medicaid using ADC program standards and methodologies that were in effect as of July 16, 1996;

(f) "OHP" means Oregon Health Plan. The Oregon Health Plan program provides medical assistance to many low-income individuals and families. The program includes five categories of individuals who may qualify for benefits. The acronyms for these categories are:

(A) "OHP-CHP" Persons under 19. OHP coverage for persons under 19 years of age who qualify at or below the 300 percent income standard;

(B) "OHP-OPC" Children. OHP coverage for children who qualify under the 100 percent income standard;

(C) "OHP-OPP" Pregnant Females and their newborn children. OHP coverage for pregnant females who qualify under the 185 percent income standard and their newborn children;

(D) "OHP-OPU" Adults. OHP coverage for adults who qualify under the 100 percent income standard. A person eligible under OHP-OPU is referred to as a health plan new/non-categorical (HPN) client;

(E) "OHP-OP6" Children under 6. OHP coverage for children under age 6 who qualify under the 133 percent income standard.

(g) "Substitute Care" means medical coverage for children in BRS or PRTF;

(h) "BCCTP" means Breast and Cervical Cancer Treatment Program;

(i) "FFCYM" means Former Foster Care Youth Medical;

(j) "MAGI Medicaid/CHIP" means OCCS Medical Programs for which eligibility is based on MAGI, including:

(A) MAGI Child;

(B) MAGI Parent or Other Caretaker Relative;

(C) MAGI Pregnant Woman;

(D) MAGI Children's Health Insurance Program (CHIP);

(E) MAGI Adult.

(58) "OCWP" means Office of Child Welfare Programs.

(59) "OSIPM" means Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals administered by the Department of Human Services, Aging and People with Disabilities and Developmental Disabilities.

(60) "Parent" means a natural or biological, adopted, or step parent.

(61) "Personal Injury" means a physical or emotional injury to an individual including, but not limited to, assault, battery, or medical negligence arising from the physical or emotional injury.

(62) "Pregnant woman" means a woman during pregnancy and the postpartum period that begins on the date the pregnancy ends, extends 60 days and ends on the last day of the month in which the 60-day period ends.

(63) "Primary contact" means the primary person the Agency shall communicate with and:

(a) Is listed as the case name; or

(b) Is the individual named as the primary contact on the application.

(64) "Private major medical health insurance" means a comprehensive major medical insurance plan that at a minimum provides physician services, inpatient and outpatient hospitalization, outpatient lab, x-ray, immunizations, and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(65) "PRTF" means Psychiatric Residential Treatment Facility.

(66) "Public institution" means any of the following:

(a) A state hospital (ORS 162.135);

(b) A local correctional facility (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 (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;

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(d) A youth correction facility (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.

(e) As used in this rule, the term public institution does not include:

(A) A medical institution as defined in 42 CFR 435.1010 including the Secure Adolescent Inpatient Program (SAIP) and the Secure Children's Inpatient Program (SCIP);

(B) An intermediate care facility as defined in 42 CFR 440.140 and 440.150; or

(C) A publicly operated community residence that serves no more than 16 residents, as defined in 42 CFR 435.1009.

(67) "Qualified Hospital" means a hospital that:

(a) Participates as an enrolled Oregon Medicaid provider;

(b) Notifies the Authority of their decision to make presumptive eligibility determinations;

(c) Agrees to make determinations consistent with Authority policies and procedures;

(d) Informs applicants for presumptive eligibility of their responsibility and available assistance to complete and submit the full Medicaid application and to understand any documentation requirements; and

(e) Are not disqualified by the Authority for violations related to standards established for the presumptive eligibility program under 42 CFR § 435.1110(d).

(68) "Reasonable opportunity period:"

(a) May be used to obtain necessary verification or resolve discrepancy regarding US citizenship or non-citizen status;

(b) Begins on and shall extend 90 days from the date on which notice is received by the individual. The date on which the notice is received is considered to be five days after the date on the notice, unless the individual shows that he or she did not receive the notice within the five-day period;

(c) May be extended beyond 90 days if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation or the Agency needs more time to complete the verification process.

(69) "Redetermination" means a review of eligibility outside of regularly scheduled renewals. Redeterminations that result in the assignment of a new renewal date are considered renewals.

(70) "Renewal" means a regularly scheduled periodic review of eligibility resulting in a renewal or change of program benefits, including the assignment of a new renewal date or a change in eligibility status.

(71) "Required documentation" means:

(a) Facts to support the Agency's decision on the application; and

(b) Either:

(A) A finding of eligibility or ineligibility; or

(B) An entry in the case record that the applicant voluntarily withdrew the application, and the Agency sent a notice confirming the decision, that the applicant has died, or that the applicant cannot be located.

(72) "Secure electronic interface" means an interface which allows for the exchange of data between Medicaid or CHIP and other insurance affordability programs and adheres to the requirements in 42 CFR part 433, subpart C.

(73) "Shared eligibility service" means a common or shared eligibility system or service used by a state to determine individuals' eligibility for insurance affordability programs.

(74) "Sibling" means natural or biological, adopted, or half or step sibling.

(75) "Spouse" means an individual who is legally married to another individual under:

(a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which two individuals previously resided while meeting the requirements for legal marriage in that country.

(76) "SSA" means Social Security Administration.

(77) "Tax dependent" has meaning given the term "dependent" under section 152 of the Internal Revenue Code, as an individual for whom another individual claims a deduction for a personal exemption under section 151 of the Internal Revenue Code for a taxable year.

(78) "Title IV-E" means Title IV-E of the Social Security Act (42 U.S.C. §§ 671-679b).

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025, 414.534

Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0100

Coordinated Eligibility and Enrollment Process with the Department of Human Services and the Federally Facilitated Marketplace

(1) This rule describes Oregon Health Authority's (Authority) coordination of eligibility and enrollment with the Department of Human Services (Department), and the FFM. The Authority shall:

(a) Minimize the burden on individuals seeking to obtain or renew eligibility or to appeal a determination of eligibility for insurance affordability programs;

(b) Ensure determinations of eligibility and enrollment in the appropriate program without undue delay, consistent with timeliness standards described in OAR 410-200-0110 based on the application date;

(c) Provide coordinated content for those household members whose eligibility status is not yet determined; and

(d) Screen every applicant or beneficiary who submits an application or renewal form, or whose eligibility is being renewed under a change in circumstance for criteria that identify individuals for whom MAGI-based income methods do not apply.

(2) For individuals undergoing eligibility determination for OCCS Medical Programs, the Authority, consistent with the timeliness standards described in OAR 410-200-0110, shall:

(a) Determine eligibility for MAGI Medicaid/CHIP on the basis of having household income at or below the applicable MAGI-based standard; or

(b) If ineligible under section (a) or if eligible for CAWEM-level benefits only, direct as appropriate to the FFM.

(3) If ineligible for OCCS Medical Programs, the Authority shall, consistent with the timeliness standards described in OAR 410-200-0110:

(a) Screen for eligibility for non-MAGI programs as indicated by information provided on the application or renewal form;

(b) Transfer the individual's electronic account information to the Department via secure electronic interface, as appropriate;

(c) If transferred to the Department, the Authority shall provide notice to the individual that contains the following information:

(A) The Authority has determined the individual ineligible for OCCS Medical Programs;

(B) The Department is continuing to evaluate Medicaid eligibility on one or more other bases;

(C) The notice shall include coordinated content relating to the transfer of the individual's electronic account to the Department, as appropriate; and

(D) There is a right to a hearing to challenge the eligibility decision.

(d) Provide or assure that the Department has provided the individual with notice of the final determination of eligibility on one or more other bases.

(4) For beneficiaries found ineligible for ongoing OCCS medical program benefits who are referred to the Department for a non-MAGI Medicaid eligibility review, the Authority shall maintain OCCS medical program benefits while eligibility is being determined by the Department and may not take action to close benefits until determination of eligibility is complete.

(5) Coordination among agencies:

(a) The Authority shall maintain a secure electronic interface through which the Authority can send and receive an individual's electronic account from the Department and the FFM;

(b) The Authority may not request information or documentation from the individual included in the individual's electronic account or provided to the Agency; and

(c) If information is available through electronic data match and is useful and related to eligibility for OCCS Medical Programs, the Authority shall obtain the information through electronic data match.

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

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

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-

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15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0105

Hospital Presumptive Eligibility

This rule sets out when an individual is presumptively eligible for MAGI Medicaid/CHIP, BCCTP, and Former Foster Care Youth Medical (OAR 410-200-0407) based on the determination of a qualified hospital.

(1) The qualified hospital shall determine Hospital Presumptive Eligibility for MAGI Medicaid/CHIP, BCCTP, or Former Foster Care Youth Medical based on the following information attested by the individual:

- (a) Family size;
- (b) Household income;
- (c) Receipt of other health coverage;
- (d) US citizenship, US national, or non-citizen status.

(2) To be eligible via Hospital Presumptive Eligibility, an individual must be a US citizen, US National, or meet the citizenship and alien status requirements found in 410-200-0215 and one of the following:

(a) A child under the age of 19 with income at or below 300 percent of the federal poverty level;

(b) A parent or caretaker relative of a dependent child with income at or below the MAGI Parent or Other Caretaker Relative income standard for the appropriate family size in OAR 410-200-0315;

(c) A pregnant woman with income at or below 185 percent of the federal poverty level;

(d) A non-pregnant adult between the ages of 19 through 64 with income at or below 133 percent of the federal poverty level; or

(e) A woman under the age of 65 who has been determined eligible for the Breast and Cervical Cancer Treatment Program (OAR 410-200-0400);

(f) An individual under the age of 26 who was in Oregon foster care on their 18th birthday.

(3) To be eligible via Hospital Presumptive Eligibility, an individual may not:

- (a) Be receiving Supplemental Security Income benefits;
- (b) Be a Medicaid/CHIP beneficiary; or
- (c) Have received a Hospital Presumptive Eligibility approval start date within the year (365 days) prior to a new Hospital Presumptive Eligibility period start date.

(4) In addition to the requirements outlined in sections (2) and (3) above, the following requirements also apply:

(a) To receive MAGI Adult benefits via Hospital Presumptive Eligibility, an individual may not be entitled to or enrolled in Medicare benefits under part A or B of Title XVIII of the Act;

(b) To receive MAGI CHIP benefits via Hospital Presumptive Eligibility, an individual may not be covered by any minimum essential coverage that is accessible (OAR 410-200-0410(2)(c));

(c) To receive BCCTP benefits via Hospital Presumptive Eligibility, an individual may not be covered by any minimum essential coverage.

(5) The Hospital Presumptive Eligibility period begins on the earlier of:

(a) The date the qualified hospital determines the individual is eligible; or

(b) The date that the individual received a covered medical service from the qualified hospital, if the hospital determines the individual is eligible and submits the decision to the Authority within five calendar days following the date of service.

(6) The Hospital Presumptive Eligibility period ends:

(a) For individuals on whose behalf a Medicaid/CHIP application has been filed by the last day of the month following the month in which the hospital presumptive eligibility period begins, the day on which the state makes an eligibility determination for MAGI Medicaid/CHIP and sends basic decision notice; or

(b) If subsection (a) is not completed, the last day of the month following the month in which the hospital presumptive eligibility period begins.

(7) A Hospital Presumptive Eligibility decision does not qualify a beneficiary for continuous eligibility (OAR 410-200-0135).

(8) A baby born to a woman receiving benefits during a Hospital Presumptive Eligibility period is not assumed eligible (OAR 410-200-0135).

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

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-

410-200-0110

Application and Renewal Processing and Timeliness Standards

(1) General information as it relates to application processing is as follows:

(a) An individual may apply for one or more medical programs administered by the Authority, the Department, or the FFM using a single streamlined application;

(b) An application may be submitted via the Internet, the FFM, by telephone, by mail, in person, or through other commonly available electronic means;

(c) The Agency shall ensure that an application form is readily available to anyone requesting one and that community partners or Agency staff are available to assist applicants to complete the application process;

(d) If the Agency requires additional information to determine eligibility, the Agency shall send the applicant or beneficiary written notice that includes a statement of the specific information needed to determine eligibility and the date by which the applicant or beneficiary shall provide the required information in accordance with section (7) of this rule.

(e) If an application is filed containing the applicant or beneficiary's name and address, the Agency shall send the applicant or beneficiary a decision notice within the time frame established in section (7) of this rule;

(f) An application is complete if all of the following requirements are met:

(A) All information necessary to determine the individual's eligibility and benefit level is provided on the application for each individual in the household group;

(B) The applicant, even if homeless, provides an address where they can receive postal mail;

(C) The application is signed in accordance with section (6) of this rule;

(D) The application is received by the Agency.

(g) To complete the application process, the applicant shall:

(A) With the exception of sections (5) and (6) of this rule, complete and sign an application; and

(B) Provide necessary information to the Agency within the time frame established in section (7) of this rule.

(2) General information as it relates to renewal and redetermination processing is as follows:

(a) The Authority shall redetermine eligibility at assigned intervals and whenever a beneficiary's eligibility becomes questionable;

(b) When renewing or redetermining medical benefits, the Agency shall, to the extent feasible, determine eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency;

(c) If the Agency is unable to determine a beneficiary's eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency, then the Agency shall provide a pre-populated renewal form to the beneficiary containing information known to the Agency, a statement of the additional information needed to renew eligibility, and the date by which the beneficiary must provide the required information in accordance with section (7) of this rule;

(d) The Agency shall assist applicants seeking assistance to complete the pre-populated renewal form or gather information necessary to renew eligibility;

(e) The pre-populated renewal form is complete if it meets the requirements identified in section (1) (e) of this rule;

(f) If the Agency provides the individual with a pre-populated renewal form to complete the renewal process, the individual must:

(A) Complete and sign the form in accordance with section (6) of this rule;

(B) Submit the form via the Internet, by telephone, via mail, in person, and through other commonly available electronic means, and

(C) Provide necessary information to the Agency within the time frame established in section (7) of this rule.

(g) An individual may withdraw their pre-populated renewal form at any time.

(3) Except for individuals found eligible for MAGI Medicaid/CHIP through the Fast-Track enrollment process (OAR 410-200-0505), for renewals due between July 1, 2014 and December 31, 2014, the Authority shall:

(a) Utilize a pre-populated Expedited Renewal form to determine if the individual has experienced:

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- (A) A change in household members; or
 - (B) A change in income.
- (b) Renew eligibility based on the individual's attested information on the Expedited Renewal form if:
- (A) There is no change in household members; and
 - (B) The attested income allows all beneficiaries to remain eligible for Medicaid/CHIP.
- (c) If unable to renew eligibility based on the individual's attested information on the Expedited Renewal form, the Authority shall send the beneficiary an application in order to complete a full eligibility review.
- (4) A new application is required when:
- (a) An individual requests medical benefits and no member of the household group currently receives OCCS medical program benefits;
 - (b) A child turns age 19, is no longer claimed as a tax dependent, and wishes to retain medical benefits;
 - (c) The Authority determines that an application is necessary to complete an eligibility determination.
- (5) A new application is not required when:
- (a) The Agency determines an applicant is ineligible in the month of application and:
 - (A) Is determining if the applicant is eligible the following month; or
 - (B) Is determining if the applicant is eligible retroactively (OAR 410-200-0130).
 - (b) Determining initial eligibility for OCCS Medical Programs via Fast-Track enrollment pursuant to OAR 410-200-0505;
 - (c) Benefits are closed and reopened during the same calendar month;
 - (d) An individual's medical benefits were suspended because they became an inmate and met the requirements of OAR 410-200-0140;
 - (e) An assumed eligible newborn (AEN) is added to a household group receiving medical program benefits;
 - (f) An individual not receiving medical program benefits is added to an on-going household group receiving medical program benefits, and eligibility can be determined using information found in the individual or beneficiary's electronic account and electronic data available to the Agency;
 - (g) Redetermining or renewing eligibility for beneficiaries and the Agency has sufficient evidence to redetermine or renew eligibility for the same or new program;
 - (h) During the ninety-day reconsideration period for eligibility following closure:
 - (A) The Authority shall redetermine in a timely manner (OAR 410-200-0110) the eligibility of an individual who:
 - (i) Lost OCCS medical program eligibility because they did not return the pre-populated renewal form or were requested to provide additional information and did not submit the information needed to renew eligibility; and
 - (ii) Within 90 days of the medical closure date, submits the pre-populated renewal form or the requested additional information.
 - (B) The date the pre-populated renewal form or requested additional information was provided within the ninety-day reconsideration period establishes a new date of request:
 - (i) A new application is not required when the requirements set forth in (a)(A) and (a)(B) of this section are met; and
 - (ii) In the event that the pre-populated renewal form is submitted within the ninety-day reconsideration period and additional information is requested for which the due date lands outside of the ninety-day reconsideration period, a new application is not required.
- (c) If the individual is found to meet OCCS medical program eligibility based on the completed redetermination, the effective date of medical benefits is as described in 410-200-0115 (3) and (4).
- (6) Signature requirements are as follows:
- (a) For an application submitted via the Oregon Eligibility (ONE) system Applicant Portal, the individual identified as the primary applicant must electronically sign the application;
 - (b) For an application submitted by means other than the Oregon Eligibility (ONE) system Applicant Portal, the application must be signed by one of the following:
 - (A) The primary contact;
 - (B) At least one caretaker relative or parent in the household group;
 - (C) The primary contact when there is no parent in the household group; or
 - (D) An authorized representative.
 - (c) Signatures accepted by the Agency may be:
 - (A) Handwritten;
 - (B) Electronic; or
 - (C) Telephonic.

- (d) Hospital Presumptive Eligibility may be determined without a signature described in section (a) through (c);
 - (e) When renewing eligibility, if the Agency is unable to determine eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency, a signature is required on the pre-populated renewal form sent to the beneficiary for additional information;
 - (f) Signatures may be submitted and shall be accepted by the Agency via Internet, mail, telephone, in person, or other electronic means.
- (7) Application and renewal processing timeliness standards are as follows:
- (a) At initial eligibility determination, the Agency shall inform the individual of timeliness standards, make an eligibility determination, and send a decision notice not later than the 45th calendar day after the Date of Request if:
 - (A) All information necessary to determine eligibility is present; or
 - (B) The application is not completed by the applicant within 45 days after the Date of Request.
 - (b) At initial eligibility determination, the Agency may extend the 45-day period described in section (a) if there is an administrative or other emergency beyond the control of the Agency. The Agency must document the emergency;
 - (c) At periodic renewal of eligibility, if additional information beyond data available to the Agency on the beneficiary's electronic account or electronic data is required, the Authority shall provide the beneficiary at least 30 days from the date of the renewal form to respond and provide necessary information.
 - (8) Individuals may apply through the FFM. If the FFM determines the individual potentially eligible for Medicaid, the FFM shall transfer the individual's electronic account to the Agency for OCCS medical program eligibility determination or referral to the Department.
 - (9) Medical program eligibility is determined in the following order:
 - (a) For a child applicant, the order is as follows:
 - (A) Assumed eligibility for OCCS Medical Programs (OAR 410-200-0135);
 - (B) Substitute Care, when the child is in Behavioral Rehabilitation Services (BRS) or in Psychiatric Residential Treatment Facility (PRTF) (OAR 410-200-0405);
 - (C) MAGI Parent or Other Caretaker Relative (OAR 410-200-0420);
 - (D) MAGI Pregnant Woman program (OAR 410-200-0425);
 - (E) MAGI Child (OAR 410-200-0415);
 - (F) Continuous Eligibility (OAR 410-200-0135);
 - (G) MAGI CHIP (OAR 410-200-0410);
 - (H) Former Foster Care Youth Medical (OAR 410-200-0407);
 - (I) EXT (OAR 410-200-0440).
 - (b) For an adult applicant, the order is as follows:
 - (A) Assumed eligibility for OCCS Medical Programs (OAR 410-200-0135);
 - (B) Substitute Care (OAR 410-200-0405);
 - (C) MAGI Parent or Other Caretaker Relative (OAR 410-200-0420);
 - (D) EXT (OAR 410-200-0440);
 - (E) MAGI Pregnant Woman (OAR 410-200-0425);
 - (F) MAGI Adult (OAR 410-200-0435);
 - (G) Former Foster Care Youth Medical (OAR 410-200-0407);
 - (H) BCCTP (OAR 410-200-0400).
- Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16
- 410-200-0111**
Authorized Representatives
- (1) The following individuals may designate an authorized representative:
 - (a) A caretaker;
 - (b) The primary contact when there is no caretaker in the household group;
 - (c) An adult in the household group; or
 - (d) The Agency, if an authorized representative is needed but has not been designated by the individual.
 - (2) The Agency shall accept an applicant or beneficiary's designation of an authorized representative via any of the following methods which

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must include either a handwritten or electronic signature of both the applicant or beneficiary and designated authorized representative:

- (a) The Internet;
- (b) E-mail;
- (c) Mail;
- (d) Telephonic recording;
- (e) In person; or
- (f) Other electronic means.

(3) Applicants and beneficiaries may authorize their authorized representative to:

- (a) Sign an application on the applicant's behalf;
- (b) Complete and submit a renewal form;
- (c) Receive copies of the applicant or beneficiary's notices and other communications from the Agency; or
- (d) Act on behalf of the applicant or beneficiary in any or all other matters with the Agency.

(4) The authorized representative must:

(a) Fulfill all responsibilities encompassed within the scope of the authorized representation as identified in section (3) to the same extent as the individual represented; and

(b) Maintain the confidentiality of any information regarding the applicant or beneficiary provided by the Authority.

(5) In addition to authorized representatives as designated in sections (1) through (4) above, an individual is treated as an authorized representative if the individual has been given authority under state law. Such authority includes but is not limited to:

- (a) A court order establishing legal guardianship;
- (b) A health care representative, when the individual is unable to make their own decisions; or
- (c) A court order establishing power of attorney.

(6) As a condition of serving as an authorized representative, a provider or staff member or volunteer of an organization with a service-providing relationship to the beneficiary must affirm that he or she shall adhere to the regulations in 45 CFR 431, subpart F and at 45 CFR 155.260(f) and at 45 CFR 447.10 as well as other relevant state and federal laws concerning conflicts of interest and confidentiality of information.

(7) The power to act as an authorized representative is valid until the Agency is notified via any of the methods described in section (2) of any of the following:

(a) The applicant or beneficiary modifies the authorization or notifies the Agency that the representative is no longer authorized to act on his or her behalf;

(b) The authorized representative informs the Agency that he or she no longer is acting in such capacity; or

(c) There is a change in the legal authority upon which the individual or organization's authority was based.

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

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0115

OCCS Medical Programs—Effective Dates

(1) Date of Request:

(a) For all OCCS Medical Programs, the applicant or an individual authorized to act on behalf of the applicant must contact the Authority, the Department, or the FFM to request medical benefits. The request may be via the Internet, by telephone, community partner, by mail, by electronic communication, or in person;

(b) For new applicants, the Date of Request is the earlier of the following:

(A) The date the request for medical benefits is received by the Agency, the FFM, or a community partner; or

(B) The date the applicant received a medical service, if the request for medical benefits is received by midnight of the following business day.

(c) For current beneficiaries of OCCS Medical Programs, the Date of Request is one of the following:

(A) The date the beneficiary reports a change requiring a redetermination of eligibility; or

(B) The date the Agency initiates a review, except that the automatic mailing of an application does not constitute a Date of Request.

(d) The Date of Request starts the application processing time frame;

(e) If the application is required under OAR 410-200-0110 and is not received within 45 days after the Date of Request or within the extended time that the Authority has allowed under OAR 410-200-0110, the new Date of Request is the date the application is submitted to the Agency.

(2) For EXT, the effective date is determined according to OAR 410-200-0440.

(3) Except for EXT, the effective date of medical benefits for new applicants for OCCS Medical Programs is whichever comes first:

(a) The earliest date of eligibility within the month in which the Date of Request is established; or

(b) If ineligible within the month in which the Date of Request was established, the first day within the following month on which the client is determined to be eligible.

(4) The effective date for retroactive medical benefits (OAR 410-200-0130) for MAGI Medicaid/CHIP and BCCTP is the earlier of:

(a) The first day of the earliest of the three months preceding the month in which the Date of Request was established; or

(b) If ineligible pursuant to section (a), the earliest date of eligibility within the three months preceding the month in which the Date of Request was established.

(5) Establishing a renewal date:

(a) Except for EXT and MAGI Pregnant Woman, as provided in subsection (b) for all OCCS Medical Programs, eligibility shall be renewed every 12 months. The renewal date is the last day of the month determined as follows:

(A) For initial eligibility, the renewal date is established by counting 12 full months, including the initial month of eligibility;

(B) For renewals that are regularly scheduled, the new renewal date is established by counting 12 full months following the current renewal month.

(b) For redeterminations that are initiated by a reported change, outside of the established renewal date, the renewal date is not adjusted.

(6) Acting on Reported Changes (also see Changes That Must Be Reported OAR 410-200-0235):

(a) When the beneficiary reports a change in circumstances at any time other than the renewal month, eligibility shall be redetermined for all household group members;

(b) Except for reports of pregnancy, and changes that result in a CAWEM recipient becoming eligible for Plus benefits, if the beneficiary is determined to be eligible for another OCCS medical program or loses eligibility as a result of the reported change, the effective date for the change is:

(A) If the determination is made on or before the 15th of the month, the first of the next month; or

(B) If the determination is made on or after the 16th of the month, the first of the month following the next month.

(c) For beneficiaries who report a pregnancy, the effective date of MAGI Pregnant Woman, MAGI Parent or Other Caretaker Relative for pregnant women, or MAGI CHIP for pregnant individuals is the earlier of:

(A) The Date of Request; or

(B) The date that a prenatal service related to the pregnancy was received.

(d) For beneficiaries of CAWEM-level benefits who report a change that results in eligibility for Plus level benefits, the effective date of the change is the Date of Request.

(7) Suspending or Closing Medical Benefits:

(a) The effective date for closing OCCS medical program benefits is the earliest of:

(A) The date of a beneficiary's death;

(B) The last day of the month in which the beneficiary becomes ineligible and a timely continuing benefit decision notice is sent;

(C) The day prior to the start date for Office of Child Welfare Programs or OSIPM for beneficiaries transitioning from an OCCS medical program;

(D) The date the program ends; or

(E) The last day of the month in which a timely continuing benefit decision notice is sent if on-going eligibility cannot be determined because the beneficiary does not provide required information within 30 days.

(b) Prior to closing medical benefits, the Agency shall:

(A) Determine eligibility for all other OCCS Medical Programs; or

(B) Refer the beneficiary to the Department, if applicable, and confirm that the Department has made an eligibility decision.

(c) For beneficiaries of OCCS medical program benefits who become incarcerated (OAR 461-200-0140), the effective date of suspension is the day following the date on which the individual became incarcerated.

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(8) Denial of Benefits. The effective date for denying OCCS medical program benefits is the earlier of the following:

(a) The date the decision is made that the applicant is not eligible and notice is sent; or

(b) The end of the application processing time frame, unless the time period has been extended to allow the applicant more time to provide required verification.

Stat. Auth.: ORS, 411.402, 411.404, 413.042 & 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0120

Notices

(1) Except as provided in this rule, the Authority shall send:

(a) A basic decision notice whenever an application for OCCS medical program benefits is approved or denied;

(b) A timely continuing benefit decision notice whenever OCCS medical program benefits are reduced or closed.

(2) For a beneficiary who is placed in a public institution or a correctional facility, the Authority shall send a basic decision notice to close, reduce, or suspend OCCS medical program benefits.

(3) For a beneficiary who has been placed in skilled nursing care, intermediate care, or long-term hospitalization, the Authority shall send a basic decision notice to close, suspend, or reduce OCCS medical program benefits.

(4) The Authority shall send a basic decision notice to close OCCS medical program benefits for a beneficiary who has received them for less than 30 days and who is ineligible for any insurance affordability program.

(5) When returned mail is received without a forwarding address and the beneficiary's whereabouts are unknown, the Authority shall send a basic decision notice to end benefits if the mail was sent by postal mail. If the returned mail was sent electronically, the Authority shall resend by postal mail within three business days. The date on the notice shall be the date the notice is sent by postal mail.

(6) The Authority shall send one of the following notices when a beneficiary ceases to be an Oregon Resident:

(a) A timely continuing benefit notice; or

(b) A basic decision notice if the beneficiary is eligible for benefits in the other state.

(7) Except as provided in section (9) of this rule, to close medical program benefits based on a request made by the beneficiary, another adult member of the household group, or the authorized representative, the Authority shall send the following decisions notices:

(a) A timely continuing benefit decision notice when an oral request is made to close benefits;

(b) A basic decision notice when a request to withdraw, end, or reduce benefits is made with written signature or recorded verbal signature;

(c) A basic decision notice when an individual who is not a recipient of any Medicaid/CHIP benefits makes an oral request to withdraw an application for benefits.

(8) No other notice is required when an individual completes a voluntary agreement if all of the following are met:

(a) The Authority provides the individual with a copy of the completed agreement; and

(b) The Authority acts on the request by the date indicated on the form.

(9) No decision notice is required in the following situations:

(a) The only individual in the household group dies;

(b) A hearing was requested after a notice was received and either the hearing request is dismissed or a final order is issued.

(10) Decision notices shall be written in plain language and be accessible to individuals who are limited English proficient and individuals with disabilities. In addition:

(a) All decision notices shall include:

(A) A statement of the action taken;

(B) A clear statement listing the specific reasons why the decision was made and the effective date of the decision;

(C) Rules supporting the action;

(D) Information about the individual's right to request a hearing and the method and deadline to request a hearing;

(E) A statement indicating under what circumstances a default order may be taken;

(F) Information about the right to counsel at a hearing and the availability of free legal services.

(b) A decision notice approving OCCS medical program benefits including retroactive medical shall include:

(A) The level of benefits and services approved;

(B) If applicable, information relating to premiums, enrollment fees, and cost sharing; and

(C) The changes that must be reported and the process for reporting changes.

(c) A decision notice reducing, denying, or closing OCCS medical program benefits shall include information about a beneficiary's right to continue receiving benefits.

(1) The Authority may amend:

(a) A decision notice with another decision notice; or

(b) A contested case notice.

(12) Except as the notice is amended, or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not made effective on the date stated on the notice.

(13) The Authority shall provide individuals with a choice to receive decision notices and information referenced in this rule in an electronic format or by postal mail. If an individual chooses to receive notices and information electronically and has established an online account with the Applicant Portal of Oregon Eligibility (ONE), the Authority shall:

(a) Send confirmation of this decision by postal mail;

(b) Post notices to the individual's electronic account within one business day of the date on the notice;

(c) Send an email or SMS text message alerting the individual that a notice has been posted to their electronic account;

(d) At the request of the individual, send by postal mail any notice or information delivered electronically;

(e) Inform the individual of the right to stop receiving electronic notices and information and begin receiving these through postal mail; and

(f) If any electronic communication referenced above is undeliverable, send the notice by postal mail within three business days of the failed communication.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0125

Acting on Reported Changes

(1) When an OCCS medical program beneficiary or authorized representative makes a timely report of a change in circumstances at any time between regular renewals of eligibility that may affect the beneficiary's eligibility (any changes reported per OAR410-200-0235), the Authority shall promptly redetermine eligibility before reducing or ending medical benefits.

(2) The Authority shall limit requests for information from the individual to information related to the reported change.

(3) If a beneficiary remains eligible as a result of a redetermination due to a reported change, a new 12-month eligibility period is not established; the original renewal date is maintained.

(4) If the Authority has information about anticipated changes in a beneficiary's circumstances that may affect eligibility, it shall redetermine eligibility at the appropriate time based on the changes.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0130

Retroactive Medical

(1) The Authority may evaluate for retroactive medical eligibility for the three calendar months preceding the month in which the Date of Request was established for the following individuals:

(a) Applicants requesting OCCS Medical Programs who have unpaid medical bills or received donated medical services that would have been covered by Oregon Medicaid/CHIP in the months described in section (1); or

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(b) Deceased individuals who have unpaid medical bills or received donated medical services that would have been covered by Oregon Medicaid/CHIP in the months described in section (1), who would have been eligible for Medicaid covered services had they, or someone acting on their behalf, applied.

(2) If eligible for retroactive medical, the individual's eligibility may not start earlier than the date indicated by OAR 410-200-0115 Effective Dates.

(3) The Authority reviews each month individually for retroactive medical eligibility.

(4) Retroactive medical eligibility may only be determined on the basis of a medical service received during a Hospital Presumptive Eligibility period (OAR 410-200-0105) if the medical service received is not covered by Hospital Presumptive Eligibility.

Stat. Auth.: ORS 411.402, 411.404 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0135

Assumed Eligibility and Continuous Eligibility for Children and Pregnant Women

(1) Assumed Eligibility – A child born to a mother who is eligible for and receiving Medicaid/CHIP benefits is assumed eligible for the MAGI Child program until the end of the month in which the child turns one year of age, unless:

- (a) The child dies;
- (b) The child is no longer a resident of Oregon; or
- (c) The child's representative requests a voluntary termination of the child's eligibility.

(2) Continuous Eligibility for children – Children under age 19 who are eligible for and receiving medical assistance under any OCCS Medicaid or CHIP program who lose eligibility for all Medicaid or CHIP programs prior to the 12-month renewal date shall remain eligible until the end of the renewal month, regardless of any change in circumstances, except for the following:

- (a) No longer an Oregon resident;
- (b) Death;
- (c) Incarceration;
- (d) Turning age 19;
- (e) For children in the CHIP program, receipt of minimum essential coverage; or
- (f) When an adult in the household group requests the medical benefits are closed.

(3) Continuous Eligibility for pregnant women – Pregnant women who are eligible for and receiving medical assistance under any Medicaid program who lose eligibility for the medical program shall receive Continuous Eligibility through the two calendar months following the month in which the pregnancy ends, except in the following circumstances:

- (a) She is no longer an Oregon resident;
- (b) She becomes incarcerated;
- (c) Death; or
- (d) An adult in the household group requests the medical benefits are closed.

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025 & 414.534

Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0140

Eligibility for Inmates

(1) An inmate of a public institution may not receive benefits with OCCS Medical Programs.

(2) If an OCCS medical program beneficiary becomes an inmate of a public institution with an expected stay of no more than 12 months, medical benefits shall be suspended for up to 12 full calendar months during the incarceration period.

(3) The effective date of the suspension of benefits is the day following the date on which the individual became incarcerated.

(4) Suspended benefits shall be restored to the release date without the need for a new application when:

(a) The individual reports their release to the Agency within ten calendar days of the release date;

(b) The individual reports their release to the Agency more than ten calendar days from the release date, and there is good cause for the late reporting; or

(c) The inmate is released to a medical facility and begins receiving treatment as an inpatient, providing the facility is not associated with the institution where the individual was an inmate.

(5) When released, benefits shall be restored as described in section (4), and:

(a) If the individual is released prior to their eligibility renewal date, the eligibility renewal date may not be changed; or

(b) If the individual is released after the eligibility renewal date has passed, benefits shall be restored and a redetermination of eligibility processed.

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025 & 414.534

Stats. Implemented: ORS, 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049 & 414.426

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0200

Residency Requirements

(1) To be eligible for OCCS Medical Programs, an individual must be a resident of Oregon.

(2) An individual is a resident of Oregon if the individual lives in Oregon except:

(a) An individual 21 years of age or older who is placed in a medical facility in Oregon by another state is considered to be a resident of the state that makes the placement if:

- (A) The individual is capable of indicating intent to reside; or
- (B) The individual became incapable of indicating intent to reside after attaining 21 years of age (see section (6)).

(b) For an individual less than 21 years of age who is incapable of indicating intent to reside or an individual of any age who became incapable of indicating that intent before attaining 21 years of age, 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.

(3) There is no minimum amount of time an individual must live in Oregon to be a resident. The individual is a resident of Oregon if:

- (a) The individual intends to remain in Oregon; or
- (b) The individual entered Oregon with a job commitment or is looking for work.

(4) An individual is not a resident if the individual is in Oregon solely for a vacation.

(5) An individual continues to be a resident of Oregon during a temporary period of absence if he or she intends to return when the purpose of the absence is completed.

(6) An individual is presumed to be incapable of indicating intent to reside if the individual falls under one or more of the following:

- (a) The individual is assessed with an IQ of 49 or less based on a test acceptable to the Authority;
- (b) The individual has a mental age of seven years or less based on tests acceptable to the Authority;
- (c) The individual is judged legally incompetent by a court of competent jurisdiction;
- (d) The individual is found incapable of indicating intent to reside based on documentation provided by a physician, psychologist, or other professional licensed by the State of Oregon in the field of intellectual disabilities.

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

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-

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15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0215

Citizenship and Alien Status Requirements

(1) To meet the citizen or alien status requirements for an OCCS medical program, an individual must be:

(a) A citizen of the United States;

(b) A non-citizen who meets the alien status requirements in section (4) of this rule;

(c) A citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or

(d) A national from American Samoa or Swains Islands.

(2) An individual is a qualified non-citizen if the individual is any of the following:

(a) A non-citizen lawfully admitted for permanent residence under the INA (8 U.S.C. 1101 et seq);

(b) A refugee admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157);

(c) A non-citizen 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 amended 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 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 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(e) of the Refugee Education Assistance Act of 1980);

(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under Section 8120 of the December 19, 2009 Defense Appropriations Bill (Public Law 111-118); or

(i) A battered spouse or child who meets the requirements of 8 U.S.C. 1641(c) as determined by the U.S. Citizenship and Immigration Services.

(3) A non-citizen meets the alien status requirements if the individual is:

(a) An American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (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));

(c) 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);

(d) A member of the United States Armed Forces on active duty (other than active duty for training);

(e) The spouse or a child of an individual described in subsection (c) or (d) of this section.

(f) A qualified non-citizen and meets one of the following criteria:

(A) Effective October 1, 2009 is an individual under 19 years of age;

(B) Was a qualified non-citizen before August 22, 1996;

(C) 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;

(D) Has been 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.

(g) Under the age of 19 and is one of the following:

(A) 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;

(B) 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.

(C) 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);

(D) An alien in non-immigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;

(E) Aliens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);

(F) A pending applicant for asylum under section 208(a) of the INA (8 U.S.C. § 1158) or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. § 1231) or under the Convention Against Torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;

(G) An alien who has been granted withholding of removal under the Convention Against Torture;

(H) A child who has a pending application for Special Immigrant Juvenile status as described in section 101(a)(27)(J) of the INA (8 U.S.C. § 1101(a)(27)(J));

(I) An alien who is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. § 1806(e); or

(J) An alien who is lawfully present in American Samoa under the immigration laws of American Samoa.

(4) Individuals 19 and older who are described in sections (2)(a), (2)(e), (2)(f), and (2)(i) of this rule who entered the United States or were given qualified non-citizen status on or after August 22, 1996 meet the alien status requirement five years following the date the non-citizen received the qualified non-citizen status.

(5) Individuals described in sections (2)(a) through (g), (2)(i), (3)(g)(B)(ii), (3)(g)(B)(iv), (3)(g)(B)(v), (3)(g)(B)(vii), and (3)(g)(D) through (J) with deferred action under Deferred Action for Childhood Arrivals (DACA) process do not meet the non-citizen requirement for OCCS Medical Programs.

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

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

ADMINISTRATIVE RULES

410-200-0230

Verification

(1) Except as described in section (6) of this rule, applicants, beneficiaries, or individuals of the applicant or beneficiary's choosing shall attest to the following information:

- (a) Age and date of birth;
- (b) Application for other benefits;
- (c) Caretaker relative status;
- (d) Household composition;
- (e) Legal name;
- (f) Medicare;
- (g) Pregnancy;
- (h) Receipt or availability of other healthcare coverage;
- (i) Residency;
- (j) Social Security number; and
- (k) American Indian/Alaska Native status.

(2) Applicants, beneficiaries, or individuals of the applicant or beneficiary's choosing shall make a declaration of US citizenship, US national, or non-citizen status;

(a) Self-attested information shall be verified via the federal data services hub or by electronic data match available to the Agency;

(b) In the event that attested status cannot be verified via the federal data services hub or by electronic data match available to the Agency, self-attested information shall be used to determine eligibility, and the Authority shall provide a reasonable opportunity period for the applicant or beneficiary to verify US citizen, US national, or non-citizen status;

(c) The following are exempt from the requirement to verify citizen status:

- (A) Individuals who are assumed eligible (OAR 410-200-0135);
- (B) Individuals who are enrolled in Medicare;
- (C) Individuals who are presumptively eligible for the BCCTP program through the BCCTP screening program or through the Hospital Presumptive Eligibility process (OAR 420-200-0400 and 410-200-0105);
- (D) Individuals receiving Social Security Disability Income (SSDI);

or

(E) Individuals whose citizen status was previously documented by the Agency. The Agency may not re-verify or require an individual to re-verify citizenship at a renewal of eligibility or subsequent application following a break in coverage.

(d) Non-citizen status shall be reviewed and verified at the following times:

- (A) Initial determination of eligibility;
- (B) Each redetermination of eligibility; or
- (C) When a report of change of non-citizen status is received by the Agency.

(3) Applicants, beneficiaries, or individuals of the applicant or beneficiary's choosing shall make a declaration of income:

(a) If the individual's attested information is above the applicable standard, the Authority shall accept the attested information, deny MAGI-based Medicaid/CHIP, and refer to the Federally Facilitated Marketplace for potential APTC eligibility;

(b) Self-attested income within the applicable standard is verified by documentary evidence through a match with the federal data services hub or electronic data match available to the Agency;

(c) In the event that income information via the federal data services hub or electronic data match available to the agency is inconsistent with self-attested information:

(A) If the individual attests to income below the applicable standard and the data source indicates income above the applicable standard, the Authority shall request verification or reasonable explanation from the individual prior to determination of eligibility;

(B) If both the data source and attested information are below the applicable standard, self-attested information is used to determine eligibility for OCCS Medical Programs.

(d) In the event that verification is not available via electronic data sources:

(A) The Authority shall request verification or reasonable explanation from the individual prior to determination of eligibility; or

(B) If the individual cannot obtain verification of self-attested income, self-attested information shall be accepted to determine eligibility.

(4) Applicants, beneficiaries, or individuals of the applicant or beneficiary's choosing shall make a declaration of receipt of private health insurance:

(a) Self-attested information shall be used to determine eligibility for OCCS Medical Programs if:

(A) Information obtained through a match with available electronic data does not conflict with self-attested information;

(B) Information obtained through a match with available electronic data conflicts with self-attested information but does not affect eligibility; or

(C) Verification is not available via a match with available electronic data or by any other method at the time of application processing.

(b) In the event that information obtained through a match with available electronic data conflicts with self-attested information and may affect eligibility, private health insurance information shall be verified prior to eligibility determination.

(5) The Authority may request that applicants and beneficiaries of medical assistance provide additional information, including documentation, to verify most eligibility criteria if data obtained electronically is not reasonably compatible with attested information.

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

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0235

Changes That Must Be Reported

(1) Individuals shall report the following changes in circumstances affecting eligibility for beneficiaries within 30 calendar days of its occurrence:

- (a) The receipt or loss of health care coverage;
- (b) A change in mailing or residential address;
- (c) A change in legal name;
- (d) A change in pregnancy status of a household group member;
- (e) A change in household group membership;
- (f) In addition to section (1)(a)–(f), for all OCCS Medical Programs except OHP-CHP and MAGI CHIP, a change in availability of employer-sponsored health insurance;

(g) In addition to section (1)(a)–(f), in the EXT program, when a household group member receiving medical assistance is no longer a dependent child;

(h) In addition to section (1)(a)–(f), adults in the MAA, MAF, EXT, MAGI Pregnant Woman, MAGI Parent or Other Caretaker Relative, and MAGI Adult programs:

- (A) A change in source of income;
- (B) A change in employment status:
 - (i) For a new job, the change occurs the first day of the new job;
 - (ii) For a job separation, the change occurs on the last day of employment.

(C) A change in earned income more than \$100. The change occurs upon the receipt by the beneficiary of the first paycheck from a new job or the first paycheck reflecting a new rate of pay;

(D) A change in unearned income more than \$50. The change occurs the day the beneficiary receives the new or changed payment.

(2) Individuals shall report a claim for personal injury within 10 calendar days of its occurrence. The following information shall be reported:

- (a) The names and addresses of all parties against whom the action is brought or claim is made;
- (b) A copy of each claim demand; and
- (c) If an action is brought, identification of the case number and the county where the action is filed.

(3) Beneficiaries, adult members of the household group, or authorized representatives may report changes via the Internet, by telephone, via mail, in person, and through other commonly available electronic means.

(4) A change is considered reported on the date the beneficiary, adult member of the household group, or authorized representative reports the information to the Agency.

(5) A change reported by the beneficiary, adult member of the household group, or authorized representative for one program is considered reported for all programs administered by the Agency in which the beneficiary participates.

(6) Beneficiaries, adult members of the household group, or authorized representatives are not required to report any of the following changes:

(a) Periodic cost-of-living adjustments to the federal Black Lung Program, SSB, SSDI, SSI, and veterans assistance under Title 38 of the United States Code;

(b) Changes in eligibility criteria based on legislative or regulatory actions.

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

ADMINISTRATIVE RULES

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0240

Citizen/Alien Waived Emergent Medical

(1) To be eligible for CAWEM benefits, an individual must be ineligible for OCCS Medical Programs solely because he or she does not meet the Citizen and Alien Status Requirements (OAR 410-200-0215). A child who is ineligible for OHP-CHP, MAGI CHIP, or CEC solely because he or she does not meet the citizen or alien status requirements is not eligible for CAWEM benefits.

(2) To be eligible for the CAWEM Prenatal enhanced benefit package, a CAWEM recipient must be pregnant.

(3) The pregnant CAWEM client's enhanced medical benefits package ends when the pregnancy ends.

(4) The woman remains eligible for CAWEM emergency benefits through the end of the calendar month in which the 60th day following the last day of the pregnancy falls.

Stat. Auth.: ORS 411.402, 411.404, 413.042, 414.025 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.447, 414.534, 414.536, 414.706 & 411.060

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0310

Eligibility and Budgeting; MAGI Medicaid/CHIP; Not BCCTP or EXT

(1) The budget month means the calendar month from which nonfinancial and financial information is used to determine eligibility for OCCS Medical Programs.

(2) The budget month is determined as follows:

(a) For a new applicant, the budget month is:

(A) The month in which medical assistance is requested; or

(B) If ineligible in the month in which medical assistance is requested, the budget month is the following month.

(b) For a current Medicaid/CHIP beneficiary, the budget month is:

(A) The final month of the twelve-month enrollment period;

(B) The month a change that affects eligibility is reported, if reported timely; or

(C) The month the individual ages off a medical program or is no longer eligible for a medical assistance program.

(c) For retroactive medical, the budget month is the month in which the applicant received medical services for which they are requesting payment. Retroactive medical is determined on a month-by-month basis.

(3) Countable income anticipated or received in the budget month is determined as follows:

(a) Income is calculated by adding together the income of the household group already received in the initial budget month and the income that is reasonably expected to be received in the remainder of the initial budget month;

(b) If ineligible using the initial budget month, countable income from the month following the initial budget month is considered. If eligible, eligibility shall begin as described in OCCS Medical Programs – Effective Dates (OAR 410-200-0115);

(c) If ineligible under subsections (a) or (b) of this section because the countable income is over the income standard for all OCCS Medical Programs, income shall be annualized using the requirements of 25 CFR §1.36 B-1(e) for the year in which medical has been requested:

(A) If the annualized income is below 100 percent FPL as identified in 26 CFR §1.36 B-1(e), income shall be converted to a monthly amount and applied to the initial budget month;

(B) If eligible for budget month eligibility pursuant to subsection (A), eligibility shall be determined for the appropriate program pursuant to OAR 410-200-0315 and begin as described in OCCS Medical Programs – Effective Dates (OAR 410-200-0115).

(4) The household group's budget month income is compared to the income standard for the appropriate family size to determine if an applicant may be eligible for an OCCS medical program.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.447 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0415

Specific Requirements; MAGI Child

In addition to eligibility requirements applicable to the MAGI Child program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Child program.

(1) Individuals may not be eligible for the MAGI Child program with an effective date prior to January 1, 2014.

(2) To be eligible for the MAGI Child program, the child must be under the age of 19 with household income at or below:

(a) 133 percent of the federal poverty level (OAR 410-200-0315) for the applicable family size for a child over the age of one but less than age 19; or

(b) 185 percent of the federal poverty level for the applicable family size for an infant under the age of one.

(3) To be eligible for the MAGI Child Program, an individual may not:

(a) Be receiving or deemed to be receiving SSI benefits;

(b) Be receiving Medicaid through another program;

(c) Be incarcerated.

(4) A child born to a mother eligible for and receiving Medicaid benefits is assumed eligible for medical benefits under this rule until the end of the month the child turns one year of age unless:

(a) The child dies;

(b) The child is no longer a resident of Oregon; or

(c) The child's representative requests a termination of the child's eligibility.

(5) To enroll a child in the MAGI Child program based on a determination made by an Express Lane Agency (ELA), the child's parent or guardian shall give consent in writing, by telephone, orally, or through electronic signature.

(6) ELE qualifies a child for medical assistance benefits based on a finding from the Department, even when the Department's eligibility methodology differs from that used for OCCS Medical Programs.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; ; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0425

Specific Requirements; MAGI Pregnant Woman

In addition to eligibility requirements applicable to the MAGI Pregnant Woman program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Pregnant Woman program.

(1) Individuals may not be eligible for the MAGI Pregnant Woman program with an effective date prior to January 1, 2014.

(2) To be eligible for the MAGI Pregnant Woman program, an individual must:

(a) Be pregnant; or

(b) Be within the two calendar months following the month in which their pregnancy ended.

(3) To be eligible for the MAGI Pregnant Woman program, an individual must:

(a) Have household income that is at or below 185 percent of the federal poverty level (OAR 410-200-0315); or

(b) Be eligible for continuous eligibility according to the policy described in OAR 410-200-0135(2).

(4) To be eligible for the MAGI Pregnant Woman program, an individual must not be receiving Supplemental Security Income (SSI).

(5) Once a beneficiary is eligible and receiving Medicaid through the MAGI Pregnant Woman program, they are continuously eligible through the two months following the month in which the pregnancy ends (OAR 410-200-0135) unless one or more of the following occur:

(a) The woman dies;

(b) The woman moves out of state;

(c) The woman becomes incarcerated; or

(d) An adult in the household group requests the medical benefits are closed.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

ADMINISTRATIVE RULES

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.447 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0440

Specific Requirements; Extended Medical Assistance

(1) The following individuals may be eligible for Extended Medical Assistance (EXT) if they lose eligibility for Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), or MAGI Parent or Other Caretaker Relative (MAGI PCR) benefits:

(a) Individuals who lose eligibility for MAA, MAF, or MAGI PCR due to the receipt or increase of earned income are eligible for 12 months of EXT if eligibility is redetermined and the individual is not eligible for any other Medicaid/CHIP program.

(b) Individuals who lose eligibility for MAA, MAF, or MAGI PCR due to the receipt or increase of spousal support are eligible for four months of EXT benefits if:

(A) Individuals were eligible for and receiving MAA, MAF, or MAGI PCR benefits for any three of the six months preceding the receipt or increase in spousal support that resulted in loss of eligibility, and;

(B) Eligibility is redetermined and the individual is not eligible for any other Medicaid/CHIP program.

(2) The EXT beneficiary must be a resident of Oregon.

(3) Individuals who lose EXT eligibility for one of the following reasons may regain EXT eligibility for the remainder of the original eligibility period if the requirements outlined in sections (1) and (2) are met:

(a) EXT eligibility is lost because the individual leaves the household during the EXT eligibility period. The individual may regain EXT eligibility if they return to the household; or

(b) EXT eligibility is lost due to a change in circumstance that results in eligibility for another OCCS medical program, and then a subsequent change in circumstance occurs that results in ineligibility for all OCCS Medical Programs, the individual may regain EXT eligibility.

(4) The effective date of EXT is the first of the month following the month in which MAA, MAF, or MAGI PCR program eligibility ends.

(5) If an individual receives MAA, MAF, or MAGI PCR benefits during months when they were eligible for EXT:

(a) Such months are not an overpayment;

(b) Any month in which an individual receives MAA, MAF, or MAGI PCR benefits when they were eligible for EXT is counted as a month of the EXT eligibility period.

(6) If a beneficiary of MAA, MAF, or MAGI PCR benefits experiences another change in conjunction with the receipt or increase of earned income or spousal support, and the other change, by itself, makes the beneficiary ineligible for the current program, the beneficiary is not eligible for EXT.

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025
Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 411.447, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 19-2015(Temp), f. & cert. ef. 4-2-15 thru 9-28-15; DMAP 31-2015(Temp), f. & cert. ef. 6-16-15 thru 9-28-15; DMAP 53-2015, f. 9-22-15, cert. ef. 9-25-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0505

Specific Requirements; Fast Track Eligibility and Enrollment for MAGI Medicaid

For Fast Track eligibility and enrollment, the Authority provides MAGI Medicaid benefits based on an individual's eligibility for SNAP program benefits, or for individuals who are parents of children determined eligible for OCCS Medicaid programs.

(1) A SNAP recipient adult may be found eligible for Fast Track eligibility and enrollment based on findings from the Department, even if the Department's eligibility methodology differs from that used by the Authority for OCCS Medical Programs if the adult:

(a) Has SNAP income is at or below the applicable income standards for MAGI Adult;

(b) Indicates they wish to pursue medical assistance;

(c) Is not eligible for or receiving Supplemental Security Income;

(d) Agrees to cooperate with the Division of Child Support; and

(e) Meets the specific program requirements for MAGI Adult (OAR 410-200-0435).

(2) The adult parent or parents of a MAGI Medicaid eligible child may be found eligible for Fast Track eligibility and enrollment if the adult:

(a) Indicates they wish to pursue medical assistance;

(b) Is not eligible for or receiving Supplemental Security Income;

(c) Agrees to cooperate with the Division of Child Support; and

(d) Meets the specific program requirements for the applicable program.

(3) A new application is not required for Fast Track eligibility and enrollment.

(4) If the individual requests Fast Track eligibility and enrollment and is not eligible due to eligibility for or receipt of Supplemental Security Income, the Authority shall refer the applicant to the Department for an eligibility determination. The Date of Request is the date the Authority received consent for Fast Track eligibility and enrollment.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 413.038

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

410-200-0510

Specific Program Requirements; BCCM, CEC, CEM, EXT, MAA, MAF, OHP, and Substitute Care

(1) This rule describes OCCS Medical Programs for which individuals may be determined eligible through December 31, 2013. See OAR 410-200-0500 for information regarding the treatment of those beneficiaries as of January 1, 2014.

(2) To be eligible for a program listed in this rule, an individual must meet the following:

(a) The eligibility factors set forth in OAR 410-200-0200 through 410-200-0240;

(b) The budgeting and income standard requirements set forth in OAR 410-200-0300 through 410-200-0315; and

(c) The individual must have established a Date of Request prior to January 1, 2014.

(3) For purposes of this rule, private major medical health insurance means a comprehensive major medical insurance plan that, at a minimum, provides physician services; inpatient and outpatient hospitalization; outpatient lab, x-ray, immunizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(4) For the purposes of this rule, the receipt of private major medical health insurance does not affect OCCS medical program eligibility if it is not accessible. Private major medical health insurance is not considered accessible if:

(a) The travel time or distance to available providers exceeds:

(A) In urban areas: 30 miles, 30 minutes, or the community standard, whichever is greater;

(B) In rural areas: 60 miles, 60 minutes, or the community standard, whichever is greater.

(b) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(5) CEM provides eligibility for the balance of the 12-month eligibility period for non-CAWEM children who were receiving Child Welfare (CW) medical, EXT, MAA, MAF, OHP, OSIPM, or Substitute Care program benefits and lost eligibility for reasons other than moving out of state or turning 19 years old. CEM benefits end when:

(a) The child becomes eligible for CW medical, EXT, MAA, MAF, OHP, OSIPM, or Substitute Care program benefits;

(b) The child turns 19 years of age;

(c) The child moves out of state; or

(d) Benefits are closed voluntarily.

(6) CEC provides eligibility for the OHP-CHP program for non-CAWEM pregnant children who were receiving OHP-CHP and would have otherwise lost eligibility for reasons other than moving out of state or becoming a recipient of private major medical health insurance. CEC eligibility for OHP-CHP ends the day following the end of the month in which the earliest of the following occur:

(a) The pregnancy ends;

(b) The individual moves out of state;

(c) The individual begins receiving private major medical health insurance;

(d) Benefits are closed voluntarily; or

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(e) The individual becomes eligible for CW medical, EXT, MAA, MAF, OHP, OSIPM, or Substitute Care program benefits.

(7) For the Authority to enroll a child in the program based on a determination made by an ELA, the child's parent or guardian shall give consent in writing, by telephone, orally, or through electronic signature.

(8) To be eligible for EXT, an individual must have been eligible for and receiving MAA or MAF and became ineligible due to a caretaker relative's increased earned income or due to increased spousal support (OAR 410-200-0440).

(9) To be eligible for MAA or MAF, an individual must be one of the following:

(a) A dependent child who lives with a caretaker relative. However, a dependent child for whom foster care payments are made for more than 30 days is not eligible while the payments are being made;

(b) A caretaker relative of an eligible dependent child. However, a caretaker relative to whom foster care payments are made for more than 30 days is not eligible while the payments are being made;

(c) A caretaker relative of a dependent child, when the dependent child is ineligible for MAA or MAF for one of the following reasons:

(A) The child is receiving SSI;

(B) The child is in foster care but is expected to return home within 30 days; or

(C) The child's citizenship has not been documented.

(d) An essential person. An essential person is a member of the household group who:

(A) Is not required to be in the filing group;

(B) Provides a service necessary to the health or protection of a member of the household group who has a mental or physical disability; and

(C) Is less expensive to include in the benefit group than the cost of purchasing this service from another source.

(e) A parent of an unborn as follows:

(A) For the MAA program:

(i) Any parent whose only child is an unborn child, once the mother's pregnancy has reached the calendar month preceding the month in which the due date falls;

(ii) The father of an unborn child who does not meet the criteria described in subsection (e)(A)(i) of this part may be eligible if there is another dependent child in the household group.

(B) For the MAF program, a mother whose only child is an unborn child, once the mother's pregnancy has reached the calendar month preceding the month in which the due date falls.

(10) To be eligible for any OHP program in sections (12) through (15), an individual may not be:

(a) Receiving SSI benefits;

(b) Eligible for Medicare, except that this requirement does not apply to the OHP-OPP program;

(c) Receiving Medicaid through any other program concurrently.

(11) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(12) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(13) To be eligible for the OHP-OPP program, an individual must:

(a) Be pregnant;

(b) Be within the time period through the end of the calendar month in which the 60th day following the last day of the pregnancy falls; or

(c) Be an infant under age one.

(14) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-OPP, or OHP-OP6 programs; and

(b) Not be covered by any private major medical health insurance. An individual may be eligible for OHP-CHP if the private major medical health insurance is not accessible as outlined in section (4).

(15) Effective July 1, 2004, the OHP-OPU program is closed to new applicants. Except as provided in subsections (a) and (b) of this section, a new applicant may not be found eligible for the OHP-OPU program:

(a) An individual is not a new applicant if the Department determines that the individual is continuously eligible for medical assistance as follows:

(A) The individual is eligible for and receiving benefits under the OHP-OPU program on June 30, 2004, and the Department determines that the individual continues after that date to meet the eligibility requirements for the OHP-OPU program;

(B) The individual is eligible for and receiving benefits under the CAWEM program on June 30, 2004 and is eligible for the CAWEM pro-

gram based on the OHP-OPU program, and the Department determines that the individual continues to meet the eligibility requirements for the OHP-OPU program except for citizenship or alien status requirements;

(C) The eligibility of the individual ends under the BCCM, CEC, CEM, EXT, GAM, HKC, MAA, MAF, OHP-CHP, OHP-OPC, OHP-OPP, OSIPM, REFM, or Substitute Care program, or the related CAWEM program; or because the individual has left the custody of the Oregon Youth Authority (OYA); and at that time the Department determines that the individual meets the eligibility requirements for the OHP-OPU program;

(D) The individual is a child in the custody of the Department whose eligibility for Medicaid ends because of the child's age and at that time the Department determines that the individual meets the eligibility requirements for the OHP-OPU program;

(E) The Department determines that the individual was continuously eligible for the OHP-OPU program on or after June 30, 2004 under paragraphs (A) to (D) of this section.

(b) An individual who is not continuously eligible under subsection (a) is not a new applicant if the individual:

(A) Has eligibility end under the BCCM, CEC, CEM, EXT, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OPU, OSIPM, REFM, or Substitute Care program, or the related CAWEM program; because the individual has left the custody of the OYA; or is a child in the custody of the Department whose eligibility for Medicaid ends due to the child's age;

(B) Established a Date of Request prior to the eligibility ending date in paragraph (A) of this section; and

(C) Meets the eligibility requirements for the OHP-OPU program or the related CAWEM program within either the month of the Date of Request or, if ineligible in the month of the Date of Request, the following month.

(16) To be eligible for the OHP-OPU program, an individual must meet the requirements listed in section (16) and be 19 years of age or older and may not be pregnant. Additionally, an individual must meet the following requirements:

(a) Must be currently receiving Medicaid or CHIP benefits when determined eligible for OHP-OPU;

(b) Must not be covered by any private major medical health insurance. An individual may be eligible for OHP-CHP if the private major medical health insurance is not accessible as outlined in section (4);

(c) May not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

(A) Any of the criteria in section (4) are met;

(B) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(C) The individual's health insurance premium was reimbursed because the individual was receiving Medicaid, and the Department or the Authority found the premium was cost-effective;

(D) The individual's health insurance was subsidized through FHIAP or the Office of Private Health Partnerships in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(E) A member of the individual's household group was a victim of domestic violence.

(17) To be eligible for the Substitute Care program, an individual must meet the specific eligibility requirements for Substitute Care found in OAR 410-200-0405.

(18) Except for OHP-CHP and CEC, a pregnant woman who is eligible for and receiving benefits through any program listed in this rule remains eligible through the end of the calendar month in which the 60th day following the last day of the pregnancy falls.

(19) A child who becomes ineligible for the OHP program because of age while receiving in-patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in-patient medical services on the last day of the month in which the age requirement is no longer met.

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

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 78-2015(Temp), f. & cert. ef. 12-22-15 thru 6-18-16; DMAP 24-2016, f. & cert. ef. 6-2-16

Rule Caption: Updating Rate Table Incorporated by Reference

Adm. Order No.: DMAP 25-2016(Temp)

Filed with Sec. of State: 6-3-2016

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Certified to be Effective: 6-3-16 thru 11-29-16

Notice Publication Date:

Rules Amended: 410-170-0110

Subject: The Authority needs to amend the date of the rate table referenced in 410-170-0110 as the rates have changed.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-170-0110

Billing and Payment for Services and Placement Related Activities

(1) The BRS contractor is compensated for a billable care day (service and placement related activities rates) on a fee-for-service basis, except as otherwise provided for in these rules. The Authority does not make payments for any calendar day that does not meet the definition of a billable care day under this rule.

(2) Billable care day rates are provided in the “BRS Rates Table,” dated May 1, 2016, which is adopted as Exhibit 1 and incorporated by reference into this rule. The BRS Rates Table is available at <http://www.oregon.gov/OHA/healthplan/pages/brs.aspx>. A printed copy may be obtained from the agency.

(3) Billable Care Day:

(a) For purposes of computing a billable care day, the BRS client must be in the direct care of the BRS provider at 11:59 p.m. of that day or be on an authorized home visit in accordance with section (4) of this rule;

(b) A billable care day does not include any day where the BRS client is on runaway status, in detention, an inpatient in a hospital, or has not yet entered or has been discharged from the BRS contractor’s or BRS provider’s program.

(4) Home Visits:

(a) The BRS contractor shall only include a maximum of eight calendar days of home visits in a month as billable care days;

(b) In order to qualify as an authorized home visit day, the BRS contractor must:

(A) Ensure that the home visit is tied to the BRS client’s ISP or MSP;

(B) Work with the BRS client and the BRS client’s family or substitute family on goals for the home visit and receive regular reports from the family on the BRS client’s progress while on the home visit;

(C) Have staff available to answer calls from the BRS client and BRS client’s family or substitute family and to provide services to the BRS client during the time planned for the home visit if the need arises;

(D) Document communications with the BRS client’s family or substitute family; and

(E) Document the BRS client’s progress on goals set for the home visits.

(5) Invoice form:

(a) The BRS contractor must submit a monthly billing form to the agency in a format acceptable to the agency on or after the first day of the month following the month in which it provided services and placement related activities to the BRS client. The billing form must specify the number of billable care days provided to each BRS client in that month;

(b) The BRS contractor must provide, upon request in a format that meets the agency’s approval, written documentation of each BRS client’s location for each day claimed as a billable care day;

(c) The BRS contractor may only submit a claim for a billable care day consistent with the agency’s prior authorization.

(6) Payment for a Billable Care Day:

(a) The agency shall pay the service and placement related activities rates to the BRS contractor for each billable care day in accordance with the BRS Rates Table described in section (2) of this rule;

(b) Notwithstanding section (6)(a) of this rule, the Authority shall only pay the service rate for each billable care day to a public child-caring agency, who by rule or contract provides the local match share for Medicaid claims under OAR 410-120-0035 and 42 CFR 433 Subpart B. The Authority may not pay the placement related activities rate for each billable care day to these types of public child-caring agencies;

(c) To the extent the payment for services is funded by Medicaid and CHIP funds, the BRS contractor and the BRS provider are subject to Medicaid billing and payment requirements in these rules and the Authority’s general rules (OAR 410-120-0000 to 410-120-1980).

(7) Third Party Resources:

(a) The Authority’s BRS contractors must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280(16);

(b) The Department’s and OYA’s BRS contractors are not required to review or pursue third party resources. The Department and OYA must

make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280(16) for Medicaid-eligible BRS clients.

(8) Public child-caring agencies who are responsible by rule or contract for the local match share portion of eligible Medicaid claims must comply with OAR 410-120-0035 and 42 CFR 433 Subpart B.

(9) In cases where the BRS contractor is not also the BRS provider, the BRS contractor is responsible for compensating the BRS provider for billable care days pursuant to the agency-approved subcontract between the BRS contractor and the BRS provider.

(10) The Authority may not be financially responsible for the payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid or CHIP program. If the Authority has previously paid the agency or BRS contractor for any claim that CMS disallows, the payment shall be recouped pursuant to OAR 410-120-1397. The Authority shall recoup or recover any other overpayments as described in OAR 410-120-1397 and OAR 943-120-0350 and 943-120-0360.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 63-2013, f. 11-14-13, cert. ef. 1-1-14; DMAP 42-2015(Temp), f. & cert. ef. 8-11-15 thru 2-6-16; DMAP 4-2016(Temp), f. 2-5-16, cert. ef. 2-7-16 thru 8-4-16; DMAP 8-2016, f. & cert. ef. 2-23-16; DMAP 25-2016(Temp), f. & cert. ef. 6-3-16 thru 11-29-16

Oregon Health Authority, Health Systems Division: Mental Health Services Chapter 309

Rule Caption: Permanent amendments to OAR 309-114 titled “Informed Consent to Treatment by Patients in State Institutions”.

Adm. Order No.: MHS 5-2016

Filed with Sec. of State: 5-25-2016

Certified to be Effective: 5-25-16

Notice Publication Date: 4-1-2016

Rules Amended: 309-114-0000, 309-114-0005

Subject: These rules prescribe standards and procedures to be observed by personnel of state institutions operated by Division in obtaining informed consent to significant procedures, as defined by these rules, from patients of such state institutions. These rules do not apply to routine medical procedures. Administration of significant procedures without informed consent is permitted as described in OAR 309-114-0010(1)(b). The purpose of these rules is to assure that the rights of patients are protected with respect to significant procedures.

Stat. Auth.: ORS 179.040 and 413.042

Rules Coordinator: Nola Russell—(503) 945-7652

309-114-0000

Purpose

Purpose. These rules prescribe standards and procedures to be observed by personnel of state institutions operated by Division in obtaining informed consent to significant procedures, as defined by these rules, from patients of such state institutions. These rules do not apply to routine medical procedures. Administration of significant procedures without informed consent is permitted as described in OAR 309-114-0010(1)(b). The purpose of these rules is to assure that the rights of patients are protected with respect to significant procedures.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 179.321, 426.070 & 426.385

Hist.: MHD 3-1983, f. 2-24-83, ef. 3-26-83; MHS 14-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 5-29-08; MHS 2-2008(Temp), f. & cert. ef. 4-7-08 thru 10-4-08; MHS 6-2008, f. & cert. ef. 7-25-08; MHS 12-2010, f. & cert. ef. 9-9-10; MHS 12-2013(Temp), f. & cert. ef. 10-29-13 thru 4-27-14; MHS 9-2014, f. & cert. ef. 4-24-14; MHS 5-2015, f. & cert. ef. 8-28-15; MHS 5-2016, f. & cert. ef. 5-25-16

309-114-0005

Definitions

As used in these rules:

(1) “Authorized Representative” or “representative” means an individual who represents a party in a contested case hearing; the representative must be supervised by an attorney that is licensed by the Oregon State Bar.

(2) “Chief Medical Officer” means the physician designated by the superintendent of each state institution pursuant to ORS 179.360(1)(f) who is responsible for the administration of medical treatment at each state institution.

(3) “Committed” or “Commitment” means an individual is admitted under ORS 161.327, 161.328, 161.370, 426.701, 426.130, 427.215 or

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426.220 when the individual's guardian or health care representative is unavailable or unable to consent

(4) "Dangerousness" means either:

(a) A substantial risk that physical harm will be inflicted by an individual upon his own person, as evidenced by threats, including verbal threats or attempts to commit suicide or inflict physical harm on him or herself. Evidence of substantial risk may include information about historical patterns of behavior that resulted in serious harm being inflicted by an individual upon him or herself as those patterns relate to the current risk of harm;

(b) A substantial risk that physical harm will be inflicted by an individual upon another individual, as evidenced by recent acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of substantial risk may include information about historical patterns of behavior

(5) "Division" means the State Hospitals Division of the Oregon Health Authority.

(6) "Guardian" means a legal guardian who is an individual appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(7) "Health Care Representative" means a person who has authority to make health care decisions for a patient.

(8) "Legally Incapacitated" means having been found by a court of law under ORS 426.295 to be unable, without assistance, to properly manage or take care of one's personal affairs, or who is a person under guardianship.

(9) "Material Risk." A risk is material if it may have a substantial adverse effect on the patient's psychological or physical health, or both. Tardive dyskinesia is a material risk of neuroleptic medication. Other risks include, but are not limited to raised blood pressure, onset of diabetes and metabolic changes.

(10) "Medication Educator" means a Qualified Mental Health Professional (QMHP) who provides information about the proposed significant procedures to patients.

(11) "Patient" means an individual who is receiving care and treatment in a state institution for the mentally ill.

(12) Patient with a "grave disability" means a patient who:

(a) Is in danger of serious physical harm to his or her health or safety absent the proposed significant procedures; or

(b) Manifests severe deterioration in routine functioning evidenced by loss of cognitive or volitional control over his or her actions which is likely to result in serious harm absent the proposed significant procedures.

(13) "Person Committed to the Division" or "Person" means an individual committed under ORS 161.327, 161.328, 426.701, 426.220, 161.370, 426.130, or 427.215.

(14) "Psychiatric Nurse Practitioner," means a registered nurse with prescription authority who independently provides health care to clients with mental and emotional needs or disorders.

(15) "Qualified Mental Health Professional" (QMHP) means any individual meeting the following minimum qualifications as documented by the state institution:

(a) Graduate degree in psychology;

(b) Bachelor's or graduate degree in nursing and licensed by the State of Oregon;

(c) Graduate degree in social work or counseling;

(d) Graduate degree in a behavioral science field;

(e) Graduate degree in recreational art, or music therapy;

(f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; or

(g) Bachelor's or graduate degree in a relevant area.

(16) "Routine Medical Procedure" means a procedure customarily administered by facility medical staff under circumstances involving little or no risk of causing injury to a patient including, but not limited to physical examinations, blood draws, influenza vaccinations, tuberculosis (TB) testing, human immunodeficiency virus (HIV) testing and hygiene.

(17) "Significant Procedure" means a diagnostic or treatment modality and all significant procedures of a similar class that pose a material risk of substantial pain or harm to the patient such as, but not limited to psychotropic medication and electro-convulsive therapy. Significant procedures do not include routine medical procedures.

(18) "Significant Procedures of a Similar Class" means a diagnostic or treatment modality that presents substantially similar material risks as the significant procedure listed on the treating physician's or psychiatric nurse practitioner's informed consent form and is generally considered in

current clinical practice to be a substitute treatment or belong to the same class of medications as the listed significant procedure.

(a) For purposes of these rules, medications listed in subsections 14(a)(A) through 14(a)(F) of this rule will be considered the same or similar class of medication as other medications in the same subsection:

(A) All medications used under current clinical practice as antipsychotic medications including typical and atypical antipsychotic medications;

(B) All medications used under current clinical practice as mood stabilizing medications;

(C) All medications used under current clinical practice as antidepressants;

(D) All medications used under current clinical practice as anxiolytics;

(E) All medications used under current clinical practice as psychostimulants; and

(F) All medications used under current clinical practice as dementia cognitive enhancers.

(b) Significant procedures of the same or similar class do not need to be specifically listed on the treating physician's or psychiatric nurse practitioner's form.

(19) "State Institution" or "Institution" means all Oregon State Hospital campuses and the Blue Mountain Recovery Center.

(20) "Superintendent" means the executive head of the state institution listed in section (18) of this rule, or the superintendent's designee.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 179.321, 183.458, 426.070 & 426.385

Hist.: MHD 3-1983, f. 2-24-83, ef. 3-26-83; MHD 3-1988, f. 4-12-88, (and corrected 5-17-88), cert. ef. 6-1-88; MHS 14-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 5-29-08; MHS 2-2008(Temp), f. & cert. ef. 4-7-08 thru 10-4-08; MHS 6-2008, f. & cert. ef. 7-25-08; MHS 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; MHS 2-2009(Temp), f. & cert. ef. 4-2-09 thru 7-22-09; MHS 3-2009, f. & cert. ef. 6-26-09; MHS 6-2009, f. & cert. ef. 12-28-09; MHS 5-2010(Temp), f. & cert. ef. 3-12-10 thru 9-8-10; MHS 12-2010, f. & cert. ef. 9-9-10; MHS 13-2010(Temp), f. & cert. ef. 11-19-10 thru 5-18-11; MHS 4-2011, f. & cert. ef. 5-19-11; MHS 15-2014(Temp), f. & cert. ef. 12-1-14 thru 5-29-15; MHS 2-2015(Temp), f. & cert. ef. 4-24-15 thru 10-20-15; MHS 5-2015, f. & cert. ef. 8-28-15; MHS 8-2015(Temp), f. & cert. ef. 11-24-15 thru 5-20-16; MHS 5-2016, f. & cert. ef. 5-25-16

Oregon Health Authority, Oregon Educators Benefit Board Chapter 111

Rule Caption: Amendment to OEGB Procurement and Contracting Rules for Benefit Plans and Services

Adm. Order No.: OEGB 1-2016(Temp)

Filed with Sec. of State: 6-10-2016

Certified to be Effective: 6-10-16 thru 12-6-16

Notice Publication Date:

Rules Amended: 111-005-0010, 111-005-0015, 111-005-0020, 111-005-0040, 111-005-0042, 111-005-0044, 111-005-0046, 111-005-0047, 111-005-0048, 111-005-0050, 111-005-0055, 111-005-0080

Subject: All amendments made to OEGB's Division 5 OARs have been reviewed by Department of Justice (DOJ). These amendments to Division 5 reflect updated contracting provisions currently found in Oregon's public contracting rules and statutes.

Rules Coordinator: April Kelly — (503) 378-6588

111-005-0010

Policy

The policy of the Oregon Educators Benefit Board (OEGB) is to select Contractors and Consultants in an expeditious, fair, and efficient manner that is consistent with the goal of delivering high-quality benefits and other services at a cost that is affordable to the Eligible Employees, Dependents, Eligible Domestic Partners, and Eligible Early Retirees, and meets the requirements of ORS 243.866. The Board may enter into more than one Contract for each type of Benefit Plan or other service sought.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Ch. 7 OL 2007

Hist.: OEGB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEGB 1-2008, f. & cert. ef. 1-4-08; OEGB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEGB 10-2011, f. & cert. ef. 5-3-11; OEGB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0015

Renewal, Screening and Selection for Benefits, Vendor and Personal Services Contracts

(1) The Board is charged with the obligation of obtaining Benefit Plans for Eligible Employees, Dependents, Eligible Domestic Partners, and Eligible Early Retirees. Oregon Administrative Rules (OARs) 111-005-

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0040 through 111-005-0080 set forth the screening, selection, and renewal processes to be used for all such Benefit Plans. The Board has sole authority to procure all Benefit Plans and services contemplated by ORS 243.860 through ORS 243.886.

(2) Except as provided in OARs 111-005-0040 through 111-005-0080, the Board adopts the DOJ model public contract rules in OAR 137, division 46 (General Provisions Related to Public Contracting) and division 47 (Public Procurements for Goods or Services) as the contracting rules that shall apply to its Contracts.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11; OEBB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0020

Definitions

For the purposes of OARs 111-005-0010 through 111-005-0080 the following definitions will apply:

(1) "Apparent Successful Proposer" or "ASP" means an organization selected as a result of a competitive and completed Procurement process.

(2) "Benefit Plan Contractor" means a Contractor that administers one or more Benefit plans for OEBB.

(3) "Bid" means a competitive document, binding on the Proposer and submitted in response to an Invitation to Bid.

(4) "Bidder" means a Person submitting a proposal in response to an ITB.

(5) "Competitive Range" means the group of Proposers or Bidders responding to a Procurement that has Proposals or Bids that score higher based on the Procurement's evaluation criteria than the remaining Proposers or Bidders in some meaningful way. Proposers or Bidders who are determined to be in a Competitive Range may also be referred to as finalists.

(6) "Consultant" means brokers or other advisory personnel hired by the Board to:

(a) Assist in acquiring adequate Benefit Plan coverage for Eligible Employees, Dependents, Eligible Domestic Partners, and Eligible Early Retirees;

(b) Assist in the study of all matters connected with the provision of adequate Benefit Plan coverage for Eligible Employees, Dependents, Eligible Domestic Partners, and Eligible Early Retirees;

(c) Assist in the development and implementation of decision-making processes;

(d) Design and implement additional programs to review, monitor and assist in health improvement for Eligible Employees, Dependents, Eligible Domestic Partners, and Eligible Early Retirees; and

(e) Provide other services as required by the Board.

(7) "Contractor" means an individual or firm who provides services to the Board under a public contract.

(8) "Emergency" means circumstances that:

(a) Could not have been reasonably foreseen;

(b) Create a substantial risk of loss, damage or interruption of Benefit Plans or other services or a substantial threat to property, public health, welfare or safety; and

(c) Require prompt execution of a contract to remedy the condition.

(9) "Extensive Procurement" means the process of soliciting Proposals and Bids and selecting a Contractor for services amounting to \$150,000 and over.

(10) "Intermediate Procurement" means the process of soliciting Proposals and Bids and selecting a Contractor for services amounting to under \$150,000 but over \$10,000.

(11) "Invitation to Bid" or "ITB" means all documents, whether attached or incorporated by reference, used for soliciting bids.

(12) "OEBB" or "the Board" refers to the Board or other Persons or groups the Board delegates authority to for all or part of the Solicitation process.

(13) "ORPIN" means the Oregon Procurement Information Network, an online service operated by the Department of Administrative Services that displays Procurements and contracts issued by the state of Oregon's agencies.

(14) "Person" means a natural person capable of being legally bound, a sole proprietorship, a corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-profit or nonprofit unincorporated association, a business trust, two or more persons having a joint or common economic interest, any other person with legal capacity to contract or a public body.

(15) "Procurement" means the action of obtaining goods or services under a public contract.

(16) "Proposal" means a competitive document, binding on the Proposer and submitted in response to a RFP.

(17) "Proposer" means a Person submitting a proposal in response to a RFP.

(18) "Renewal Contractor" means a contractor or consultant who provided the same or similar employee benefit plan or other services under a contract with the Board in the plan year immediately prior.

(19) "Request for Proposal" or "RFP" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

(20) "Responsible Proposer" means a Person who meets the standards of responsibility described in OAR 111-005-0055.

(21) "Responsive Proposal" means a Proposal that substantially complies with the RFP and all prescribed Procurement procedures and requirements.

(22) "Selection Committee" means the group of individuals appointed or approved by the Board to review, evaluate and score Proposals received as part of an Intermediate or Extensive Procurement.

(23) "Single Point of Contact" or "SPC" means the designated OEBB staff or designee that serves as the official point of contact between OEBB and interested Proposers, ASPs, or Contractors.

(24) "Small Procurement" means the process of securing Contractors or Consultants for services amounting to \$5,000 or less.

(25) "Sole Source" means the only Contractor or Consultant of a particular product or service reasonably available.

(26) "Solicitation" generally refers to the methods used to request goods or services through a competitive process, including Requests for Proposals, Invitations to Bid, and other methods used under Intermediate or Extensive Procurements.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11; OEBB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0040

Extensive Procurement Process

The Board will use the following procedure for Extensive Procurements, except as provided for under OAR 111-005-0046 or 111-005-0048.

(1) Announcement. The Board will post Solicitation notices for Benefit Plans or services on ORPIN. The Board may also post Solicitation notices for Benefit Plans or services in trade periodicals or newspapers of general or specialized circulation. The Solicitation notice will include a description of the Benefit Plans or services sought, the scope of the services required, evaluation and selection criteria, and a description of any special requirements. The notice will invite qualified prospective Proposers to submit Proposals. The notice will specify when and where to obtain the RFP, where to return the Proposal, the method of submission, and the closing date.

(2) No remuneration will be offered to prospective Proposers for attendance, travel, document preparation, etc. unless otherwise specified in the RFP.

(3) Pre-proposal conference. Unless otherwise specified in the RFP, the pre-proposal conference will:

(a) Be voluntary; and

(b) Be held in Salem, Oregon.

(4) Protest of RFP specifications; request for change; request for clarification.

(a) Protest of RFP specifications.

(A) A Proposer may deliver a protest to the SPC not less than ten calendar days prior to closing, unless otherwise specified in the RFP.

(B) Protests must be in writing and must include:

(i) A detailed statement of the legal and factual grounds for the protest;

(ii) A description of the resulting prejudice to the Proposer; and

(iii) A statement of the desired changes to the RFP.

(C) OEBB will not consider a protest after the submission deadline.

(D) OEBB will provide notice to the protestor if it entirely rejects a protest. If OEBB agrees with the protest, in whole or in part, it will issue an addendum reflecting its determination under OAR 137-030-0055 and 137-047-0430 or cancel the solicitation under 137-030-0115.

(E) If OEBB receives a written protest that meets this rule's requirements, the closing may be extended if OEBB determines an extension is necessary to consider the protest and to issue any addendum to the RFP.

(b) Request for change.

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(A) A Proposer may submit a written request to change the RFP specifications, unless otherwise specified in the RFP. If the RFP allows requests for change and does not specify otherwise, Proposer must deliver the written request for change to the SPC not less than ten calendar days prior to closing.

(B) A request for change must include a statement of the requested changes to the RFP specifications as well as the reason for the requested change.

(C) OEGB will not consider a request for change after the submission deadline.

(D) OEGB will provide notice to the requestor if it entirely rejects a change. If OEGB agrees with the request for change, in whole or in part, OEGB will issue an addendum reflecting its determination under OAR 137-030-0055 and 137-047-0430 or cancel the Solicitation under 137-030-0115.

(E) If OEGB receives a written request for change that meets this rule's requirements, closing may be extended if OEGB determines an extension is necessary to consider the request and to issue any addendum to the RFP.

(c) Request for clarification.

(A) A Proposer may submit a written request for clarification of the RFP specifications, unless otherwise specified in the RFP. If the RFP allows a request for clarification and does not specify otherwise, a Proposer must deliver the written request for clarification to the SPC not less than ten calendar days prior to closing.

(B) A Proposer may request that OEGB clarify any provision of the RFP.

(C) OEGB will not consider a request for clarification after the submission deadline. OEGB's clarification to a Proposer, whether orally or in writing, does not change the RFP and is not binding on OEGB unless the RFP is amended by addendum.

(5) Addenda to an RFP following a protest of RFP specifications, request for change, or request for clarification.

(a) Issuance; receipt. OEGB may change an RFP only by written addenda. A Proposer must provide written acknowledgement of receipt of all issued addenda with its Proposal, unless otherwise specified in the RFP.

(b) Notice and distribution. The RFP must specify how OEGB will provide notice of addenda and make the addenda available.

(c) Timelines; extensions. OEGB will issue addenda within a reasonable time to allow potential Proposers to consider the addenda in preparing their Proposals. OEGB may extend the closing if it determines potential Proposers need additional time to review and respond to addenda. OEGB will not issue addenda less than 72 hours before the closing unless an addendum also extends the closing, except to the extent required by public interest.

(d) Request for change or protest. A potential Proposer may submit a written request for change or protest to the addendum by the close of OEGB's next business day after issuance of the addendum, unless otherwise specified in the addendum.

(6) Submission. All Proposals must comply with the RFP's specifications.

(a) If portions of a Proposal are deemed unacceptable or non-responsive to the RFP's specifications, the Proposal in its entirety will be deemed non-responsive and will not be given further evaluation or consideration, unless a clarification of portions of the Proposal results in a determination that it meets the RFP's specifications. If a Proposal is delivered late, it will be deemed non-responsive, will not be given further evaluation or consideration, and will be returned to the Proposer unopened.

(b) Submission of Proposals must be in written hard copy or electronic format and must be delivered according to the RFP's specifications. OEGB is not responsible for unreadable or incomplete electronic transmissions or for electronic transmissions that are not received by the SPC or designee as specified in the RFP by the closing date and time stated in the RFP.

(7) Evaluation. Proposals will be evaluated in accordance with the criteria set forth in the RFP and applicable law. OEGB staff, Consultants, or other persons designated by OEGB may provide recommendations to the Board on determining the Competitive Range and selecting the ASP(s).

(8) Rejection of Proposal. OEGB may reject any Proposal for good cause and deem it as non-responsive upon written finding that it is in the best interest of Eligible Employees, Dependents, Eligible Domestic Partners, and Eligible Early Retirees to do so or acceptance of the Proposal may impair the integrity of the RFP process. OEGB will notify the Proposer of the rejection in writing and provide the good cause justification and finding. OEGB is not liable to any Proposer for any loss or expense caused by or resulting from any rejection, cancellation, delay or suspension. Without

limiting the generality of the foregoing, OEGB may reject any Proposal upon finding that the Proposal:

(a) Is contingent upon OEGB's acceptance of terms and conditions (including the RFP Specifications and requirements) that differ from the RFP;

(b) Takes exception to terms and conditions set forth in the RFP;

(c) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the RFP or in contravention of applicable law;

(d) Offers services that fail to meet the RFP's specifications or requirements;

(e) Is late;

(f) Is not in substantial compliance with the RFP;

(g) Is not in substantial compliance with all prescribed Procurement procedures;

(h) Is from a Proposer that has been debarred as set forth in ORS 279B.130;

(i) Has failed to provide the certification of non-discrimination required under ORS 279A.110 (4); or

(j) Is from a Proposer found non-responsive as described in OAR 111-005-0055.

(9) Intent to award, discuss, or negotiate. After the protest period provided in subsection (4)(a) expires or after OEGB has provided a final response to any protest, whichever date is later, OEGB may engage in discussions and negotiations with Proposers in the Competitive Range.

(10) Discussions and negotiations. If OEGB enters into discussions and negotiations with the Proposers in the Competitive Range, it will proceed as follows:

(a) Initiating discussions. OEGB must initiate oral or written discussions and negotiations with all of the Proposers in the Competitive Range.

(b) Conducting discussions. OEGB may conduct discussions and negotiations with each Proposer in the Competitive Range as necessary to fulfill the purposes of this section, but need not conduct the same amount of discussions or negotiations with each Proposer. OEGB may terminate discussions and negotiations with any Proposer in the Competitive Range at any time. In conducting discussions, OEGB and its designees:

(A) Will treat all Proposers fairly and will not favor any Proposer over another.

(B) Will not discuss Proposers' Proposals with any other Proposers.

(C) Will determine whether other factors such as Oregon residency of the primary business office and Proposer demonstration of services and products, will be used to determine the ASP, if a tie between Proposers occurs. OEGB may consider any factors that it deems are in the public interest.

(c) At any time during the period allowed for discussions and negotiations, OEGB may:

(A) Continue discussions and negotiations with a particular Proposer or Proposers; or

(B) Terminate discussions with a particular Proposer and continue discussions with other Proposers in the Competitive Range.

(d) OEGB may continue discussions and negotiations with Proposers until determining who will be awarded contracts.

(11) Notice of intent to award. OEGB will provide written notice to all Proposers of its intent to award the contract or contracts resulting from the RFP, unless otherwise specified in the RFP. OEGB's award will not be final until the later of the following:

(a) Seven calendar days after the date of the notice, unless the RFP provided a different period for protest; or

(b) OEGB's written response to all timely filed protests that denies the protests and affirms the award.

(12) Right to protest award. An adversely affected or aggrieved Proposer may submit a written protest of the intent to award to the SPC. The protest must be made within seven calendar days after issuance of the notice of intent to award the contract, unless otherwise specified in the RFP.

(a) The protest must be in writing and must specify the grounds upon which the protest is based.

(b) A Proposer is adversely affected or aggrieved only if the Proposer would be eligible to be awarded the contract in the event that the protest were successful, and the reason for the protest is that:

(A) All higher ranked Proposals are nonresponsive;

(B) OEGB has failed to conduct the evaluation of Proposals in accordance with the criteria or processes described in the RFP;

(C) OEGB has abused its discretion in rejecting the protestor's Proposal as nonresponsive; or

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(D) OEGB's evaluation of Proposals or OEGB's subsequent determination of award is otherwise in violation of OEGB's rules or ORS 243.860 to 243.886.

(c) OEGB will not consider a protest submitted after the time period specified in this rule or after the time period specified in the RFP, if different than the time period specified in this rule.

(d) The Board, OEGB staff, or their designee has the authority to settle or resolve a written protest meeting the submission requirements of this rule.

(e) If a protest is not settled, the Board, OEGB staff, or their designee will promptly issue a written decision on the protest. Judicial review of this decision will be available only as provided by statute.

(13) Award of contracts. OEGB will approve the ASP(s), taking into consideration any recommendations made by OEGB staff, Consultant, or designees and the evaluation criteria included in OAR 111-002-0005(3) and the RFP. Selection criteria may include, but is not limited to, Contractor or Consultant availability; capability; experience; approach; compensation requirements; financial standing; previous litigation and remedy applied; customer service history with OEGB and the members and customers it serves; debarment status; and references.

(14) Contract. The ASP(s) must promptly execute the contract after the award is final and all contractual terms and conditions have been negotiated and agreed upon, consistent with any timeline(s) included in the RFP. OEGB will execute the contract only after it has obtained all applicable required documents and approvals.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEGB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEGB 1-2008, f. & cert. ef. 1-4-08; OEGB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEGB 10-2011, f. & cert. ef. 5-3-11; OEGB 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; OEGB 2-2012, f. & cert. ef. 4-18-12; OEGB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0042

Intermediate Procurement Process

Except as provided under OAR 111-005-0046 or 111-005-0048, OEGB will use the following procedure for an Intermediate Procurement:

(1) Selection procedure. OEGB will contact a minimum of three Proposers known to OEGB to be qualified to provide the work and services sought.

(2) Submission. All Proposals must comply with the OEGB's specifications for the Intermediate Procurement. If portions of the Proposal are deemed unacceptable or non-responsive to the specifications, the Proposal may be deemed non-responsive. OEGB may give the Proposer an opportunity to submit a responsive Proposal. Submission of Proposals must meet the specifications for the Intermediate Procurement. OEGB is not responsible for unreadable or incomplete electronic transmissions or for electronic transmissions that are not received by OEGB.

(3) Evaluation. OEGB will evaluate Proposals in accordance with criteria set forth in the Intermediate Procurement.

(4) Discussions and negotiations. If OEGB chooses to enter into discussions and negotiations with a Proposer under this Intermediate Procurement procedure, OEGB will do so consistent with 111-005-0010.

(5) Notice of intent to award. OEGB will provide written notice to all Proposers under an Intermediate Procurement of its intent to award the contract.

(6) Right to protest award. An adversely affected or aggrieved Proposer may submit to OEGB a written protest of OEGB's intent to award. The protest must be made within seven calendar days after issuance of the notice of intent to award the contract, unless otherwise specified by OEGB.

(a) The Proposer's protest must be in writing and must specify the grounds upon which the protest is based.

(b) A Proposer is adversely affected or aggrieved only if:

(A) The Proposer is eligible for award of the contract as a responsible Proposer; and

(B) OEGB committed a substantial violation of its Intermediate Procurement procedure or of an applicable procurement statute or administrative rule.

(c) OEGB will not consider a protest submitted after the time period specified in this section or a different period if provided in the specifications of the Intermediate Procurement.

(d) The Board, OEGB staff, or their designee, has the authority to settle or resolve a written protest meeting the submission requirements of this rule.

(e) If a protest is not settled, the Board, OEGB staff, or their designee, will promptly issue a written decision on the protest. Judicial review of this decision will be available if provided by statute.

(7) Contract. The successful Proposer must promptly execute the Contract after the award is final. The Board Chair, or designee, will execute the Contract only after it has obtained all applicable required documents and approvals.

Stat. Auth.: ORS 243.860 – 243.886

Stats. Implemented: ORS 243.864

Hist.: OEGB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEGB 1-2008, f. & cert. ef. 1-4-08; OEGB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEGB 10-2011, f. & cert. ef. 5-3-11; OEGB 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; OEGB 2-2012, f. & cert. ef. 4-18-12; OEGB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0044

Small Procurement Process

For a Small Procurement, OEGB may procure Contractor services in any manner it deems practical, including by direct selection, negotiation and award.

(1) Award of Contracts. OEGB will base selections on evaluation criteria which may include, but is not limited to, contractor availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEGB, members and clients; debarment status; and references. Emphasis will be placed on quality customer service, creativity, affordability, and innovation and the improvement of employee health.

(2) Contract. The selected Contractor must promptly execute the Contract. OEGB will execute the Contract only after obtaining all applicable required documents and approvals.

(3) An amendment for additional services shall not increase the total contract cost to a sum that is greater than twenty-five percent of the original contract cost.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEGB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEGB 1-2008, f. & cert. ef. 1-4-08; OEGB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEGB 10-2011, f. & cert. ef. 5-3-11; OEGB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0046

Sole Source Procurement Process

OEGB may award a Contract for Benefit Plans or services without competition when OEGB determines in writing that the Benefit Plans or services are available from only one source, or the Contractor is defined as a Qualified Rehabilitation Facility as defined in Oregon's Public Contracting Code.

(1) The determination of a Sole Source Procurement must be based on written findings that may include, but are not limited to, the following:

(a) That the efficient utilization of existing Benefit Plans or services requires the acquisition of compatible services;

(b) That the Benefit Plans or services required for the exchange of software or data with other public or private agencies are available from only one source;

(c) That the Benefit Plans or services are for use in a pilot or an experimental project; or

(d) Other findings that support the conclusion that the goods or services are available from only one source.

(2) To the extent reasonably practical, OEGB shall negotiate with the sole source organization or Person to obtain Contract terms advantageous to OEGB.

(3) Contract. The sole source organization or Person must promptly execute the Contract after the award is final. OEGB will execute the Contract only after it has obtained all applicable required documents and approvals.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEGB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEGB 1-2008, f. & cert. ef. 1-4-08; OEGB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEGB 10-2011, f. & cert. ef. 5-3-11; OEGB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0047

Renewal Process

OEGB may renew Contracts with Contractors for as many years as OEGB determines is in the best interest of the state, Eligible Employees, Dependents, Eligible Domestic Partners, and Eligible Early Retirees. OEGB may invite renewal proposals from those Contractors who provided the same or similar Benefit Plans or services in the year immediately prior. A Benefit Plan or services Contract is similar if it is reasonably related to the scope of work described in the Procurement under which such a Contract was awarded.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEGB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEGB 10-2011, f. & cert. ef. 5-3-11; OEGB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

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111-005-0048

Emergency Contract Process

OEBB may select a Contractor to provide Benefit Plans or services without following any of the procedures under OAR 111-005-0040, 111-005-0042, 111-005-0044, or 111-005-0046 when required by Emergency. OEBB will determine if an Emergency exists, declare the Emergency, and negotiate a Contract with the Contractor based on the following criteria: Contractor availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBB, members and clients; debarment status; and references. OEBB will place emphasis on employee choice among high-quality plans, plan performance and information, a competitive marketplace, employer flexibility in plan design and contracting, quality customer service, creativity, affordability, and innovation and the improvement of employee health.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0050

Mistakes

(1) Treatment of mistakes. If OEBB discovers certain mistakes in a Proposal before award of the Contract, and the mistakes are not identified as those qualifying as non-responsive to the specifications of the Procurement, OEBB may take the following action:

(a) Waive or permit a Proposer to correct a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Proposal, or an insignificant mistake that can be waived or corrected without prejudice to other Proposers. Mistakes including, but not limited to, signatures not affixed to the Proposal document, Proposals sent to the incorrect address, insufficient number of Proposals submitted, or incorrect format will not be considered minor.

(b) Correct a clerical error if the intended Proposal and the error are evident on the face of the Proposal, or other documents submitted with the Proposal, and the Proposer confirms the correction in writing. A clerical error includes, but is not limited to, a Proposer's error in transcribing its Proposal.

(2) Rejection for mistakes. OEBB may reject any Proposal in which a mistake is evident on the face of the Proposal and the intended correct Proposal is not evident or cannot be substantiated from documents accompanying the Proposal. In order to ensure integrity of the competitive Procurement process and to assure fair treatment of Proposers, mistakes discovered that are contrary to the specifications of the Procurement will be carefully reviewed and will be determined, under sole authority of OEBB, to be waived or not be waived.

(3) If OEBB discovers mistakes in the Proposal after award, and the mistakes are not considered minor, OEBB reserves the right to determine if the award will be revoked. OEBB will then re-evaluate Proposals deemed to be in second, third, fourth, etc., in the standings.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11; OEBB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0055

Responsible Proposer

(1) Before awarding a Contract, OEBB must establish that the Proposer meets the applicable standards of responsibility. OEBB shall prepare a written determination of non-responsibility for a Proposer if OEBB determines that the Proposer does not meet the standards of responsibility.

(2) In determining whether a Proposer has met the standards of responsibility, OEBB shall consider whether a Proposer:

(a) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or has the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities.

(b) Completed previous contracts of a similar nature with a satisfactory record of performance. For purposes of this paragraph, a satisfactory record of performance means that to the extent that the costs associated with and time available to perform a previous contract remained within the Proposer's control, the Proposer stayed within the time and budget allotted for the procurement and otherwise performed the contract in a satisfactory manner. OEBB shall document the Proposer's record of performance if OEBB finds under this paragraph that the Proposer is not responsible.

(c) Has a satisfactory record of integrity. In evaluating the Proposer's record of integrity, OEBB may consider, among other things, whether the Proposer has previous criminal convictions for offenses related to obtain-

ing or attempting to obtain a contract or subcontract or in connection with the Proposer's performance of a contract or subcontract. OEBB shall document the Proposer's record of integrity if OEBB finds under this paragraph that the Proposer is not responsible.

(d) Is legally qualified to contract with OEBB.

(e) Supplied all necessary information in connection with the inquiry concerning responsibility. If a Proposer fails to promptly supply information concerning responsibility that OEBB requests, OEBB shall determine the Proposer's responsibility based on available information or may find that the Proposer is not responsible.

(f) Was not debarred by OEBB in accordance with ORS 279B.130.

(3) OEBB may refuse to disclose outside of OEBB confidential information furnished by a Proposer under this section when the Proposer has clearly identified in writing the information the Proposer seeks to have treated as confidential and OEBB has authority under ORS 192.410 to 192.505 to withhold the identified information from public disclosure.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11; OEBB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

111-005-0080

Contract Amendments

OEBB may amend a Contract without additional competition in any of the following circumstances:

(1) The amendment is within the scope of the underlying Procurement.

(2) These rules otherwise permit OEBB to award a Contract without competition for the goods or services to be procured under the amendment.

(3) The amendment is necessary to comply with a change in law that affects performance of the Contract.

(4) The amendment results from renegotiation of the terms and conditions, including the contract price, of a Contract and the amendment is advantageous to OEBB, subject to all of the following conditions:

(a) The work or services to be provided under the amended Contract are the same as the work or services to be provided under the unamended Contract.

(b) OEBB determines that the amended Contract is at least as favorable to OEBB as the unamended Contract.

(c) The amended Contract does not have a total term greater than allowed in the underlying Procurement after combining the initial and extended terms.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11; OEBB 1-2016(Temp), f. & cert. ef. 6-10-16 thru 12-6-16

**Oregon Health Authority,
Public Health Division
Chapter 333**

Rule Caption: Limited marijuana retail sales

Adm. Order No.: PH 16-2016(Temp)

Filed with Sec. of State: 5-20-2016

Certified to be Effective: 6-2-16 thru 11-28-16

Notice Publication Date:

Rules Amended: 333-008-1500, 333-008-1505

Subject: With the passage of SB 1511 during the 2016 Legislative session, the Legislature directed the Oregon Health Authority to establish rules that expand the type of products that adult retail customers may purchase from registered medical marijuana dispensaries to include a single serving of a low-dose edible, one prefilled receptacle of a cannabinoid extract and nonpsychoactive medical cannabinoid products intended to be applied to a person's skin or hair.

In response, the Oregon Health Authority is adopting emergency temporary rules to amend Oregon Administrative Rules (OAR) 333-008-1500 and OAR 333-008-1505 to reflect the mandated changes
Rules Coordinator: Tracy Candela—(971) 673-0561

333-008-1500

Limited Marijuana Retail Sales

(1) For purposes of OAR 333-008-1500 through 333-008-1505 the following definitions apply:

(a) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

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- (A) A mechanical extraction process;
- (B) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or
- (C) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure.
- (b) “Cannabinoid edible” means:
- (A) A food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.
- (B) “Cannabinoid edible” does not include a tincture or a cannabinoid product intended to be placed under the tongue or in the mouth using a dropper or spray delivery method, such as but not limited to, a sublingual spray.
- (c) “Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:
- (A) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; or
- (B) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure.
- (d)(A) “Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, which contains cannabinoids or dried marijuana leaves or flowers.
- (B) “Cannabinoid product” does not include:
- (i) Usable marijuana by itself;
- (ii) A cannabinoid concentrate by itself;
- (iii) A cannabinoid extract by itself; or
- (iv) Industrial hemp, as defined in ORS 571.300.
- (e) “Cannabinoid tincture” means a solution of alcohol, cannabinoid concentrate or extract, and perhaps other ingredients intended for human consumption or ingestion, and that is exempt from the Liquor Control Act under ORS 471.035.
- (f) “Cannabinoid topical” means a cannabinoid product intended to be applied to skin or hair.
- (g) “Dried leaves and flowers of marijuana” means the cured and dried leaves and flowers from a mature marijuana plant that have not been chemically altered or had anything added to them.
- (h) “Immature marijuana plant” means a marijuana plant that is not flowering.
- (i) “Individual” means a person 21 years of age or older who is not a patient or designated primary caregiver.
- (j) “Limited marijuana retail product” means:
- (A) The seeds of marijuana;
- (B) The dried leaves and flowers of marijuana;
- (C) An immature marijuana plant;
- (D) Cannabinoid edibles;
- (E) Nonpsychoactive medical cannabinoid products intended to be applied to a person’s skin or hair; and
- (F) Prefilled receptacles of cannabinoid extracts.
- (k) “Low-dose cannabinoid edible” means a cannabinoid edible that has no more than 15 milligrams of THC in a unit.
- (l) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
- (m) “Medical cannabinoid product” has the meaning given that term in ORS 475B.410.
- (n) “Medical marijuana dispensary” or “dispensary” means an entity registered with the Oregon Health Authority under ORS 475B.450.
- (o) “Nonpsychoactive medical cannabinoid product intended to be applied to a person’s skin or hair”:
- (A) Means a cannabinoid topical with a THC content of not more than six percent that does not affect the mind or mental processes.
- (B) Does not mean a transdermal patch.
- (p) “Photographic identification” means valid government issued identification with a photograph of the individual that includes the individual’s last name, first name, and date of birth.
- (q) “Prefilled receptacle of cannabinoid extract” means a single use cartridge prefilled with a cannabinoid extract by itself.
- (r) “Unit” means a package for sale.
- (2) Until January 1, 2017, a medical marijuana dispensary may sell limited marijuana retail product to an individual in accordance with this rule if:
- (a) The dispensary, five days prior to selling any limited marijuana retail product notifies the Authority, on a form prescribed by the Authority, that the dispensary intends to sell limited marijuana retail product;
- (b) The city or county in which the dispensary operates has not adopted an ordinance prohibiting the sale of limited marijuana retail product; and
- (c) The Authority has not prohibited the dispensary from selling limited marijuana retail product under section (14) of this rule.
- (3) A dispensary that is permitted to sell limited marijuana retail product:
- (a) Must examine the photo identification of all individuals before entering the dispensary to ensure the individual is 21 years of age or older.
- (b) Must verify at the time of sale that the individual is 21 years of age or older by examining the individual’s photographic identification.
- (c) May only sell limited marijuana retail product as specified in sections (4) to (6) of this rule.
- (4) A dispensary may sell one-quarter ounce of dried leaves and flowers to an individual per day.
- (5) Between June 2 and December 31, 2016 a dispensary may sell:
- (a) One unit of a single-serving, low-dose cannabinoid edible to an individual per day. A unit of a low-dose cannabinoid edible can contain more than one edible as long as the total THC in the unit does not exceed 15 milligrams.
- (b) One prefilled receptacle of a cannabinoid extract that does not contain more than 1,000 milligrams of THC to an individual per day.
- (c) Nonpsychoactive medical cannabinoid products intended to be applied to a person’s skin or hair.
- (6) A dispensary may sell up to four immature marijuana plants to the same individual at any time between October 1, 2015 and December 31, 2016.
- (7) A dispensary may not:
- (a) Offer, sell or provide a cannabinoid product, extract or concentrate to an individual except as provided in sections (4) through (6) of this rule; or
- (b) Give away a limited marijuana retail product to an individual.
- (8) For each limited marijuana retail product sale, a dispensary must document:
- (a) The limited marijuana retail product that was sold and the amount in metric units or number sold as applicable;
- (b) The birth date of the individual who bought the product;
- (c) The sale price; and
- (d) The date of sale.
- (9) A dispensary may sell non-marijuana items to an individual, such as but not limited to branded clothing.
- (10) A dispensary is not required to maintain a record of the name of the individual to whom a limited marijuana retail product was sold but the dispensary must have a system in place that is outlined in its policies and procedures for ensuring that an individual is not sold more than the amount or number of a limited retail marijuana product permitted under this rule.
- (11) Records of sale transactions and the documentation required in section (8) of this rule shall be maintained in accordance with the Authority’s record keeping requirements for dispensaries.
- (12) A dispensary that chooses to sell limited marijuana retail product to individuals must:
- (a) Post at the point the sale, the following posters prescribed by the Authority, measuring 22 inches high by 17 inches wide that can be downloaded at www.healthoregon.org/marijuana:
- (A) A Pregnancy Warning Poster; and
- (B) A Poisoning Prevention Poster.
- (b) Post at the point of sale a color copy of the “Educate Before You Recreate” flyer measuring 22 inches high by 17 inches wide that can be downloaded at WHATSLEGALOREGON.COM.
- (c) Distribute to each individual at the time of sale, a Marijuana Information Card, prescribed by the Authority, measuring 3.5 inches high by 5 inches long that can be downloaded at www.healthoregon.org/marijuana.
- (d) Comply with all rules in OAR chapter 333, division 7 and 8 that apply to dispensaries including but not limited to all security, testing, labeling, except as provided in section (13) of this rule, packaging and documentation rules except rules that:
- (A) Prohibit individuals from entering or being present in a dispensary; and
- (B) Prohibit a dispensary from transferring marijuana to an individual.
- (e) On and after January 4, 2016:

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(A) Collect a tax of 25 percent of the retail sales price of a limited marijuana retail product in the same manner that a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, collects the tax imposed under section 2, chapter 699, Oregon Laws 2015;

(B) Comply with all requirements in sections 1 through 13, chapter 699, Oregon Laws 2015, and any applicable administrative rules adopted by the Department of Revenue; and

(C) If requested by the Authority, sign an authorization to permit the sharing of information between the Authority and the Department of Revenue concerning tax collection required by section 21a, chapter 699, Oregon Laws 2015.

(13) A dispensary:

(a) May substitute a warning that reads "For use by adults 21 and older. Keep out of reach of children" for the warning "For use by OMMF patients only. Keep out of reach of children" on labels for limited marijuana retail products.

(b) Between June 2 and October 1, 2016, may not sell a low-dose cannabinoid edible or a prefilled receptacle of a cannabinoid extract unless it is in child-resistant safety packaging, as that is defined in OAR 333-008-1225.

(c) On and after October 1, 2016, must:

(A) Comply with the packaging requirements in OAR 845-025-7000 to 845-025-7060 for all limited marijuana retail products.

(B) Comply with any labeling requirements in OAR 333-007-0010 to 333-007-0100 for limited marijuana retail products that would be applicable to a similar item sold by an Oregon Liquor Control Commission licensee.

(14) The Authority may, if it determines that a dispensary has violated OAR 333-008-1500 through 333-008-1505:

(a) Prohibit a dispensary from selling limited marijuana retail product; and

(b) Take any action authorized under OAR 333-008-2190.

(15) A dispensary may not sell limited marijuana retail product to individuals if the dispensary is located in a city or county that has adopted an ordinance prohibiting such sales in accordance with section 3, chapter 784, Oregon Laws 2015.

(16) A dispensary that has had its registration suspended may not sell limited marijuana retail product while the registration is suspended.

(17) This rule is only in effect until January 1, 2017.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784 & sec. 21a, ch. 699, OL 2015

Stats. Implemented: ORS 475.314, OL 2015, ch. 784 & sec. 21a, ch. 699, OL 2015

Hist.: PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16; PH 8-2016, f. 2-26-16, cert. ef. 3-1-16; PH 16-2016(Temp), f. 5-20-16, cert. ef. 6-2-16 thru 11-28-16

333-008-1505

Reporting Requirements

(1) A dispensary that is selling limited marijuana retail products to individuals must by April 10, 2016, July 10, 2016, October 10, 2016, and January 10, 2017, report to the Authority, in a manner prescribed by the Authority, the information required to be documented in OAR 333-008-1500(4) for the previous quarter.

(2) A dispensary must submit, by April 10, 2016, the information required to be documented in OAR 333-008-1500(4) for October 1, 2015 through December 31, 2015.

(3) A dispensary selling limited marijuana retail products to individuals must provide proof to the Authority by May 10, 2016, August 10, 2016, November 10, 2016, and February 10, 2017, in a manner prescribed by the Authority, that it has paid the tax required by the Department of Revenue for the previous quarter. Documentation may include but is not limited to a copy of the marijuana tax returns, reports, payment vouchers, payment receipts or any related documents filed with the Department.

Stat. Auth.: ORS 475B.450 & 475B.525, OL 2015, ch. 784

Stats. Implemented: ORS 475B.450, OL 2015, ch. 784

Hist.: PH 8-2016, f. 2-26-16, cert. ef. 3-1-16; PH 16-2016(Temp), f. 5-20-16, cert. ef. 6-2-16 thru 11-28-16

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Rule Caption: Environmental Laboratory Accreditation to expand the scope and fees of accreditation.

Adm. Order No.: PH 17-2016

Filed with Sec. of State: 6-7-2016

Certified to be Effective: 6-7-16

Notice Publication Date: 4-1-2016

Rules Amended: 333-064-0005, 333-064-0010, 333-064-0025, 333-064-0060, 333-064-0065

Subject: The Oregon Health Authority, Public Health Division, Oregon State Public Health Laboratory is permanently amending admin-

istrative rules in chapter 333, division 64 pertaining to environmental laboratory accreditation. Based upon implementation of new technologies introduced by environmental laboratories and the cannabis testing laboratories and in order to be compliant with ORS 475B.565 regarding testing and sampling cannabinoid products, ORELAP needs to expand the scope of accreditation. The Oregon Environmental Laboratory Accreditation Program (ORELAP) is a fee based program that accredits laboratories by Matrix-Technology/Method-Analyte. The ORELAP accreditation process will need to be changed to include the revised fields of testing; Basic, Moderate and Complex based on the assessors' time to review the methods during the on-site assessment, as well as the addition of a new field of testing to include the new technologies, expand the definitions of matrix to include cannabinoid products to be tested in order to be accredited based on the assessment of Matrix-Technology/Method-Analyte to the TNI standards. The addition of the field of testing and the matrix per field of testing for which the laboratory has requested accreditation will require a rule change in the fee schedule to determine the appropriate assessment fee. The out-of state fees for environmental laboratories seeking accreditation or renewal of ORELAP accreditation will be increased.

In order to be compliant with ORS 475B.565, ORELAP will include cannabis sampling as an accreditation and will be assigned a point value for an application fee and listed as a technology within the new Advanced Technology field of testing. The rule changes regarding the out-of-state fees and the addition of a new field of testing (Advanced Technology) with the corresponding fee(s) had been postponed until Ballot Measure 91 was voted by the people of Oregon in November 2015. Upon the passage of ORS 475B.565, requiring cannabis testing laboratories to seek ORELAP accreditation in pursuant of Oregon Liquor Control Commission (OLCC) licensure, the rule changes presented in this notice is a full roll up of proposed rule changes of increased out-of-state fees, addition of new fields of testing, adjustment of the fee schedule based on the Matrix-Technology/Method-Analyte to include cannabis sampling and the addition of the definition of 'matrix' to include cannabinoid products, concentrates or extracts.

Rules Coordinator: Tracy Candela—(971) 673-0561

333-064-0005

Purpose

These rules are for the purpose of implementing Oregon Revised Statutes (ORS) 438.605 to 438.620, 448.280 and the Oregon Drinking Water Quality Act of 1981. ORS 438.610 states that the Oregon Health Authority shall by adopting standards in concurrence with the accrediting body, implement an environmental laboratory accreditation program hereafter referred to as the Oregon Environmental Laboratory Accreditation Program (ORELAP). These rules establish requirements for the accreditation of laboratories analyzing samples under the guidance of the Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), the Resource, Conservation and Recovery Act (RCRA) and cannabis testing under ORS 475B.550 to 475B.590. Testing of water samples under ORS 448.150, Oregon's Drinking Water Quality Act, must be conducted by an ORELAP accredited laboratory.

Stat. Auth.: ORS 448.150(1), 448.131, 448.280(1)(b) & (2), 438.605, 438.610, 438.615, 438.620 & 475B.565

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615, 438.620 & 475B.565

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04; PH 20-2003, f. 12-02-03, cert. ef. 12-08-03; PH 6-2011, f. & cert. ef. 8-9-11; PH 31-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-28-16; PH 17-2016, f. & cert. ef. 6-7-16

333-064-0010

Scope

(1) These rules apply to:

(a) Laboratories seeking accreditation to perform environmental or agricultural laboratory testing;

(b) Laboratories seeking accreditation to perform sampling and laboratory testing of marijuana items as required by ORS 475B.565; and

(c) Accredited laboratories performing:

(A) Environmental or agricultural testing; or

(B) Sampling and testing of marijuana items.

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(2) Accreditation as described in these rules is required for all laboratories reporting drinking water analysis results to the Oregon Health Authority except for Oregon Department of Agriculture Laboratory, Oregon Department of Environmental Quality Laboratory and the Oregon State Public Health Laboratory which must be certified by the United States Environmental Protection Agency for drinking water analysis.

(3) Accreditation as described in these rules is required for all Oregon laboratories testing marijuana items.

Stat. Auth.: ORS 448.150(1), 448.131, 448.280(1)(b) & (2), 438.605, 438.610, 438.615, 438.620 & 475B.565

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615, 438.620 & 475B.565

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04; PH 20-2003, f. 12-02-03, cert. ef. 12-08-03; PH 6-2011, f. & cert. ef. 8-9-11; PH 31-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-28-16; PH 17-2016, f. & cert. ef. 6-7-16

333-064-0025

Definitions

As used in these rules, unless the context indicates otherwise:

(1) "Accrediting Body" means the official accrediting authority for the Oregon Environmental Laboratory Accreditation Program comprised of the Administrator of the Oregon State Public Health Laboratory or designee, the Laboratory Administrator of the Department of Environmental Quality or designee and the Laboratory Administrator of the Department of Agriculture or designee.

(2) "Air" as a matrix means air samples, which are analyzed for possible contaminants under the guidance of the Clean Air Act.

(3) "Authority" means the Oregon Health Authority.

(4) "Biological Tissue" as a matrix means samples of biological tissue, excluding those of human origin.

(5) "Cannabis Sampling" means an activity related to obtaining a representative sample of a marijuana item for purposes of testing in accordance with these rules and OAR 333-007-0300 to 333-007-0490.

(6) "Clean Air Act (CAA)" means the enabling legislation, 42 U.S.C. 7401 et seq. (1974), Public Law 91-604, 84 Stat. 1676 Public Law 95-95, 91 Stat., 685 and Public Law 95-190, 91 Stat., 1399, that empowers the EPA to promulgate air quality standards, monitor and enforce them.

(7) "Clean Water Act (CWA)" means the enabling legislation under 33 U.S.C. 1251 et seq., Public Law 92-50086, Stat. 816 that empowers the EPA to set discharge limitations, write discharge permits, monitor and bring enforcement action for non-compliance.

(8) "Drinking Water" as a matrix means samples of presumed potable water and source water, which are analyzed for possible contaminants under the guidance of the Safe Drinking Water Act.

(9) "Fields of Accreditation" means those matrix, technology/method, and analyte combinations for which ORELAP offers accreditation.

(10) "Laboratory" means a fixed location or mobile facility that collects or analyzes samples in a controlled and scientific manner with the appropriate equipment and instruments required by accredited sampling and testing methods.

(11) "Marijuana item" has the meaning given that term in ORS 475B.550.

(12) "Mobile Category 1 Laboratory" means any facility, deployed for no more than six consecutive months and no more than six months during a calendar year, that:

(a) Analyzes samples utilizing the staff and equipment from the parent fixed laboratory;

(b) Operates under the quality system of its parent fixed laboratory;

(c) Is capable of moving or being moved from site to site, such as but not limited to vans, trailers and motor coaches; and

(d) May operate under the fixed laboratory's accreditation.

(13) "Mobile Category 2 Laboratory" means any facility that:

(a) Analyzes samples;

(b) Operates under its own quality system;

(c) Is capable of moving or being moved from site to site, such as but not limited to vans, trailers and motor coaches; and

(d) Issues the final reports or is a mobile laboratory operating with a fixed laboratory's quality system, but is deployed for more than six consecutive months or more than six months in a calendar year.

(14) "National Environmental Laboratory Accreditation Program (NELAP)" means the program established to oversee the implementation of the TNI Standards.

(15) "NELAP approved accrediting body" means a state or federal department/agency that has been approved by NELAP as being an entity whose accreditation and assessment program meets all of the requirements of the TNI Standards.

(16) "Non-Potable Water" as a matrix means aqueous samples, which are analyzed under the guidance of the Clean Water Act or the Resource, Conservation and Recovery Act.

(17) "On-site assessment" means an on-site visit to the laboratory to verify items addressed in the ORELAP application and to evaluate the facility and analytical performance for conformance with the TNI Standards.

(18) "ORELAP approved assessor" means an assessor whose qualification has been evaluated by ORELAP and found to meet TNI Standards for laboratory on-site assessors.

(19) "Primary Accreditation" means accreditation by a NELAP approved accrediting body based on a laboratory's compliance to TNI Standards after a review of the laboratory's application, quality manual, PT results and on-site assessment results as described in the TNI Standards.

(20) "Proficiency testing (PT)" means the analysis of samples obtained from providers that meet the TNI standards for PT providers. The composition of the sample is unknown to the laboratory performing the analysis, and is used in part to evaluate the ability of the laboratory to produce precise and accurate results.

(21) "Public water system" means a water system as defined in OAR 333-061-0010.

(22) "Quality Manual (QM)" means a document stating the management policies, objectives, principles, organizational structure and authority, responsibilities, accountability, and implementation of a laboratory to ensure the quality of its product and the utility of its product to its users.

(23) "Resource Conservation and Recovery Act (RCRA)" means the enabling legislation, 42 U.S.C. section 6901 et seq. (1976), that requires the EPA to protect human health and protecting and monitoring the environment by regulating hazardous waste disposal practices.

(24) "Safe Drinking Water Act (SDWA)" means the SDWA enacted in 1974 and the Safe Drinking Water Amendments of 1986, 42 U.S.C. 300f et seq., Public Law 93-523, that is the enabling legislation that requires the EPA to protect the quality of drinking water in the U.S. by setting maximum allowable contaminant levels, monitoring, and enforcing violations.

(25) "Secondary Accreditation" means the recognition by reciprocity for the fields of accreditation, methods and analytes for which the laboratory holds current primary accreditation by another NELAP approved accrediting body.

(26) "Solids" as a matrix means samples of soil, sludge and other non-aqueous compounds analyzed under the guidance of the Resource, Conservation and Recovery Act. Cannabinoid products and concentrates or extracts as defined in ORS 475B.550 shall be included in this matrix as solids.

(27) "TNI" means the NELAC Institute. TNI is a voluntary organization of state and federal environmental officials and interest groups purposed primarily to establish mutually acceptable standards for accrediting environmental laboratories.

(28) "TNI Standards" means the adopted TNI Standards (© 2009 The NELAC Institute), which are documents describing the elements of laboratory accreditation that was developed and established by the consensus principles of TNI and meets the approval requirements of TNI procedures and policies.

(29) "These rules" means the Oregon Administrative Rules encompassed by OAR 333-064-0005 through 333-064-0065.

(30) "Third party assessor" means an ORELAP approved assessor who has a current contract with the Oregon Health Authority to perform on-site assessments of laboratories for ORELAP and is not employed by the state agencies comprising ORELAP's accrediting body.

(31) "United States Environmental Protection Agency (EPA)" means the federal government agency with the responsibility for protecting public health and safeguarding and improving the natural environment (that is air, water, and land) upon which human life depends.

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

Stat. Auth.: ORS 438.605, 438.610, 438.615, 438.620, 448.131, 448.150(1), 448.280(1)(b) & (2)

Stats. Implemented: ORS 438.605, 438.610, 438.615, 438.620, 448.280(1)(b) & (2)
Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 1-2001, f. & cert. ef. 1-17-01; OHD 16-2002, f. & cert. ef. 10-10-02; PH 5-2003, f. 5-15-03, cert. ef. 7-1-03; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04; PH 20-2003, f. 12-02-03, cert. ef. 12-08-03; PH 23-2004, f. & cert. ef. 7-1-04; PH 8-2005, f. 6-1-05, cert. ef. 7-1-05; PH 6-2011, f. & cert. ef. 8-9-11; PH 31-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-28-16; PH 17-2016, f. & cert. ef. 6-7-16

333-064-0060

Fee Schedule

Fees will be charged to Oregon and out-of-state laboratories according to the following schedule. A mobile category 2 laboratory that operates as an entity of an Oregon fixed base facility will be considered an in-state laboratory, and one that does not operate as an entity of an Oregon fixed base facility will be considered an out-of-state laboratory. Mobile category

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1 laboratories are covered under the parent fixed laboratory's accreditation and are not required to pay an additional fee. Mobile category 2 laboratories require separate accreditation and are accredited to their vehicle identification numbers (VIN).

(1) A non-refundable application fee must be paid for each application requesting accreditation for methods.

(a) For laboratories located in Oregon, one of three levels of fees, Tier 1 at \$450, Tier 2 at \$900 and Tier 3 at \$1,600 will be charged. The Tiers will be determined by the total number of points derived from the number of fields of accreditation requested for accreditation listed in subsections (2)(a) through (c) of this rule.

(A) Each Basic Field of Accreditation has a multiplier of 1.

(B) Each Moderate Field of Accreditation has a multiplier of 3.

(C) Each Complex Field of Accreditation has a multiplier of 5.

(D) Each Advanced Technology Field of Accreditation has a multiplier of 7.

(E) Cannabis Sampling only for application has a multiplier of 11.

(F) The total number of points is determined by first summing the number of fields of accreditation within each category (Basic, Moderate, Complex or Advanced Technology) and then multiplying the sums by their appropriate multiplier as given in this rule. The sum of these results determines the total number of points for each laboratory. Laboratories with a total of 1 to 10 points are to be considered Tier 1 laboratories, 11 to 25 points are Tier 2 laboratories and 26 or more points are Tier 3 laboratories.

(b) For each out-of-state laboratory requesting primary or secondary accreditation through ORELAP, one of three levels of fees, Tier 1 at \$1,650, Tier 2 at \$2,640 and Tier 3 at \$3,960 will be charged with each Tier determined according to subsection (1)(a) of this rule.

(c) If a new owner acquires the laboratory and wishes the laboratory to remain accredited, the laboratory must submit a new owner application, and may be required to pay the application fee and be subject to a new on-site assessment and payment of on-site assessment fees as described in this rule.

(2) Upon ORELAP's review of a laboratory's application, each laboratory requesting primary accreditation through ORELAP, when ORELAP personnel will be used for the assessment, will be charged an assessment fee as follows:

(a) Oregon laboratories will be charged \$90 and out-of-state laboratories will be charged \$120 for each of the following Basic Fields of Accreditation requested for accreditation:

(A) Gravimetric;

(B) Physical;

(C) Probe.

(b) Oregon laboratories will be charged \$350 and out-of-state laboratories will be charged \$462 for each of the following Moderate Fields of Accreditation requested for accreditation:

(A) Inorganic Atomic absorption spectrometry;

(B) Inorganic Atomic fluorescence spectrometry;

(C) Inorganic-non-metals automated colorimetric;

(D) Inorganic-non-metals manual colorimetric;

(E) Inorganic-ion chromatography (IC);

(F) Organic-liquid chromatography (LC);

(G) General microbiology including but not limited to these three: 1) Chromofluorogenic; 2) Membrane Filter and/or Heterotrophic Plate Count (HPC); and 3) Multiple Tube Fermentation/Most Probable Number (MPN) (one fee applies for all);

(H) Asbestos (bulk);

(I) Asbestos — electron microscopy.

(c) Oregon laboratories will be charged \$500 and out-of-state laboratories will be charged \$660 for each of the following Complex Fields of Accreditation requested for accreditation:

(A) Organic — gas chromatography/mass spectrometry (GC/MS) — volatiles;

(B) Organic — gas chromatography/mass spectrometry (GC/MS) — extractables;

(C) Organic — liquid chromatography/mass spectrometry (LC/MS);

(D) Organic — gas chromatography (GC) volatiles, extractables;

(E) Inorganic — metals — inductively coupled plasma/atomic emission spectrometry (ICP/AES);

(F) Inorganic — metals — inductively coupled plasma/mass spectrometry (ICP/MS);

(G) Inorganic — ion chromatography/mass spectrometry (IC/MS);

(H) X-ray;

(I) Whole Effluent Toxicity (WET) immunoassay;

(J) Radiochemistry.

(d) Oregon laboratories will be charged \$1,000 and out-of-state laboratories will be charged \$1,440 for each of the following Advanced Technology Fields of Accreditation requested for accreditation:

(A) Organic — gas chromatography/tandem mass spectrometry (GC/MS/MS);

(B) Organic — high resolution gas chromatography/high resolution mass spectrometry (HiResGC/HiResMS);

(C) Organic — liquid chromatography/tandem mass spectrometry (LC/MS/MS);

(D) Microbiology — Polymerase chain reaction (PCR);

(E) Mycology and Parasitology — Filtration/Immunomagnetic Separation/Immunofluorescence Assay microscopy (Filtration/IMS/FA);

(F) Cannabis Sampling.

(e) The following additional fees will be charged to Oregon laboratories for each additional matrix per field of accreditation for which the laboratory has requested accreditation:

(A) \$10 for Basic Fields of Accreditation.

(B) \$40 for Moderate Fields of Accreditation.

(C) \$75 for Complex Fields of Accreditation.

(D) \$150 for Advanced Technology Fields of Accreditation.

(f) The following additional fees will be charged to out-of-state laboratories for each additional matrix per field of accreditation for which the laboratory has requested accreditation:

(A) \$13 for Basic Fields of Accreditation.

(B) \$53 for Moderate Fields of Accreditation.

(C) \$100 for Complex Fields of Accreditation.

(D) \$198 for Advanced Technology Fields of Accreditation.

(3) For purposes of section (2) of this rule the matrices are:

(a) Air;

(b) Biological tissue;

(c) Drinking water;

(d) Non-potable water; and

(e) Solids.

(4) Assessment fees must be paid before a routine on-site assessment will be performed.

(5) All laboratories must pay the appropriate on-site assessment fee per on-site assessment performed due to just cause according to TNI Standards.

(6) All Oregon laboratories requesting primary accreditation through ORELAP where Oregon state assessor(s) will perform the on-site assessment must pay an on-site trip fee for each on-site assessment. For a mobile category 2 laboratory, the trip fees are waived if it is moved to the Oregon State Public Health Laboratory for the on-site assessment, and reduced to the amount in excess of its fixed base facility when moved to the fixed base facility if both are to be assessed at the same time.

(a) On-site trip fees are \$350 for Tier 1, \$500 for Tier 2 and \$1,000 for Tier 3 laboratories with the Tiers determined according to subsection (1)(a) of this rule.

(b) All laboratories must pay the appropriate on-site trip fee for performing each required on-site assessment and additional assessments as requested by the laboratory for accreditation for additional fields of accreditation and matrices.

(c) All laboratories must pay the appropriate on-site trip fee per on-site assessment performed due to just cause according to TNI Standards.

(7) All laboratories located in Oregon requesting primary accreditation through ORELAP where ORELAP has determined that third party assessors will be used, must pay ORELAP application assessment fees plus all third party assessors costs. ORELAP may require the laboratory to pay the on-site assessment costs directly to the third party assessor according to the schedule of the assessor for all required on-site assessments.

(8) All out of-state laboratories must pay all on-site assessment costs incurred by ORELAP approved assessors to perform the on-site assessment including but not limited to transportation, per diem and wages during travel. For a mobile category 2 laboratory, the travel costs are waived if it is moved to the Oregon State Public Health Laboratory for the on-site assessment, and reduced to the amount in excess of its fixed base facility when moved to the fixed base facility if both are to be assessed at the same time. The excess amount is to be determined by those fields of accreditation and matrices requested for accreditation by the mobile lab that have not been requested by its fixed based facility. If third party assessors are used, ORELAP may require the lab to pay the on-site assessment costs directly to the assessor according to the schedule of the assessor for all required inspections.

(9) Accredited laboratories requesting additions to their fields of accreditation during the accreditation period must pay:

ADMINISTRATIVE RULES

(a) The difference in cost of the application fee with a minimum fee of \$200;

(b) The difference in cost of the assessment fee;

(c) An on-site trip fee, as described in subsection (6)(a) and section (8) of this rule, based only on the additional parameters if ORELAP determines that an on-site assessment is required.

Stat. Auth.: ORS 438.605 - 438.620 & 448.280(1)(b) & (2)

Stats. Implemented: ORS 438.605 - 438.620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 1-2001, f. & cert. ef. 1-17-01; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04; PH 20-2003, f. & cert. ef. 12-08-03; PH 3-2006(Temp), f. & cert. ef. 2-8-06 thru 7-30-06; PH 5-2006, f. & cert. ef. 4-6-06; PH 6-2011, f. & cert. ef. 8-9-11; PH 31-2015(Temp), f. & cert. ef. 1-1-16 thru 6-28-16; PH 17-2016, f. & cert. ef. 6-7-16

333-064-0065

Civil Penalties

(1) In addition to any other penalty provided by law, the Oregon Health Authority, in collaboration with the accrediting body, may impose a civil penalty not to exceed \$500 per day per violation upon any and all laboratories that:

(a) Falsely purport to be ORELAP accredited;

(b) Improperly use their ORELAP accreditation status in order to mislead; or

(c) Use the TNINELAP logo in catalogs, advertisements, business solicitations, proposals, quotations, laboratory reports and other materials without proper authorization.

(2) The Oregon Health Authority reserves the right to pursue other remedies and may take any other disciplinary action against alleged violators.

(3) In establishing the amount of the penalty for each violation, the Oregon Health Authority will consider, but not be limited to the following factors:

(a) The gravity and magnitude of the violation;

(b) The laboratory's previous record of complying or failing to comply with this rule.

(c) The laboratory's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and,

(d) Such other considerations as the Oregon Health Authority may consider appropriate.

(4) The Oregon Health Authority in collaboration the accrediting body may deny, suspend or revoke accreditation of any laboratory that fails to pay on demand a civil penalty that has become due and payable, provided that it first gives the laboratory an opportunity for a hearing as outlined in ORS chapter 183.

Stat. Auth.: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04; PH 20-2003, f. & cert. ef. 12-08-03; PH 6-2011, f. & cert. ef. 8-9-11; PH 17-2016, f. & cert. ef. 6-7-16

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Rule Caption: Updating requirements for certified or qualified health care interpreter registration through the Oregon Health Authority.

Adm. Order No.: PH 18-2016

Filed with Sec. of State: 6-9-2016

Certified to be Effective: 7-1-16

Notice Publication Date: 4-1-2016

Rules Amended: 333-002-0000, 333-002-0010, 333-002-0020, 333-002-0030, 333-002-0035, 333-002-0040, 333-002-0050, 333-002-0060, 333-002-0070, 333-002-0080, 333-002-0120, 333-002-0140, 333-002-0150, 333-002-0170, 333-002-0190, 333-002-0210, 333-002-0230

Rules Repealed: 333-002-0100, 333-002-0130, 333-002-0160, 333-002-0180, 333-002-0200, 333-002-0220

Subject: Updates and simplifies requirements for enrollment, registration and certification as a health care interpreter. Merges some rule sections and retracts duplicate requirements. Provides for background checks. Reduces fees associated with enrollment.

Rules Coordinator: Tracy Candela—(971) 673-0561

333-002-0000

Purpose

(1) These rules establish the Health Care Interpreter (HCI) program, a central registry, and a process for certification and qualification of health care interpreters for persons with limited English proficiency.

(2) These rules help the Oregon Health Authority comply with Title VI of the Civil Rights Act of 1964 which mandates that no person in the United States shall, on grounds of race, color or national origin, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance.

(3) Any individual providing health care interpreting services, either on-site or remotely may elect to participate in the Health Care Interpreter program.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 419.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0010

Definitions

As used in chapter 333, division 2 the following definitions apply:

(1) "Applicant" means any individual who applies for qualification or certification as a health care interpreter under OAR 333-002-0050.

(2) "Authority" means the Oregon Health Authority.

(3) "Central registry" means the record maintained by the Authority of enrolled individuals recognized as approved certified or qualified health care interpreters.

(4) "Certified health care interpreter" means an individual who has been issued a valid letter of certification by the Authority under these rules to perform health care interpreting services.

(5) "Formal training" means instruction obtained in an academic setting, seminars, in-service instruction, or by other means of substantive distance learning.

(6) "Health care interpreting services" means the provision of services to limited English proficient individuals through the process of fully understanding and analyzing a spoken or signed message, then faithfully rendering the message into another spoken or signed language in order to ensure access to any medical, surgical or hospital intervention including physical, oral or behavioral health treatment.

(7) "Interpreting knowledge" means an entry-level range of interpreting knowledge and skills that includes but is not limited to: language fluency, ethics, cultural competency, terminology, integrated interpreting skills and translation of simple instructions.

(8) "Interpreting skills and ability" means the demonstrated capacity to perform interpreting modes and apply medical interpreting ethics, cultural competency, terminology, integrated interpreting skills, and translation of simple instructions.

(9) "Limited English proficient" means the legal concept referring to a level of English proficiency that is insufficient to ensure equal access to public services without an interpreter.

(10) "Person with limited English proficiency" means a person who, by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively with a health care provider.

(11) "Qualified health care interpreter" means an individual who has been issued a valid letter of qualification by the Authority under these rules.

(12) "Translation" means the conversion of written text into a corresponding written text in a different language.

(13) "Written verification" means providing proof in a way that establishes the authenticity of submitted documents in a reasonably reliable manner and may include official transcripts, a certificate of completion, or an endorsement from an agency or institution whose training curriculum is approved by the Authority.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0020

Health Care Interpreter Services

Any individual providing health care interpreting services as defined in this division may voluntarily meet the eligibility standards established in OAR 333-002-0040 and be:

(1) Added to the central registry; and

(2) Issued a valid letter of certification or qualification by the Authority.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

ADMINISTRATIVE RULES

333-002-0030

Central Registry

(1) The Authority shall maintain a central registry of individuals who are certified or qualified to provide health care interpreting services as provided in OAR 333-002-0020.

(2) The Oregon Health Authority shall maintain a list of languages for which health care interpreter certification or qualification is available.

(3) The Authority shall maintain and publish a list of Authority approved training centers where applicants may receive the education required for certification or qualification.

(4) Certified or qualified health care interpreters may withdraw from the registry by providing written notification to the Authority.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0035

Fees

Applicants for enrollment or renewal shall submit a processing fee in the amount of \$25 with the required application or renewal materials.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0040

Eligibility Standards for Registry Enrollment, Qualification and Certification

(1) Individuals enrolled in the Health Care Interpreter (HCI) registry shall:

(a) Be at least 18 years of age.

(b) Have a high school diploma or a GED from an accredited school in the United States of America or an equivalent education from another country.

(A) Individuals from other countries may apply to the Authority for an exception to this requirement when documentation to prove education is not available.

(B) Exceptions are at the sole discretion of the Authority.

(c) Not be on the Medicaid Exclusion list.

(d) Pass a background check in accordance with ORS 181A.200, OAR chapter 125-division 7 and OAR chapter 943 Division 007.

(e) Abide by the National Code of Ethics and National Standards of Practice for Interpreters in Health Care.

(f) Abide by the Registry of Interpreters for the Deaf Code of Professional Conduct, if applicable.

(g) Submit the required forms and documentation to become a certified or qualified health care interpreter as defined by these rules.

(2) Applicants seeking to become a qualified health care interpreter for a spoken language or languages shall:

(a) Comply with the requirements set out in section (1) of this rule;

(b) Provide written verification of at least 60 hours of formal training as defined in OAR 333-002-0060, unless they meet the requirements outlined in section 3 of this rule; and

(c) Demonstrate health care interpreting knowledge by passing a skill evaluation offered by an Authority approved language proficiency testing center on the Authority maintained list provided for in OAR 333-002-0070, or meet equivalent language proficiency requirements set by the Authority.

(3) Educators and trainers of health care interpreters who have worked in the field for two consecutive years at any time from January 2, 2010 to the present may receive credit for 40 hours of the 60 hour requirement by providing valid documentation from an established registry or institution for time spent training health care interpreters.

(4) Applicants seeking to become a qualified healthcare interpreter for American Sign Language shall:

(a) Comply with the requirements set out in section (1) of this rule;

(b) Provide written verification of certification in American Sign Language interpreting from the Registry of Interpreters for the Deaf;

(5) Applicants seeking to become a certified healthcare interpreter in a spoken language or languages shall:

(a) Comply with the requirements set out in section (1) and (2) of this rule; and

(b) Pass an approved certification test at a medical interpreter certification testing center on the Authority maintained list provided for in OAR 333-002-0070.

(6) Applicants seeking to become a certified healthcare interpreter in American Sign Language shall:

(a) Comply with the requirements set out in section (1) and (4) of this rule;

(b) Provide written verification of at least 60 hours of formal training from an Authority approved training center as defined in OAR 333-002-0060.

(7) The Authority may accept formal training from entities outside of Oregon that demonstrate their criteria are equal to or exceed Oregon's criteria as established by these rules.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 15, 2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 1-10-11; Administrative correction 1-25-11; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0050

Application Procedure

(1) Upon request, the Authority shall provide an application packet or a link to the Health Care Interpreter (HCI) application to any individual seeking certification or qualification as an HCI.

(2) Applicants shall submit required forms and supplemental materials, including proof of formal training, and any required fees to the Authority.

(3) To meet testing requirements, applicants shall authorize an Authority approved testing center to provide the Authority with a copy of their test results.

(a) Requests for language proficiency testing or certification testing shall be made directly to the approved testing center.

(b) Required testing fees shall be paid directly to the approved testing center.

(c) Test results shall become part of the applicant's permanent record.

(4) Supplemental materials in languages other than English shall be accompanied by:

(a) An accurate translation of those documents into English; and

(b) A translator's certificate, from a translator other than the applicant and not related to the applicant by blood or marriage, stating that the documents provided are a true and accurate translation.

(c) The applicant shall pay for any translation costs for documents required by the Authority.

(5) If the Authority determines that the application is not complete or that the required documentation is not acceptable, the Authority shall notify the applicant within 30 days of receipt.

(6) Applicants may withdraw from the process at any time by providing written notification to the Authority.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0060

Formal Training and Work Experience Requirements

(1) Applicants seeking Health Care Interpreter (HCI) certification or qualification shall provide written verification of the successful completion of at least 60 hours of Authority approved formal training, including a minimum of:

(a) Fifty-two hours of integrated medical terminology, anatomy and physiology, introductory health care interpreting concepts and modes; and

(b) Eight hours of Health Care Interpreting Ethics.

(2) HCI applicants shall provide written verification of work experience as an interpreter:

(a) 15 hours for qualification; or

(b) 30 hours for certification.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 15, 2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 1-10-11; Administrative correction 1-25-11; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0070

Approval of Testing Centers, Skill Evaluation and Assessment

(1) The Authority shall enter into a memorandum of agreement with medical interpreter certification testing centers and language proficiency testing centers establishing the manner and means for testing Oregon applicants for health care interpreter certification and qualification, and including a process for sharing testing information with the Authority and the applicant.

(2) Authority approved medical interpreter testing centers shall test interpreting skills and ability.

ADMINISTRATIVE RULES

(3) The Authority shall maintain and make readily available to the public a list of approved medical interpreter certification testing centers and language proficiency testing centers.

(4) The Authority may proctor testing and determine testing locations if the approved testing centers do not have their own testing centers and the ability to verify the applicant's identity before testing.

(5) Government issued photo identification showing the name and address of the applicant such as a valid driver's license, state identification card, military identification, current passport, or immigration or naturalization documents shall be presented before an individual enters an evaluation or assessment.

(6) An applicant whose conduct interferes with or disrupts the testing process may be dismissed and disqualified from future evaluations and assessments. Such conduct includes but is not limited to the following behaviors:

(a) Giving or receiving evaluation or assessment data, either directly or indirectly, during the testing process.

(b) Failing to follow written or oral instructions related to conducting the evaluation or assessment, including termination times and procedures.

(c) Introducing unauthorized materials during any portion of the evaluation or assessment.

(d) Attempting to remove evaluation or assessment materials or notations from the testing site.

(e) Falsifying or misrepresenting educational credentials or other information required for admission to the evaluation or assessment.

(7) Applicants needing accommodation because of a disability may apply to the testing center for accommodations to complete an evaluation or assessment.

(8) Test questions, scoring keys, and other data used to administer evaluations and assessments are exempt from disclosure under ORS 192.410 through 192.505.

(9) The Authority may release statistical information regarding evaluation or assessment pass or fail rates by group, evaluation or assessment type, and subject area to any interested party.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0080

Skill Evaluation or Assessment Appeal

(1) Applicants who fail to pass a test at an Authority approved testing center may appeal the results with the testing center directly and pay any fees associated with the appeal.

(2) The testing center's determination is final.

(3) Applicants have no appeal rights with the Authority.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0120

Continuing Education

(1) To qualify for registry renewal, certified and qualified health care interpreters shall sign and submit to the Authority the designated forms and verification showing the individual has completed the required continuing education.

(2) To maintain eligibility for registry renewal, certified and qualified health care interpreters shall complete 24 hours of Authority approved continuing education during the 36 month registry period, including:

(a) Six hours of continuing education on health care interpreter ethics.

(b) Six hours of continuing education on interpretation skills.

(c) An additional 12 hours that cover any topics accepted for continuing education by interpreter certification testing centers on the Authority maintained list provided for in OAR 333-002-0070.

(3) Continuing education records shall be maintained by registered health care interpreters for a minimum of three years.

(4) Continuing education hours taken in excess of the required number in a renewal period may not be carried over to the next renewal period.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0140

Letter of Qualification

(1) If the Authority determines that the qualification requirements in OAR 333-002-0040, 333-002-0050, and 333-002-0060 and any applicable

renewal requirements have been met, a letter of qualification shall be issued.

(2) Letters of qualification are valid for 36 months from the date of issue and are not renewable for languages for which certification is available.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0150

Letter of Certification

(1) If the Authority determines that the certification requirements in OAR 333-002-0040, 333-002-0050 and 333-002-0060 and any applicable renewal requirements have been met a letter of certification shall be issued.

(2) Letters of certification are valid for 36 months from the date of issue and are renewable.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0170

Certification and Qualification Renewal

(1) Certified or qualified health care interpreters who intend to maintain enrollment in the registry shall renew their certification or qualification every 36 months.

(2) To continue participating in the registry, qualified interpreters may not apply for renewal of their qualification if certification is available in the qualified language or languages, they must become certified instead.

(3) At least 45 days before the expiration of certification or qualification, an applicant for renewal shall submit:

(a) A completed Authority renewal form and background check application.

(b) Any applicable fees.

(c) A signed copy of the Authority provided commitment form acknowledging that the applicant has read and agrees to abide by the National Code of Ethics for Interpreters in Health Care or the Registry of Interpreters for the Deaf Code of Professional Conduct, as applicable.

(d) Written verification showing the individual has maintained eligibility for registry renewal by completing the continuing education required:

(A) For qualification, the continuing education required by OAR 333-002-0120.

(B) For certification, the continuing education required by OAR 333-002-0120 and any additional hours required by the applicant's national certifying body during the preceding three years. Actual recertification by the national body is not required.

(4) The date of submission shall be considered to be the date materials are received by the Authority by fax, mail, email or hand delivery.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0190

Denial, Revocation, Suspension or Refusal to Renew Status for Certification and Qualification

(1) The Authority shall deny, revoke, suspend or refuse to renew a letter of certification or qualification if:

(a) An applicant for an initial certification or qualification fails to meet the eligibility standards of OAR 333-002-0040.

(b) An applicant for certification or qualification renewal fails to comply with the requirements of OAR 333-002-0170.

(c) An applicant submits information that cannot be verified.

(d) An applicant engages in conduct or practices found by the Authority to be in violation of the National Code of Ethics for Interpreters in Health Care, the National Standards of Practice for Interpreters in Health Care, or the Registry of Interpreters for the Deaf Code of Professional Conduct, as applicable.

(2) The Authority may deny, revoke, suspend, or refuse to renew a certification or qualification, or impose remedial education or corrective actions on an applicant or registry enrollee, if the individual engages in any of the following conduct:

(a) Representing that the applicant or enrollee is an Oregon certified or qualified health care interpreter without having been issued a valid letter of certification or qualification by the Authority.

(b) Knowingly giving false information to the Authority.

(c) Violating the credentialing process by:

ADMINISTRATIVE RULES

(A) Falsifying or misrepresenting education credentials or other information required for admission to an evaluation or assessment.

(B) Having an impersonator take an evaluation or assessment on the applicant or enrollee's behalf.

(C) Impersonating an applicant or enrollee.

(d) Having a credential to provide health care interpreting services in another state, territory or country, or issued by another certifying entity denied, revoked or suspended based on behavior by the individual similar to acts described in this rule.

(e) Being convicted of a state or federal crime which demonstrably relates to the provision of health care interpreting services in this or any other state, territory or country.

(f) Allowing the use of an Authority issued credential by a non-credentialed person.

(g) Presenting another person's credential as the applicant or enrollee's own credential.

(h) Impersonating another Oregon certified or qualified HCI.

(i) Practicing health care interpreting services under a false or assumed name.

(j) Using or attempting to use a credential that has been revoked, suspended, or lapsed.

(k) Practicing or offering to practice beyond the scope of the National Code of Ethics or National Standards of Practice for Interpreters in Health Care, or the Registry of Interpreters for the Deaf Code of Professional Conduct, as applicable.

(l) Engaging in false, deceptive or misleading advertising of the applicant or enrollee's certification or qualification credentials.

(A) False, deceptive or misleading advertising includes but is not limited to advertising health care interpreting services using the terms "Oregon qualified" or "Oregon certified" health care interpreter in any private or public communication or publication when not credentialed by the Authority.

(B) Advertising includes telephone directory listings, business cards, social media networking, or any other source of public communication.

(m) Failing to comply or cooperate with an Authority request in any way, including but not limited to a credentialing action or disciplinary proceeding, including:

(A) Failing to submit requested papers or documents.

(B) Failing to submit a written response to complaints filed with the Authority.

(C) Failing to respond to requests for information issued by the Authority whether or not the applicant or enrollee is accused in the proceeding.

(n) Failing to comply with an "assurance to desist" the applicant or enrollee entered into with the Authority.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0210

Complaints

(1) Any affected individual or their representative may submit a complaint against a certified or qualified health care interpreter (HCI).

(2) The Authority shall accept a complaint in writing, in a verbal report or in any other format that contains enough information to allow the Authority to investigate the report.

(3) The Authority shall ask the complainant or affected individual to sign a release of information indicating authorization for the Authority to access information to assist the investigation.

(4) If the complaint justifies an investigation, the Authority shall notify the respondent of the allegations and allow for response within a reasonable time with the required deadline for response provided in the notification.

(5) A summary of the complaint allegations shall be made available to the accused HCI.

(6) The Authority shall evaluate the complaint using available evidence.

(7) The complainant, the affected individual and the respondent shall be notified of the outcome in writing.

(8) The Authority may revoke, suspend, or refuse to renew a certification or qualification, or impose remedial education or corrective actions for substantiated complaints that meet the criteria in OAR 333-002-0190.

(9) Reports of discrimination based on protected class shall be submitted and investigated under the requirements of OAR 943 Section 5.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

333-002-0230

Hearings

An individual who wishes to contest the denial, non-renewal, suspension or revocation of their registry enrollment, qualification or certification may request a contested case hearing. The contested case hearing process is conducted in accordance with ORS 183.441 through 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings, OAR 137-003-0501 through 137-003-0700.

Stat. Auth.: ORS 413.558

Stats. Implemented: ORS 413.556 & 413.558

Hist.: PH 18-2006, f. & cert. ef. 8-2-06; PH 26-2006, f. & cert. ef. 11-16-06; PH 2-2011, f. & cert. ef. 3-1-11; PH 18-2016, f. 6-9-16, cert. ef. 7-1-16

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Adopts permanent rules for the Vertical Housing Program

Adm. Order No.: OHCS 5-2016

Filed with Sec. of State: 5-27-2016

Certified to be Effective: 5-27-16

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Rules Amended: 813-013-0001, 813-013-0005, 813-013-0010, 813-013-0015, 813-013-0020, 813-013-0035, 813-013-0040, 813-013-0050, 813-013-0054

Subject: The rules govern the Vertical Housing Tax Exemption Program administered by Oregon Housing and Community Services. The program is designed to encourage the development of housing in commercial corridors. In 2015, the Legislature passed HB 212, and upon effect, OHCS filed temporary rules. HB 2126 made several changes, including expanding the definition of non-residential, and expanding eligible taxing districts that can opt out of the program to include all local taxing districts. OHCS is now filing these rules as permanent.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-013-0001

Purpose and Objectives

(1) OAR chapter 813, division 013, is promulgated to carry out the provisions of ORS 307.841 to 307.867 (the "Act") as they pertain to the administration by the Housing and Community Services Department (the "department") of the Vertical Housing Program described herein (the "program"). The Act, this division and other applicable rules of the department, related documents, and applicable department determinations and orders constitute the program. The basic purpose of the program is to encourage construction or rehabilitation of eligible properties in areas of communities appropriately targeted under the program in order to augment the availability of suitable housing and to revitalize involved communities. Division 013 sets forth relevant aspects of the program, including processes and criteria for the designation of vertical housing development zones ("VHDZs"), for the application and approval of certified projects, for the calculation of any applicable partial property tax exemptions, and for the monitoring and maintenance of properties as qualifying certified projects.

(2) Division 013 is not meant to interfere with the direct administration of property tax assessments by county assessors and does not supersede administrative rules of the Department of Revenue in OAR chapter 150 pertaining to the valuation of property for purposes of property tax assessments, including as adopted or amended in the future.

Stat. Auth.: ORS 456.555, 307.841 - 307.867

Stats. Implemented: ORS 456.555, 307.841 - 307.867

Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

813-013-0005

Definitions

As used in this division 013, unless the context indicates otherwise:

(1) "Certified project" or "project" means a multi-story development within a VHDZ that the department certifies as a vertical housing development project qualifying for a vertical housing partial property tax exemption under the Act based on a proposal and description from a project applicant that conforms to department requirements. Certified projects approved by Business Oregon (formerly known as the Economic and Community

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Development Department of the state of Oregon or "OECD" prior to November 4, 2005, continue as certified projects notwithstanding assumption of administration of the program by the department on November 4, 2005. Such prior OECD certified projects continue to maintain their accompanying partial property tax exemptions throughout their original terms unless all or part of such certified projects are subsequently modified or decertified by the department. The prior OECD certified projects are subject to the ongoing reporting and other requirements of this division 013.

(2) "Construction" means the development of land, and the new construction of improvements to land as further described in this division 013.

(3) "Core area of an urban center" or "core area" means the central business district or downtown area of a community of any size, whether or not that community is incorporated. While VHDZs need not include a core area of an urban center, an application to establish a VHDZ should identify whether or not the proposed VHDZ includes a core area and describe the core areas so included. Among other factors determined to be relevant by the department, the department may consider such information or the failure to provide same in determining the merits of the proposed VHDZ. It also may consider the core area's proximity and relationship to the needs and activities of VHDZ project residents. Core areas of urban centers typically consist of one or more of the following:

(a) An existing central business district or downtown area according to the jurisdiction's zoning ordinances, the U.S. Census Bureau, or comparable sources of definition or designation;

(b) A defined central city, regional center, town center, main street and/or a station community in the Portland Metro 2040 Regional Growth Concept or a nodal development area in the Eugene-Springfield Metropolitan Area Transportation Plan;

(c) An area satisfying the definition for a commercial node, commercial center, community center, special transportation area or urban business area in the Oregon Highway Plan;

(d) A transit-oriented development or pedestrian/restricted-access district in the acknowledged comprehensive plan of the jurisdiction; or

(e) A similar type of area under official criteria, designation or standards.

(4) "Department" means the Housing and Community Services Department of the state of Oregon.

(5) "Director" means the director of the department or someone within the department authorized to act on behalf of the director for purposes of the program.

(6) "District" means a local taxing district

(7) "Equalized floor" means the quotient that results from the division of the total square footage of a certified project, excluding land and ancillary improvements (as determined by the department) by the number of actual floors of the non-ancillary improvements of the project that are at least 500 square feet per floor unless the department, in its discretion, increases the minimum square footage or otherwise qualifies the actual floors of a project eligible to be used as a divisor in determining the equalized floor quotient. Factors that the department may consider in determining whether or not to increase the square footage minimum or to impose other conditions for a qualifying divisor floor include, but are not limited to the following:

(a) The proximity of the actual floor under consideration to other floors in the project;

(b) The extent of construction or rehabilitation on the actual floor under consideration;

(c) The use intended for the actual floor under consideration;

(d) The availability of the actual floor under consideration for use by prospective project tenants;

(e) No partial property tax exemption will be awarded for a partial equalized floor of residential housing and the maximum number of equalized floors in a project is four (4). Accordingly, the department will determine the number of residential equalized floors in a project available for calculating a corresponding property tax exemption by capping potential equalized floors at four and by rounding down to the next complete equalized floor of residential housing. In other words, a certified project will contain exactly 1, 2, 3, or 4 residential equalized floors reflecting the number of complete equalized floors of residential housing in a project up to the maximum four(4) equalized floors;

(f) Land, patios, deck space, parking, and other ancillary improvements normally will not be included by the department in the determination of equalized floors. The department may include any or all of such space in its determination of equalized floors if it concludes that such space is critical for the viability of the project. Factors that the department may consid-

er in reaching such a conclusion include, but are not limited to the following:

(A) The effect of such spaces upon the economic viability of the project;

(B) The degree to which such spaces are integral to the habitability of residential housing in the project;

(C) The benefit of such spaces with respect to the revitalization of the community in which the project is located; and

(D) The degree to which inclusion of such spaces modifies the calculation of equalized floors.

(8) "Light rail station area" means, consistent with ORS 307.603(3), an area defined in regional or local transportation plans to be within a one-half mile radius of an existing or planned light rail station. While VHDZs need not necessarily include a light rail station area, a VHDZ applicant must identify in a VHDZ application what part of the VHDZ, if any, does or will include a light rail station area. The department may consider such information or the failure to provide same in determining the merits of a proposed VHDZ and its potential relationship to overall transportation needs.

(9) "Low-income residential housing" means housing that is restricted to occupancy by persons or families whose initial income at occupancy or initial certification of the project is no greater than 80 percent of area median income, adjusted for family size, as determined by the department. Owners must provide evidence satisfactory to the department of such residential eligibility as required by the department.

(10) "Non-residential areas" means square footage within a certified project used other than primarily for residential use or as common areas available primarily for residential use by residents of the residential housing within a certified project. Non-residential areas may include but are not limited to building features that are elements of construction including corridors, elevators, stairways, lobbies, mechanical rooms, and community rooms. Non-residential areas may include units designated as live-work spaces in accordance with local zoning requirements.

(11) "Project applicant" means an owner of property within a VHDZ, who applies in a manner consistent with this division, to have any or all such property approved by the department as a certified project.

(12) "Rehabilitation" means the substantial repair or replacement of improvements (including fixtures) or land developments. In determining whether or not proposed or completed rehabilitation is satisfactory or substantial, the department may consider factors including, but not limited to:

(a) The quality and adequacy of design, materials and workmanship;

(b) The quantity of rehabilitation in proportion to the total cost of the project and between the area devoted to residential use and area devoted to non-residential use;

(c) The distribution of rehabilitation throughout the project, including as it relates to the habitability of residential areas, and particularly low-income residential housing areas; and

(d) The value of the improvements on a project. Generally, the value of the improvements must be at least 20% of the real market value of the entire project on the last certified assessment roll before the department, in consideration of other factors, will deem rehabilitation to be "substantial" in nature.

(13) "Residential use" means regular, sustained occupancy of a residential unit in the project by a person or family as the person's or family's primary domicile, including residential units used primarily for transitional housing purposes, but not units and related areas used primarily as:

(a) Hotels, motels, hostels, rooming houses, bed & breakfast operations or other such temporary or transient accommodations; or

(b) Nursing homes, hospital-type in-patient facilities or other living arrangements, even of an enduring nature, where the character of the environment is predominately care-oriented rather than solely residential.

(14) "Transit oriented area" means, consistent with ORS 307.603(6), an area defined in regional or local transportation plans to be within one-quarter mile of a fixed route transit service. While VHDZs need not include a transit oriented area, a VHDZ applicant must describe what parts of the proposed VHDZ, if any, includes a transit oriented area. The department may consider such information, or the failure to provide same, in determining the merits of the proposed VHDZ and its potential relationship to established transit systems within the relevant community.

(15) "Vertical housing development project" or "project" means the construction or rehabilitation of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the project may be dedicated to residential uses and a portion of the project may be dedicated for use as non-residential areas.

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(16) “Vertical housing development zone” or “VHDZ” or “zone” means an area that has been and remains designated by the department as a vertical housing development zone or an area that was officially designated by Business Oregon (formerly known as the “Economic and Community Development Department” (OECD) prior to November 4, 2005, as a vertical housing development zone and which remains so designated.

(17) “VHDZ applicant” means one or more cities or counties or a combination thereof, or their authorized agent(s) that seek the designation of a VHDZ within an area of their jurisdiction by making application to the department.

Stat. Auth.:ORS 456.555, 307.841 - 307.867
Stats. Implemented: ORS 456.555, 307.841 - 307.867
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

813-013-0010

Local Taxing Districts and Zone Applications

(1) To elect not to participate in a VHDZ, a district shall, within 45 days after the date on which proper written notification is mailed by the VHDZ applicant to the district advising of the application to form a VHDZ:

(a) Inform the VHDZ applicant in writing of its decision to opt out of the VHDZ designation; and

(b) Furnish to the VHDZ applicant a copy of a resolution or other appropriate official instrument duly adopted and issued by the governing body of the district affirming its decision to opt out of the VHDZ designation.

(2)(a) Not later than 30 days after filing the application with the department, and not later than 30 days after receiving a notice provided in 813-013-0010(4), the VHDZ applicant must submit to the department, a final or supplemental statement, satisfactory to the department identifying the districts (if any) that have opted out of the VHDZ designation.

(b) The statement required in paragraph (2)(a) shall specifically list each district opting out of the VHDZ designation, together with a copy of the instrument(s) provided to the VHDZ applicant by each such district.

(c) Simultaneously with the submission of the statement in paragraph (2)(a), the VHDZ applicant also shall send a copy of each statement by a district opting out of a VHDZ designation to the Special Districts Association of Oregon (“SDAO”), in Salem (Attn: ‘Vertical Housing Development Zone’) and to other affected districts within the proposed VHDZ that are not part of SDAO

(3) A district that fails to respond according to 813-013-0010(1) will be subject to the VHDZ designation and excluded from being listed as described in 813-013-0010(2).

(4) A district that forms after the approval of a VHDZ may opt out of participating in a VHDZ. To opt out, the district must provide:

(a) Written notice post-marked to the assessor and VHDZ applicant on or before July 1 of the first tax year in which it would impose a tax on the project; and

(b) A copy of a resolution or other appropriate official instrument duly adopted and issued by the governing body of the district affirming its decision to opt out of the VHDZ designation.

(5) The decision by a district to opt out of a VHDZ will be effective for the tax year that begins on the next July 1, after notification to the county assessor by the department pursuant to OAR 813-013-0020(1), or by a new district pursuant to 813-013-0010(4).

Stat. Auth.:ORS 456.555, 307.841 - 307.867
Stats. Implemented: ORS 456.555, 307.841 - 307.867
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

813-013-0015

Content and Processing of Zone Applications

(1) A VHDZ applicant may apply to the department for the designation of a VHDZ as long as the VHDZ applicant has provided notification of such intended action to districts within the proposed VHDZ in form satisfactory to the department not less than 15 calendar days prior to filing the application.

(2) The application must be made in such form and with such detail and information as the department may require. The department may require a VHDZ applicant to provide supplemental information to and clarification of its application, as the department deems appropriate.

(3) Applications must be delivered to the department at the following address: Oregon Housing and Community Services, 725 Summer Street NE, Suite B, Attn: Vertical Housing Program, Housing Finance Division, Salem, Oregon 97301.

(4) An application, at a minimum, must contain:

(a) Copies of the resolutions adopted by the governing body of each city and/or county comprising the VHDZ applicant and requesting (or as applicable, consenting to) designation of the proposed VHDZ;

(b) A listing of all districts within the proposed VHDZ, a copy of the written notification mailed to them, and a signed certification of mailing by the VHDZ applicant to the districts in accordance with 813-013-0015(1);

(c) A description of the area sought by the VHDZ applicant to be designated as the VHDZ, including but not limited to a scale map clearly showing the proposed VHDZ boundary and a complete list of property tax accounts with corresponding tax lot numbers to be encompassed by the VHDZ. A designated VHDZ may include separate, non-contiguous property areas. VHDZ boundaries also may be designated vertically to limit the height and/or the number of floors of structures that may qualify as part of a certified project within various parts of the VHDZ; and

(d) Documentation satisfactory to the department establishing that the area proposed for VHDZ designation is within the jurisdiction(s) of the VHDZ applicant.

(5) The department will act reasonably to review applications submitted by a VHDZ applicant.

(6) The department may conduct its own investigation, including the procurement and review of materials and information outside of the application, to assist it in its review or reconsideration of an application.

(7) The director will endeavor to approve or deny applications within 60 days of the department’s receipt of a complete application, the receipt of such other information or clarification as it may require of the VHDZ applicant, and the completion of any department investigation. The department will not approve any application before receiving statements required under 813-013-0015(4). The department may decline further consideration of or deny any application if it determines that the VHDZ applicant has been untimely or unresponsive with respect to providing required or requested information.

(8) If an application is denied in whole or in part, the department will send a written explanation to the VHDZ applicant of such determination.

(9) The department may approve or deny any application, in whole or in part, based upon factors including but not limited to:

(a) The VHDZ applicant’s compliance with the requirements of this division 013;

(b) The proposed VHDZ’s location inside or outside of the jurisdiction(s) of the VHDZ applicant;

(c) The accuracy and completeness of the application and any other information requested from the VHDZ applicant by the department;

(d) Conformance by the VHDZ applicant and the proposed VHDZ with applicable law; and

(e) The department’s determination of the suitability of the proposed VHDZ, or parts thereof, for accomplishing the purposes of the program.

(10) A department determination to approve or deny any or all of an application is final and not subject to further administrative or judicial review. The department may reconsider such determinations at any time and to the degree that it determines to be appropriate.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.844 - 307.851
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

813-013-0020

Zone Designations

(1) The department will send a copy of any designation of a VHDZ to the VHDZ applicant, the Department of Revenue and to any affected county assessor(s) office. The department will include with the notification to the county assessor:

(a) Copies of materials delineating the area of the VHDZ; and

(b) The name of any district that opted out of the VHDZ.

(2) Once designated, a VHDZ shall continue to exist indefinitely, except as provided otherwise in this division 013.

(3) The boundary of a VHDZ may be modified. To modify a VHDZ, the VHDZ applicant must apply for such modification to the department in accordance with the same procedures established herein for the approval of a VHDZ, except the notice to districts required under OAR 813-013-0015(4) is only required for any districts that are included in new territory added by the boundary modification. A certified project will continue to have its associated tax exemptions throughout the initial designated term of those exemptions, regardless of any subsequent modification of the VHDZ.

(4) VHDZ applicants may seek to have the department approve multiple VHDZs within their jurisdictions.

(5) The boundaries of VHDZs may not overlap. A property may only be in one VHDZ.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.844 - 307.851
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

813-013-0035

Project Certification Applications

(1) A project applicant may file an application for certification of a project by completing the vertical housing project application form, as prescribed by and available from the department, and by delivering it during normal business hours or by mail to: Oregon Housing and Community Services, Attn: Vertical Housing Program, Housing Finance Division 725 Summer Street NE, Suite B, Salem, Oregon 97301.

(2) Projects must be described in terms of entire tax lots. Projects may not include partial tax lots.

(3) The project applicant must provide both a legible and scaled site plan and a legal description of the land for the proposed project.

(4) To be for 'residential use' or for 'non-residential use' does not mean that a building floor is actually being occupied accordingly, but rather that it is at least intended and ready for such use and is not converted or occupied for a contrary use.

(5) Low-income residential housing floors or units must be set-aside as such for the entire tax year and occupied only by people who are income eligible in order for the project to qualify for the low income vertical housing exemptions on land.

(6) The non-residential use of a particular floor or floors may be satisfied even if the entire floor is not devoted to that use.

(7) The department will review applications upon their appropriate delivery subject to, but not limited to:

(a) Applications being complete and consistent with department requirements; and

(b) Delivery to the department of an application processing charge, monitoring charge and any other related charges. In determining charges for each project applicant, the department may consider factors including, but not limited to, known and expected costs in processing the application, effecting appropriate monitoring of the project and otherwise administering the program with respect to the project. Payment of charges may be made by check or money order payable to the department and must be submitted along with the project application or as otherwise required by the department.

(8) For new construction projects to qualify for certification, the application must be delivered to the department before:

(a) The relevant permitting authority has issued a permanent certificate of occupancy; or

(b) If no certificate of occupancy is required, then occupancy otherwise is effectively prevented because the proposed certified project has not yet been completed.

(9) For rehabilitation projects to qualify for certification, the application must be delivered to the department at any stage of the rehabilitation, but not after rehabilitation work on the project is complete. The department may provide a preliminary certification of the project pending completion of the rehabilitation of the project. Notification of the project's completion, together with appropriate documentation of the actual costs of the rehabilitation and the real market value of the pre-rehabilitated project must be forwarded by the project applicant to the department within 90 days of project completion. The department may certify all or part of a rehabilitated project or of a project where the rehabilitation is still in progress as a certified project.

(10) Project applicants must provide the following information in a manner satisfactory to the department:

(a) The address and boundaries of the proposed project including the tax lot numbers, a legible and scaled site plan of the proposed project, and a legal description of the land involved in the project for which a partial tax exemption is sought by the project applicant;

(b) A description of the existing condition of the proposed project property;

(c) A description of the proposed project including, but not limited to current architectural plans that include verifiable square footage measurements, verified statements of rehabilitation costs; and designation of the number of project floors;

(d) A description of all non-residential areas with related and total square footages, and identification of all non-residential uses;

(e) A description of all residential uses and residential areas with related and total residential square footages;

(f) A description of the number and nature of low-income residential housing units with related and total low-income residential housing square footages;

(g) Confirmation that the project is entirely located in an established VHDZ;

(h) A commitment from the project applicant, acceptable to the department, that the project will be maintained and operated in a manner consistent with the project application and the program for a time period acceptable to the department and not less than the term of any related property tax exemption;

(i) A calculation quantifying the various uses of the project in total and by each equalized floor including allocations to residential uses, the allocations to low-income residential housing uses, and the allocations to non-residential areas; and;

(j) Such other information as the department, in its discretion, may require.

(11) The project application must be submitted and received by the department on or before the new construction residential units are ready for occupancy or the project rehabilitation is complete;

(12) The department may request such other information from a project applicant and undertake any investigation that it deems appropriate in processing any project application or in the monitoring of a certified project. By filing an application, a project applicant irrevocably agrees to allow the department reasonable access to the project and to project-related documents, including the right to enter onto and inspect the project property and to copy any project-related documents.

(13) To qualify to be a certified project, the rehabilitation of any existing improvement must substantially alter and enhance the utility, condition, design or nature of the structure. In its application, the project applicant must verify such substantial alteration and enhancement. The following actions, by themselves, are not sufficient to satisfy this substantial alteration and enhancement requirement irrespective of cost or implementation throughout a project:

(a) Ordinary maintenance and repairs;

(b) Refurbishment or redecoration that merely replaces, updates or restores certain fixtures, surfaces or components; or

(c) Similar such work of a superficial, obligatory or routine nature.

(14) Unless an exception is granted by the department, projects "in progress" at the time of application may include only costs incurred within six (6) months of the application date. Factors that the department may consider in determining whether or not to grant an exception to the six (6)-month limitation on costs include, but are not limited to the following:

(a) Delay due to terrorism or acts of God;

(b) Delay occasioned by requirements of the department;

(c) Resultant undue hardship to the project applicant;

(d) The complexity of the project; and

(e) The benefit of the project to the community.

(15) For applications filed before project completion, the department may provide a conditional letter of prospective certification of the project pending its completion. To obtain a final certification of the project, the project applicant must provide timely notification to the department of the project's completion, together with a copy of the certificate of occupancy and other information as the department may require. A project applicant must provide the notice and required documentation to the department within 90 days of project completion which is typically the date of the certificate of occupancy unless the department determines that another date is more appropriate.

(16) If an application is rejected for failure to meet department review requirements, then:

(a) The department will notify the project applicant that the application has been rejected; and

(b) The department, at its own discretion, may allow the resubmission of a rejected application for project certification ("as is" or with appropriate corrections or supplementations) or may reconsider a determination by it to reject an application. Factors that the department may consider in allowing a resubmission of a rejected application or the reconsideration of a determination by it to reject an application include, but are not limited to the following:

(A) Whether or not rejection results in undue hardship to the project applicant;

(B) The best interests of the community;

(C) The level of cooperation from the project applicant;

(D) The level and materiality of initial non-compliance by the project applicant, and;

(E) Mitigation of any initial non-compliance by the project applicant.

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(c) If the department accepts for review a previously rejected application, it may do so, at its sole discretion, on a prospective basis or based upon the original date of filing. Factors that the department may consider in determining the date to apply to a previously rejected application include, but are not limited to the following:

(A) Whether or not occupancy or readiness to occupy residential units in the project has occurred since the original application;

(B) Whether or not undue hardship would result to the project applicant;

(C) The best interests of the community; and

(D) The level and materiality of non-compliance in the initial application.

(17) The department will evaluate each accepted application to determine whether or not to certify the proposed project.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 307.844 & 307.857

Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 1-2015(Temp), f. & cert. ef. 2-26-15 thru 8-24-15; OHCS 4-2015, f. & cert. ef. 7-9-15; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

813-013-0040

Project Criteria

(1) A project, to qualify for department certification, must satisfy each of the following criteria:

(a) The project must be entirely located within an approved VHDZ;

(b) The project must be comprised of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the project is to be used for non-residential uses and a portion of the project is to be used for residential use;

(c) A portion of the project must be committed, to the department's satisfaction, for residential use and a portion of the project must be committed, to the department's satisfaction, for use as non-residential use.

(d) The commitment to non-residential use must be accomplished as follows:

(A) For a project site that has frontage on one public street, at least 50% of the project's public street-fronting ground floor facades must be committed for non-residential use;

(B) For a project site that has frontage on more than one public street, the developer must designate one of the public streets as the project's primary public street. One-hundred percent (100%) of the project's primary public street-fronting ground floor facades must be committed for non-residential use;

(C) "Committed for non-residential use" means that all interior spaces adjacent to the public street-frontage exterior facade are constructed to building code standards for commercial use, are planned for commercial use and/or live-work use upon completion, or both;

(D) For purposes of this rule, "public streets" include all publicly-owned streets, but does not include alleys.

(E) For purposes of this rule, "live-work" spaces mean those areas within a project combining space for a commercial or light manufacturing business allowed by local zoning code with a residential living space for the owner of the business and space comprising that owner's household. Any live-work space is deemed to be committed for non-residential use under the program. The work portion of a live-work unit must have direct access to street level entrances of the project.

(e) Each phase of a phased development, whether vertical or horizontal, will be treated as a separate project for application purposes.

(f) Each project must be on its own independent legal tax lot(s).

(g) Construction or rehabilitation must be or have been undertaken with respect to each building or associated structure included in the project, including but not limited to, additions that expand or enlarge an existing building;

(h) The project application must be complete and fully satisfactory to the department;

(i) The project application must be received by the department on or before the residential units are ready for occupancy (certificate of occupancy). For rehabilitation not involving tenant displacement, the project application must be filed before the rehabilitation work is complete;

(j) Calculation of equalized floors is adequately documented;

(k) Documentation, satisfactory to the department, establishes the costs of construction or rehabilitation of project land developments and improvements, as applicable; and

(l) The project square footage calculations do not include parking, patio, or porch areas unless these elements can be demonstrated by project applicant to the satisfaction of the department that they are economically necessary to the project and the department otherwise determines that it is

appropriate to grant an exception for the inclusion of any or all of such areas in the project;

(2) Certified projects with at least one equalized floor of low-income residential housing may qualify for a partial property tax exemption with respect to the land contained within the tax lot upon which the certified project stands, but will not qualify for a partial property tax exemption under the program for land adjacent to or surrounding the certified project contained in separate tax lots. Excess or surplus land that is not necessary for the project, as determined by the department, will not be eligible for partial exemption; and

(3) Low-Income residential housing units in the certified project must continue to meet the income eligibility requirements for the definition of low-income residential housing for the entire period for which the vertical housing project is certified.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 307.844, 307.857

Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

813-013-0050

Project Monitoring/Decertification

(1) A monitoring charge shall be paid by the project applicant to the department at the time of project application, or as otherwise directed by the department, to cover the department's actual and anticipated costs of monitoring and otherwise addressing compliance by the certified project with program requirements including, without limitation ORS 307.841 to 307.861 and other applicable law. The department may consider factors including but not limited to the following in determining the amount of this monitoring charge:

(a) The size of the project;

(b) The number of residential housing units;

(c) The amount of commercial space, including any live-work units;

(d) Project uses;

(e) Project location;

(f) The duration and complexity of compliance requirements;

(g) The level and amount of staff or other services involved;

(h) The use of supplies, equipment or fuel; and

(i) The number of separate sites and/or buildings.

(2) If the project includes low-income residential housing, the project applicant must pay a supplemental monitoring charge to the department at the time of project application, or as otherwise directed by the department, to cover the department's actual and anticipated costs of monitoring and otherwise addressing compliance by the certified project with program requirements including, without limitation ORS 307.841 to 307.861 and other applicable law. The department may consider factors including, but not limited to those in 813-013-0050(1) and the nature of the low-income residential housing population in determining the amount of this supplemental monitoring charge.

(3) The department may condition its approval of a certified project upon payment by project applicant of the applicable charges described above in 813-013-0050(1) and (2). The department may void or terminate the certification of all or a portion of a certified project if such charges, or any part thereof, are not timely paid.

(4) Modifications to or transfers of ownership of a certified project must receive prior written approval from the department. The department will not unreasonably withhold its approval of such modifications to or transfers of ownership. The department may void or terminate the certification of all or a portion of a certified project if modifications to or transfers of ownership are made without its prior written approval except where such modifications or transfers occur by operation of law following death or divorce.

(5) If there are proposed or actual modifications to or transfers of ownership of the certified project, the certified project owner shall notify both the county assessor and the department of the new owner's name, contact person, mailing address and phone number within 30 days of the change.

(6) The department may require the certified project owner to pay an administrative charge to cover the department's actual and anticipated costs of reviewing and processing such modification or transfer including, without limitation, effecting the legal review, amendment, execution or recording of related documents. The department may consider factors including, but not limited to those in 813-013-0050(1) in determining the amount of this administrative charge.

(7) The department may condition its approval of a modification to or transfer of ownership in a certified project upon payment by the certified project owner of the administrative charge described above in 813-013-

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0050(6). The department may void or terminate the certification of all or a portion of a certified project if such an administrative charge, or any part thereof, is not timely paid.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 307.857, 307.861

Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

813-013-0054

Monitoring; Investigations; Remedies; Decertifications

(1) The department may monitor and investigate certified projects for compliance with program requirements and other applicable law as it deems appropriate. By making application for approval of a certified project, project applicants irrevocably agree and give their consent that the department may enter onto the premises of and inspect all portions of the project as well as review and copy project documents in the course of its monitoring and investigatory actions. Project applicants further agree to cooperate fully with such department monitoring and investigatory actions.

(2) The department may undertake any remedial action that it determines to be necessary or appropriate to enforce department interests or program requirements including, without limitation, commitments provided by project applicants in the final application and certification. Remedial actions may include, but are not limited to:

(a) The requesting of project documentation;

(b) The issuance of orders and directives with respect to the project or otherwise;

(c) The initiation and prosecution of claims or causes of action, whether by administrative hearing, civil action or otherwise (including, without limitation, actions for specific performance, appointment of a receiver for the certified project, injunction, temporary restraining order, recovery of damages, collection of charges, etc.); and

(d) The decertification of all or a portion of a certified project.

(3) Prior to decertifying all or part of a certified project and directing the county assessor to disqualify all or part of the project for partial property tax exemption treatment, the department shall issue a decertification notice to the certified project owner identifying relevant factors among the following:

(a) The property decertified from the project;

(b) The number of equalized floors that have ceased qualifying as residential housing for purposes of the program;

(c) The number of equalized floors that have ceased qualifying as low-income residential housing for purposes of the program;

(d) The remaining number of equalized floors of residential housing in the project and a description of the property of each remaining equalized floor;

(e) The remaining number of equalized floors of low-income residential housing in the project and a description of the property of each remaining equalized floor of low-income residential housing;

(f) If the project no longer includes commercial space consistent with the intent of the program; and

(g) Such other information as the department may determine to provide.

(4) Prior to issuance of a notice of decertification, the department will provide the certified project owner with notice of an opportunity to correct first-time program non-compliance within a reasonable amount of time as determined by the department. The department also may elect to provide the certified project owner with notice of an opportunity to correct repeat program non-compliance within a reasonable amount of time as determined by the department. In deciding whether or not to provide the certified project owner with notice of an opportunity to correct repeat program non-compliance and in determining how much time to provide the certified project owner to correct any noticed program non-compliance, the department may consider factors including, but not limited to:

(a) The severity of the non-compliance;

(b) The impact of non-compliance upon project tenants and patrons;

(c) The public interest in appropriate and affordable housing;

(d) The public interest in the revitalization of relevant communities;

(e) The cost and time reasonably necessary to correct program non-compliance; and

(f) The past history of compliance and non-compliance by the project owner.

(5) For those instances where the department has elected to provide notice to a certified project owner of its non-compliance, if the department determines that the certified project owner has failed to correct any noticed program non-compliance within the time allowed by the department in its notice, the department may issue the notice of decertification identified

above in 813-013-0054(3) and direct the county assessor to disqualify all or a portion of the project from property tax exemption under the program. The department also may issue a notice of decertification and direct the county assessor to disqualify all or a portion of a project from property tax exemption under the program with respect to program non-compliance for which it determines not to provide prior notice and an opportunity for non-compliance correction.

(6) The effective date of a decertification is the effective date of same provided in the notice of decertification identified above in 813-013-0054(3). The effective date of a decertification may be retroactive from the date of the actual notice of decertification only to the commencement of the non-compliance for which the decertification is issued as determined by the department. In determining whether or not to make the decertification retroactive, the department may consider factors including, but not limited to those identified above in 813-013-0054(4), the intentional nature of the non-compliance, and when the owner or its agents became aware or reasonably should have become aware of the non-compliance.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 307.861, 307.864

Hist.: OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 19-2015(Temp), f. & cert. ef. 11-30-15 thru 5-27-16; OHCS 5-2016, f. & cert. ef. 5-27-16

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Clarify items required to process withdrawal and modify definition to reduce incidents of mandatory repayment,

Adm. Order No.: PERS 3-2016

Filed with Sec. of State: 5-27-2016

Certified to be Effective: 5-27-16

Notice Publication Date: 4-1-2016

Rules Amended: 459-005-0001, 459-075-0020, 459-080-0020

Subject: When the definition of “effective date of withdrawal” was adopted, proof of age was not required. In 2012, PERS started to require that OPSRP Pension Program members present documentation to verify their age as part of the withdrawal process but did not amend corresponding administrative rules to reflect the change in practice. This created some confusion as to whether the proof of age was a required “completed document” or was merely part of the withdrawal process.

An OPSRP member providing their proof of age after the withdrawal application has been submitted is not uncommon. If the “effective date of withdrawal” does not occur by rule until the proof of age is received (i.e., the proof of age is required to consider the application a “completed document”), a mandatory repayment could be triggered if the member has subsequently returned to work with a participating employer prior to PERS receiving the member’s proof of age to complete the application.

Modifying the definition clarifies that the “effective date of withdrawal” is to be based on receipt of the completed application only; if proof of age is required and not submitted until later, the effective date will still be the date of the application. To further clarify, the modification to OAR 459-075-0020 reflects PERS’ practice and states that PERS will not process the withdrawal payment until proof of age is received.

PERS accepts information obtained from the DMV as proof of age as required in OAR 459-075-0020(7). For those members whose age cannot be verified through the DMV, the member must submit a valid proof of age before their withdrawal will be processed.

Further rule modifications allow PERS to cancel the member’s withdrawal application if required items are not submitted within 180 days after submitting their withdrawal application. This has been our practice and is explained in the withdrawal application packet instructions. If cancelled, members may resubmit their application so long as they remain separated from PERS-covered employment.

IAP withdrawals are processed simultaneously with OPSRP Pension withdrawals, so these rule modifications reference that the OPSRP Pension withdrawal documentation requirements also pertain to an IAP withdrawal application. Consequently, if an OPSRP Pension member’s withdrawal is delayed or canceled because the

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required items are not timely submitted, then their IAP withdrawal will be similarly impacted.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0001

Definitions, Generally

The words and phrases used in OAR Chapter 459 have the same meaning given them in ORS Chapters 237, 238, 238A, and 243 unless otherwise indicated. Specific and additional terms used in OAR Chapter 459 generally are defined as follows unless context requires otherwise:

(1) “Ad hoc” means one-time for a specific purpose, case, or situation without consideration of a broader application.

(2) “After-tax” contributions means:

(a) Member contributions required or permitted by ORS 238.200 or 238.515, which a participating employer has not elected to “pick up,” assume or pay in accordance with ORS 238.205 and 238.515(b). “After-tax” contributions are included in the member’s taxable income for purposes of state or federal income taxation at the time paid to PERS. “After-tax” contributions are included in computing FAS and in computing the employer’s contributions paid to PERS.

(b) Payments made by a member to PERS for the purchase of additional benefits.

(3) “Before-tax” contributions means member contributions required or permitted by ORS 238.200 or 238.515, which a participating employer has elected to “pick up,” assume or pay in accordance with ORS 238.205 and 238.515(b). “Before-tax” contributions are not included in the member’s taxable income for purposes of state or federal income taxation at the time paid to PERS. “Before-tax” contributions are included in:

(a) Computing final average salary; and

(b) Computing the employer’s contributions paid to PERS if the employer has elected to “pick up” the member contributions.

(4) “Business day” means a day Monday through Friday when PERS is open for business.

(5) “Calendar month” means a full month beginning with the first calendar day of a month and ending on the last calendar day of that month.

(6) “Calendar year” means 12 consecutive calendar months beginning on January 1 and ending on December 31.

(7) “Casual worker” means an individual engaged for incidental, occasional, irregular, or unscheduled intervals or for a period of less than six consecutive calendar months.

(8) “Contributions” means any contributions required or permitted pursuant to ORS 238.200 or 238.515.

(9) “Differential wage payment” means a payment made on or after January 1, 2009:

(a) By an employer to a member with respect to any period during which the member is performing service in the uniformed services, as defined in USERA, while on active duty for a period of more than 30 consecutive days; and

(b) That represents all or a portion of the wages the member would have received from the employer if the member were performing service for the employer.

(10) “Effective date of withdrawal” means the later of:

(a) The first day of the calendar month in which PERS receives a completed application from a member who requested a withdrawal; or

(b) The first day of the second calendar month following the calendar month in which the member terminated employment with all participating employers and all employers in a controlled group with a participating employer.

(11) “Effective retirement date” means:

(a) For Tier One and Tier Two service retirements, the date described in OAR 459-013-0260.

(b) For Tier One and Tier Two disability retirements, the date described in OAR 459-015-0001.

(c) For OPSRP Pension Program service retirements, the date described in OAR 459-075-0175.

(12) “Elected official” means an individual who is a public official holding an elective office or an appointive office with a fixed term for the state or for a political subdivision of the state who has elected to participate in PERS pursuant to ORS 238.015(5).

(13) “Emergency worker” means an individual engaged in case of emergency, including fire, storm, earthquake, or flood.

(14) “Employee” has the same meaning as provided in ORS 238.005 and shall be determined in accordance with OAR 459-010-0030.

(a) For the purposes of ORS 238.005 to 238.750 the term “employee” includes public officers whether elected or appointed for a fixed term.

(b) The term “employee” does not include:

(A) A member of the governing board of a political subdivision unless the individual qualifies for membership under ORS 238.015.

(B) An individual who performs services for a public employer as a contractor in an independently established business or as an employee of that contractor as determined in accordance with OAR 459-010-0032.

(C) An individual providing volunteer service to a public employer without compensation for hours of service as a volunteer, except for volunteer firefighters who establish membership in accordance with ORS 238.015(6).

(15) “Employer contribution account” means a record of employer contributions to the Fund, as required by ORS 238.225(1), and investment earnings attributable to those contributions, that the Board has credited to the account after deducting amounts required or permitted by ORS Chapter 238.

(16) “Employment” is compensated service to a participating employer as an employee whose:

(a) Period or periods of employment includes only the actual hours of compensated service with a participating employer as an employee; and

(b) Compensated service includes, but is not limited to, paid vacation, paid sick leave, or other paid leave.

(17) “Estimate” means a projection of benefits prepared by staff of a service or disability retirement allowance, a death or a refund payment. An estimate is not a guarantee or promise of actual benefits that eventually may become due and payable, and PERS is not bound by any estimates it provides.

(18) “FAS” and “final average salary” have the same meaning as provided in:

(a) ORS 238.005 for all PERS Tier One members;

(b) ORS 238.435(2) for all PERS Tier Two members who are not employed by a local government as defined in ORS 174.116;

(c) ORS 238.435(4) for all PERS Tier Two members who are employed by a local government as defined in ORS 174.116; or

(d) ORS 238.535(2) for judge members of PERS for service as a judge.

(19) “General service member” means membership in PERS as other than a judge member, a police officer, a firefighter, or a legislator.

(20) “Good cause” means a cause beyond the reasonable control of an individual. “Good cause” exists when it is established by satisfactory evidence that factors or circumstances are beyond the reasonable control of a rational and prudent individual of normal sensitivity, exercising ordinary common sense.

(21) “Independent contractor” means an individual or business entity that is not subject to the direction and control of the employing entity as determined in accordance with OAR 459-010-0032.

(22) “Judge member” has the same meaning as provided in ORS 238.500(3). For purposes of this chapter, active, inactive, and retired membership of a judge member shall have the same meaning as provided in ORS 238.005.

(23) “Legislator” means an individual elected or appointed to the Oregon Legislative Assembly who has elected to participate in PERS for their legislative service.

(24) “Member cost” means after-tax member contributions and payments made by or on behalf of a member to purchase additional benefits.

(25) “Participating employer” means a public employer who has one or more employees who are active members of PERS.

(26) “PERS” and “system” have the same meaning as the Public Employees Retirement System in ORS 238.600.

(27) “Public university” means a public university with a governing board as listed in ORS 352.002.

(28) “Qualifying position” has the same meaning as provided in ORS 238.005 and OAR 459-010-0003.

(29) “Regular account” means the account established under ORS 238.250 for each active and inactive member who has made contributions to the Fund or the account of an alternate payee of such a member.

(30) “Salary” has the same meaning as provided in ORS 238.005.

(a) “Salary” includes a differential wage payment, as defined in this rule.

(b) For a Tier One member, a lump sum payment for accrued vacation pay is considered salary:

(A) In determining employee and employer contributions.

(B) In determining final average salary for the purpose of calculating PERS benefits.

(c) For a Tier Two member, a lump sum payment for accrued vacation pay:

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(A) Is considered salary in determining employee and employer contributions.

(B) Is not considered salary in determining final average salary for the purpose of calculating PERS benefits.

(31) "Seasonal worker" means an individual whose engagement is characterized as recurring for defined periods that are natural divisions of the employer's business cycle or services.

(32) "Staff" means the employees of the Public Employees Retirement System as provided for in ORS 238.645.

(33) "Tier One member" means a member who established membership in the system before January 1, 1996, as defined in ORS 238.430(2).

(34) "Tier Two member" means a member who established membership in the system on or after January 1, 1996, in accordance with ORS 238.430.

(35) "USERRA" means the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301-4334, as in effect on the effective date of this rule.

(36) "Vacation pay" means a lump sum payment for accrued leave in a Vacation Leave Program provided by a public employer which grants a period of exemption from work for rest and relaxation with pay, and does not include:

(a) Sick leave programs;

(b) Programs allowing the accumulation of compensatory time, holiday pay or other special leaves unless the public employer's governing body indicates by resolution, ordinance, or other legislative process, that such leave is intended to serve as additional vacation leave; and

(c) Other programs, such as a Personal Time Off (PTO) plan, which are a combination of vacation, sick, bereavement, personal and other leaves of pay as defined and described by a public employer unless the employer has a written policy that clearly indicates the percentage of the plan that represents vacation leave. If the employer's PTO has a cash option, the employer must report to PERS the amount of any lump sum pay-off for the percentage that represents vacation leave.

(37) "Variable account" and "member variable account" mean the account in the Variable Annuity Account established under ORS 238.260(2) for each active and inactive member who has elected to have amounts paid or transferred into the Variable Annuity Account.

(38) "Variable Annuity Account" means the account established in ORS 238.260(2).

(39) "Volunteer" means an individual who performs a service for a public employer, and who receives no compensation for the service performed. The term "volunteer" does not include an individual whose compensation received from the same public employer for similar service within the same calendar year exceeds the reasonable market value for such service.

(40) "Working day" means a day that the employer is open for business. Unless the employer communicates this information to PERS, PERS will presume an employer's "working day" is the same as a "business day," as defined in section (4) of this rule.

(41) "Year" means any period of 12 consecutive calendar months.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Hist.: PERS 2-1998, f. & cert. ef. 3-16-98; PERS 3-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PERS 12-2003, f. & cert. ef. 11-14-03; PERS 14-2003, f. & cert. ef. 11-20-03; PERS 15-2003, f. & cert. ef. 12-15-03; PERS 9-2004(Temp), f. 4-15-04 cert. ef. 5-21-04 thru 7-1-04; PERS 15-2004, f. & cert. ef. 6-15-04; PERS 19-2005, f. 11-1-05, cert. ef. 1-1-06; PERS 4-2006, f. & cert. ef. 4-5-06; PERS 1-2009, f. & cert. ef. 2-12-09; PERS 3-2010, f. & cert. ef. 5-28-10; PERS 1-2012, f. & cert. ef. 2-1-12; PERS 13-2014, f. & cert. ef. 9-29-14; PERS 12-2015, f. & cert. ef. 11-20-15; PERS 3-2016, f. & cert. ef. 5-27-16

459-075-0020

Withdrawal from OPSRP Pension Program

(1) Definitions. For the purposes of this rule:

(a) "Controlled group" means a group of employers treated as a single employer for purposes of maintaining qualified status under federal law.

(b) "Effective date of withdrawal" has the same meaning as given the term in OAR 459-005-0001(10).

(c) "Inactive member" has the same meaning given the term in ORS 238A.005.

(d) "Pension program" has the same meaning given the term in ORS 238A.005.

(2) An inactive member may withdraw from the OPSRP Pension Program under ORS 238A.120 if:

(a) The member is vested in the pension program under ORS 238A.115;

(b) The member has separated from employment with all participating employers and all employers in a controlled group with a participating employer;

(c) The member has been absent from service with all participating employers and all employers in a controlled group with a participating employer for at least one full calendar month following the month of separation;

(d) The member files with PERS a written request for withdrawal on a form acceptable to PERS;

(e) The actuarial equivalent of the member's pension benefit is \$5,000 or less on the effective date of withdrawal. The actuarial equivalent may not include any value attributable to cost-of-living adjustments under ORS 238A.210; and

(f) The member complies with the requirements of ORS 238A.120(4).

(3) Any amount payable to the member under the provisions of this rule must be paid to the member in a single lump-sum payment.

(4) A member may revoke a request for withdrawal from the pension program if PERS receives the member's written revocation of the request before the earlier of:

(a) The date of distribution; or

(b) The date PERS receives a valid court order requiring PERS to pay the distribution to someone other than the withdrawing member.

(5) A member who withdraws from the pension program terminates membership in the pension program as of the effective date of withdrawal.

(6) A member who withdraws from the pension program forfeits any service performed by the member before the date of the separation described in subsection (2)(b) of this rule and may not use that service for any purpose including, but not limited to, establishing membership under ORS 238A.100, vesting under ORS 238A.115, and the accrual of retirement credit under ORS 238A.140, 238A.150, or 238A.155.

(7) The withdrawal shall be processed following receipt by PERS of all the items in subsections (a) and (b) of this section:

(a) From the member:

(A) Completed withdrawal application; and

(B) Proof of member's age.

(b) From the employer: Financial and demographic information indicating the member has separated from employment with all participating employers and all employers in a controlled group with a participating employer.

(8) PERS may cancel a member's request for withdrawal if PERS does not receive all the items specified in section (7) of this rule within 180 days of PERS' receipt of the original withdrawal application.

(9) If a former member who has withdrawn from the pension program returns to employment with a participating employer or an employer in a controlled group with a participating employer before the first day of the second calendar month following the month of the separation described in subsection (2)(b) of this rule, the withdrawal is cancelled and membership is restored. The member must repay to PERS in a single payment the total amount of all payments attributable to the withdrawal within 30 days following the effective date of the employment. Upon receipt by PERS of repayment under this section, service forfeited under section (6) of this rule is restored as of the effective date of withdrawal.

(10) If the member fails to repay as provided in section (9) of this rule, PERS shall take all reasonable steps to recover the repayment amount due, including any interest, costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and OAR 459-005-0610. Upon receipt by PERS of repayment under this section, service forfeited under section (6) of this rule is restored effective the first day of the month following the date of repayment.

(11) The effective date of this rule is January 1, 2008.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.120, OL 2007 Ch. 52

Hist.: PERS 16-2007, f. & cert. ef. 11-23-07; PERS 3-2016, f. & cert. ef. 5-27-16

459-080-0020

Withdrawal of Individual Accounts

(1) Definitions. For the purposes of this rule:

(a) "Controlled group" means a group of employers treated as a single employer for purposes of maintaining qualified status under federal law.

(b) "Effective date of withdrawal" has the same meaning as given the term in OAR 459-005-0001(8).

(c) "Inactive member" has the same meaning given the term in ORS 238A.005(8).

(d) "Individual account program" has the same meaning given the term in ORS 238A.005(9).

(e) "Individual accounts" means the employee account, rollover account, and employer account of a member of the Individual Account Program (IAP) to the extent the member is vested in those accounts under ORS 238A.320.

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(2) An inactive member may withdraw the individual accounts under ORS 238A.375 if:

(a) The member has separated from employment with all participating employers and all employers in a controlled group with a participating employer;

(b) The member has been absent from service with all participating employers and all employers in a controlled group with a participating employer for at least one full calendar month following the month of separation;

(c) The member files with PERS a written request for withdrawal on a form acceptable to PERS; and

(d) The member complies with the requirements of ORS 238A.375(4).

(3) A member may revoke a request for withdrawal of the individual accounts if PERS receives the member's written revocation of the request before the earlier of:

(a) The date of distribution; or

(b) The date PERS receives a valid court order requiring PERS to pay the distribution to someone other than the withdrawing member.

(4) A member who withdraws the individual accounts terminates membership in the IAP as of the effective date of withdrawal.

(5) An employer account not included in the withdrawn individual accounts by reason of the member's failure to vest in the employer account is permanently forfeited as of the date of distribution.

(6) A member who withdraws the individual accounts and is subsequently employed with a participating employer forfeits any service performed by the member before the separation described in subsection (2)(a) of this rule for the purpose of vesting in an employer account.

(7) If a former member who has withdrawn the individual accounts returns to employment with a participating employer or an employer in a controlled group with a participating employer before the first day of the second calendar month following the month of the separation described in subsection (2)(a) of this rule the withdrawal is cancelled and membership is restored. The member must repay to PERS in a single payment the total amount of all payments attributable to the withdrawal within 30 days following the effective date of the employment. Upon receipt by PERS of repayment under this section, account(s) forfeited under section (5) and service forfeited under section (6) of this rule are restored effective the first day of the month following the date of repayment. The repayment amount received will be credited pro rata to the accounts from which the withdrawal amount was derived.

(8) If the member fails to repay as provided in section (7), PERS shall take all reasonable steps to recover the repayment amount due, including any interest, costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and OAR 459-005-0610. Upon receipt by PERS of repayment under this section, account(s) forfeited under section (5) of this rule, and service forfeited under section (6) of this rule are restored effective the first day of the month following the date of repayment. The repayment amount received will be credited pro rata to the accounts from which the withdrawal amount was derived effective the first day of the month following the date of repayment.

(9) The effective date of this rule is January 1, 2008.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.375 & OL 2007 Ch. 52

Hist.: PERS 16-2007, f. & cert. ef. 11-23-07; PERS 3-2016, f. & cert. ef. 5-27-16

Oregon Racing Commission Chapter 462

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

Adm. Order No.: RC 3-2016

Filed with Sec. of State: 6-6-2016

Certified to be Effective: 6-6-16

Notice Publication Date: 5-1-2016

Rules Adopted: 462-200-0660, 462-200-0670

Subject: 462-200-0660

The Racing Roulette Win pool is a type of wager which in each race three groups are designated with a win payoff for bettors selecting the group that contains the winning betting interest.

462-200-0670

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

Rules Coordinator: Karen Parkman—(971) 673-0208

462-200-0660

Racing Roulette Win Pool Rules

(1) Racing Roulette is a form of pari-mutuel wagering and is a separate win pool from the standard win pool in every race in which it is offered. Racing Roulette is a bet to win on every participant in the selected group.

(2) In each race, the association shall designate each runner as a member of one of three groups, Betting Interest #1 also known as Red, Betting Interest #2 also known as Black, or Betting Interest #3 also known as Green.

(3) In each race in which Racing Roulette is offered, there shall be a win payoff for bettors selecting the group that contains the winning betting interest.

(4) The identity of the members of Red, Black, and Green shall be disseminated in the track program (when possible), by the track announcer, on television monitors and, where applicable, internet wagering websites.

(5) The minimum bet for Racing Roulette is the same as the minimum bet to win.

(6) The payout for a winning Racing Roulette wager shall be the same regardless of which member of the group is the race winner. The probable and actual payoff for a winning bet on Red, Black, or Green shall be displayed in a similar manner as the probable and actual payout for a standard win bet.

(7) In the event that all of the members of any group are scratched or declared non-starters, Racing Roulette betting shall cease and all wagers shall be refunded.

(8) In the event of a dead heat to win involving two or more members of the same group, the Racing Roulette win payout shall be calculated in the same manner as if there was one winner of the race and such winner was a member of such group. In the event of a dead heat to win involving one or more members of different groups, the Racing Roulette win payout shall be determined in the same manner as the calculation of the win payoff, i.e. by dividing the net pool.

(9) Should circumstances occur which are not addressed by these rules, questions arising thereby shall be resolved in accordance with general pari-mutuel practice. Decisions regarding Racing Roulette made by the Stewards shall be final.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270(3)

Hist.: RC 3-2016, f. & cert. ef. 6-6-16

462-200-0670

Racing Roulette Jackpot Pick (n)

(1) The Racing Roulette Jackpot Pick (n) requires selection of the first-place finisher in each of a designated number of contests utilizing the winning betting interest from the Racing Roulette Win pool. The race meet licensee must obtain written approval from the commission concerning the scheduling of Racing Roulette Jackpot Pick (n) contests, the designation of one of the methods prescribed in subsection (2) of this rule and the amount of any cap to be set on the carryover. Any changes to the approved Racing Roulette Jackpot Pick (n) format require prior approval from the commission.

(2) The Racing Roulette Jackpot Pick (n) pool shall be apportioned under one of the following methods:

(a) Method 1, Pick (n) with Carryover: The net Racing Roulette Jackpot Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Racing Roulette Jackpot Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Racing Roulette Jackpot Pick (n) contests; and the remainder shall be added to the carryover.

(b) Method 2, Racing Roulette Jackpot Pick (n) with Minor Pool Carryover: The major share of the net Racing Roulette Jackpot Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Racing Roulette Jackpot Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first place finisher in the second greatest number of Racing Roulette Jackpot Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Racing Roulette Jackpot Pick (n) contests, the minor share of the Racing Roulette Jackpot Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Racing Roulette Jackpot Pick (n) contests; and the major share shall be added to the carryover.

(c) Method 3, Racing Roulette Jackpot Pick (n) with No Minor Pool and No Carryover: The net Racing Roulette Jackpot Pick (n) pool shall be

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distributed as a single pool to those who selected the first-place finisher in the greatest number of Racing Roulette Jackpot Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(d) Method 4, Racing Roulette Jackpot Pick (n) with Minor Pool and No Carryover: The major share of the net Racing Roulette Jackpot Pick (n) pool shall be distributed to those who selected the first-place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. The minor share of the Racing Roulette Jackpot Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Racing Roulette Jackpot Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Racing Roulette Jackpot Pick (n) contests, the minor share of the net Racing Roulette Jackpot Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Racing Roulette Jackpot Pick (n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(e) Method 5, Racing Roulette Jackpot Pick (n) with Minor Pool and No Carryover: The major share of net Racing Roulette Jackpot Pick (n) pool shall be distributed to those who selected the first-place finisher in each of the Racing Roulette Jackpot Pick (n) contests, based on the official order of finish. The minor share of the Racing Roulette Jackpot Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Racing Roulette Jackpot Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Racing Roulette Jackpot Pick (n) contests, the entire net Racing Roulette Jackpot Pick (n) pool shall be distributed as a single pool to those who selected the first-place finisher in the greatest number of Racing Roulette Jackpot Pick (n) contests. If there are no wagers selecting the first-place finisher in the second greatest number of Racing Roulette Jackpot Pick (n) contests, the minor share of the net Racing Roulette Jackpot Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Racing Roulette Jackpot Pick (n) contests. If there are no winning wagers, the pool is refunded.

(3) If there is a dead heat for first in any of the Racing Roulette Jackpot Pick (n) contests involving:

(a) Contestants representing the same betting interest, the Racing Roulette Jackpot Pick (n) pool shall be distributed as if no dead heat occurred.

(b) Contestants representing two or more betting interests, the Racing Roulette Jackpot Pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(4) Should a betting interest in any of the Racing Roulette Jackpot Pick (n) contests be scratched, that leg shall be considered as an ALL for the purposes of the payout.

(5) The Racing Roulette Jackpot Pick (n) pool shall be cancelled and all Racing Roulette Jackpot Pick (n) wagers for the individual performance shall be refunded if:

(a) At least two contests included as part of a Pick 3 are cancelled or declared "no contest."

(b) At least three contests included as part of a Racing Roulette Jackpot Pick 4, Racing Roulette Jackpot Pick 5 or Racing Roulette Jackpot Pick 6 are cancelled or declared "no contest."

(c) At least four contests included as part of a Racing Roulette Jackpot Pick 7, RACING ROULETTE Jackpot Pick 8 or Racing Roulette Jackpot Pick 9 are cancelled or declared "no contest."

(d) At least five contests included as part of a Racing Roulette Jackpot Pick 10 are cancelled or declared "no contest."

(6) If at least one contest included as part of a Racing Roulette Jackpot Pick (n) is cancelled or declared "no contest," but not more than the number specified in subsection 5 of this rule, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Racing Roulette Jackpot Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the Racing Roulette Jackpot Pick (n) carryover but not the carryover from previous performances.

(7) The Racing Roulette Jackpot Pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the Racing Roulette Jackpot Pick (n) carryover equals or exceeds the designated cap, the Racing Roulette Jackpot Pick (n) carryover will be frozen until it is won or distributed under other provisions

of this rule. After the Racing Roulette Jackpot Pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Racing Roulette Jackpot Pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of Racing Roulette Jackpot Pick (n) contests for that performance.

(8) A written request for permission to distribute the Racing Roulette Jackpot Pick (n) carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(9) Should the Racing Roulette Jackpot Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Racing Roulette Jackpot Pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Racing Roulette Jackpot Pick (n) contests. The Racing Roulette Jackpot Pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection 8 of this rule.

(b) Upon written approval from the commission when there is a change in the carryover cap, a change from one type of Racing Roulette Jackpot Pick (n) wagering to another, or when the Racing Roulette Jackpot Pick (n) is discontinued.

(c) On the closing performance of the meet or split meet.

(10) If, for any reason, the Racing Roulette Jackpot Pick (n) carryover must be held over to the corresponding Racing Roulette Jackpot Pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest bearing account approved by the commission. The Racing Roulette Jackpot Pick (n) carryover plus accrued interest shall then be added to the net Racing Roulette Jackpot Pick (n) pool of the following meet on a date and performance so designated by the commission.

(11) With the written approval of the commission, the race meet licensee may contribute to the Racing Roulette Jackpot Pick (n) carryover a sum of money up to the amount of any designated cap.

(12) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

(13) The race meet licensee may suspend previously approved Racing Roulette Jackpot Pick (n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended Racing Roulette Jackpot Pick (n) wagering is reinstated. Any race meet licensee may request approval of a Racing Roulette Jackpot Pick (n) wager or separate wagering pool for specific performances. Table 7. [Table not included. See ED. NOTE]

[ED. NOTE: Table referenced are available from the agency.]
Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270(3)
Hist.: RC 3-2016, f. & cert. ef. 6-6-16

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Oregon State Library
Chapter 543

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

Adm. Order No.: OSL 2-2016

Filed with Sec. of State: 6-13-2016

Certified to be Effective: 6-13-16

Notice Publication Date: 5-1-2016

Rules Adopted: 543-020-0050, 543-020-0055, 543-020-0060, 543-020-0070, 543-020-0080

Rules Repealed: 543-010-0022

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

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libraries excluding the State Archives and the State of Oregon Law Library.

Rules Coordinator: MaryKay Dahlgreen—(503) 378-4367

543-020-0050

Scope

OAR chapter 543, division 20, applies only to the Government Information Services and to carry out the provisions of Chapter 328 (2015 Oregon Laws)

Stat. Auth.: ORS 357.008(1)

Stats. Implemented: ORS 357.028, 357.029, 357.031, 357.115

Hist.: OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 2-2016, f. & cert. ef. 6-13-16

543-020-0055

Definitions

The following definitions apply to the terms used in this division:

(1) "Government Information Services" means the physical collections, online resources and professional library staff that support the information needs of Oregon State Government

(2) "Terms of Service" means the provisions that patrons consent to in order to access Government Information Services.

(3) "State agency libraries and resource centers" include libraries, resource centers or any other entity housed within a state agency that supports the mission of the agency by selecting, purchasing, managing and sharing information resources.

(4) "State agency library" does not include the State of Oregon Law Library, a county law library, or the State Archives

(5) "Reference-related databases" means authoritative, informational resources in electronic format.

(6) "Physical and digital subscription licenses" means serial publications in either print or electronic formats (such as a newspaper or journal) accessible for a designated period of time or for a prescribed number of successive issues.

(7) "Reference-related databases or physical and digital subscription licenses" does not include:

(a) Publications connected to professional association memberships

(b) Software licenses

(c) Free of charge subscriptions

(d) Databases, information resources, subscription licenses or other services or resources provided by the State Archives;

(e) Legal databases, legal information resources, legal subscription licenses or other law-related services or resources.

Stat. Auth.: ORS 357.008(1)

Stats. Implemented: ORS 357.028 & 357.029

Hist.: OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 2-2016, f. & cert. ef. 6-13-16

543-020-0060

Eligible Recipients of Government Information Services

The State Library provides Government Information Services that pertain to the business of state government according to its Terms of Service for these recipients:

(1) State officials, including legislators;

(2) State employees;

(3) Former statewide-elected government officials;

(4) Contract employees and interns at the request of the state agency.

Stat. Auth.: ORS 357.008(1)

Stats. Implemented: ORS 357.028

Hist.: OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 2-2016, f. & cert. ef. 6-13-16

543-020-0070

Certification of State Agency Libraries

(1) The certification process applies to all state agency libraries and resource centers, except the State of Oregon Law Library, a County Law Library and the State Archives.

(2) Intent and Purpose

(a) The intent of library certification is to increase awareness of state agency library resources and services that improve customer service, build a structure for partnerships and interagency coordination, reduce duplication, and create cost efficiencies through shared purchasing of library resources.

(b) The purpose of these rules is to establish the certification process and review criteria.

(3) Process:

(a) The lead librarian or staff member/manager responsible for the state agency library or resource center shall be responsible for carrying out

the agency's obligations under this section. Each state agency library will notify the State Librarian of the name of the library staff person who will be the contact person for the state agency library or resource center.

(b) The State Library will maintain a list of state agency libraries and resource centers. All state agency libraries and resource centers on the list will go through the certification process.

(c) The State Library will certify state agency libraries once each biennium.

(d) Biennially, the State Librarian shall conduct a review of each state agency library's compliance with State Agency Library Standards of Operation and report the findings to the legislature.

(e) State agency libraries and resource centers meeting State Agency Library Standards of Operation shall be certified. In determining certification, the State Library shall apply the following criteria: State Agency Library Standards of Operation:

(A) The contact person regularly consults with agency management in developing collection resources that meet the information needs of agency staff and align with the strategic plans of the agency.

(B) The contact person consults with the State Library on the purchase and licensing of needed information products and services per State Library administrative rules to assure the best possible price agreement

(C) The contact person partners with other state agency libraries to promote shared resources and programs that increase efficiencies across state government

(D) The contact person develops and uses metrics to continually measure the use, quality and value of the agency library/resource center. Results are reported to agency management and the State Library on an annual basis.

(E) The state agency library or resource center is staffed by personnel whose library responsibility is a substantial component of the position description and the agency has a dedicated budget for purchasing information resources.

(f) The State Library will send written notification of the state agency library's certification status.

(g) An agency may file an appeal of the decision directly to the State Librarian if it is not satisfied with the decision. The contact person must file any appeal within ten (10) business days from the date of the notice.

Stat. Auth.: ORS 357.029

Stats. Implemented: ORS 357.029

Hist.: OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 2-2016, f. & cert. ef. 6-13-16

543-020-0080

Database and Subscriptions Licenses

(1) The approval process for database and subscriptions licenses applies to all state agencies except the State of Oregon Law Library, a county law library and the State Archives or to legal databases, information resources, subscription licenses or other law-related services or resources.

(2) Intent and Purpose

(a) The intent of establishing a review and approval process for reference databases and subscriptions is to build awareness of state agency subscriptions statewide, reduce duplication and create cost efficiencies through cooperative purchasing of library resources, and reduce subscription costs for state agencies.

(b) The purpose of these rules is to outline procedures for the state agency to obtain approval from the State Library for the purchase of reference databases and subscription licenses, and to establish the review, approval, and appeal process.

(3) Process:

(a) The head of each agency, or a designee, shall be the subscriptions liaison for the agency. Each agency shall notify the State Librarian of the name of the agency's subscriptions liaison. The subscriptions liaison is responsible for carrying out the agency's obligations under this section. The subscriptions liaison serves in a consultative and advisory role in cooperation with the State Library.

(b) Prior to purchasing reference-related databases or physical and digital subscriptions, the subscriptions liaison shall submit title, publisher, vendor and other pertinent subscription information to the State Library requesting approval. The information must be submitted at least sixty (60) days prior to the agency's desired subscription start date. If the materials could meet the definitions in 543-020-0055(7)(d) and (e) the request will be reviewed by the Reference Coordinating Council to determine the disposition of the request.

(c) Prior to renewing reference-related databases or physical and digital subscriptions, the subscriptions liaison shall notify the State Library of

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its desire to renew an existing subscription at least sixty (60) days prior to the vendor's purchase deadline.

(d) In the event there is a situation requiring expedited approval, the subscriptions liaison shall notify the State Library of its urgency and provide subscription information as early as possible. Rush requests shall receive highest priority in the approval process.

(e) In evaluating each request for approval, the State Library may apply the following criteria:

(A) The State Library has a subscription to the database and provides unrestricted access to all state agency staff.

(B) The State Library has coordinated a cooperative purchase for the database or print/digital subscription for a group of state agencies.

(C) There is broad interest across state government in the database or physical/digital subscription and it meets the State Library collection development policy.

(D) There is interest in the database or physical/digital subscription among a select group of state agencies

(E) No other state agency subscribes to the database or physical/digital subscription; however there is potential high demand for the subscription.

(F) No other state agency subscribes to the database or physical/digital subscription, it is a specialized resource and it would have minimal use by other state agencies.

(f) The State Library will send written notification of its decision to approve or deny the request to purchase the subscription within thirty (30) days of receipt of request.

(g) An agency may file an appeal of the decision directly to the State Librarian if it is not satisfied with the decision. The subscriptions liaison must file any appeal within ten (10) business days from the date of the notice

Stat. Auth.: ORS 357.115(3)

Stats. Implemented: ORS 357.115(1)(2)

Hist.: OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 2-2016, f. & cert. ef. 6-13-16

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

Adm. Order No.: OSL 3-2016

Filed with Sec. of State: 6-13-2016

Certified to be Effective: 6-13-16

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Rules Adopted: 543-010-0026

Rules Amended: 543-001-0010, 543-010-0003, 543-010-0016, 543-010-0021, 543-010-0030, 543-060-0020, 543-060-0030, 543-060-0040, 543-060-0070

Rules Repealed: 543-010-0032, 543-020-0010, 543-020-0025, 543-020-0026, 543-020-0030

Subject: In response to the passage of HB 3523 in the 2015 Legislative Session rules are being adopted, repealed, and amended to reflect the abolishment of the Oregon State Library Board of Trustees and the creation of the Oregon State Library Board and other small grammatical changes. The State Library will be moving and renumbering rule 543-020-0010 (copying charges) to Division 10. The Library will be repealing rules 543-010-0032, 543-020-0025, 543-020-0026, and 543-020-0030 due to being obsolete.

Rules Coordinator: MaryKay Dahlgreen—(503) 378-4367

543-001-0010

Confidentiality and Inadmissibility of Mediation Communications

(1) Words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule

408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6)–(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential;

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation; or

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)–(d), (j)–(l) or (o)–(p) of section (9) of this rule; or

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8)–(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties' agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an "agreement to mediate." [Form not included. See ED. NOTE.]

(9) Exceptions to confidentiality and inadmissibility.

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

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(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Oregon State Library Board determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS

192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402 or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

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

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.224, 36.228, 36.230 & 36.232

Hist.: OSL 1-1999(Temp), f. & cert. ef. 2-22-99 thru 8-1-99; OSL 2-1999, f. & cert. ef. 6-21-99; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-010-0003

Definitions

The following words, when used in Administrative Rules adopted by the Oregon State Library Board, shall mean the following:

(1) "Board" means the Oregon State Library Board.

(2) "Chair" means the presiding officer of the Board.

(3) "State Library Resources" are library materials and services to support the informational needs of state government employees, Oregonians with print disabilities and local libraries.

Stat. Auth.: ORS 357

Stats. Implemented: ORS 357.010(1)(3)

Hist.: OSL 55, f. & ef. 1-12-76; OSL 1-1989, f. 4-18-89, cert. ef. 4-17-89; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-010-0016

Meetings and Notice

(1) The State Librarian shall follow the procedures established by the Attorney General's Public Meetings and Records Manual, as amended from time to time, for providing notices of Board meetings. Unless the meeting is called exclusively for the purpose of holding an executive session as set forth in ORS 192.660, copies of the meeting notices shall be sent to organizations and individuals designated by the Board.

(2) A copy of the notice shall be sent to any organization or individual previously notifying the Chair or the State Librarian of interest in the subject matter to be considered at the meeting.

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

Stat. Auth.: ORS 357

Stats. Implemented: ORS 357.050

Hist.: OSL 55, f. & ef. 1-12-76; OSL 1-1989, f. 4-18-89, cert. ef. 4-17-89; OSL 1-2000, f. & cert. ef. 4-13-00; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-010-0021

Eligible Borrowers

The State Library will lend library materials to:

(1) Legally established public libraries.

(2) Educational institution libraries.

(3) State agencies and their employees.

(4) Print-disabled individuals who are eligible to borrow library materials from the Talking Book and Braille Library.

(5) Individuals with current Oregon addresses who request materials in person at the State Library.

(6) Special libraries (as listed in directories as maintained by Oregon State Library or other standard library directories).

Stat. Auth.: ORS 357.021

Stats. Implemented: ORS 357.026 & 357.028

Hist.: OSL 55, f. & ef. 1-12-76; OSL 2-1980, f. & ef. 10-2-80; OSL 1-1989, f. 4-18-89, cert. ef. 4-17-89; OSL 1-1992, f. 2-11-92, cert. ef. 2-17-92; OSL 1-1993, f. & cert. ef. 11-10-93; OSL 1-1995, f. & cert. ef. 10-27-95; OSL 1-2000, f. & cert. ef. 4-13-00; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-010-0026

Copying Charges

The State Library Board authorizes the State Library to charge current rates for the following types of copying. The fee schedule will be available to the public in a State Library policy.

(1) Photocopies from print publications.

(2) Photocopies from microfilm.

(3) Copies of photographs using a library approved vendor.

(4) Print-outs from electronic resources. Copying charges for state employees and officials on state business are covered by its agency assess-

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ments. Fees based on current rates may be charged for copying beyond reasonable levels.

Stat. Auth.: ORS 357.026(1)
Stats. Implemented: ORS 357.026(1)
Hist.: OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-010-0030

Overdue and Lost Materials

(1) Borrowers will:

(a) Return library materials no later than the due date;

(b) Make full payment for lost materials within 30 days of the date of the bill notice.

(c) Materials borrowed through Interlibrary Loan will be billed in amounts to be determined by the lending library.

(2) The State Library will suspend service to those individuals and libraries who abuse borrowing provisions of Oregon State Library or Interlibrary Loan materials until all overdue material or payment for replacement is received by the State Library.

(3) The State Library Board authorizes the State Librarian to set fees for overdue or lost materials, whether circulated by the State Library directly or through interlibrary loan. The fee schedule shall be available to the public in a State Library policy.

Stat. Auth.: ORS 357.026(1)
Stats. Implemented: ORS 357.026(1)
Hist.: OSL 14, f. 5-5-61, ef. 6-10-61; OSL 55, f. & ef. 1-12-76; OSL 2-1980, f. & ef. 10-2-80; OSL 1-1989, f. 4-18-89, cert. ef. 4-17-89; OSL 1-1995, f. & cert. ef. 10-27-95; OSL 1-2000, f. & cert. ef. 4-13-00; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-060-0020

Authorized Activities

(1) Oregon State Library is authorized to negotiate and contract with commercial database providers on behalf of public, school, academic, and tribal libraries to provide access to electronic databases. The statewide database subsidy program is established under the provisions of this division to assist eligible public, academic, school and tribal libraries to participate in the statewide electronic database program. The Oregon State Library is authorized to collect and administer funds from public and academic libraries in payment for such databases.

(2) Oregon State Library is authorized to provide a statewide cooperative reference service that enables all Oregonians to obtain information from library staff at cooperating libraries using advanced Internet technologies. The statewide cooperative reference service program is established under the provisions of this division to provide this cooperative service and to provide other assistance to public, academic, school and tribal libraries to improve their reference services using advanced Internet technologies. The Oregon State Library is authorized to collect and administer funds from public and academic libraries to provide partial support for the statewide cooperative reference service program in an amount to be determined annually by the State Library Board. The Oregon State Library is authorized to provide a statewide cooperative reference service directly or by contracting with one or more libraries to provide the service.

Stat. Auth.: ORS 357.031
Stats. Implemented: ORS 357.206, 357.209 & 357.212
Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 3-2006, f. & cert. ef. 2-14-06; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09; OSL 1-2010, f. 10-19-10, cert. ef. 10-25-10; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-060-0030

Statewide Database Licensing Program

(1) Eligibility: Any public, school, academic, tribal library or resource sharing system as defined above is eligible to participate in the program if the following criteria are met:

(a) The library or resource sharing system provides interlibrary loans without charge to requesting in-state public, academic, school, and tribal libraries and resource sharing systems.

(b) The public, academic library or resource sharing system is a signatory to and abides by the "Interlibrary Loan Code for Oregon Libraries."

(c) The library or resource sharing system certifies the above criteria are met and agrees to participate in the Statewide Database Licensing Program and the Statewide Cooperative Reference Service Program.

(2) The Statewide Database Licensing Advisory Committee shall be appointed by the Library Services and Technology Act (LSTA) Advisory Council.

(a) Role: The Statewide Database Licensing Advisory Committee shall advise the LSTA Advisory Council and the Oregon State Library staff in request for proposal development and database product evaluation, and

provide ongoing database product assessment and customer feedback. The Statewide Database Licensing Advisory Committee shall also advise the LSTA Advisory Council on the appropriate percentage allocation of electronic database costs to public, academic and school libraries.

(b) Membership of the Statewide Database Licensing Advisory Committee: One representative from the LSTA Advisory Council; three public library representatives, one each from libraries serving populations over 100,000, between 25,000–100,000, and 25,000 or less; three academic library representatives, one each from a community college, public academic institution and private academic institution; one representative from a resource sharing system; one tribal library representative, and, two school library representatives. Orbis Cascade Alliance and the Organization for Educational Technology and Curriculum (OETC) will each have one representative serving in a non-voting, ex officio capacity. In making appointments the LSTA Advisory Council will seek representatives with experience in database licensing and the use of databases.

(c) Terms of appointment: Terms shall be for three years, except initial terms shall be staggered. The LSTA Advisory Council representative shall serve a two year term.

(d) Meetings: The Statewide Database Licensing Advisory Committee shall meet at least twice each calendar year, and may meet more often as needed.

(3) Request for proposal process: The Oregon State Library shall be the fiscal agent for the program and shall use Federal funds under the Library Services and Technology Act to subsidize the program. Oregon State Library shall work with the Department of Administrative Services to procure electronic databases.

(4) Formula for electronic database costs to school libraries: The annual database contract costs to school libraries will be supported with LSTA funds as determined by the State Library Board, with a recommendation from the LSTA Advisory Council.

(5) Formula for electronic database costs to tribal libraries: The annual database contract costs to tribal libraries will be supported with LSTA funds as determined by the State Library Board, with a recommendation from the LSTA Advisory Council.

(6) Statewide database expenditure plan: An annual budget for the Statewide Database Licensing Program shall be recommended by the Library Services and Technology Act Advisory Council to the State Library Board and shall be adopted by the State Library Board.

Stat. Auth.: ORS 357.209
Stats. Implemented: ORS 357.206
Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 1-2004, f. 8-17-04 cert. ef. 9-1-04; OSL 3-2006, f. & cert. ef. 2-14-06; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09; OSL 1-2010, f. 10-19-10, cert. ef. 10-25-10; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-060-0040

Calendar for Statewide Database License Procurement

The Statewide Database Licensing Program in Request for Proposal years shall follow a calendar of events as listed below:

(1) The Request for Proposal shall be issued no later than January in a year requiring proposal development, and responses shall be received no later than March.

(2) Request for Proposal evaluations shall be completed by the Statewide Database Licensing Advisory Committee within 60 days of receipt of responses.

(3) Recommendations by the Statewide Database Licensing Advisory Committee to the Library Services and Technology Act Advisory Council shall be made prior to its May meeting.

(4) The Library Services and Technology Act Advisory Council shall review the database recommendations at its May meeting, and make recommendations to the State Library Board in June.

(5) Participating libraries shall be notified of anticipated costs for that subscription year after the Board meeting, invoiced in July, and payments shall be due in August or as determined by the vendor contract. Annual invoicing in non-Request for Proposal years shall follow a calendar of events as listed below: Recommendations by the Statewide Database Licensing Advisory Committee to the Library Services and Technology Act Advisory Council shall be made prior to its May meeting. Participating libraries will be notified of anticipated costs for that subscription year after the meeting. The Library Services and Technology Act Advisory Council shall review the database recommendations at its May meeting, and make recommendations to the Board in June. Participating libraries shall be invoiced in July, and payments shall be due in August or as determined by the vendor contract.

Stat. Auth.: ORS 357.209
Stats. Implemented: ORS 357.206, 357.209 & 357.212

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Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 1-2004, f. 8-17-04 cert. ef. 9-1-04; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

543-060-0070

Statewide Cooperative Reference Service Program

(1) Eligibility: Any public, school, academic, tribal library or resource sharing system as defined above is eligible to participate in the program.

(2) Partial Support by Public and Academic Libraries:

(a) The State Library Board shall, in the last quarter of every calendar year, determine the total amount of partial support that will be billed to public and academic libraries in the following calendar year. They shall also determine the proportion of the total amount that will be billed to public libraries and to academic libraries.

(b) Participating public and academic libraries and resource sharing systems shall be billed annually, in July, for partial support for the upcoming service year.

(3) Formula for allocating partial support to public and academic libraries: Once the Board has determined the proportional allocation of partial support among public and academic libraries, the costs will be further allocated to participants in the following manner:

(a) The public library or resource sharing system cost is based on the population served during the previous year, as determined by the State Library.

(b) The academic library cost is based on the student enrollment during the previous academic year, as determined by official sources, such as the Integrated Postsecondary Education Data System (IPEDS), and the Oregon Community College Unified Reporting System (OCCURS). Community college FTE will be adjusted for terms to arrive at an average annual full time enrollment.

(c) Any public library with a service population of less than 20,000 and any academic library with an enrollment of less than 1,000 will be exempt from partial support payments for the Statewide Cooperative Reference Services Program.

(4) Statewide Cooperative Reference Services expenditure plan: An annual budget for the Statewide Cooperative Reference Services Program shall be recommended by the Library Services and Technology Act Advisory Council to the State Library Board and shall be adopted by the Board.

Stat. Auth.: ORS 357.209

Stats. Implemented: ORS 357.206

Hist.: OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09; OSL 1-2010, f. 10-19-10, cert. ef. 10-25-10; OSL 1-2016(Temp), f. & cert. ef. 1-11-16 thru 7-6-16; OSL 3-2016, f. & cert. ef. 6-13-16

Oregon State Lottery

Chapter 177

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

Adm. Order No.: LOTT 3-2016

Filed with Sec. of State: 5-20-2016

Certified to be Effective: 6-7-16

Notice Publication Date: 5-1-2016

Rules Amended: 177-052-0020, 177-052-0030, 177-052-0040, 177-052-0050, 177-052-0060, 177-052-0070

Subject: The Oregon Lottery has amended the Second Chance Drawing game rules to clarify that the Lottery may conduct drawings with multiple winners and multiple prizes, and to clarify the process when a prize winner is deceased.

Other amendments include housekeeping and grammatical edits.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-052-0020

Eligibility

(1) Requirements: To be eligible to win a prize in a second chance drawing, a person must meet the following eligibility requirements:

(a) Be a natural person 18 years of age or older;

(b) Must reside in the United States;

(c) Must be a registered member on a Lottery designated website;

(d) Must submit a valid entry with the required information, through whichever method for entry the Lottery requires for the particular second chance drawing and by the deadline specified by the Lottery; and

(e) Must not be:

(A) An employee or representative of the Lottery, or the spouse, child, brother, sister, or parent of any such employee or representative;

(B) An employee or representative of the Oregon State Police, Gaming Enforcement Division; or

(C) A Lottery vendor who the Lottery prohibits by contract with the Lottery from participating in a second chance drawing or is otherwise prohibited from playing Lottery games.

(2) Person Ineligible: If at any time the Lottery determines that a person who submitted a second chance drawing entry does not meet the requirements listed in section (1) of this rule, that person is disqualified and is ineligible for a prize.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220, 461.230 & 461.250

Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2016, f. 5-20-16, cert. ef. 6-7-16

177-052-0030

Entry Requirements

(1) Method of Entry: The Lottery will determine the method of entry for any second chance drawing. This includes, but is not limited to, electronic entry through a website, mail, or walk-in entries.

(2) Electronic Entry: To submit a valid electronic entry, a person must:

(a) Register as a member on a Lottery designated website. A person may only have one active membership at a time;

(b) Enter such information as the Lottery may specify on the designated website for each drawing, such as the Game ID number, the alphanumeric entry code, and ticket information from the Lottery game ticket that is eligible for the particular second chance drawing;

(c) Provide any additional information as required by the Lottery; and

(d) Submit the electronic entry prior to the deadline for submission of entries for the second chance drawing as announced by the Lottery.

(3) Confirmation of Entry: For a ticket and drawing entry to be successfully entered into a drawing, the website must validate each ticket and drawing entry, and issue confirmation of the entry to the player.

(4) Ticket Requirements: Only one Lottery game ticket or share may be used for each entry. If the second chance drawing specifies use of a Scratch-itSM ticket for entry into the drawing, only a Lottery Scratch-itSM game ticket from an active Scratch-itSM game, as specified by the Lottery, is eligible for entry into the second chance drawing. The Lottery may specify in the terms and conditions applicable to a particular drawing that submission of certain tickets or shares may constitute more than one entry in that drawing.

(5) Single Entrant: Only one person per entry may submit an entry for a second chance drawing. An entry with more than one name on the entry form is invalid.

(6) Other Entry Requirements: The Lottery may establish additional terms and conditions and entry requirements for any second chance drawing. These additional terms and conditions and entry requirements will be posted on a Lottery website or as otherwise announced by the Lottery.

(7) Invalid Entry: Failure to follow any of the terms and conditions or entry requirements of a second chance drawing invalidates the entry. An invalid entry is void and is not eligible for a second chance drawing prize. The Lottery does not return invalid entries to the entrant.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220, 461.230 & 461.250

Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2016, f. 5-20-16, cert. ef. 6-7-16

177-052-0040

Odds of Winning

General: The odds of winning a Lottery second chance drawing depend on the total number of entries received and the total number of winners selected per drawing or game.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220, 461.230 & 461.250

Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2016, f. 5-20-16, cert. ef. 6-7-16

177-052-0050

Selection of Winners

(1) When Drawing Held: The Lottery will hold second chance drawings at such dates, times, places, and in such manner as determined by the Lottery and only after the deadline for submitting entries has closed, as announced by the Lottery. At Lottery's discretion, the Lottery may select more than one winning entry in a second chance drawing, award more than one prize, and may select alternate winners. An alternate winner is only eligible to receive a prize if the prior selected winner (including any alternate

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winners selected) is ineligible or does not claim the prize. Lottery will announce the prize structure when the second chance drawing is posted to the Lottery's website or as otherwise announced by the Lottery.

(2) Random Drawing: During a drawing, the Lottery, or a drawing agent, will randomly select a winning entry or entries (including multiple winning entries for drawings with multiple prizes), and may also select alternate winners from all the entries submitted for that drawing. For each drawing, a player may receive only the highest single prize won.

(3) Selection of Entry or Entries: To select a winning entry or entries, the Lottery, or a drawing agent, may conduct a manual or electronic drawing, or may use any other selection procedure as determined by the Lottery Director that ensures a random selection of a winning entry or entries.

(4) Suspension or Cancellation of Drawing: At the discretion of the Lottery Director, the Director may suspend or cancel a second chance drawing. If the Director suspends a drawing the Director may hold a replacement drawing or cancel the drawing. If the Director cancels a second chance drawing, the Lottery, in its sole discretion, may provide an entrant who entered the drawing with a coupon for a Lottery product, or a promotional reward, the value of which shall be solely determined by the Lottery. This is an entrant's sole and exclusive remedy.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2016, f. 5-20-16, cert. ef. 6-7-16

177-052-0060

Winner Notification and Claiming of Prizes

(1) Second Chance Prize Notification: If the entry is valid, the Lottery will notify the person who submitted the winning entry ("the winner") in a second chance drawing by e-mail. The Lottery may also notify the winner by telephone or by mailing a certified letter through the U.S. Postal Service. The effective date of notification is the date the initial e-mail notification is sent by the Lottery as noted electronically within the Lottery's information processing system.

(2) Time Limits for Claiming Prize: Unless otherwise specified for a specific second chance drawing, a winner (including any eligible alternate winner) of a second chance drawing has 60 calendar days from the date of the e-mail notification in which to claim the prize. A prize must be claimed by 5:00 p.m. on the last date to claim a prize. If the final date of the claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period is extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters in Salem is open to the general public.

(3) Forfeiture of Prize: If the Lottery determines that a winner and any alternate winners of a second chance drawing are ineligible or fail to claim the prize within the timeframe provided in section (2) of this rule, or if the entry and any alternate winning entries selected for that drawing are invalid, then the prize is an unclaimed prize and remains the property of the Lottery Commission to be allocated to the benefit of the public purpose.

(4) Winner Claim Forms: To claim a prize in a second chance drawing, the winner must submit a winner claim form to the Lottery. To be valid, the winner claim form must contain the required information, such as name, address, signature or identifying mark, social security number (if applicable), and a valid reference number. Only the person who submitted the entry may claim the prize (the winner). A second chance drawing prize may not be claimed by multiple owners. The Lottery must receive a valid winner claim form within the applicable time period for claiming a prize. The Lottery will not accept an invalid winner claim form and will return the claim form to the claimant. The winner may resubmit a valid claim form as long as the time for claiming the prize has not expired.

(a) Electronic Claim Form: The Lottery may require that the winner submit an electronic claim form through the Internet.

(A) Receipt: If the winner submits an electronic claim, the form is received by the Lottery only when the claim enters the Lottery's information processing system in a form that is retrievable by the Lottery and at the time and date noted by the Lottery's information processing system.

(B) Non-Receipt: The Lottery is not responsible for any electronic transmission failures or errors.

(C) Electronic Signature: An electronic winner claim form must include the winner's electronic signature that meets the requirements specified by the Lottery on the instructions for the winner claim form.

(b) Paper Claim Form: Unless specified otherwise, the Lottery may permit a winner to submit a paper claim form by mail, delivery service, facsimile transmission, or in person.

(A) Mail or Delivery Service: If a winner claim form is submitted by mail or a delivery service that will deliver to a P.O. Box, it must be sent

through the U.S. Mail or delivery service to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309 and must be documented as received by the Lottery according to the Lottery's internal procedures.

(B) Facsimile Transmission: If a winner claim form is submitted by facsimile transmission, it will be received by the Lottery only if it is successfully transmitted to (503) 540-1001 and receipt of the successful transmission is generated by the Lottery's facsimile machine.

(C) In Person: If a winner claim form is submitted in person by the winner, or through another individual or delivery service on behalf of the winner, the claim form must be delivered to and received by the Oregon State Lottery at its Player Services Office, 500 Airport Road SE, Salem, Oregon 97301, (or at such other locations and for such prize amounts as may be designated by the Director) during the Lottery's business hours of Monday through Friday, 8:00 a.m. to 5:00 p.m. prevailing time, excluding holidays and other officially declared closure days.

(D) Non-Receipt: The Lottery is not responsible for non-receipt of a claim form due to failures to deliver or errors of the U.S. Mail, individuals, transmitting equipment, delivery services, or otherwise.

(5) Verification of Identity: The Lottery may require the winner to present valid proof of identity to confirm that the winner is the registered member who submitted the second chance drawing entry. If the Lottery is unable to confirm the person claiming the prize is the registered member, the person is ineligible to receive a prize.

(6) Delivery of Prize: The Lottery may require the winner of a second chance drawing prize to claim the winner's prize in person at the Oregon State Lottery Headquarters, 500 Airport Road SE, Salem, Oregon 97301, or at such other locations designated by the Director, or the Lottery may mail or otherwise deliver the prize to the winner's address if it is within the United States.

(7) Taxes and Fees: Unless otherwise stated by the Lottery in the terms and conditions for a particular second chance drawing, all taxes and fees are the responsibility of the winner claiming the prize.

(8) Deceased Winner: If the winner of a second chance drawing prize is deceased, the Lottery may make payment of the prize to the estate of the deceased prize winner.

(a) General: The Director may rely on the presentation of certified copies of the court's appointment of a personal representative, the death certificate for the deceased prize winner, or other evidence of a person entitled to the payment of prize winnings when due and may make payment to the estate of the deceased prize winner once the Director is satisfied that such payment is lawful and proper.

(b) Release Form: For a deceased prize winner, the personal representative of the winner's estate must sign the Lottery release form on behalf of the estate before payment of the prize or any remaining portions of the prize to the estate.

(c) Court Petition: The Director reserves the right to petition any court of competent jurisdiction to determine the proper payment of any prize due to a deceased prize winner.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15; LOTT 3-2016, f. 5-20-16, cert. ef. 6-7-16

177-052-0070

Governing Law

(1) Compliance with Law and Terms and Conditions: By entering a Lottery second chance drawing, a person agrees to abide by and comply with Oregon law, including the statutes and administrative rules governing Lottery second chance drawings, and any additional terms and conditions and entry requirements for a second chance drawing as posted by the Lottery, which are in effect, and which may be amended from time to time.

(2) Decisions of the Director: The decisions of the Lottery Director are final. This includes, but is not limited to, the amount or nature of a prize, the validity of an entry, whether an entry is a winner, whether it was submitted in error, and whether an entrant has won a prize.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2016, f. 5-20-16, cert. ef. 6-7-16

Oregon State Marine Board Chapter 250

Rule Caption: Authorization to operate a boat at Willamette Falls in accordance with the Ceremonial Harvest Permit

ADMINISTRATIVE RULES

Adm. Order No.: OSMB 6-2016(Temp)

Filed with Sec. of State: 6-7-2016

Certified to be Effective: 6-7-16 thru 10-31-16

Notice Publication Date:

Rules Amended: 250-020-0032

Subject: Boats are prohibited from operating in the area downstream of the Oregon City Falls on the Willamette River for the protection of fish species including salmon and steelhead that gather around the fish ladders - OAR 250-020-0032(2). The Confederated Tribes of the Grande Ronde has requested an exemption from this rule for the purpose of constructing and accessing a fishing platform that is authorized by Oregon Department of Fish and Wildlife OAR 635-041-0610 Ceremonial Salmon and Steelhead Harvest at Willamette Falls.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0032

Boat Operations on the Willamette River in Clackamas County

(1) No person shall operate a motorboat in excess of 10 MPH in the following areas:

- (a) Between the southern shore of Hog Island and the mainland;
- (b) Within 100 feet of the west shore, between RM 30.0 and 30.5.
- (2) No person shall operate a boat:

(a) Downstream from Oregon City Falls in an area from the base of the falls to a line across the river between the northeast corner of the Crown Zellerbach's Mill A Grinder Room on the west bank of the river to the southwest corner of Publisher's Paper Company Power Plant on the east bank of the river as marked;

(b) In the area commonly known as the "cul-de-sac" or the Simpson Paper Company tailrace; beginning at the mouth of the tailrace on the south bank then extending across the tailrace following the line established by the bridge across the tailrace to the north bank, then in a westerly, southerly, and easterly direction around the bank of the tailrace to the place of beginning.

(c) Exceptions:

(A) Boats of any federal, state, county, or local governmental agency and Portland General Electric Sullivan Plant and Crown Zellerbach Corporation Mill maintenance crews may operate in the closed area when on official business;

(B) Boats used in taking lamprey under a permit issued by the State Department of Fish and Wildlife may operate in the closed area subject to the conditions specified in the permit.

(C) Holders of a Ceremonial Harvest Permit may operate a boat for activities conducted in accordance with OAR 635-041-0610 as adopted by the Oregon Department of Fish and Wildlife.

(3) No person shall operate a in excess of a "slow-no wake" speed on the following waters:

(a) Cedar Island lagoon;

(b) From the north point of the eastern spit of Cedar Island 100 yards due north and thence due west to the shore line;

(c) Within 200 feet of a designated public launching ramp and/or marked swimming area;

(d) Within 200 feet of shore adjacent to George Rogers Park (Lake Oswego), from the southern bank of Sucker Creek north along the west bank of the Willamette, to a point 200 yards north of the boat ramp, as posted;

(e) From the I-5 Boones Bridge west approximately 1,700 feet to the Railroad Bridge.

(4) No person shall operate a personal watercraft in continuous operation on the Willamette River between Hog Island and the Union Pacific Railroad Bridge during the period from May 1 through September 30, except to transit through this zone.

(5) On the Willamette River from the Hwy 219 Bridge at RM 48.5 to the upper end of Willow Island at RM 31.5, the following rules apply:

(a) No person shall operate a motorboat in excess of a "slow-no wake" speed within 100 feet of private docks, boathouses or moorages legally permitted by the Oregon Department of State Lands.

(b) No person shall use wake-enhancing devices, including ballast tanks, wedges or hydrofoils or other mechanical devices, or un-even loading of persons or gear, to artificially operate bow-high.

(c) Effective 12:01 am, May 1, 2014 and ending October 31, 2014, 11:59 pm, the use of wake-enhancing devices from the Hwy 219 Bridge at RM 48.5 to RM 47 are allowed.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 26, f. 7-20-64; MB 80, f. & ef. 4-19-77; MB 83, f. & ef. 4-22-77; Renumbered from 250-020-0142; MB 9-1982, f. 10-13-82, ef. 10-15-82; MB 6-1986, f. & ef. 5-23-86; MB 1-1987, f. & ef. 2-4-87; MB 13-1987, f. & ef. 6-15-87; MB 3-1996, f. & cert. ef. 2-22-96; OSMB 5-2000, f. & cert. ef. 10-30-00; OSMB 5-2007(Temp), f. & cert. ef. 6-18-07 thru 12-13-07; Administrative correction 12-20-07; OSMB 5-2008, f. & cert. ef. 7-11-08; OSMB 9-2008, f. 10-22-08, cert. ef. 1-1-09; OSMB 3-2014, f. & cert. ef. 1-15-14; OSMB 4-2015, f. 4-30-15, cert. ef. 5-1-15; OSMB 6-2016(Temp), f. & cert. ef. 6-7-16 thru 10-31-16

Oregon State Treasury Chapter 170

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

Adm. Order No.: OST 3-2016

Filed with Sec. of State: 5-25-2016

Certified to be Effective: 5-25-16

Notice Publication Date: 5-1-2016

Rules Amended: 170-063-0000

Subject: This amendment:

(1) Removes language requiring districts with combined projected future annual guaranteed debt service exceeding 80% of its annual State aid to provide additional collateral or bond insurance to reimburse the State Treasury for any debt service payments made on its behalf.

(2) Inserts language defining Repayment Assurance Agreement.

(3) Inserts language requiring districts to enter into a Repayment Assurance Agreement with Oregon State Treasury - Debt Management Division as a condition of Oregon School Bond Guaranty qualification.

(4) Inserts language requiring districts to provide a copy of Board adopted policy or internally implemented procedure that addresses post issuance compliance with federal tax and securities laws.

Rules Coordinator: Dan McNally—(503) 373-1028

170-063-0000

Oregon School Bond Guaranty Program

(1) Definitions. For purposes of this rule, the following definitions shall apply:

(a) "OST" means the Office of the State Treasurer.

(b) The "Act" means the Oregon School Bond Guaranty Act set forth in ORS 328.321 to 328.356.

(c) "Authorized District Official" means the chairperson of the board, the superintendent, president, or business administrator for the School District, or other designee of the board.

(d) "Business Day" means any day on which the offices of the State Treasurer are open to the public for the conduct of substantially all of the powers and duties of the agency. Saturdays, Sundays, or state holidays or any other day recognized by state government as a holiday or a day on which the State Treasurer's offices are officially closed to the public shall not be considered a Business Day.

(e) "Certificate of Qualification" means a letter from OST pursuant to ORS 328.331(3).

(f) "Determination of Ineligibility" means a letter from OST pursuant to ORS 328.336.

(g) "Guaranty Program" means the school bond guaranty program established by the Act.

(h) "Nationally Recognized Bond Counsel Firm" means a bond counsel firm listed in the most recent publication of The Bond Buyer's Municipal Market Place.

(i) "Qualified Bonds" means bonds that are originally issued as tax credit bonds under the Internal Revenue Code and any bonds resulting from a conversion of such tax credit bonds to an interest bearing format over and above interest payments that may be due and payable under the original terms of such tax credit bonds.

(j) "Qualified Paying Agent" means a paying agent acceptable to OST who agrees to comply with the applicable requirements of the Act and provides a letter to OST acknowledging as much.

(k) "School District" or "District" means a common or union high school district, an education service district, or a community college district.

(l) "State School Aid" means the State School Fund Grant described in ORS 327.008(2), plus amounts received from the Common School Fund under 327.410, plus amounts received from federal forest revenues under 294.060, plus amounts received from state managed forests under 530.115.

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(m) "Repayment Assurance Agreement" means an agreement between the State of Oregon, acting by and through its Office of the State Treasurer and its Department of Education (the "State") and a "District" in which the District agrees that if the State pays under the guaranty the District will enter into a subsequent repayment agreement with respect to the amount(s) paid by OST.

(n) Terms not otherwise specifically defined herein shall have the meanings given in the Act. For purposes of calculating outstanding bonds or other outstanding borrowings as required under this rule, any borrowings that are defeased as provided in ORS 287A.195(1)(d)(B) shall be excluded and shall not be included in the amount of an outstanding borrowing.

(2) Request for Certificate of Qualification to Participate in Guaranty Program. School Districts may request a Certificate of Qualification at any time during the year by filing a Request for Certificate of Qualification. Such requests, however, must be submitted no less than 30 days prior to sale of the bonds for which the guaranty, if granted, will apply. Requests, and all other written communications pursuant to the Guaranty Program, shall be submitted to OST as provided in OAR 170-055-0001(4), and shall include:

(a) The name, county, and district number (if applicable) of the requesting School District;

(b) The name of the business administrator or other contact person for the requesting School District;

(c) The mailing address, phone number, e-mail address, and fax number (if applicable) of the requesting School District;

(d) A statement of whether any of the School District's previously issued and outstanding debt is covered by the Guaranty Program;

(e) A copy of the requesting School District's most recent audited financial statements, audit opinion, and management letter; and a statement by an Authorized District Official that they have not been contacted and are not participating in any investigation by an oversight agency or, alternatively, documentation of any conclusions reached by such agency regarding their activities.

(f) A listing of outstanding general obligation debt and associated debt service schedules, for debt issued by the School District since the date of its most recent financial audit;

(g) A copy of the School District's Board adopted policy or internal procedure that addresses post issuance compliance with federal tax and securities laws.

(h) A certificate, signed by an Authorized District Official:

(A) Stating whether the requesting School District has ever failed to pay debt service on any of its bonds, certificates of participation, or other financial obligations when due, and explaining the circumstances and resolution of any such defaults or failures;

(B) Describing current lawsuits against the School District challenging the ability or authority of the School District to issue bonds or that may materially affect the ability of the School District to make scheduled debt service payments on its bonds when due;

(C) Stating that the requesting School District has filed its current budget document(s) with the Oregon Department of Education, and in accordance with Oregon Local Budget Law;

(D) Stating the amount of debt the School District is authorized by law to incur, and stating that the requesting School District is within this limit;

(E) Describing the possible repayment structure of all bonds the School District may issue during the period of the requested Certificate of Qualification, including any Qualified Bonds. Such repayment structure shall cover the estimated debt service schedule and, for Qualified Bonds, include any scheduled deposits to a sinking fund and the interest rate to which such bonds may be converted, if they may be converted to an interest bearing format over and above interest payments that may be due and payable under the original terms of such bonds;

(F) Attesting to the accuracy and completeness of the materials provided; and

(G) Stating that the School District has engaged a Qualified Paying Agent, who, under the terms of the agreement between the two parties (the "Paying Agent Agreement"), has agreed to provide the School District with a written notification by January 15 of each year of the required debt service amounts (including any scheduled deposits to a sinking fund for Qualified Bonds) which are due in the then-current fiscal year and the following two fiscal years, such that the School District may have the proper information to levy adequate amounts for such payments coming due in the following fiscal years. For example, a notification provided by January 15, 2010 shall include information on debt service due in the current FY 2010 year (July 1, 2009 through June 30, 2010), the FY 2011 year (July 1, 2010

through June 30, 2011), and FY 2012 year (July 1, 2011 through June 30, 2012).

(i) A non-refundable application processing fee as set forth in OAR 170-061-0015;

(j) An authorizing resolution of the District that expressly authorizes the District to participate in the Guaranty Program and that affirmatively pledges the taxing power and full faith and credit of the District to payment of any payments made by the State Treasurer pursuant to ORS 328.341; and

(k) Any additional materials that may be required by OST in support of the request for participation in the Guaranty Program.

(3) Review of Request for Certificate of Qualification. Upon receipt of a request for a Certificate of Qualification, OST shall determine whether all items listed in section (2) of this rule have been provided, whether such items are current, and whether such items demonstrate that the requesting School District is likely to be able to repay any amounts paid by OST under ORS 328.341. To make its determination, OST may request additional information from the School District, as well as from any other person or entity that collects information pertaining to the financial well-being of the requesting School District.

(4) Issuance of Certificate of Qualification. Upon determining that a School District is eligible to participate in the Guaranty Program, OST shall issue a Certificate of Qualification to the School District, if the District has entered into a Repayment Assurance Agreement with OST. A Certificate of Qualification will not apply to Qualified Bonds unless the School District indicated in its request for a Certificate of Qualification that it planned to issue Qualified Bonds under the Certificate of Qualification. OST shall act upon a School District's request for a Certificate of Qualification within 10 business days after receipt of a request under section (2) of this rule. The Certificate of Qualification:

(a) Shall evidence the School District's immediate qualification for the Guaranty Program contingent upon compliance with section (6) and all other sections of this rule for each bond issue contemplated for guaranty under the Act;

(b) Be valid for one year from the date of its issuance;

(c) May be applied to any or all general obligation bonds or general obligation refunding bonds issued by the School District during such one-year period that comply with this rule and the Act, except Qualified Bonds for which specific approval must be noted as set forth in OAR 170-061-0015(4)(d). A bond shall be considered issued as of its dated date.

(d) Will specifically state whether it applies to Qualified Bonds issued by the School District during the period of its validity.

(5) A School District that has received a Certificate of Qualification, but did not request Qualified Bonds to be included under the Certificate of Qualification, may submit an amended request at least one month prior to the scheduled issuance date for any Qualified Bonds requesting an amended Certificate of Qualification that specifically covers the Qualified Bonds, which request shall include the information required for such bonds in OAR 170-063-0000(2). OST shall act upon such request within 5 business days.

(6) School Districts to Provide Information Specific to Each Bond Issued Under the Program. A School District which has received a Certificate of Qualification may, while the Certificate of Qualification is in effect, obtain the state's guaranty of a series of its bonds under the Guaranty Program, by:

(a) Fully complying with Oregon Administrative Rule 170-061-0000 (Notice and Reporting Requirements by Public Bodies When Issuing Bonds), including providing notification on MDAC Form 1 to OST at least 10 business days prior to the marketing of any bonds referencing participation in the Guaranty Program, for the bonds which will be guaranteed (this may be submitted simultaneously with information described in section (2) of this rule);

(b) Submitting the following documents to OST at least 5 business days prior to the closing of the bonds to which the guaranty will apply:

(A) A copy of a resolution adopted by the board or governing body of the School District, authorizing the School District to issue the bonds and participate in the Guaranty Program;

(B) An opinion from a Nationally Recognized Bond Counsel Firm that the bonds, when issued, will be general obligation bonds as defined in the Act, and will be valid and binding obligations of the issuer;

(C) A certificate stating that no litigation is pending or threatened against the School District, questioning the authority of the School District to issue the bonds or levy taxes to pay the bonds;

(D) A specific statement as to whether any of the bonds will be Qualified Bonds; and

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(E) Any additional materials that may be required by OST in support of the request for participation in the Guaranty Program, including but not limited to, any information or agreement requested by OST with respect to creation of sufficient debt service funds, assurance that any bond insurance, pledge of security or other credit enhancement required for issuance of the Certificate remains in effect and available, or other repayment mechanisms to pay any outstanding bonds, including Qualified Bonds or to repay OST when payment is due.

(7) Letter of Confirmation. No later than the day on which the bonds are scheduled to close, OST shall, if the Certificate of Qualification is in effect and the School District has complied with section (6)(a) and (6)(b) of this rule, issue a Letter of Confirmation identifying the series of bonds to which the guaranty shall apply, and stating that the guaranty shall apply to that series of bonds if the series of bonds closes within 15 business days after the date of the letter, and there is filed with bond counsel a certificate, signed by an Authorized District Official and dated the date of the closing, stating that no litigation is pending or threatened against the School District which questions the authority of the District to issue the bonds or levy taxes to pay the bonds. If the series of bonds described in the letter of confirmation is closed within that 15 business day period, and the non-litigation certificate is filed with bond counsel as required by this Section, the series of bonds shall be guaranteed under the Guaranty Program, and the guaranty shall not be affected by any denial or revocation pursuant to section (10) of this rule.

(8) Guaranty Fees. School Districts whose bonds are guaranteed by the state shall submit to OST, within 10 business days of closing of any guaranteed bonds, a fee as set forth in OAR 170-061-0015.

(9) Ratings. OST will undertake to have the Oregon School Bond Guaranty Program rated by one or more of the major debt rating agencies. School Districts may contact the Debt Management Division of OST to determine which agencies have rated the program. School Districts proposing to issue bonds under the Guaranty Program may:

(a) Engage, at their own expense, one or more of the rating agencies to apply the rating of the Guaranty Program to their bonds; and

(b) At their discretion, and at their own expense, choose to obtain an underlying rating on the bonds.

(10) Denial or Revocation of Qualification/Determination of Ineligibility. OST may deny a School District's request for a Certificate of Qualification, or revoke a previously issued Certificate of Qualification, and issue a Determination of Ineligibility in accordance with the Act, if:

(a) The School District fails to meet the provisions outlined in the Act or any of the requirements outlined in this rule;

(b) The State has ever paid, pursuant to the Guaranty Program, any principal of or interest on any of the School District's bonds; or

(c) OST has reason to question the financial integrity of the School District, including but not limited to, whether sufficient funds exist to repay any outstanding Bonds, including Qualified Bonds, when payment is due or to repay the State of Oregon for any payments made by OST under ORS 328.341.

(11) Guaranty Final Upon Issuance. Pursuant to ORS 328.336, issuance of a Determination of Ineligibility shall not affect the validity of the state's guaranty of any outstanding bonds issued under a Letter of Confirmation pursuant to section (7) of this rule.

(12) Reference to Guaranty. School Districts with a valid Certificate of Qualification, and that have complied with section (6) and all other sections of this rule, shall evidence the State's guaranty of the School District's bonds by:

(a) Referencing the guaranty on the cover of the preliminary official statement(s) and official statement(s), or other offering document(s), for the applicable bond(s);

(b) Referencing the guaranty on the face of the School District's applicable bond(s); and

(c) Including language describing the guaranty (to be provided by OST) in the School District's preliminary official statement(s) and official statement(s), or any other offering document(s), for the applicable bond(s). Language supplied by OST must be used in its entirety and may not be modified or amended.

(13) School Districts to Report Changes Affecting Qualification. School Districts who have had bonds guaranteed under the Guaranty Program shall promptly notify OST if at any time there are material changes or occurrences that might affect the School District's eligibility to qualify or maintain its qualification to participate in the Guaranty Program, including but not limited to:

(a) Failure to adopt a resolution or ordinance that formally adopts the budget, sets appropriations, and if needed, levies property taxes in accordance with Oregon local budget law;

(b) Failure to pay debt service on any outstanding bond, certificate of participation, or similar financial obligation; or

(c) Failure to establish or levy for debt service scheduled (including any sinking fund deposits) for any outstanding bonds, including Qualified Bonds, or a material change in any other repayment mechanism for outstanding bonds, including Qualified Bonds.

(14) Notice to OST of debt service payments. School Districts who are unable to transfer scheduled debt service payments to a Qualified Paying Agent 15 days prior to the payment date and Qualified Paying Agents who have not received sufficient funds 10 days prior to the payment date, shall provide notice to OST as provided in OAR 170-055-0001(4) and by telephone to (503) 378-4930 or email to DMD@ost.state.or.us.

(15) Notice to OST of sinking fund deposits. School Districts shall provide written verification that they have made any required sinking fund deposits for Qualified Bonds by May 1 of each year to their Qualified Paying Agents and such Qualified Paying Agent shall promptly notify OST if they do not receive such annual verification.

(16) Repayment. Respective School Districts are responsible for paying all of their obligations guaranteed by the State under the Guaranty Program and for the advance funding of any debt service fund established for such obligations. Any funds paid by the State on behalf of a School District under the Guaranty Program shall be recovered by OST in a manner consistent with the Act.

(17) Reporting on Debt Service Fund. Any School District with outstanding Qualified Bonds guaranteed under the Guaranty Program shall report to the OST at least annually the amount of moneys paid into the School District's debt service fund to pay the Qualified Bonds together with a calculation demonstrating that such advance payments are scheduled to be fully funded and sufficient to repay the Qualified Bonds in full when payment is due. To the extent moneys are not scheduled to be paid into the debt service fund on an annual basis, the School District in its notification shall demonstrate that current balances in the debt service fund, along with any future deposits, will be sufficient to repay the Qualified Bonds in full when due. School Districts with outstanding Qualified Bonds that are subject to conversion to taxable interest bearing bonds and any Qualified Paying Agents for such Qualified Bonds shall promptly notify OST of such conversion as provided in OAR-170-055-0001(4) and by telephone to (503) 378-4930 or email to DMD@ost.state.or.us.

(18) Interest. OST will charge interest in connection with the recovery of funds under the Act. Any interest charged will be in a manner consistent with the Act.

(19) Penalty. In addition to charging interest, OST may impose a penalty on a School District for which the State made a payment under the Guaranty Program. Any penalty imposed will be consistent with the Act.

(20) Exceptions. OST may waive any or all provisions of this rule to the extent provided by law. This rule shall be effective on the date it is adopted by OST and filed with the Secretary of State and its requirements shall apply to any Certificates of Qualification that are in effect on such date.

Stat. Auth.: ORS 328.321 - 328.356
Stats. Implemented: ORS 328.321 - 328.356 & 328.331
Hist.: OST 3-1998(Temp), f. 12-14-98, cert. ef. 1-2-99 thru 6-30-99; OST 2-1999, f. 6-22-99, cert. ef. 7-1-99; OST 1-2000(Temp), f. 10-31-00, cert. ef. 10-31-00 thru 4-27-01, Administrative correction 6-7-01; OST 7-2008, f. & cert. ef. 12-29-08; OST 5-2009(Temp), f. & cert. ef. 10-30-09 thru 4-27-10; OST 1-2010, f. & cert. ef. 1-15-10; OST 1-2014(Temp), f. & cert. ef. 1-15-14 thru 7-14-14; OST 2-2014, f. & cert. ef. 4-11-14; OST 2-2016(Temp), f. & cert. ef. 2-12-16 thru 8-8-16; OST 3-2016, f. & cert. ef. 5-25-16

Oregon Youth Authority Chapter 416

Rule Caption: Updating BRS Rate Table incorporated by reference.

Adm. Order No.: OYA 5-2016(Temp)

Filed with Sec. of State: 6-3-2016

Certified to be Effective: 6-3-16 thru 11-29-16

Notice Publication Date:

Rules Amended: 416-335-0090

Subject: OYA is amending the date and content of the BRS Rate Table referenced in OAR 416-335-0090 to reflect new rates.

Rules Coordinator: Winifred Skinner—(503) 373-7570

ADMINISTRATIVE RULES

416-335-0090

Billing and Payment for Services and Placement Related Activities

(1) Billable Care Days:

(a) The BRS Contractor is compensated for a Billable Care Day (Service and Placement Related Activities rates) on a fee-for-service basis in accordance with OAR 410-170-0110 and this rule.

(b) The BRS Contractor may include overnight Transitional Visits by the BRS Client to another placement in its Billable Care Days. The BRS Contractor must:

(A) Receive prior approval for the Transitional Visit from OYA;

(B) Ensure that the Transitional Visit is in support of the MSP, MSP-T, or MSP-S goals related to transition;

(C) Pay the hosting placement at the established Absent Rate for the sending BRS Provider; and

(D) Ensure that the hosting placement will not seek any reimbursement from OYA for the care of the visiting BRS Client.

(2) Absent Days:

(a) The BRS Contractor is compensated for an Absent Day at the Absent Day rate in order to hold a BRS Program placement for a BRS Client with the prior approval of the BRS Client's JPO and the Community Resources Manager.

(b) Notwithstanding OAR 410-170-0110(4), the BRS Contractor may request prior approval from OYA to be reimbursed for more than eight calendar days of home visits in a month for a BRS Client. However, any additional days of home visits approved under this rule will be paid at the Absent Day rate.

(3) The BRS Contractor may be reimbursed only for the BRS Type of Care authorized in the contract with OYA.

(4) Invoice Form:

(a) The BRS Contractor must submit a monthly billing form to OYA in a format acceptable to the Agency, on or after the first day of the month following the month in which it provided Services and Placement Related Activities to the BRS Client. The billing form must specify the number of Billable Care Days and Absent Days for each BRS Client in that month.

(b) The BRS Contractor must provide upon request, in a format that meets OYA's approval, written documentation of each BRS Client's location for each day claimed as a Billable Care Day and an Absent Day.

(c) The BRS Contractor may only submit a claim for a Billable Care Day and an Absent Day consistent with the Agency's prior authorization or approval.

(5) Billable Care Day and Absent Day rates are provided in the "BRS Rates Table", dated May 1, 2016, which is adopted as Exhibit 1 and incorporated by reference into this rule. A printed copy may be obtained from OYA.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420A.014

Hist.: OYA 3-2013, f. 11-15-13, cert. ef. 1-1-14; OYA 2-2016(Temp), f. & cert. ef. 3-10-16 thru 6-10-16; OYA 4-2016, f. & cert. ef. 5-2-16; OYA 5-2016(Temp), f. & cert. ef. 6-3-16 thru 11-29-16

Public Utility Commission Chapter 860

Rule Caption: In the Matter of a Rulemaking to Adopt Federal Pipeline Safety Regulation Amendments.

Adm. Order No.: PUC 3-2016

Filed with Sec. of State: 5-17-2016

Certified to be Effective: 5-17-16

Notice Publication Date: 4-1-2016

Rules Amended: 860-024-0020, 860-024-0021

Subject: These rule changes update the PUC's gas safety rules to be current with the federal gas pipeline safety regulations.

Rules Coordinator: Diane Davis—(503) 378-4372

860-024-0020

Gas Pipeline Safety

Every gas operator must construct, operate, and maintain natural gas and other gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. 22 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on April 4, 2011.

(2) 49 CFR, Part 192, and amendments through No. 119 — Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards in effect on March 6, 2015.

(3) 49 CFR, Part 199, and amendments through No. 26 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on March 6, 2015.

(4) 49 CFR, Part 40, and amendments through No. 29 — Procedure for Transportation Workplace Drug and Alcohol Testing Programs in effect on October 3, 2012.

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

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 172, f. & ef. 1-14-76 (Order No. 76-036); PUC 180, f. 4-8-77, ef. 5-1-77 (Order No. 77-232); PUC 2-1978, f. & ef. 3-16-78 (Order No. 78-158); PUC 6-1980, f. & ef. 10-22-80 (Order No. 80-777); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 19-1998, f. & cert. ef. 11-18-98; PUC 22-2003, f. & cert. ef. 11-28-03; PUC 3-2005, f. & cert. ef. 6-3-05; PUC 9-2007, f. & cert. ef. 9-10-07; PUC 5-2009, f. & cert. ef. 5-5-09; PUC 2-2011, f. & cert. ef. 5-4-11; PUC 4-2013, f. & cert. ef. 5-30-13; PUC 3-2016, f. & cert. ef. 5-17-16

860-024-0021

Liquefied Natural Gas Safety

Every gas operator must construct, operate, and maintain liquefied natural gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. 22 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on April 4, 2011.

(2) 49 CFR, Part 193, and amendments through No. 25 — Liquefied Natural Gas Facilities; Minimum Safety Standards in effect on March 6, 2015.

(3) 49 CFR, Part 199, and amendments through No. 26 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on March 6, 2015.

(4) 49 CFR, Part 40, and amendments through No. 29 — Procedure for Transportation Workplace Drug and Alcohol Testing Programs in effect on October 3, 2012.

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

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 19-1998, f. & cert. ef. 11-18-98; PUC 22-2003, f. & cert. ef. 11-28-03; PUC 3-2005, f. & cert. ef. 6-3-05; PUC 9-2007, f. & cert. ef. 9-10-07; PUC 5-2009, f. & cert. ef. 5-5-09; PUC 2-2011, f. & cert. ef. 5-4-11; PUC 4-2013, f. & cert. ef. 5-30-13; PUC 3-2016, f. & cert. ef. 5-17-16

Public Utility Commission, Board of Maritime Pilots Chapter 856

Rule Caption: Changes timing of annual TOC adjustment to coincide with annual COLA adjustment.

Adm. Order No.: BMP 4-2016(Temp)

Filed with Sec. of State: 5-25-2016

Certified to be Effective: 5-25-16 thru 11-20-16

Notice Publication Date:

Rules Amended: 856-030-0040

Subject: Amendments change the effective dates of the annual transportation cost adjustment to the tariff to coincide with the annual cost-of-living adjustment.

Rules Coordinator: Susan Johnson—(971) 673-1530

856-030-0040

Transportation Oversight Committee

(1) For the purpose of making annual, automatic, cost-based adjustments to the transportation system cost component of the tariff funding the pilotage system for the Columbia River Bar pilotage grounds, a Transportation Oversight Committee is established, composed of one public member of the Oregon Board of Maritime Pilots (Board), two members of the Columbia River Bar Pilots (CRBP), a representative of the Columbia River Steamship Operators Association and a representative of a port located on the Columbia River. The public member of the Transportation Oversight Committee will act as chair.

(2) Beginning in 2011, the Transportation Oversight Committee will meet as necessary but at least semiannually. The Transportation Oversight Committee will perform long-term transportation system planning, will

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regularly review transportation system costs and operations, and will make recommendations regarding the operation of the transportation system, for the Columbia River Bar pilotage grounds.

(3) Upon agreement of a majority of members, the Transportation Oversight Committee may submit data requests to the CRBP. Data requests are written interrogatories or requests for production of documents. The data requests must be answered within 20 Board business days from the date of service. Each data request must be answered fully and separately in writing or by production of documents.

(4) On an annual basis beginning in 2011, the Transportation Oversight Committee shall make a recommendation to the Board regarding annual adjustments to the components of the Transportation System Cost of the pilotage system serving the Columbia River Bar pilotage grounds to reflect the best available information about changing economic conditions including expense levels shown by CRBP financial statements and Transportation Oversight Committee projections. The Transportation System Cost components include the following line item categories: helicopter service; repairs and maintenance infrastructure; repairs and maintenance; insurance; boat operator expense; employee wages; employee benefits; transportation launch expense; food vessel expense; taxes and licenses; and administrative/accounting. The recommended adjustments to one or more of the components of the Transportation System Cost shall be developed by the Transportation Oversight Committee and submitted in writing to the Board by July 31 of each year.

(5) In the event the Transportation Oversight Committee cannot reach agreement on one or more of the components of the Transportation System Cost, the competing views shall be described in appropriate memoranda drafted by one or more representative of the Transportation Oversight Committee and submitted to the Oregon Board of Maritime Pilots. The submission from the Transportation Oversight Committee shall be considered by the Oregon Board of Maritime Pilots at a meeting that occurs on or before August 31 of each year so that the Committee's recommendations can be considered and any disputed issue decided in order for any adjustments to the components of the Transportation System cost to be effective on September 1 of that year.

Stat. Auth.: ORS 776, ORS 670

Stats. Implemented: ORS 776.115, ORS 670.310

Hist.: BMP 2-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 4-2016(Temp), f. & cert. ef. 5-25-16 thru 11-20-16

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141-068-0030	6-1-2016	Adopt	6-1-2016	150-314.402(1)	1-1-2016	Am. & Ren.	2-1-2016
141-068-0040	6-1-2016	Adopt	6-1-2016	150-314.402(6)	1-1-2016	Am. & Ren.	2-1-2016
141-068-0050	6-1-2016	Adopt	6-1-2016	150-314.415(2)(f)-(B)	1-1-2016	Amend	2-1-2016
141-068-0060	6-1-2016	Adopt	6-1-2016	150-314.515(2)	1-1-2016	Am. & Ren.	2-1-2016
141-068-0070	6-1-2016	Adopt	6-1-2016	150-314.665(1)-(A)	1-1-2016	Amend	2-1-2016
141-068-0080	6-1-2016	Adopt	6-1-2016	150-314.665(2)-(C)	1-1-2016	Repeal	2-1-2016
141-068-0090	6-1-2016	Adopt	6-1-2016	150-315.144	1-1-2016	Amend	2-1-2016
141-068-0100	6-1-2016	Adopt	6-1-2016	150-315.521	1-1-2016	Repeal	2-1-2016
141-068-0110	6-1-2016	Adopt	6-1-2016	150-316.583(2)	1-1-2016	Am. & Ren.	2-1-2016
141-068-0120	6-1-2016	Adopt	6-1-2016	150-317.152	1-1-2016	Adopt	2-1-2016
141-068-0130	6-1-2016	Adopt	6-1-2016	150-317.717	1-1-2016	Adopt	2-1-2016
141-068-0140	6-1-2016	Adopt	6-1-2016	150-321.207(1)	1-1-2016	Am. & Ren.	2-1-2016
141-089-0820	1-2-2016	Amend(T)	2-1-2016	150-358.505	1-1-2016	Amend	2-1-2016
141-089-0820	6-15-2016	Amend	7-1-2016	150-401.794	1-1-2016	Renumber	2-1-2016
141-089-0825	1-2-2016	Amend(T)	2-1-2016	150-475B.705	6-2-2016	Adopt(T)	7-1-2016
141-089-0825	6-15-2016	Amend	7-1-2016	150-475B.710-(A)	1-4-2016	Adopt(T)	1-1-2016
141-089-0835	1-2-2016	Amend(T)	2-1-2016	150-475B.710-(B)	1-4-2016	Adopt(T)	1-1-2016
141-089-0835	6-15-2016	Amend	7-1-2016	150-475B.710-(C)	1-4-2016	Adopt(T)	1-1-2016
141-093-0185	2-8-2016	Amend	3-1-2016	161-002-0000	5-12-2016	Amend	6-1-2016
141-093-0190	2-8-2016	Amend	3-1-2016	161-025-0060	5-12-2016	Amend	6-1-2016
141-125-0170	12-29-2015	Amend	2-1-2016	165-001-0016	1-1-2016	Amend	2-1-2016
150-118.140	1-1-2016	Amend	2-1-2016	165-001-0025	1-1-2016	Amend	2-1-2016
150-118.NOTE	1-1-2016	Repeal	2-1-2016	165-001-0034	1-1-2016	Amend	2-1-2016
150-183.330(1)	1-1-2016	Am. & Ren.	2-1-2016	165-001-0050	1-1-2016	Amend	2-1-2016
150-192.440	1-1-2016	Amend	2-1-2016	165-001-0095	1-1-2016	Adopt	2-1-2016
150-285C.420-(A)	1-1-2016	Adopt	2-1-2016	165-005-0055	1-1-2016	Amend	2-1-2016
150-294.175(1)(c)	1-1-2016	Am. & Ren.	2-1-2016	165-005-0065	1-1-2016	Amend	2-1-2016
150-294.175(2)	1-1-2016	Am. & Ren.	2-1-2016	165-005-0070	1-1-2016	Amend	2-1-2016
150-305.100-(C)	1-1-2016	Repeal	2-1-2016	165-005-0170	1-1-2016	Adopt	2-1-2016
150-305.120	1-1-2016	Adopt	2-1-2016	165-005-0170	5-13-2016	Amend	6-1-2016
150-305.145(5)	1-1-2016	Renumber	2-1-2016	165-007-0030	12-11-2015	Amend	1-1-2016
150-305.155-(A)	1-1-2016	Adopt	2-1-2016	165-007-0035	1-1-2016	Amend	2-1-2016
150-305.612	1-1-2016	Amend	2-1-2016	165-010-0005	1-1-2016	Amend	2-1-2016
150-305.792	12-7-2015	Adopt(T)	1-1-2016	165-012-0005	1-1-2016	Amend	2-1-2016
150-306.125	1-1-2016	Repeal	2-1-2016	165-012-0240	1-1-2016	Amend	2-1-2016
150-306.126(1)	1-1-2016	Am. & Ren.	2-1-2016	165-013-0010	1-1-2016	Amend	2-1-2016
150-306.126(2)	1-1-2016	Am. & Ren.	2-1-2016	165-013-0020	1-1-2016	Amend	2-1-2016
150-306.126(3)-(A)	1-1-2016	Am. & Ren.	2-1-2016	165-013-0030	1-2-2016	Amend	2-1-2016
150-307.242(2)	1-1-2016	Am. & Ren.	2-1-2016	165-014-0005	1-1-2016	Amend	2-1-2016

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165-014-0280	1-1-2016	Repeal	2-1-2016	250-030-0010	2-1-2016	Repeal	2-1-2016
165-016-0000	1-1-2016	Amend	2-1-2016	250-030-0020	2-1-2016	Repeal	2-1-2016
166-017-0005	5-5-2016	Adopt	6-1-2016	250-030-0030	2-1-2016	Repeal	2-1-2016
166-017-0010	5-5-2016	Amend	6-1-2016	250-030-0041	2-1-2016	Repeal	2-1-2016
166-017-0015	5-5-2016	Adopt	6-1-2016	250-030-0100	2-1-2016	Adopt	2-1-2016
166-017-0020	5-5-2016	Repeal	6-1-2016	250-030-0110	2-1-2016	Adopt	2-1-2016
166-017-0025	5-5-2016	Adopt	6-1-2016	250-030-0120	2-1-2016	Adopt	2-1-2016
166-017-0030	5-5-2016	Repeal	6-1-2016	250-030-0130	2-1-2016	Adopt	2-1-2016
166-017-0035	5-5-2016	Adopt	6-1-2016	250-030-0140	2-1-2016	Adopt	2-1-2016
166-017-0040	5-5-2016	Repeal	6-1-2016	250-030-0150	2-1-2016	Adopt	2-1-2016
166-017-0045	5-5-2016	Adopt	6-1-2016	250-030-0160	2-1-2016	Adopt	2-1-2016
166-017-0050	5-5-2016	Repeal	6-1-2016	250-030-0170	2-1-2016	Adopt	2-1-2016
166-017-0055	5-5-2016	Adopt	6-1-2016	250-030-0180	2-1-2016	Adopt	2-1-2016
166-017-0060	5-5-2016	Repeal	6-1-2016	255-030-0015	4-26-2016	Amend(T)	6-1-2016
166-017-0065	5-5-2016	Adopt	6-1-2016	255-085-0010	1-27-2016	Adopt	3-1-2016
166-017-0070	5-5-2016	Repeal	6-1-2016	255-085-0020	1-27-2016	Adopt	3-1-2016
166-017-0075	5-5-2016	Adopt	6-1-2016	255-085-0030	1-27-2016	Adopt	3-1-2016
166-017-0080	5-5-2016	Repeal	6-1-2016	255-085-0040	1-27-2016	Adopt	3-1-2016
166-017-0085	5-5-2016	Adopt	6-1-2016	255-085-0050	1-27-2016	Adopt	3-1-2016
166-017-0090	5-5-2016	Adopt	6-1-2016	257-070-0010	3-7-2016	Repeal	4-1-2016
166-017-0095	5-5-2016	Adopt	6-1-2016	257-070-0015	3-7-2016	Amend	4-1-2016
166-030-0019	5-5-2016	Adopt	6-1-2016	257-070-0100	3-7-2016	Adopt	4-1-2016
170-062-0000	2-10-2016	Amend	3-1-2016	257-070-0110	3-7-2016	Adopt	4-1-2016
170-063-0000	2-12-2016	Amend(T)	3-1-2016	257-070-0120	3-7-2016	Adopt	4-1-2016
170-063-0000	5-25-2016	Amend	7-1-2016	257-070-0130	3-7-2016	Adopt	4-1-2016
177-010-0094	1-1-2016	Adopt	2-1-2016	259-008-0005	1-1-2016	Amend	2-1-2016
177-040-0003	4-1-2016	Amend(T)	5-1-2016	259-008-0005	4-1-2016	Amend	5-1-2016
177-052-0020	6-7-2016	Amend	7-1-2016	259-008-0010	1-1-2016	Amend	2-1-2016
177-052-0030	6-7-2016	Amend	7-1-2016	259-008-0010	4-1-2016	Amend	5-1-2016
177-052-0040	6-7-2016	Amend	7-1-2016	259-008-0011	4-1-2016	Amend	5-1-2016
177-052-0050	6-7-2016	Amend	7-1-2016	259-008-0015	4-1-2016	Amend	5-1-2016
177-052-0060	6-7-2016	Amend	7-1-2016	259-008-0020	4-1-2016	Amend	5-1-2016
177-052-0070	6-7-2016	Amend	7-1-2016	259-008-0025	1-1-2016	Amend	2-1-2016
177-070-0080	2-22-2016	Amend(T)	4-1-2016	259-008-0025	3-22-2016	Amend	5-1-2016
199-001-0010	6-1-2016	Amend	7-1-2016	259-008-0030	3-22-2016	Repeal	5-1-2016
199-001-0030	6-1-2016	Amend	7-1-2016	259-008-0035	3-22-2016	Repeal	5-1-2016
199-040-0020	6-1-2016	Adopt	7-1-2016	259-008-0040	1-1-2016	Amend	2-1-2016
199-040-0025	6-1-2016	Adopt	7-1-2016	259-008-0060	1-1-2016	Amend	2-1-2016
199-040-0030	6-1-2016	Adopt	7-1-2016	259-008-0085	3-22-2016	Amend	5-1-2016
199-040-0050	6-1-2016	Adopt	7-1-2016	259-008-0100	1-1-2016	Amend	2-1-2016
213-003-0001	5-10-2016	Amend	6-1-2016	259-009-0059	1-1-2016	Amend	2-1-2016
213-017-0002	5-10-2016	Amend	6-1-2016	259-009-0062	12-22-2015	Amend	2-1-2016
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213-017-0005	5-10-2016	Amend	6-1-2016	259-060-0010	12-22-2015	Amend	2-1-2016
213-017-0006	5-10-2016	Amend	6-1-2016	259-060-0015	12-22-2015	Amend	2-1-2016
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213-017-0008	5-10-2016	Amend	6-1-2016	259-060-0120	3-22-2016	Amend	5-1-2016
213-018-0035	5-10-2016	Amend	6-1-2016	259-060-0135	3-22-2016	Amend	5-1-2016
213-018-0050	5-10-2016	Amend	6-1-2016	259-060-0145	12-22-2015	Amend	2-1-2016
213-018-0068	5-10-2016	Amend	6-1-2016	259-061-0010	3-22-2016	Amend	5-1-2016
250-001-0035	5-12-2016	Adopt(T)	6-1-2016	259-061-0018	3-22-2016	Amend	5-1-2016
250-010-0057	4-13-2016	Suspend	5-1-2016	259-061-0120	12-22-2015	Amend	2-1-2016
250-011-0050	5-2-2016	Amend(T)	6-1-2016	259-061-0160	3-22-2016	Amend	5-1-2016
250-011-0060	5-2-2016	Amend(T)	6-1-2016	259-061-0170	3-22-2016	Repeal	5-1-2016

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259-061-0300	3-22-2016	Amend	5-1-2016	309-012-0220	11-25-2015	Amend(T)	1-1-2016
274-005-0040	12-28-2015	Amend	2-1-2016	309-088-0100	4-7-2016	Adopt(T)	5-1-2016
274-005-0046	12-28-2015	Adopt	2-1-2016	309-088-0110	4-7-2016	Adopt(T)	5-1-2016
291-014-0110	4-29-2016	Amend	6-1-2016	309-088-0120	4-7-2016	Adopt(T)	5-1-2016
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291-041-0010	3-24-2016	Amend	5-1-2016	309-090-0005	5-3-2016	Amend	6-1-2016
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291-041-0030	3-24-2016	Amend	5-1-2016	309-090-0030	5-3-2016	Amend	6-1-2016
291-041-0035	3-24-2016	Amend	5-1-2016	309-090-0035	5-3-2016	Amend	6-1-2016
291-082-0110	3-8-2016	Amend	4-1-2016	309-090-0050	5-3-2016	Amend	6-1-2016
291-131-0005	5-10-2016	Amend	6-1-2016	309-090-0055	5-3-2016	Amend	6-1-2016
291-131-0010	5-10-2016	Amend	6-1-2016	309-090-0060	5-3-2016	Amend	6-1-2016
291-131-0015	5-10-2016	Amend	6-1-2016	309-090-0065	5-3-2016	Amend	6-1-2016
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291-131-0021	5-10-2016	Amend	6-1-2016	309-091-0050	4-28-2016	Amend	6-1-2016
291-131-0025	5-10-2016	Amend	6-1-2016	309-112-0000	4-21-2016	Amend	6-1-2016
291-131-0026	5-10-2016	Adopt	6-1-2016	309-112-0005	4-21-2016	Amend	6-1-2016
291-131-0030	5-10-2016	Amend	6-1-2016	309-112-0010	4-21-2016	Amend	6-1-2016
291-131-0035	5-10-2016	Amend	6-1-2016	309-112-0015	4-21-2016	Amend	6-1-2016
291-131-0037	5-10-2016	Amend	6-1-2016	309-112-0017	4-21-2016	Amend	6-1-2016
291-131-0050	5-10-2016	Amend	6-1-2016	309-112-0020	4-21-2016	Amend	6-1-2016
291-133-0005	4-20-2016	Amend	6-1-2016	309-112-0025	4-21-2016	Amend	6-1-2016
291-133-0015	4-20-2016	Amend	6-1-2016	309-112-0030	4-21-2016	Amend	6-1-2016
291-133-0025	4-20-2016	Amend	6-1-2016	309-112-0035	4-21-2016	Amend	6-1-2016
291-133-0035	4-20-2016	Amend	6-1-2016	309-114-0000	5-25-2016	Amend	7-1-2016
291-167-0005	2-29-2016	Amend	4-1-2016	309-114-0005	11-24-2015	Amend(T)	1-1-2016
291-167-0010	2-29-2016	Amend	4-1-2016	309-114-0005	5-25-2016	Amend	7-1-2016
291-167-0015	2-29-2016	Amend	4-1-2016	325-005-0015	1-29-2016	Amend	3-1-2016
291-180-0252	3-1-2016	Amend	4-1-2016	325-010-0025	1-29-2016	Amend	3-1-2016
291-205-0020	1-21-2016	Amend	3-1-2016	330-070-0022	6-2-2016	Amend	7-1-2016
291-205-0030	1-21-2016	Amend	3-1-2016	330-135-0055	1-1-2016	Amend	2-1-2016
291-205-0050	1-21-2016	Amend	3-1-2016	330-140-0020	12-23-2015	Amend	2-1-2016
291-209-0010	1-1-2016	Amend(T)	2-1-2016	330-140-0060	12-23-2015	Amend	2-1-2016
291-209-0010	3-30-2016	Amend	5-1-2016	330-140-0070	12-23-2015	Amend	2-1-2016
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291-209-0020	1-1-2016	Amend(T)	2-1-2016	330-170-0010	3-1-2016	Amend	4-1-2016
291-209-0020	3-30-2016	Amend	5-1-2016	330-170-0050	3-1-2016	Amend	4-1-2016
291-209-0020(T)	3-30-2016	Repeal	5-1-2016	330-210-0000	3-15-2016	Amend	4-1-2016
291-209-0030	1-1-2016	Amend(T)	2-1-2016	330-210-0010	3-15-2016	Amend	4-1-2016
291-209-0030	3-30-2016	Amend	5-1-2016	330-210-0040	3-15-2016	Amend	4-1-2016
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291-209-0040	1-1-2016	Amend(T)	2-1-2016	330-210-0110	3-15-2016	Adopt	4-1-2016
291-209-0040	3-30-2016	Amend	5-1-2016	330-210-0150	3-15-2016	Amend	4-1-2016
291-209-0040(T)	3-30-2016	Repeal	5-1-2016	331-710-0050	1-1-2016	Amend	2-1-2016
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291-209-0050(T)	3-30-2016	Repeal	5-1-2016	333-002-0020	7-1-2016	Amend	7-1-2016
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291-209-0060	3-30-2016	Repeal	5-1-2016	333-002-0035	7-1-2016	Amend	7-1-2016
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291-209-0070	1-1-2016	Amend(T)	2-1-2016	333-002-0050	7-1-2016	Amend	7-1-2016
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333-002-0100	7-1-2016	Repeal	7-1-2016	333-008-0580	3-1-2016	Adopt	4-1-2016
333-002-0120	7-1-2016	Amend	7-1-2016	333-008-0600	3-1-2016	Adopt	4-1-2016
333-002-0130	7-1-2016	Repeal	7-1-2016	333-008-0630	3-1-2016	Adopt	4-1-2016
333-002-0140	7-1-2016	Amend	7-1-2016	333-008-0640	3-1-2016	Adopt	4-1-2016
333-002-0150	7-1-2016	Amend	7-1-2016	333-008-0700	3-1-2016	Adopt	4-1-2016
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333-002-0170	7-1-2016	Amend	7-1-2016	333-008-0720	3-1-2016	Adopt	4-1-2016
333-002-0180	7-1-2016	Repeal	7-1-2016	333-008-0730	3-1-2016	Adopt	4-1-2016
333-002-0190	7-1-2016	Amend	7-1-2016	333-008-0740	3-1-2016	Adopt	4-1-2016
333-002-0200	7-1-2016	Repeal	7-1-2016	333-008-0750	3-1-2016	Adopt	4-1-2016
333-002-0210	7-1-2016	Amend	7-1-2016	333-008-1000	3-1-2016	Amend	4-1-2016
333-002-0220	7-1-2016	Repeal	7-1-2016	333-008-1010	3-1-2016	Amend	4-1-2016
333-002-0230	7-1-2016	Amend	7-1-2016	333-008-1010(T)	3-1-2016	Repeal	4-1-2016
333-007-0010	2-8-2016	Amend(T)	3-1-2016	333-008-1020	3-1-2016	Amend	4-1-2016
333-007-0200	2-8-2016	Amend(T)	3-1-2016	333-008-1030	3-1-2016	Amend	4-1-2016
333-008-0000	3-1-2016	Repeal	4-1-2016	333-008-1040	3-1-2016	Amend	4-1-2016
333-008-0010	3-1-2016	Amend	4-1-2016	333-008-1050	3-1-2016	Amend	4-1-2016
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333-008-0020	3-1-2016	Amend	4-1-2016	333-008-1060(T)	3-1-2016	Repeal	4-1-2016
333-008-0021	3-1-2016	Adopt	4-1-2016	333-008-1063	3-1-2016	Adopt	4-1-2016
333-008-0022	3-1-2016	Adopt	4-1-2016	333-008-1070	3-1-2016	Amend	4-1-2016
333-008-0023	3-1-2016	Adopt	4-1-2016	333-008-1070(T)	3-1-2016	Repeal	4-1-2016
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333-008-0025(T)	3-1-2016	Repeal	4-1-2016	333-008-1075	3-1-2016	Adopt	4-1-2016
333-008-0030	3-1-2016	Amend	4-1-2016	333-008-1078	3-1-2016	Adopt	4-1-2016
333-008-0033	3-1-2016	Adopt	4-1-2016	333-008-1080	3-1-2016	Repeal	4-1-2016
333-008-0035	3-1-2016	Adopt	4-1-2016	333-008-1090	3-1-2016	Repeal	4-1-2016
333-008-0037	3-1-2016	Adopt	4-1-2016	333-008-1100	3-1-2016	Repeal	4-1-2016
333-008-0040	3-1-2016	Amend	4-1-2016	333-008-1110	3-1-2016	Amend	4-1-2016
333-008-0045	3-1-2016	Amend	4-1-2016	333-008-1120	3-1-2016	Repeal	4-1-2016
333-008-0047	3-1-2016	Adopt	4-1-2016	333-008-1130	3-2-2016	Repeal	4-1-2016
333-008-0049	3-1-2016	Adopt	4-1-2016	333-008-1140	3-2-2016	Repeal	4-1-2016
333-008-0050	3-2-2016	Repeal	4-1-2016	333-008-1150	3-2-2016	Repeal	4-1-2016
333-008-0060	3-1-2016	Repeal	4-1-2016	333-008-1160	3-2-2016	Repeal	4-1-2016
333-008-0070	3-1-2016	Repeal	4-1-2016	333-008-1170	3-2-2016	Repeal	4-1-2016
333-008-0080	3-1-2016	Amend	4-1-2016	333-008-1180	3-2-2016	Repeal	4-1-2016
333-008-0110	3-1-2016	Amend	4-1-2016	333-008-1190	3-1-2016	Amend	4-1-2016
333-008-0120	3-1-2016	Repeal	4-1-2016	333-008-1200	3-1-2016	Amend	4-1-2016
333-008-0499	1-1-2016	Adopt(T)	2-1-2016	333-008-1205	3-1-2016	Adopt	4-1-2016
333-008-0499(T)	3-1-2016	Repeal	4-1-2016	333-008-1210	3-1-2016	Repeal	4-1-2016
333-008-0500	1-1-2016	Adopt(T)	2-1-2016	333-008-1220	3-1-2016	Amend	4-1-2016
333-008-0500	3-1-2016	Adopt	4-1-2016	333-008-1225	3-1-2016	Amend	4-1-2016
333-008-0500(T)	3-1-2016	Repeal	4-1-2016	333-008-1225	4-15-2016	Amend(T)	5-1-2016
333-008-0510	1-1-2016	Adopt(T)	2-1-2016	333-008-1230	3-1-2016	Amend	4-1-2016
333-008-0510	3-1-2016	Adopt	4-1-2016	333-008-1240	3-1-2016	Repeal	4-1-2016
333-008-0510(T)	3-1-2016	Repeal	4-1-2016	333-008-1245	3-1-2016	Amend	4-1-2016
333-008-0520	1-1-2016	Adopt(T)	2-1-2016	333-008-1247	3-1-2016	Adopt	4-1-2016
333-008-0520	3-1-2016	Adopt	4-1-2016	333-008-1248	3-1-2016	Adopt	4-1-2016
333-008-0520(T)	3-1-2016	Repeal	4-1-2016	333-008-1250	3-1-2016	Repeal	4-1-2016
333-008-0530	1-1-2016	Adopt(T)	2-1-2016	333-008-1260	3-1-2016	Repeal	4-1-2016
333-008-0530	3-1-2016	Adopt	4-1-2016	333-008-1270	3-1-2016	Repeal	4-1-2016
333-008-0530(T)	3-1-2016	Repeal	4-1-2016	333-008-1275	3-1-2016	Repeal	4-1-2016
333-008-0540	3-1-2016	Adopt	4-1-2016	333-008-1280	3-1-2016	Repeal	4-1-2016
333-008-0550	3-1-2016	Adopt	4-1-2016	333-008-1290	3-1-2016	Repeal	4-1-2016

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333-008-1500	6-2-2016	Amend(T)	7-1-2016	333-010-0100	4-1-2016	Amend	5-1-2016
333-008-1500(T)	3-1-2016	Repeal	4-1-2016	333-010-0100(T)	4-1-2016	Repeal	5-1-2016
333-008-1501	3-1-2016	Adopt	4-1-2016	333-010-0105	4-1-2016	Amend	5-1-2016
333-008-1501(T)	3-1-2016	Repeal	4-1-2016	333-010-0105(T)	4-1-2016	Repeal	5-1-2016
333-008-1505	3-1-2016	Adopt	4-1-2016	333-010-0110	4-1-2016	Amend	5-1-2016
333-008-1505	6-2-2016	Amend(T)	7-1-2016	333-010-0110(T)	4-1-2016	Repeal	5-1-2016
333-008-1600	3-1-2016	Adopt	4-1-2016	333-010-0115	4-1-2016	Amend	5-1-2016
333-008-1610	3-1-2016	Adopt	4-1-2016	333-010-0115(T)	4-1-2016	Repeal	5-1-2016
333-008-1620	3-1-2016	Adopt	4-1-2016	333-010-0120	4-1-2016	Amend	5-1-2016
333-008-1630	3-1-2016	Adopt	4-1-2016	333-010-0120(T)	4-1-2016	Repeal	5-1-2016
333-008-1640	3-1-2016	Adopt	4-1-2016	333-010-0125	4-1-2016	Amend	5-1-2016
333-008-1650	3-1-2016	Adopt	4-1-2016	333-010-0130	4-1-2016	Amend	5-1-2016
333-008-1660	3-1-2016	Adopt	4-1-2016	333-010-0130(T)	4-1-2016	Repeal	5-1-2016
333-008-1670	3-1-2016	Adopt	4-1-2016	333-010-0135	4-1-2016	Amend	5-1-2016
333-008-1680	3-1-2016	Adopt	4-1-2016	333-010-0140	4-1-2016	Amend	5-1-2016
333-008-1690	3-1-2016	Adopt	4-1-2016	333-010-0140(T)	4-1-2016	Repeal	5-1-2016
333-008-1700	3-1-2016	Adopt	4-1-2016	333-010-0145	4-1-2016	Amend	5-1-2016
333-008-1710	3-1-2016	Adopt	4-1-2016	333-010-0145(T)	4-1-2016	Repeal	5-1-2016
333-008-1720	3-1-2016	Adopt	4-1-2016	333-010-0150	4-1-2016	Amend	5-1-2016
333-008-1730	3-1-2016	Adopt	4-1-2016	333-010-0155	4-1-2016	Amend	5-1-2016
333-008-1740	3-1-2016	Adopt	4-1-2016	333-010-0160	4-1-2016	Amend	5-1-2016
333-008-1750	3-1-2016	Adopt	4-1-2016	333-010-0165	4-1-2016	Amend	5-1-2016
333-008-1760	3-1-2016	Adopt	4-1-2016	333-010-0175	4-1-2016	Amend	5-1-2016
333-008-1770	3-1-2016	Adopt	4-1-2016	333-010-0180	4-1-2016	Amend	5-1-2016
333-008-1780	3-1-2016	Adopt	4-1-2016	333-010-0197	4-1-2016	Amend	5-1-2016
333-008-1790	3-1-2016	Adopt	4-1-2016	333-010-0197(T)	4-1-2016	Repeal	5-1-2016
333-008-1800	3-1-2016	Adopt	4-1-2016	333-012-0500	1-1-2016	Am. & Ren.	2-1-2016
333-008-1810	3-1-2016	Adopt	4-1-2016	333-015-0030	1-1-2016	Amend	2-1-2016
333-008-1820	3-1-2016	Adopt	4-1-2016	333-015-0035	1-1-2016	Amend	2-1-2016
333-008-1830	3-1-2016	Adopt	4-1-2016	333-015-0040	1-1-2016	Amend	2-1-2016
333-008-2000	3-1-2016	Adopt	4-1-2016	333-015-0045	1-1-2016	Amend	2-1-2016
333-008-2010	3-1-2016	Adopt	4-1-2016	333-015-0064	1-1-2016	Amend	2-1-2016
333-008-2020	3-1-2016	Adopt	4-1-2016	333-015-0068	1-1-2016	Amend	2-1-2016
333-008-2030	3-1-2016	Adopt	4-1-2016	333-015-0070	1-1-2016	Amend	2-1-2016
333-008-2040	3-1-2016	Adopt	4-1-2016	333-015-0075	1-1-2016	Amend	2-1-2016
333-008-2050	3-1-2016	Adopt	4-1-2016	333-015-0078	1-1-2016	Amend	2-1-2016
333-008-2060	3-1-2016	Adopt	4-1-2016	333-015-0085	1-1-2016	Amend	2-1-2016
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333-008-2130	3-1-2016	Adopt	4-1-2016	333-016-2010	1-1-2016	Adopt	2-1-2016
333-008-2140	3-1-2016	Adopt	4-1-2016	333-016-2020	1-1-2016	Adopt	2-1-2016
333-008-2150	3-1-2016	Adopt	4-1-2016	333-016-2030	1-1-2016	Adopt	2-1-2016
333-008-2160	3-1-2016	Adopt	4-1-2016	333-018-0015	2-18-2016	Amend(T)	4-1-2016
333-008-2170	3-1-2016	Adopt	4-1-2016	333-028-0300	1-29-2016	Adopt	3-1-2016
333-008-2180	3-1-2016	Adopt	4-1-2016	333-028-0310	1-29-2016	Adopt	3-1-2016
333-008-2190	3-1-2016	Adopt	4-1-2016	333-028-0320	1-29-2016	Adopt	3-1-2016
333-008-2200	3-1-2016	Adopt	4-1-2016	333-028-0330	1-29-2016	Adopt	3-1-2016
333-008-3000	3-1-2016	Adopt	4-1-2016	333-028-0340	1-29-2016	Adopt	3-1-2016
333-008-3010	3-1-2016	Adopt	4-1-2016	333-028-0350	1-29-2016	Adopt	3-1-2016
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333-030-0100	5-9-2016	Amend	6-1-2016	333-061-0077	4-1-2016	Amend	3-1-2016
333-030-0110	5-9-2016	Amend	6-1-2016	333-061-0078	4-1-2016	Adopt	3-1-2016
333-030-0120	5-9-2016	Amend	6-1-2016	333-061-0090	4-1-2016	Amend	3-1-2016
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333-050-0040	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
333-050-0100(T)	1-20-2016	Repeal	3-1-2016	333-064-0065	6-7-2016	Amend	7-1-2016
333-050-0110	1-20-2016	Amend	3-1-2016	333-076-0101	2-24-2016	Amend	4-1-2016
333-050-0110(T)	1-20-2016	Repeal	3-1-2016	333-076-0135	2-24-2016	Amend	4-1-2016
333-052-0040	1-1-2016	Amend	1-1-2016	333-076-0137	2-24-2016	Adopt	4-1-2016
333-052-0043	1-1-2016	Amend	1-1-2016	333-103-0025	1-1-2016	Amend	2-1-2016
333-052-0080	1-1-2016	Amend	1-1-2016	333-200-0000	1-1-2016	Amend	1-1-2016
333-052-0120	1-1-2016	Amend	1-1-2016	333-200-0010	1-1-2016	Amend	1-1-2016
333-053-0040	1-1-2016	Amend	1-1-2016	333-200-0020	1-1-2016	Amend	1-1-2016
333-053-0050	1-1-2016	Amend	1-1-2016	333-200-0030	1-1-2016	Amend	1-1-2016
333-053-0080	1-1-2016	Amend	1-1-2016	333-200-0035	1-1-2016	Amend	1-1-2016
333-054-0010	1-1-2016	Amend	1-1-2016	333-200-0040	1-1-2016	Amend	1-1-2016
333-054-0020	1-1-2016	Amend	1-1-2016	333-200-0050	1-1-2016	Amend	1-1-2016
333-054-0050	1-1-2016	Amend	1-1-2016	333-200-0060	1-1-2016	Amend	1-1-2016
333-054-0060	1-1-2016	Amend	1-1-2016	333-200-0070	1-1-2016	Amend	1-1-2016
333-054-0070	1-1-2016	Amend	1-1-2016	333-200-0080	1-1-2016	Amend	1-1-2016
333-055-0000	2-8-2016	Amend	3-1-2016	333-200-0090	1-1-2016	Amend	1-1-2016
333-055-0006	2-8-2016	Amend	3-1-2016	333-200-0235	1-1-2016	Adopt	1-1-2016
333-055-0015	2-8-2016	Amend	3-1-2016	333-200-0245	1-1-2016	Adopt	1-1-2016
333-055-0021	2-8-2016	Amend	3-1-2016	333-200-0250	1-1-2016	Adopt	1-1-2016
333-055-0030	2-8-2016	Amend	3-1-2016	333-200-0255	1-1-2016	Adopt	1-1-2016
333-055-0035	2-8-2016	Amend	3-1-2016	333-200-0265	1-1-2016	Adopt	1-1-2016
333-061-0020	4-1-2016	Amend	3-1-2016	333-200-0275	1-1-2016	Adopt	1-1-2016
333-061-0030	4-1-2016	Amend	3-1-2016	333-200-0285	1-1-2016	Adopt	1-1-2016
333-061-0031	4-1-2016	Amend	3-1-2016	333-200-0295	1-1-2016	Adopt	1-1-2016
333-061-0032	4-1-2016	Amend	3-1-2016	333-200-0300	1-1-2016	Adopt	1-1-2016
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333-061-0042	4-1-2016	Amend	3-1-2016	333-205-0020	1-1-2016	Amend	1-1-2016
333-061-0043	4-1-2016	Amend	3-1-2016	333-205-0040	1-1-2016	Amend	1-1-2016
333-061-0045	4-1-2016	Amend	3-1-2016	333-205-0050	1-1-2016	Amend	1-1-2016
333-061-0050	4-1-2016	Amend	3-1-2016	333-250-0040	4-28-2016	Amend	6-1-2016
333-061-0060	1-1-2016	Amend	1-1-2016	333-250-0041	4-28-2016	Amend	6-1-2016
333-061-0060	4-1-2016	Amend	3-1-2016	333-250-0085	4-28-2016	Adopt	6-1-2016
333-061-0063	4-1-2016	Amend	3-1-2016	333-265-0056	4-7-2016	Adopt	5-1-2016
333-061-0065	4-1-2016	Amend	3-1-2016	333-500-0045	2-24-2016	Amend	4-1-2016
333-061-0070	4-1-2016	Amend	3-1-2016	333-505-0005	2-24-2016	Amend	4-1-2016
333-061-0071	4-1-2016	Amend	3-1-2016	333-505-0007	2-24-2016	Amend	4-1-2016
333-061-0072	1-1-2016	Amend	1-1-2016	333-505-0030	2-24-2016	Amend	4-1-2016
333-061-0073	1-1-2016	Amend	1-1-2016	333-505-0050	2-24-2016	Amend	4-1-2016
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333-515-0060	2-24-2016	Repeal	4-1-2016	340-244-9010	4-21-2016	Adopt(T)	6-1-2016
333-520-0020	2-24-2016	Amend	4-1-2016	340-244-9020	4-21-2016	Adopt(T)	6-1-2016
333-520-0050	2-24-2016	Amend	4-1-2016	340-244-9030	4-21-2016	Adopt(T)	6-1-2016
333-525-0000	2-24-2016	Amend	4-1-2016	340-244-9040	4-21-2016	Adopt(T)	6-1-2016
333-535-0061	2-24-2016	Amend	4-1-2016	340-244-9050	4-21-2016	Adopt(T)	6-1-2016
333-535-0080	2-24-2016	Amend	4-1-2016	340-244-9060	4-21-2016	Adopt(T)	6-1-2016
333-535-0110	2-24-2016	Amend	4-1-2016	340-244-9070	4-21-2016	Adopt(T)	6-1-2016
334-010-0015	7-1-2016	Amend	7-1-2016	340-244-9070	5-6-2016	Amend(T)	6-1-2016
334-010-0017	7-1-2016	Amend	7-1-2016	340-244-9080	4-21-2016	Adopt(T)	6-1-2016
334-010-0018	7-1-2016	Amend	7-1-2016	340-244-9090	4-21-2016	Adopt(T)	6-1-2016
334-010-0033	7-1-2016	Amend	7-1-2016	340-248-0250	1-1-2016	Amend(T)	1-1-2016
334-010-0050	7-1-2016	Amend	7-1-2016	340-248-0250	4-21-2016	Amend	6-1-2016
340-012-0054	1-1-2016	Amend	1-1-2016	340-248-0270	1-1-2016	Amend(T)	1-1-2016
340-012-0135	1-1-2016	Amend	1-1-2016	340-248-0270	4-21-2016	Amend	6-1-2016
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340-039-0003	12-10-2015	Adopt	1-1-2016	340-253-0060	1-1-2016	Amend	1-1-2016
340-039-0005	12-10-2015	Adopt	1-1-2016	340-253-0100	1-1-2016	Amend	1-1-2016
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340-039-0017	12-10-2015	Adopt	1-1-2016	340-253-0250	1-1-2016	Amend	1-1-2016
340-039-0020	12-10-2015	Adopt	1-1-2016	340-253-0310	1-1-2016	Amend	1-1-2016
340-039-0025	12-10-2015	Adopt	1-1-2016	340-253-0320	1-1-2016	Amend	1-1-2016
340-039-0030	12-10-2015	Adopt	1-1-2016	340-253-0330	1-1-2016	Amend	1-1-2016
340-039-0035	12-10-2015	Adopt	1-1-2016	340-253-0340	1-1-2016	Amend	1-1-2016
340-039-0040	12-10-2015	Adopt	1-1-2016	340-253-0400	1-1-2016	Amend	1-1-2016
340-039-0043	12-10-2015	Adopt	1-1-2016	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
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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	340-253-8020	1-1-2016	Amend	1-1-2016
340-097-0001	2-4-2016	Amend	3-1-2016	340-253-8020	4-22-2016	Amend(T)	6-1-2016
340-097-0110	2-4-2016	Amend	3-1-2016	340-253-8030	1-1-2016	Amend	1-1-2016
340-097-0120	2-4-2016	Amend	3-1-2016	340-253-8030	4-22-2016	Amend(T)	6-1-2016
340-200-0040	12-10-2015	Amend	1-1-2016	340-253-8040	1-1-2016	Amend	1-1-2016
340-215-0010	12-10-2015	Amend	1-1-2016	340-253-8040	4-22-2016	Amend(T)	6-1-2016
340-215-0020	12-10-2015	Amend	1-1-2016	340-253-8050	1-1-2016	Amend	1-1-2016
340-215-0030	12-10-2015	Amend	1-1-2016	340-253-8060	1-1-2016	Amend	1-1-2016
340-215-0040	12-10-2015	Amend	1-1-2016	340-253-8070	1-1-2016	Amend	1-1-2016
340-215-0060	12-10-2015	Amend	1-1-2016	340-253-8080	1-1-2016	Amend	1-1-2016
340-220-0030	6-9-2016	Amend	7-1-2016	407-007-0000	1-14-2016	Amend(T)	2-1-2016
340-220-0040	6-9-2016	Amend	7-1-2016	407-007-0000	6-15-2016	Amend	7-1-2016
340-220-0050	6-9-2016	Amend	7-1-2016	407-007-0000(T)	6-15-2016	Repeal	7-1-2016

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407-007-0010	6-15-2016	Amend	7-1-2016	407-007-0290	1-14-2016	Amend(T)	2-1-2016
407-007-0010(T)	6-15-2016	Repeal	7-1-2016	407-007-0290	6-15-2016	Amend	7-1-2016
407-007-0020	1-14-2016	Amend(T)	2-1-2016	407-007-0290(T)	6-15-2016	Repeal	7-1-2016
407-007-0020	6-15-2016	Amend	7-1-2016	407-007-0300	1-14-2016	Amend(T)	2-1-2016
407-007-0020(T)	6-15-2016	Repeal	7-1-2016	407-007-0300	6-15-2016	Amend	7-1-2016
407-007-0030	1-14-2016	Amend(T)	2-1-2016	407-007-0300(T)	6-15-2016	Repeal	7-1-2016
407-007-0030	6-15-2016	Amend	7-1-2016	407-007-0315	1-14-2016	Amend(T)	2-1-2016
407-007-0030(T)	6-15-2016	Repeal	7-1-2016	407-007-0315	6-15-2016	Amend	7-1-2016
407-007-0040	6-15-2016	Repeal	7-1-2016	407-007-0315(T)	6-15-2016	Repeal	7-1-2016
407-007-0050	1-14-2016	Amend(T)	2-1-2016	407-007-0320	1-14-2016	Amend(T)	2-1-2016
407-007-0050	6-15-2016	Amend	7-1-2016	407-007-0320	6-15-2016	Amend	7-1-2016
407-007-0050(T)	6-15-2016	Repeal	7-1-2016	407-007-0320(T)	6-15-2016	Repeal	7-1-2016
407-007-0060	1-14-2016	Amend(T)	2-1-2016	407-007-0325	1-14-2016	Suspend	2-1-2016
407-007-0060	6-15-2016	Amend	7-1-2016	407-007-0325	6-15-2016	Repeal	7-1-2016
407-007-0060(T)	6-15-2016	Repeal	7-1-2016	407-007-0330	1-14-2016	Amend(T)	2-1-2016
407-007-0065	1-14-2016	Amend(T)	2-1-2016	407-007-0330	6-15-2016	Amend	7-1-2016
407-007-0065	6-15-2016	Amend	7-1-2016	407-007-0330(T)	6-15-2016	Repeal	7-1-2016
407-007-0065(T)	6-15-2016	Repeal	7-1-2016	407-007-0350	1-14-2016	Amend(T)	2-1-2016
407-007-0070	1-14-2016	Amend(T)	2-1-2016	407-007-0350	6-15-2016	Amend	7-1-2016
407-007-0070	6-15-2016	Amend	7-1-2016	407-007-0350(T)	6-15-2016	Repeal	7-1-2016
407-007-0070(T)	6-15-2016	Repeal	7-1-2016	407-007-0370	1-14-2016	Amend(T)	2-1-2016
407-007-0075	1-14-2016	Suspend	2-1-2016	407-007-0370	6-15-2016	Amend	7-1-2016
407-007-0075	6-15-2016	Repeal	7-1-2016	407-007-0370(T)	6-15-2016	Repeal	7-1-2016
407-007-0080	1-14-2016	Amend(T)	2-1-2016	407-007-0400	1-14-2016	Suspend	2-1-2016
407-007-0080	6-15-2016	Amend	7-1-2016	407-045-0260	2-3-2016	Amend	3-1-2016
407-007-0080(T)	6-15-2016	Repeal	7-1-2016	407-045-0350	2-3-2016	Amend	3-1-2016
407-007-0090	1-14-2016	Amend(T)	2-1-2016	409-015-0005	3-28-2016	Amend	5-1-2016
407-007-0090	6-15-2016	Amend	7-1-2016	409-015-0010	3-28-2016	Amend	5-1-2016
407-007-0090(T)	6-15-2016	Repeal	7-1-2016	409-015-0015	3-28-2016	Amend	5-1-2016
407-007-0200	1-14-2016	Amend(T)	2-1-2016	409-015-0030	3-28-2016	Amend	5-1-2016
407-007-0200	6-15-2016	Amend	7-1-2016	409-015-0035	3-28-2016	Amend	5-1-2016
407-007-0200(T)	6-15-2016	Repeal	7-1-2016	409-015-0040	3-28-2016	Repeal	5-1-2016
407-007-0210	1-14-2016	Amend(T)	2-1-2016	409-025-0100	1-5-2016	Amend	2-1-2016
407-007-0210	6-15-2016	Amend	7-1-2016	409-025-0110	1-5-2016	Amend	2-1-2016
407-007-0210(T)	6-15-2016	Repeal	7-1-2016	409-025-0120	1-5-2016	Amend	2-1-2016
407-007-0220	1-14-2016	Amend(T)	2-1-2016	409-025-0130	1-5-2016	Amend	2-1-2016
407-007-0220	6-15-2016	Amend	7-1-2016	409-025-0140	1-5-2016	Amend	2-1-2016
407-007-0220(T)	6-15-2016	Repeal	7-1-2016	409-025-0150	1-5-2016	Amend	2-1-2016
407-007-0230	1-14-2016	Amend(T)	2-1-2016	409-025-0160	1-5-2016	Amend	2-1-2016
407-007-0230	6-15-2016	Amend	7-1-2016	409-025-0170	1-5-2016	Amend	2-1-2016
407-007-0230(T)	6-15-2016	Repeal	7-1-2016	409-026-0100	2-8-2016	Amend(T)	3-1-2016
407-007-0240	1-14-2016	Amend(T)	2-1-2016	409-026-0100	3-25-2016	Amend	5-1-2016
407-007-0240	6-15-2016	Amend	7-1-2016	409-026-0100(T)	3-25-2016	Repeal	5-1-2016
407-007-0240(T)	6-15-2016	Repeal	7-1-2016	409-026-0110	2-8-2016	Amend(T)	3-1-2016
407-007-0250	1-14-2016	Amend(T)	2-1-2016	409-026-0110	3-25-2016	Amend	5-1-2016
407-007-0250	6-15-2016	Amend	7-1-2016	409-026-0110(T)	3-25-2016	Repeal	5-1-2016
407-007-0250(T)	6-15-2016	Repeal	7-1-2016	409-026-0120	2-8-2016	Amend(T)	3-1-2016
407-007-0275	1-14-2016	Amend(T)	2-1-2016	409-026-0120	3-25-2016	Amend	5-1-2016
407-007-0275	6-15-2016	Amend	7-1-2016	409-026-0120(T)	3-25-2016	Repeal	5-1-2016
407-007-0275(T)	6-15-2016	Repeal	7-1-2016	409-026-0130	2-8-2016	Amend(T)	3-1-2016
407-007-0277	1-14-2016	Amend(T)	2-1-2016	409-026-0130	3-25-2016	Amend	5-1-2016
407-007-0277	6-15-2016	Amend	7-1-2016	409-026-0130(T)	3-25-2016	Repeal	5-1-2016
407-007-0277(T)	6-15-2016	Repeal	7-1-2016	409-026-0140	2-8-2016	Amend(T)	3-1-2016
407-007-0279	6-15-2016	Adopt	7-1-2016	409-026-0140	3-25-2016	Amend	5-1-2016
407-007-0280	1-14-2016	Suspend	2-1-2016	409-026-0140(T)	3-25-2016	Repeal	5-1-2016

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409-035-0020	4-22-2016	Amend	6-1-2016	410-121-4005	1-1-2016	Am. & Ren.	2-1-2016
409-035-0020(T)	11-24-2015	Repeal	1-1-2016	410-121-4010	1-1-2016	Am. & Ren.	2-1-2016
409-055-0000	5-13-2016	Amend	6-1-2016	410-121-4015	1-1-2016	Renumber	2-1-2016
409-055-0010	1-1-2016	Amend(T)	2-1-2016	410-121-4020	1-1-2016	Renumber	2-1-2016
409-055-0010	5-13-2016	Amend	6-1-2016	410-122-0186	2-3-2016	Amend	3-1-2016
409-055-0010(T)	5-13-2016	Repeal	6-1-2016	410-122-0204	3-1-2016	Amend	4-1-2016
409-055-0020	5-13-2016	Amend	6-1-2016	410-122-0211	4-1-2016	Amend	5-1-2016
409-055-0030	1-1-2016	Amend(T)	2-1-2016	410-122-0240	3-1-2016	Amend	4-1-2016
409-055-0030	5-13-2016	Amend	6-1-2016	410-122-0300	3-1-2016	Amend	4-1-2016
409-055-0030(T)	5-13-2016	Repeal	6-1-2016	410-122-0360	3-1-2016	Amend	4-1-2016
409-055-0040	1-1-2016	Amend(T)	2-1-2016	410-122-0365	3-1-2016	Amend	4-1-2016
409-055-0040	5-13-2016	Amend	6-1-2016	410-122-0380	3-1-2016	Amend	4-1-2016
409-055-0040(T)	5-13-2016	Repeal	6-1-2016	410-122-0475	3-1-2016	Amend	4-1-2016
409-055-0045	5-13-2016	Amend	6-1-2016	410-122-0480	3-1-2016	Amend	4-1-2016
409-055-0050	5-13-2016	Amend	6-1-2016	410-122-0510	3-1-2016	Amend	4-1-2016
409-055-0060	1-1-2016	Amend(T)	2-1-2016	410-122-0525	3-1-2016	Amend	4-1-2016
409-055-0060	5-13-2016	Amend	6-1-2016	410-122-0640	3-1-2016	Amend	4-1-2016
409-055-0060(T)	5-13-2016	Repeal	6-1-2016	410-122-0678	3-1-2016	Amend	4-1-2016
409-055-0070	1-1-2016	Amend(T)	2-1-2016	410-123-1220	5-10-2016	Amend(T)	6-1-2016
409-055-0070	5-13-2016	Amend	6-1-2016	410-123-1240	12-1-2015	Amend	1-1-2016
409-055-0070(T)	5-13-2016	Repeal	6-1-2016	410-123-1240(T)	12-1-2015	Repeal	1-1-2016
409-055-0080	5-13-2016	Amend	6-1-2016	410-123-1260	1-1-2016	Amend(T)	2-1-2016
409-055-0090	5-13-2016	Amend	6-1-2016	410-123-1260	2-9-2016	Amend(T)	3-1-2016
409-060-0110	4-19-2016	Amend	6-1-2016	410-123-1510	1-1-2016	Adopt(T)	2-1-2016
409-060-0120	4-19-2016	Amend	6-1-2016	410-130-0200	12-1-2015	Amend(T)	1-1-2016
409-060-0150	4-19-2016	Amend	6-1-2016	410-130-0200	1-1-2016	Amend	2-1-2016
409-062-0000	4-22-2016	Adopt(T)	6-1-2016	410-130-0200(T)	1-1-2016	Repeal	2-1-2016
409-062-0010	4-22-2016	Adopt(T)	6-1-2016	410-130-0220	3-4-2016	Amend(T)	4-1-2016
409-062-0020	4-22-2016	Adopt(T)	6-1-2016	410-130-0220	5-1-2016	Amend	6-1-2016
409-062-0030	4-22-2016	Adopt(T)	6-1-2016	410-130-0220(T)	5-1-2016	Repeal	6-1-2016
409-062-0040	4-22-2016	Adopt(T)	6-1-2016	410-136-3040	1-1-2016	Amend	2-1-2016
409-062-0050	4-22-2016	Adopt(T)	6-1-2016	410-140-0020	3-1-2016	Amend	4-1-2016
409-062-0060	4-22-2016	Adopt(T)	6-1-2016	410-140-0040	3-1-2016	Amend	4-1-2016
409-110-0025	5-9-2016	Adopt(T)	6-1-2016	410-140-0050	3-1-2016	Amend	4-1-2016
409-110-0030	5-9-2016	Adopt(T)	6-1-2016	410-140-0080	3-1-2016	Amend	4-1-2016
409-110-0035	5-9-2016	Adopt(T)	6-1-2016	410-140-0120	3-1-2016	Amend	4-1-2016
409-110-0040	5-9-2016	Adopt(T)	6-1-2016	410-140-0140	3-1-2016	Amend	4-1-2016
409-110-0045	5-9-2016	Adopt(T)	6-1-2016	410-140-0160	3-1-2016	Amend	4-1-2016
410-050-0861	4-1-2016	Amend(T)	5-1-2016	410-140-0200	3-1-2016	Amend	4-1-2016
410-120-0006	1-1-2016	Amend	1-1-2016	410-140-0260	3-1-2016	Amend	4-1-2016
410-120-1340	1-1-2016	Amend(T)	2-1-2016	410-140-0280	3-1-2016	Amend	4-1-2016
410-120-1340	3-1-2016	Amend	4-1-2016	410-140-0300	3-1-2016	Amend	4-1-2016
410-120-1340(T)	3-1-2016	Repeal	4-1-2016	410-141-0000	12-10-2015	Amend	1-1-2016
410-121-0000	1-1-2016	Amend	2-1-2016	410-141-0080	12-10-2015	Amend	1-1-2016
410-121-0030	12-27-2015	Amend	2-1-2016	410-141-0085	12-10-2015	Repeal	1-1-2016
410-121-0030	1-1-2016	Amend(T)	2-1-2016	410-141-0160	12-10-2015	Amend	1-1-2016
410-121-0030	5-1-2016	Amend(T)	6-1-2016	410-141-0220	12-10-2015	Amend	1-1-2016
410-121-0030(T)	12-27-2015	Repeal	2-1-2016	410-141-0320	12-10-2015	Amend	1-1-2016
410-121-0040	12-27-2015	Amend	2-1-2016	410-141-0340	12-10-2015	Amend	1-1-2016
410-121-0040	1-1-2016	Amend(T)	2-1-2016	410-141-0410	12-10-2015	Repeal	1-1-2016
410-121-0040	2-12-2016	Amend(T)	3-1-2016	410-141-0420	12-10-2015	Amend	1-1-2016
410-121-0040	5-1-2016	Amend(T)	6-1-2016	410-141-0520	1-1-2016	Amend(T)	2-1-2016
410-121-0040(T)	12-27-2015	Repeal	2-1-2016	410-141-0520	3-1-2016	Amend	4-1-2016
410-121-0135	1-1-2016	Amend	2-1-2016	410-141-0520(T)	3-1-2016	Repeal	4-1-2016
410-121-0146	1-1-2016	Amend	2-1-2016	410-141-0660	12-10-2015	Repeal	1-1-2016

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410-141-0700	12-10-2015	Repeal	1-1-2016	410-200-0125	12-22-2015	Amend(T)	2-1-2016
410-141-0720	12-10-2015	Repeal	1-1-2016	410-200-0125	6-3-2016	Amend	7-1-2016
410-141-0740	12-10-2015	Repeal	1-1-2016	410-200-0125(T)	6-3-2016	Repeal	7-1-2016
410-141-0760	12-10-2015	Repeal	1-1-2016	410-200-0130	12-22-2015	Amend(T)	2-1-2016
410-141-0780	12-10-2015	Repeal	1-1-2016	410-200-0130	6-3-2016	Amend	7-1-2016
410-141-0800	12-10-2015	Repeal	1-1-2016	410-200-0130(T)	6-3-2016	Repeal	7-1-2016
410-141-0820	12-10-2015	Repeal	1-1-2016	410-200-0135	12-22-2015	Amend(T)	2-1-2016
410-141-0840	12-10-2015	Repeal	1-1-2016	410-200-0135	6-3-2016	Amend	7-1-2016
410-141-0860	12-10-2015	Amend	1-1-2016	410-200-0135(T)	6-3-2016	Repeal	7-1-2016
410-141-3040	1-7-2016	Adopt	2-1-2016	410-200-0140	12-22-2015	Amend(T)	2-1-2016
410-141-3040(T)	1-7-2016	Repeal	2-1-2016	410-200-0140	6-3-2016	Amend	7-1-2016
410-141-3060	1-1-2016	Amend(T)	2-1-2016	410-200-0140(T)	6-3-2016	Repeal	7-1-2016
410-141-3080	12-10-2015	Amend	1-1-2016	410-200-0200	12-22-2015	Amend(T)	2-1-2016
410-141-3080	1-1-2016	Amend(T)	2-1-2016	410-200-0200	6-3-2016	Amend	7-1-2016
410-141-3150	1-1-2016	Adopt	2-1-2016	410-200-0200(T)	6-3-2016	Repeal	7-1-2016
410-141-3150(T)	1-1-2016	Repeal	2-1-2016	410-200-0215	12-22-2015	Amend(T)	2-1-2016
410-141-3267	12-27-2015	Adopt	2-1-2016	410-200-0215	6-3-2016	Amend	7-1-2016
410-141-3267(T)	12-27-2015	Repeal	2-1-2016	410-200-0215(T)	6-3-2016	Repeal	7-1-2016
410-141-3345	1-1-2016	Amend(T)	2-1-2016	410-200-0230	12-22-2015	Amend(T)	2-1-2016
410-141-3345	3-1-2016	Amend	3-1-2016	410-200-0230	6-3-2016	Amend	7-1-2016
410-141-3345(T)	3-1-2016	Repeal	3-1-2016	410-200-0230(T)	6-3-2016	Repeal	7-1-2016
410-141-3440	1-1-2016	Amend	2-1-2016	410-200-0235	12-22-2015	Amend(T)	2-1-2016
410-165-0000	5-13-2016	Amend(T)	6-1-2016	410-200-0235	6-3-2016	Amend	7-1-2016
410-165-0020	5-13-2016	Amend(T)	6-1-2016	410-200-0235(T)	6-3-2016	Repeal	7-1-2016
410-165-0040	5-13-2016	Amend(T)	6-1-2016	410-200-0240	12-22-2015	Amend(T)	2-1-2016
410-165-0060	5-13-2016	Amend(T)	6-1-2016	410-200-0240	6-3-2016	Amend	7-1-2016
410-165-0080	5-13-2016	Amend(T)	6-1-2016	410-200-0240(T)	6-3-2016	Repeal	7-1-2016
410-165-0100	5-13-2016	Amend(T)	6-1-2016	410-200-0310	12-22-2015	Amend(T)	2-1-2016
410-165-0120	5-13-2016	Amend(T)	6-1-2016	410-200-0310	6-3-2016	Amend	7-1-2016
410-165-0140	5-13-2016	Amend(T)	6-1-2016	410-200-0310(T)	6-3-2016	Repeal	7-1-2016
410-170-0110	2-7-2016	Amend(T)	3-1-2016	410-200-0315	3-1-2016	Amend(T)	4-1-2016
410-170-0110	2-23-2016	Amend	4-1-2016	410-200-0315	5-18-2016	Amend	7-1-2016
410-170-0110	6-3-2016	Amend(T)	7-1-2016	410-200-0315(T)	5-18-2016	Repeal	7-1-2016
410-170-0110(T)	2-23-2016	Repeal	4-1-2016	410-200-0407	12-18-2015	Adopt(T)	2-1-2016
410-172-0660	4-15-2016	Amend(T)	5-1-2016	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
410-200-0120	12-22-2015	Amend(T)	2-1-2016	411-004-0000	1-1-2016	Adopt	1-1-2016
410-200-0120	6-3-2016	Amend	7-1-2016	411-004-0010	1-1-2016	Adopt	1-1-2016

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411-004-0020	1-1-2016	Amend	2-1-2016	411-300-0130	1-1-2016	Amend(T)	2-1-2016
411-004-0030	1-1-2016	Adopt	1-1-2016	411-300-0150	1-1-2016	Amend(T)	2-1-2016
411-004-0040	1-1-2016	Adopt	1-1-2016	411-300-0155	1-1-2016	Amend(T)	2-1-2016
411-020-0002	1-1-2016	Amend(T)	2-1-2016	411-300-0170	1-1-2016	Amend(T)	2-1-2016
411-020-0002	5-6-2016	Amend	6-1-2016	411-308-0020	1-1-2016	Amend(T)	2-1-2016
411-020-0002(T)	5-6-2016	Repeal	6-1-2016	411-308-0050	1-1-2016	Amend(T)	2-1-2016
411-027-0005	3-18-2016	Amend	4-1-2016	411-308-0080	1-1-2016	Amend(T)	2-1-2016
411-027-0005(T)	3-18-2016	Repeal	4-1-2016	411-308-0100	1-1-2016	Amend(T)	2-1-2016
411-027-0170	3-18-2016	Adopt	4-1-2016	411-308-0110	1-1-2016	Amend(T)	2-1-2016
411-027-0170(T)	3-18-2016	Repeal	4-1-2016	411-308-0120	1-1-2016	Amend(T)	2-1-2016
411-030-0020	3-18-2016	Amend	4-1-2016	411-308-0130	1-1-2016	Amend(T)	2-1-2016
411-030-0020(T)	3-18-2016	Repeal	4-1-2016	411-317-0000	1-1-2016	Amend(T)	2-1-2016
411-030-0068	3-18-2016	Adopt	4-1-2016	411-318-0000	1-1-2016	Amend(T)	2-1-2016
411-030-0068(T)	3-18-2016	Repeal	4-1-2016	411-318-0005	1-1-2016	Amend(T)	2-1-2016
411-030-0070	3-18-2016	Amend	4-1-2016	411-318-0010	1-1-2016	Amend(T)	2-1-2016
411-030-0070(T)	3-18-2016	Repeal	4-1-2016	411-320-0020	1-1-2016	Amend(T)	2-1-2016
411-030-0080	3-18-2016	Amend	4-1-2016	411-320-0040	1-1-2016	Amend(T)	2-1-2016
411-030-0080(T)	3-18-2016	Repeal	4-1-2016	411-320-0060	1-1-2016	Amend(T)	2-1-2016
411-030-0100	3-18-2016	Amend	4-1-2016	411-320-0080	1-1-2016	Amend(T)	2-1-2016
411-030-0100(T)	3-18-2016	Repeal	4-1-2016	411-320-0090	1-1-2016	Amend(T)	2-1-2016
411-031-0020	3-2-2016	Amend(T)	4-1-2016	411-320-0110	1-1-2016	Amend(T)	2-1-2016
411-031-0020	3-23-2016	Amend(T)	5-1-2016	411-320-0120	1-1-2016	Amend(T)	2-1-2016
411-031-0020(T)	3-23-2016	Suspend	5-1-2016	411-323-0010	1-1-2016	Amend(T)	2-1-2016
411-031-0040	3-2-2016	Amend(T)	4-1-2016	411-323-0020	1-1-2016	Amend(T)	2-1-2016
411-031-0040	3-23-2016	Amend(T)	5-1-2016	411-323-0030	1-1-2016	Amend(T)	2-1-2016
411-031-0040(T)	3-23-2016	Suspend	5-1-2016	411-323-0035	1-1-2016	Amend(T)	2-1-2016
411-031-0050	3-2-2016	Amend(T)	4-1-2016	411-323-0060	1-1-2016	Amend(T)	2-1-2016
411-031-0050	3-23-2016	Amend(T)	5-1-2016	411-325-0010	1-1-2016	Amend(T)	2-1-2016
411-031-0050(T)	3-23-2016	Suspend	5-1-2016	411-325-0020	1-1-2016	Amend(T)	2-1-2016
411-032-0050	12-27-2015	Amend	1-1-2016	411-325-0040	1-1-2016	Amend(T)	2-1-2016
411-032-0050(T)	12-27-2015	Repeal	1-1-2016	411-325-0130	1-1-2016	Amend(T)	2-1-2016
411-050-0602	1-1-2016	Amend(T)	2-1-2016	411-325-0140	1-1-2016	Amend(T)	2-1-2016
411-050-0615	1-1-2016	Amend(T)	2-1-2016	411-325-0150	1-1-2016	Amend(T)	2-1-2016
411-050-0630	1-1-2016	Amend(T)	2-1-2016	411-325-0170	1-1-2016	Amend(T)	2-1-2016
411-050-0632	1-1-2016	Amend(T)	2-1-2016	411-325-0220	1-1-2016	Amend(T)	2-1-2016
411-050-0635	1-1-2016	Amend(T)	2-1-2016	411-325-0300	1-1-2016	Amend(T)	2-1-2016
411-050-0642	1-1-2016	Amend(T)	2-1-2016	411-325-0390	1-1-2016	Amend(T)	2-1-2016
411-050-0645	1-1-2016	Amend(T)	2-1-2016	411-325-0430	1-1-2016	Amend(T)	2-1-2016
411-050-0650	1-1-2016	Amend(T)	2-1-2016	411-328-0550	1-1-2016	Amend(T)	2-1-2016
411-050-0655	1-1-2016	Amend(T)	2-1-2016	411-328-0560	1-1-2016	Amend(T)	2-1-2016
411-050-0662	1-1-2016	Amend(T)	2-1-2016	411-328-0625	1-1-2016	Adopt(T)	2-1-2016
411-050-0665	1-1-2016	Amend(T)	2-1-2016	411-328-0630	1-1-2016	Amend(T)	2-1-2016
411-050-0670	1-1-2016	Amend(T)	2-1-2016	411-328-0650	1-1-2016	Amend(T)	2-1-2016
411-050-0685	1-1-2016	Amend(T)	2-1-2016	411-328-0720	1-1-2016	Amend(T)	2-1-2016
411-054-0000	1-1-2016	Amend(T)	2-1-2016	411-328-0750	1-1-2016	Amend(T)	2-1-2016
411-054-0005	1-1-2016	Amend(T)	2-1-2016	411-328-0790	1-1-2016	Amend(T)	2-1-2016
411-054-0012	1-1-2016	Amend(T)	2-1-2016	411-330-0020	1-1-2016	Amend(T)	2-1-2016
411-054-0025	1-1-2016	Amend(T)	2-1-2016	411-330-0050	1-1-2016	Amend(T)	2-1-2016
411-054-0027	1-1-2016	Amend(T)	2-1-2016	411-330-0060	1-1-2016	Amend(T)	2-1-2016
411-054-0036	1-1-2016	Amend(T)	2-1-2016	411-330-0070	1-1-2016	Amend(T)	2-1-2016
411-054-0038	1-1-2016	Adopt(T)	2-1-2016	411-330-0080	1-1-2016	Amend(T)	2-1-2016
411-070-0437	4-1-2016	Amend(T)	5-1-2016	411-330-0110	1-1-2016	Amend(T)	2-1-2016
411-070-0442	4-1-2016	Amend(T)	5-1-2016	411-340-0020	1-1-2016	Amend(T)	2-1-2016
411-070-0470	4-1-2016	Amend	4-1-2016	411-340-0030	1-1-2016	Amend(T)	2-1-2016
411-089-0030	4-1-2016	Amend	4-1-2016	411-340-0120	1-1-2016	Amend(T)	2-1-2016

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411-340-0140	1-1-2016	Amend(T)	2-1-2016	411-360-0055	1-1-2016	Amend(T)	2-1-2016
411-340-0150	1-1-2016	Amend(T)	2-1-2016	411-360-0060	1-1-2016	Amend(T)	2-1-2016
411-340-0160	1-1-2016	Amend(T)	2-1-2016	411-360-0130	1-1-2016	Amend(T)	2-1-2016
411-340-0170	1-1-2016	Amend(T)	2-1-2016	411-360-0140	1-1-2016	Amend(T)	2-1-2016
411-345-0010	1-1-2016	Amend(T)	2-1-2016	411-360-0170	1-1-2016	Amend(T)	2-1-2016
411-345-0020	1-1-2016	Amend(T)	2-1-2016	411-360-0190	1-1-2016	Amend(T)	2-1-2016
411-345-0025	1-1-2016	Amend(T)	2-1-2016	411-370-0010	1-1-2016	Amend(T)	2-1-2016
411-345-0030	1-1-2016	Amend(T)	2-1-2016	411-375-0010	1-1-2016	Amend(T)	2-1-2016
411-345-0085	1-1-2016	Amend(T)	2-1-2016	411-375-0050	1-1-2016	Amend(T)	2-1-2016
411-345-0110	1-1-2016	Amend(T)	2-1-2016	411-375-0055	1-1-2016	Adopt(T)	2-1-2016
411-345-0160	1-1-2016	Amend(T)	2-1-2016	411-375-0070	1-1-2016	Amend(T)	2-1-2016
411-346-0100	2-23-2016	Amend(T)	4-1-2016	411-375-0080	1-1-2016	Amend(T)	2-1-2016
411-346-0110	2-23-2016	Amend(T)	4-1-2016	411-380-0010	1-1-2016	Adopt(T)	2-1-2016
411-346-0170	2-23-2016	Amend(T)	4-1-2016	411-380-0020	1-1-2016	Adopt(T)	2-1-2016
411-346-0190	2-23-2016	Amend(T)	4-1-2016	411-380-0030	1-1-2016	Adopt(T)	2-1-2016
411-346-0200	2-23-2016	Amend(T)	4-1-2016	411-380-0040	1-1-2016	Adopt(T)	2-1-2016
411-350-0020	1-1-2016	Amend(T)	2-1-2016	411-380-0050	1-1-2016	Adopt(T)	2-1-2016
411-350-0030	1-1-2016	Amend(T)	2-1-2016	411-380-0060	1-1-2016	Adopt(T)	2-1-2016
411-350-0040	1-1-2016	Amend(T)	2-1-2016	411-380-0070	1-1-2016	Adopt(T)	2-1-2016
411-350-0050	1-1-2016	Amend(T)	2-1-2016	411-380-0080	1-1-2016	Adopt(T)	2-1-2016
411-350-0055	1-1-2016	Adopt(T)	2-1-2016	411-380-0090	1-1-2016	Adopt(T)	2-1-2016
411-350-0080	1-1-2016	Amend(T)	2-1-2016	413-010-0000	2-1-2016	Amend	3-1-2016
411-350-0100	1-1-2016	Amend(T)	2-1-2016	413-010-0035	2-1-2016	Amend	3-1-2016
411-355-0000	12-28-2015	Amend	1-1-2016	413-010-0180	5-17-2016	Amend(T)	7-1-2016
411-355-0000(T)	12-28-2015	Repeal	1-1-2016	413-015-0115	1-1-2016	Amend	2-1-2016
411-355-0010	12-28-2015	Amend	1-1-2016	413-015-0115(T)	1-1-2016	Repeal	2-1-2016
411-355-0010	1-1-2016	Amend(T)	2-1-2016	413-015-0205	1-1-2016	Amend	2-1-2016
411-355-0010(T)	12-28-2015	Repeal	1-1-2016	413-015-0211	1-1-2016	Amend	2-1-2016
411-355-0020	12-28-2015	Amend	1-1-2016	413-015-0211(T)	1-1-2016	Repeal	2-1-2016
411-355-0020(T)	12-28-2015	Repeal	1-1-2016	413-015-0215	4-11-2016	Amend(T)	5-1-2016
411-355-0030	12-28-2015	Amend	1-1-2016	413-015-0415	1-1-2016	Amend	2-1-2016
411-355-0030	1-1-2016	Amend(T)	2-1-2016	413-015-0415(T)	1-1-2016	Repeal	2-1-2016
411-355-0030(T)	12-28-2015	Repeal	1-1-2016	413-015-0460	1-1-2016	Amend	2-1-2016
411-355-0040	12-28-2015	Amend	1-1-2016	413-015-0470	1-1-2016	Amend	2-1-2016
411-355-0040	1-1-2016	Amend(T)	2-1-2016	413-015-1220	1-1-2016	Amend	2-1-2016
411-355-0040(T)	12-28-2015	Repeal	1-1-2016	413-015-9000	1-1-2016	Amend	2-1-2016
411-355-0045	12-28-2015	Adopt	1-1-2016	413-015-9000(T)	1-1-2016	Repeal	2-1-2016
411-355-0045(T)	12-28-2015	Repeal	1-1-2016	413-030-0400	11-24-2015	Amend(T)	1-1-2016
411-355-0050	12-28-2015	Amend	1-1-2016	413-030-0400	2-1-2016	Amend	3-1-2016
411-355-0050	1-1-2016	Amend(T)	2-1-2016	413-030-0400(T)	2-1-2016	Repeal	3-1-2016
411-355-0050(T)	12-28-2015	Repeal	1-1-2016	413-040-0000	1-1-2016	Amend(T)	2-1-2016
411-355-0060	12-28-2015	Repeal	1-1-2016	413-040-0000	6-1-2016	Amend	7-1-2016
411-355-0070	12-28-2015	Repeal	1-1-2016	413-040-0000(T)	6-1-2016	Repeal	7-1-2016
411-355-0075	12-28-2015	Adopt	1-1-2016	413-040-0010	11-24-2015	Amend(T)	1-1-2016
411-355-0075(T)	12-28-2015	Repeal	1-1-2016	413-040-0010	2-1-2016	Amend	3-1-2016
411-355-0080	12-28-2015	Amend	1-1-2016	413-040-0010(T)	2-1-2016	Repeal	3-1-2016
411-355-0080(T)	12-28-2015	Repeal	1-1-2016	413-040-0013	5-17-2016	Amend(T)	7-1-2016
411-355-0090	12-28-2015	Amend	1-1-2016	413-040-0145	1-1-2016	Amend(T)	2-1-2016
411-355-0090(T)	12-28-2015	Repeal	1-1-2016	413-040-0145	6-1-2016	Amend	7-1-2016
411-355-0100	12-28-2015	Amend	1-1-2016	413-040-0145(T)	6-1-2016	Repeal	7-1-2016
411-355-0100(T)	12-28-2015	Repeal	1-1-2016	413-040-0150	1-1-2016	Amend(T)	2-1-2016
411-355-0110	12-28-2015	Repeal	1-1-2016	413-040-0150	6-1-2016	Amend	7-1-2016
411-355-0120	12-28-2015	Repeal	1-1-2016	413-040-0150(T)	6-1-2016	Repeal	7-1-2016
411-360-0010	1-1-2016	Amend(T)	2-1-2016	413-070-0551	11-24-2015	Amend(T)	1-1-2016
411-360-0020	1-1-2016	Amend(T)	2-1-2016	413-070-0551	2-1-2016	Amend	3-1-2016

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413-080-0050	11-24-2015	Amend(T)	1-1-2016	413-130-0450	1-1-2016	Suspend	2-1-2016
413-080-0050	1-1-2016	Amend	2-1-2016	413-130-0455	1-1-2016	Suspend	2-1-2016
413-080-0050(T)	11-24-2015	Suspend	1-1-2016	413-130-0460	1-1-2016	Suspend	2-1-2016
413-080-0050(T)	1-1-2016	Repeal	2-1-2016	413-130-0480	1-1-2016	Suspend	2-1-2016
413-080-0053	1-1-2016	Adopt	2-1-2016	413-130-0490	1-1-2016	Suspend	2-1-2016
413-080-0053(T)	1-1-2016	Repeal	2-1-2016	413-130-0500	1-1-2016	Suspend	2-1-2016
413-080-0054	1-1-2016	Amend	2-1-2016	413-130-0510	1-1-2016	Suspend	2-1-2016
413-080-0054(T)	1-1-2016	Repeal	2-1-2016	413-130-0520	1-1-2016	Suspend	2-1-2016
413-090-0085	1-1-2016	Amend	2-1-2016	413-140-0032	4-26-2016	Amend(T)	6-1-2016
413-090-0085	6-14-2016	Amend(T)	7-1-2016	414-150-0050	1-25-2016	Amend	3-1-2016
413-090-0085(T)	1-1-2016	Repeal	2-1-2016	414-150-0055	1-25-2016	Amend	3-1-2016
413-090-0087	1-1-2016	Adopt	2-1-2016	414-150-0060	1-25-2016	Amend	3-1-2016
413-090-0087(T)	1-1-2016	Repeal	2-1-2016	414-150-0070	1-25-2016	Amend	3-1-2016
413-090-0400	2-1-2016	Amend	3-1-2016	414-150-0080	1-25-2016	Repeal	3-1-2016
413-090-0410	2-1-2016	Repeal	3-1-2016	414-150-0090	1-25-2016	Repeal	3-1-2016
413-090-0420	2-1-2016	Repeal	3-1-2016	414-150-0100	1-25-2016	Repeal	3-1-2016
413-090-0430	2-1-2016	Repeal	3-1-2016	414-150-0110	1-25-2016	Amend	3-1-2016
413-090-0500	6-1-2016	Repeal	7-1-2016	414-150-0120	1-25-2016	Amend	3-1-2016
413-090-0510	6-1-2016	Repeal	7-1-2016	414-150-0130	1-25-2016	Amend	3-1-2016
413-090-0520	6-1-2016	Repeal	7-1-2016	414-150-0140	1-25-2016	Adopt	3-1-2016
413-090-0530	6-1-2016	Repeal	7-1-2016	414-150-0150	1-25-2016	Adopt	3-1-2016
413-090-0540	6-1-2016	Repeal	7-1-2016	414-150-0160	1-25-2016	Adopt	3-1-2016
413-090-0550	6-1-2016	Repeal	7-1-2016	414-150-0170	1-25-2016	Adopt	3-1-2016
413-100-0400	12-21-2015	Amend	2-1-2016	415-060-0010	1-5-2016	Suspend	2-1-2016
413-100-0410	12-21-2015	Amend	2-1-2016	415-060-0020	1-5-2016	Suspend	2-1-2016
413-100-0420	12-21-2015	Amend	2-1-2016	415-060-0030	1-5-2016	Suspend	2-1-2016
413-100-0435	12-21-2015	Amend	2-1-2016	415-060-0040	1-5-2016	Suspend	2-1-2016
413-100-0457	12-21-2015	Repeal	2-1-2016	415-060-0050	1-5-2016	Suspend	2-1-2016
413-100-0800	4-1-2016	Amend	5-1-2016	416-115-0025	4-1-2016	Amend	5-1-2016
413-100-0810	4-1-2016	Amend	5-1-2016	416-335-0090	3-10-2016	Amend(T)	4-1-2016
413-100-0820	4-1-2016	Amend	5-1-2016	416-335-0090	5-2-2016	Amend	6-1-2016
413-100-0830	4-1-2016	Amend	5-1-2016	416-335-0090	6-3-2016	Amend(T)	7-1-2016
413-100-0840	4-1-2016	Repeal	5-1-2016	416-530-0010	3-2-2016	Amend	4-1-2016
413-100-0850	4-1-2016	Repeal	5-1-2016	416-530-0020	3-2-2016	Amend	4-1-2016
413-120-0000	6-1-2016	Amend	7-1-2016	416-530-0030	3-2-2016	Amend	4-1-2016
413-120-0025	6-1-2016	Amend	7-1-2016	416-530-0035	3-2-2016	Amend	4-1-2016
413-120-0730	2-24-2016	Amend(T)	4-1-2016	416-530-0040	3-2-2016	Amend	4-1-2016
413-120-0730	6-1-2016	Amend	7-1-2016	416-530-0060	3-2-2016	Amend	4-1-2016
413-120-0730(T)	6-1-2016	Repeal	7-1-2016	416-530-0070	3-2-2016	Amend	4-1-2016
413-120-0925	1-1-2016	Amend(T)	2-1-2016	416-530-0090	3-2-2016	Amend	4-1-2016
413-120-0925	6-1-2016	Amend	7-1-2016	416-530-0200	3-2-2016	Amend	4-1-2016
413-120-0925(T)	6-1-2016	Repeal	7-1-2016	418-040-0000	1-1-2016	Adopt(T)	2-1-2016
413-130-0000	1-1-2016	Amend(T)	2-1-2016	418-040-0000	6-20-2016	Adopt	7-1-2016
413-130-0300	1-1-2016	Amend(T)	2-1-2016	418-040-0000(T)	6-20-2016	Repeal	7-1-2016
413-130-0310	1-1-2016	Amend(T)	2-1-2016	418-040-0010	1-1-2016	Adopt(T)	2-1-2016
413-130-0320	1-1-2016	Amend(T)	2-1-2016	418-040-0010	6-20-2016	Adopt	7-1-2016
413-130-0330	1-1-2016	Amend(T)	2-1-2016	418-040-0010(T)	6-20-2016	Repeal	7-1-2016
413-130-0340	1-1-2016	Amend(T)	2-1-2016	418-040-0020	1-1-2016	Adopt(T)	2-1-2016
413-130-0350	1-1-2016	Amend(T)	2-1-2016	418-040-0020	6-20-2016	Adopt	7-1-2016
413-130-0355	1-1-2016	Amend(T)	2-1-2016	418-040-0020(T)	6-20-2016	Repeal	7-1-2016
413-130-0360	1-1-2016	Amend(T)	2-1-2016	418-040-0030	1-1-2016	Adopt(T)	2-1-2016
413-130-0365	1-1-2016	Adopt(T)	2-1-2016	418-040-0030	6-20-2016	Adopt	7-1-2016
413-130-0400	1-1-2016	Suspend	2-1-2016	418-040-0030(T)	6-20-2016	Repeal	7-1-2016
413-130-0420	1-1-2016	Suspend	2-1-2016	418-040-0040	1-1-2016	Adopt(T)	2-1-2016
413-130-0430	1-1-2016	Suspend	2-1-2016	418-040-0040	6-20-2016	Adopt	7-1-2016

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418-040-0050	1-1-2016	Adopt(T)	2-1-2016	436-050-0175	1-1-2016	Amend	2-1-2016
418-040-0050	6-20-2016	Adopt	7-1-2016	437-003-0001	1-1-2017	Amend	4-1-2016
418-040-0050(T)	6-20-2016	Repeal	7-1-2016	437-003-0134	1-1-2017	Amend	4-1-2016
418-040-0060	1-1-2016	Adopt(T)	2-1-2016	437-003-0503	10-1-2017	Amend	4-1-2016
418-040-0060	6-20-2016	Adopt	7-1-2016	437-003-1500	10-1-2017	Amend	4-1-2016
418-040-0060(T)	6-20-2016	Repeal	7-1-2016	437-003-1501	1-1-2017	Amend	4-1-2016
418-040-0070	1-1-2016	Adopt(T)	2-1-2016	437-003-2501	1-1-2017	Adopt	4-1-2016
418-040-0070	6-20-2016	Adopt	7-1-2016	437-003-3502	10-1-2017	Repeal	4-1-2016
418-040-0070(T)	6-20-2016	Repeal	7-1-2016	438-005-0035	1-1-2016	Amend	2-1-2016
418-040-0080	1-1-2016	Adopt(T)	2-1-2016	438-015-0010	1-1-2016	Amend	2-1-2016
418-040-0080	6-20-2016	Adopt	7-1-2016	438-015-0019	1-1-2016	Amend	2-1-2016
418-040-0080(T)	6-20-2016	Repeal	7-1-2016	438-015-0025	1-1-2016	Amend	2-1-2016
418-040-0090	1-1-2016	Adopt(T)	2-1-2016	438-015-0033	1-1-2016	Adopt	2-1-2016
418-040-0090	6-20-2016	Adopt	7-1-2016	438-015-0045	1-1-2016	Amend	2-1-2016
418-040-0090(T)	6-20-2016	Repeal	7-1-2016	438-015-0048	1-1-2016	Adopt	2-1-2016
431-121-2005	12-7-2015	Amend	1-1-2016	438-015-0055	1-1-2016	Amend	2-1-2016
436-001-0003	1-1-2016	Amend	1-1-2016	438-015-0065	1-1-2016	Amend	2-1-2016
436-001-0004	1-1-2016	Amend	1-1-2016	438-015-0070	1-1-2016	Amend	2-1-2016
436-001-0009	1-1-2016	Amend	1-1-2016	438-015-0110	1-1-2016	Amend	2-1-2016
436-001-0019	1-1-2016	Amend	1-1-2016	440-001-9000	1-1-2016	Adopt(T)	2-1-2016
436-001-0027	1-1-2016	Amend	1-1-2016	441-175-0002	3-7-2016	Amend	4-1-2016
436-001-0030	1-1-2016	Amend	1-1-2016	441-175-0010	3-7-2016	Amend	4-1-2016
436-001-0170	1-1-2016	Amend	1-1-2016	441-175-0015	3-7-2016	Amend	4-1-2016
436-001-0240	1-1-2016	Amend	1-1-2016	441-175-0020	3-7-2016	Amend	4-1-2016
436-001-0246	1-1-2016	Amend	1-1-2016	441-175-0030	3-7-2016	Amend	4-1-2016
436-001-0259	1-1-2016	Amend	1-1-2016	441-175-0040	3-7-2016	Amend	4-1-2016
436-001-0410	1-1-2016	Amend	1-1-2016	441-175-0041	3-7-2016	Amend	4-1-2016
436-001-0420	1-1-2016	Amend	1-1-2016	441-175-0046	3-7-2016	Amend	4-1-2016
436-001-0435	1-1-2016	Adopt	1-1-2016	441-175-0050	3-7-2016	Amend	4-1-2016
436-001-0500	1-1-2016	Adopt	1-1-2016	441-175-0055	3-7-2016	Amend	4-1-2016
436-009-0001	4-1-2016	Amend	4-1-2016	441-175-0060	3-7-2016	Amend	4-1-2016
436-009-0004	1-1-2016	Amend(T)	1-1-2016	441-175-0070	3-7-2016	Amend	4-1-2016
436-009-0004	4-1-2016	Amend	4-1-2016	441-175-0085	3-7-2016	Amend	4-1-2016
436-009-0004(T)	4-1-2016	Repeal	4-1-2016	441-175-0100	3-7-2016	Amend	4-1-2016
436-009-0005	4-1-2016	Amend	4-1-2016	441-175-0110	3-7-2016	Amend	4-1-2016
436-009-0008	4-1-2016	Amend	4-1-2016	441-175-0120	3-7-2016	Amend	4-1-2016
436-009-0010	1-1-2016	Amend(T)	1-1-2016	441-175-0130	3-7-2016	Amend	4-1-2016
436-009-0010	4-1-2016	Amend	4-1-2016	441-175-0140	3-7-2016	Amend	4-1-2016
436-009-0010(T)	4-1-2016	Repeal	4-1-2016	441-175-0150	3-7-2016	Amend	4-1-2016
436-009-0020	4-1-2016	Amend	4-1-2016	441-175-0160	3-7-2016	Amend	4-1-2016
436-009-0025	4-1-2016	Amend	4-1-2016	441-175-0165	3-7-2016	Amend	4-1-2016
436-009-0030	4-1-2016	Amend	4-1-2016	441-175-0171	3-7-2016	Amend	4-1-2016
436-009-0040	4-1-2016	Amend	4-1-2016	441-175-0175	3-7-2016	Amend	4-1-2016
436-009-0060	4-1-2016	Amend	4-1-2016	441-500-0020	3-16-2016	Amend(T)	5-1-2016
436-009-0080	4-1-2016	Amend	4-1-2016	441-710-0305	1-1-2016	Adopt	2-1-2016
436-009-0090	4-1-2016	Amend	4-1-2016	441-855-0114	1-1-2016	Adopt	1-1-2016
436-009-0110	4-1-2016	Amend	4-1-2016	441-865-0060	12-14-2015	Amend	1-1-2016
436-010-0001	4-1-2016	Amend	4-1-2016	459-001-0000	1-29-2016	Amend	3-1-2016
436-010-0005	4-1-2016	Amend	4-1-2016	459-005-0001	11-20-2015	Amend	1-1-2016
436-010-0008	4-1-2016	Amend	4-1-2016	459-005-0001	5-27-2016	Amend	7-1-2016
436-010-0240	4-1-2016	Amend	4-1-2016	459-005-0310	11-20-2015	Amend	1-1-2016
436-010-0265	4-1-2016	Amend	4-1-2016	459-005-0350	11-20-2015	Amend	1-1-2016
436-010-0270	4-1-2016	Amend	4-1-2016	459-005-0605	1-29-2016	Adopt	3-1-2016
436-010-0330	4-1-2016	Amend	4-1-2016	459-010-0012	11-20-2015	Amend	1-1-2016
436-010-0340	4-1-2016	Amend	4-1-2016	459-011-0500	11-20-2015	Amend	1-1-2016

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459-013-0310	11-20-2015	Amend	1-1-2016	461-135-0087	4-1-2016	Repeal	5-1-2016
459-075-0020	5-27-2016	Amend	7-1-2016	461-135-0400	1-1-2016	Amend	2-1-2016
459-080-0020	5-27-2016	Amend	7-1-2016	461-135-0405	1-1-2016	Amend	2-1-2016
459-080-0150	1-1-2016	Amend	1-1-2016	461-135-0405(T)	1-1-2016	Repeal	2-1-2016
461-001-0000	1-1-2016	Amend	2-1-2016	461-135-0407	1-1-2016	Amend	2-1-2016
461-001-0000	4-1-2016	Amend	5-1-2016	461-135-0407(T)	1-1-2016	Repeal	2-1-2016
461-001-0000(T)	1-1-2016	Repeal	2-1-2016	461-135-0475	4-1-2016	Amend	5-1-2016
461-001-0020	4-1-2016	Amend	5-1-2016	461-135-0485	4-1-2016	Amend	5-1-2016
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461-001-0025	4-1-2016	Amend	5-1-2016	461-135-0506	4-1-2016	Amend	5-1-2016
461-110-0210	4-1-2016	Amend	5-1-2016	461-135-0506(T)	4-1-2016	Repeal	5-1-2016
461-110-0630	4-1-2016	Amend	5-1-2016	461-135-0520	1-1-2016	Amend	2-1-2016
461-110-0750	4-1-2016	Amend	5-1-2016	461-135-0520	2-5-2016	Amend(T)	3-1-2016
461-115-0016	1-1-2016	Amend(T)	2-1-2016	461-135-0520	3-2-2016	Amend(T)	4-1-2016
461-115-0016	4-1-2016	Amend	5-1-2016	461-135-0520	4-1-2016	Amend	5-1-2016
461-115-0016(T)	4-1-2016	Repeal	5-1-2016	461-135-0520	4-5-2016	Amend(T)	5-1-2016
461-115-0651	1-1-2016	Amend	2-1-2016	461-135-0520	5-1-2016	Amend(T)	6-1-2016
461-115-0700	1-1-2016	Amend	2-1-2016	461-135-0520(T)	3-2-2016	Suspend	4-1-2016
461-120-0110	3-4-2016	Amend(T)	4-1-2016	461-135-0520(T)	4-1-2016	Repeal	5-1-2016
461-120-0110	5-1-2016	Amend	6-1-2016	461-135-0521	4-1-2016	Amend(T)	5-1-2016
461-120-0110(T)	5-1-2016	Repeal	6-1-2016	461-135-0750	12-15-2015	Amend(T)	1-1-2016
461-120-0125	1-1-2016	Amend	2-1-2016	461-135-0750	4-1-2016	Amend	5-1-2016
461-120-0210	4-1-2016	Amend	5-1-2016	461-135-0750(T)	4-1-2016	Repeal	5-1-2016
461-120-0340	4-1-2016	Amend	5-1-2016	461-135-0780	2-3-2016	Amend	3-1-2016
461-125-0010	4-1-2016	Repeal	5-1-2016	461-135-1250	4-1-2016	Amend	5-1-2016
461-125-0030	4-1-2016	Repeal	5-1-2016	461-135-1270	4-1-2016	Adopt	5-1-2016
461-125-0050	4-1-2016	Repeal	5-1-2016	461-140-0020	1-1-2016	Amend	2-1-2016
461-125-0060	4-1-2016	Repeal	5-1-2016	461-140-0120	1-1-2016	Amend	2-1-2016
461-125-0090	4-1-2016	Repeal	5-1-2016	461-140-0250	1-1-2016	Amend	2-1-2016
461-125-0110	4-1-2016	Repeal	5-1-2016	461-145-0010	1-1-2016	Amend	2-1-2016
461-125-0120	4-1-2016	Repeal	5-1-2016	461-145-0020	1-1-2016	Amend	2-1-2016
461-125-0130	4-1-2016	Repeal	5-1-2016	461-145-0040	1-1-2016	Amend	2-1-2016
461-125-0170	4-1-2016	Repeal	5-1-2016	461-145-0050	1-1-2016	Amend	2-1-2016
461-125-0230	4-1-2016	Repeal	5-1-2016	461-145-0080	1-1-2016	Amend	2-1-2016
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461-125-0255	4-1-2016	Repeal	5-1-2016	461-145-0220	1-1-2016	Amend	2-1-2016
461-125-0370	3-1-2016	Amend(T)	4-1-2016	461-145-0240	1-1-2016	Amend	2-1-2016
461-125-0370	4-1-2016	Amend	5-1-2016	461-145-0252	1-1-2016	Amend	2-1-2016
461-125-0370	5-10-2016	Amend	6-1-2016	461-145-0259	1-1-2016	Adopt	2-1-2016
461-125-0370	5-13-2016	Amend(T)	6-1-2016	461-145-0260	1-1-2016	Amend	2-1-2016
461-125-0370(T)	3-1-2016	Suspend	4-1-2016	461-145-0280	1-1-2016	Amend	2-1-2016
461-125-0370(T)	4-1-2016	Repeal	5-1-2016	461-145-0300	1-1-2016	Amend	2-1-2016
461-125-0830(T)	1-1-2016	Repeal	2-1-2016	461-145-0310	1-1-2016	Amend	2-1-2016
461-130-0310	1-1-2016	Amend	2-1-2016	461-145-0320	1-1-2016	Amend	2-1-2016
461-130-0310	1-1-2016	Amend(T)	2-1-2016	461-145-0330	1-1-2016	Amend	2-1-2016
461-130-0310	4-1-2016	Amend	5-1-2016	461-145-0360	1-1-2016	Amend	2-1-2016
461-130-0310(T)	4-1-2016	Repeal	5-1-2016	461-145-0365	1-1-2016	Amend	2-1-2016
461-130-0315	4-1-2016	Amend	5-1-2016	461-145-0380	1-1-2016	Amend	2-1-2016
461-130-0327	4-1-2016	Amend	5-1-2016	461-145-0410	1-1-2016	Amend	2-1-2016
461-130-0330	1-1-2016	Amend	2-1-2016	461-145-0410	4-1-2016	Amend	5-1-2016
461-130-0330	4-1-2016	Amend	5-1-2016	461-145-0420	1-1-2016	Amend	2-1-2016
461-130-0335	4-1-2016	Amend	5-1-2016	461-145-0430	1-1-2016	Amend	2-1-2016
461-135-0070	4-1-2016	Amend	5-1-2016	461-145-0460	1-1-2016	Amend	2-1-2016
461-135-0071	4-1-2016	Adopt	5-1-2016	461-145-0490	1-1-2016	Amend	2-1-2016
461-135-0073	4-1-2016	Adopt	5-1-2016	461-145-0510	1-1-2016	Amend	2-1-2016

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461-145-0910	1-1-2016	Amend	2-1-2016	461-175-0300(T)	1-1-2016	Repeal	2-1-2016
461-145-0910(T)	1-1-2016	Repeal	2-1-2016	461-175-0305	1-1-2016	Amend	2-1-2016
461-150-0050	1-1-2016	Amend	2-1-2016	461-175-0310	1-1-2016	Amend	2-1-2016
461-150-0090	1-1-2016	Amend	2-1-2016	461-175-0340	1-1-2016	Amend	2-1-2016
461-155-0020	4-1-2016	Amend	5-1-2016	461-180-0010	12-15-2015	Amend(T)	1-1-2016
461-155-0030	1-1-2016	Amend	2-1-2016	461-180-0010	1-22-2016	Amend(T)	3-1-2016
461-155-0030	4-1-2016	Amend	5-1-2016	461-180-0010	4-1-2016	Amend	5-1-2016
461-155-0030	5-12-2016	Amend(T)	6-1-2016	461-180-0010(T)	1-22-2016	Suspend	3-1-2016
461-155-0035	1-1-2016	Amend	2-1-2016	461-180-0010(T)	4-1-2016	Repeal	5-1-2016
461-155-0150	1-1-2016	Amend(T)	2-1-2016	461-180-0050	4-1-2016	Amend	5-1-2016
461-155-0150	3-1-2016	Amend(T)	4-1-2016	461-180-0090	12-15-2015	Amend(T)	1-1-2016
461-155-0150	4-1-2016	Amend	5-1-2016	461-180-0090	1-22-2016	Amend(T)	3-1-2016
461-155-0150(T)	3-1-2016	Suspend	4-1-2016	461-180-0090	4-1-2016	Amend	5-1-2016
461-155-0150(T)	4-1-2016	Repeal	5-1-2016	461-180-0090(T)	1-22-2016	Suspend	3-1-2016
461-155-0180	4-1-2016	Amend	5-1-2016	461-180-0090(T)	4-1-2016	Repeal	5-1-2016
461-155-0290	3-1-2016	Amend	4-1-2016	461-180-0135	4-1-2016	Adopt(T)	5-1-2016
461-155-0291	3-1-2016	Amend	4-1-2016	461-180-0140	12-15-2015	Amend(T)	1-1-2016
461-155-0295	3-1-2016	Amend	4-1-2016	461-180-0140	1-22-2016	Amend(T)	3-1-2016
461-155-0575	1-1-2016	Amend	2-1-2016	461-180-0140	4-1-2016	Amend	5-1-2016
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461-160-0015	1-1-2016	Amend	2-1-2016	461-180-0140(T)	4-1-2016	Repeal	5-1-2016
461-160-0040	1-1-2016	Amend	2-1-2016	461-190-0211	12-28-2015	Amend	2-1-2016
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461-160-0100	4-1-2016	Amend	5-1-2016	461-190-0360	11-30-2015	Amend(T)	1-1-2016
461-160-0300	1-1-2016	Amend	2-1-2016	461-190-0360	4-1-2016	Amend	5-1-2016
461-160-0300(T)	1-1-2016	Repeal	2-1-2016	461-190-0360(T)	4-1-2016	Repeal	5-1-2016
461-160-0410	4-1-2016	Amend(T)	5-1-2016	461-190-0406	4-1-2016	Amend	5-1-2016
461-160-0550	1-1-2016	Amend	2-1-2016	461-190-0500	2-5-2016	Adopt(T)	3-1-2016
461-160-0551	1-1-2016	Amend	2-1-2016	461-190-0500	4-1-2016	Adopt	5-1-2016
461-160-0552	1-1-2016	Amend	2-1-2016	461-190-0500(T)	4-1-2016	Repeal	5-1-2016
461-165-0030	1-1-2016	Amend	2-1-2016	461-195-0521	1-1-2016	Amend	2-1-2016
461-165-0030	4-1-2016	Amend	5-1-2016	461-195-0621	1-1-2016	Amend	2-1-2016
461-165-0180	1-20-2016	Amend(T)	3-1-2016	462-200-0660	6-6-2016	Adopt	7-1-2016
461-165-0180	3-14-2016	Amend(T)	4-1-2016	462-200-0670	6-6-2016	Adopt	7-1-2016
461-165-0180	5-23-2016	Amend(T)	7-1-2016	462-220-0040	5-9-2016	Amend	6-1-2016
461-165-0180(T)	3-14-2016	Suspend	4-1-2016	462-220-0080	1-27-2016	Amend	3-1-2016
461-165-0180(T)	5-23-2016	Suspend	7-1-2016	471-010-0080	1-29-2016	Amend(T)	3-1-2016
461-170-0011	1-1-2016	Amend	2-1-2016	543-001-0010	1-11-2016	Amend(T)	2-1-2016
461-170-0011	4-1-2016	Amend	5-1-2016	543-001-0010	6-13-2016	Amend	7-1-2016
461-170-0101	1-1-2016	Amend	2-1-2016	543-010-0003	1-11-2016	Amend(T)	2-1-2016
461-170-0103	1-1-2016	Amend	2-1-2016	543-010-0003	6-13-2016	Amend	7-1-2016
461-170-0103(T)	1-1-2016	Repeal	2-1-2016	543-010-0016	1-11-2016	Amend(T)	2-1-2016
461-170-0150	1-1-2016	Amend	2-1-2016	543-010-0016	6-13-2016	Amend	7-1-2016
461-170-0150(T)	1-1-2016	Repeal	2-1-2016	543-010-0021	1-11-2016	Amend(T)	2-1-2016
461-170-0160	1-1-2016	Amend	2-1-2016	543-010-0021	6-13-2016	Amend	7-1-2016
461-170-0160(T)	1-1-2016	Repeal	2-1-2016	543-010-0022	1-11-2016	Suspend	2-1-2016
461-175-0200	1-1-2016	Amend	2-1-2016	543-010-0022	6-13-2016	Repeal	7-1-2016
461-175-0200	4-1-2016	Amend	5-1-2016	543-010-0026	1-11-2016	Adopt(T)	2-1-2016
461-175-0200(T)	1-1-2016	Repeal	2-1-2016	543-010-0026	6-13-2016	Adopt	7-1-2016
461-175-0210	4-1-2016	Amend	5-1-2016	543-010-0030	1-11-2016	Amend(T)	2-1-2016
461-175-0220	1-1-2016	Amend	2-1-2016	543-010-0030	6-13-2016	Amend	7-1-2016
461-175-0222	1-1-2016	Amend	2-1-2016	543-010-0032	1-11-2016	Suspend	2-1-2016
461-175-0222(T)	1-1-2016	Repeal	2-1-2016	543-010-0032	6-13-2016	Repeal	7-1-2016
461-175-0250	1-1-2016	Amend	2-1-2016	543-020-0010	1-11-2016	Suspend	2-1-2016

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543-020-0025	1-11-2016	Suspend	2-1-2016	575-031-0025	12-18-2015	Amend	2-1-2016
543-020-0025	6-13-2016	Repeal	7-1-2016	575-031-0025	4-21-2016	Amend	6-1-2016
543-020-0026	1-11-2016	Suspend	2-1-2016	575-031-0030	4-21-2016	Amend	6-1-2016
543-020-0026	6-13-2016	Repeal	7-1-2016	575-031-0045	12-18-2015	Amend	2-1-2016
543-020-0030	1-11-2016	Suspend	2-1-2016	575-031-0045	4-21-2016	Amend	6-1-2016
543-020-0030	6-13-2016	Repeal	7-1-2016	575-031-0046	4-21-2016	Amend	6-1-2016
543-020-0050	1-11-2016	Adopt(T)	2-1-2016	575-031-0060	4-21-2016	Adopt	6-1-2016
543-020-0050	6-13-2016	Adopt	7-1-2016	575-035-0005	12-18-2015	Amend	2-1-2016
543-020-0055	1-11-2016	Adopt(T)	2-1-2016	575-035-0010	12-18-2015	Amend	2-1-2016
543-020-0055	6-13-2016	Adopt	7-1-2016	575-035-0015	12-18-2015	Amend	2-1-2016
543-020-0060	1-11-2016	Adopt(T)	2-1-2016	575-035-0020	12-18-2015	Amend	2-1-2016
543-020-0060	6-13-2016	Adopt	7-1-2016	575-035-0025	12-18-2015	Amend	2-1-2016
543-020-0070	1-11-2016	Adopt(T)	2-1-2016	575-035-0030	12-18-2015	Amend	2-1-2016
543-020-0070	6-13-2016	Adopt	7-1-2016	575-035-0040	12-18-2015	Amend	2-1-2016
543-020-0080	1-11-2016	Adopt(T)	2-1-2016	575-035-0045	12-18-2015	Amend	2-1-2016
543-020-0080	6-13-2016	Adopt	7-1-2016	575-035-0046	12-18-2015	Amend	2-1-2016
543-060-0020	1-11-2016	Amend(T)	2-1-2016	575-035-0050	12-18-2015	Amend	2-1-2016
543-060-0020	6-13-2016	Amend	7-1-2016	575-035-0051	12-18-2015	Amend	2-1-2016
543-060-0030	1-11-2016	Amend(T)	2-1-2016	575-035-0055	12-18-2015	Amend	2-1-2016
543-060-0030	6-13-2016	Amend	7-1-2016	575-037-0005	12-18-2015	Amend	2-1-2016
543-060-0040	1-11-2016	Amend(T)	2-1-2016	575-037-0010	12-18-2015	Amend	2-1-2016
543-060-0040	6-13-2016	Amend	7-1-2016	575-037-0020	12-18-2015	Amend	2-1-2016
543-060-0070	1-11-2016	Amend(T)	2-1-2016	575-037-0030	12-18-2015	Amend	2-1-2016
543-060-0070	6-13-2016	Amend	7-1-2016	575-037-0040	12-18-2015	Amend	2-1-2016
573-040-0005	5-4-2016	Amend	6-1-2016	575-038-0000	12-18-2015	Amend	2-1-2016
573-050-0010	5-4-2016	Amend	6-1-2016	575-038-0010	12-18-2015	Amend	2-1-2016
573-050-0025	5-4-2016	Amend	6-1-2016	575-038-0020	12-18-2015	Amend	2-1-2016
573-050-0030	5-4-2016	Amend	6-1-2016	575-038-0030	12-18-2015	Amend	2-1-2016
573-050-0035	5-4-2016	Amend	6-1-2016	575-038-0040	12-18-2015	Amend	2-1-2016
573-050-0045	5-4-2016	Amend	6-1-2016	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
575-030-0005	12-18-2015	Amend	2-1-2016	575-045-0005	12-18-2015	Amend	2-1-2016
575-030-0005	4-21-2016	Amend	6-1-2016	575-050-0005	12-18-2015	Amend	2-1-2016
575-031-0005	12-18-2015	Amend	2-1-2016	575-050-0010	12-18-2015	Amend	2-1-2016
575-031-0005	4-21-2016	Amend	6-1-2016	575-050-0015	12-18-2015	Amend	2-1-2016
575-031-0010	12-18-2015	Amend	2-1-2016	575-050-0020	12-18-2015	Amend	2-1-2016
575-031-0010	4-21-2016	Amend	6-1-2016	575-050-0025	12-18-2015	Amend	2-1-2016
575-031-0015	4-21-2016	Amend	6-1-2016	575-050-0030	12-18-2015	Amend	2-1-2016
575-031-0016	4-21-2016	Amend	6-1-2016	575-050-0035	12-18-2015	Amend	2-1-2016
575-031-0020	12-18-2015	Amend	2-1-2016	575-050-0040	12-18-2015	Amend	2-1-2016
575-031-0022	12-18-2015	Amend	2-1-2016	575-050-0042	12-18-2015	Amend	2-1-2016
575-031-0022	4-21-2016	Amend	6-1-2016	575-050-0045	12-18-2015	Amend	2-1-2016
575-031-0023	12-18-2015	Amend	2-1-2016	575-050-0050	12-18-2015	Amend	2-1-2016

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575-060-0020	12-18-2015	Amend	2-1-2016	581-001-0002	4-7-2016	Amend	5-1-2016
575-063-0010	12-18-2015	Amend	2-1-2016	581-005-0001	4-7-2016	Repeal	5-1-2016
575-065-0001	12-18-2015	Amend	2-1-2016	581-015-2200	12-21-2015	Amend	2-1-2016
575-065-0045	12-18-2015	Amend	2-1-2016	581-015-2595	12-18-2015	Amend	2-1-2016
575-065-0055	12-18-2015	Amend	2-1-2016	581-015-2930	12-22-2015	Amend	2-1-2016
575-070-0005	12-18-2015	Amend	2-1-2016	581-017-0010	5-17-2016	Amend	7-1-2016
575-070-0010	12-18-2015	Amend	2-1-2016	581-017-0020	5-17-2016	Amend	7-1-2016
575-070-0020	12-18-2015	Amend	2-1-2016	581-017-0215	5-17-2016	Amend	7-1-2016
575-070-0030	12-18-2015	Amend	2-1-2016	581-017-0287	12-18-2015	Adopt	2-1-2016
575-070-0040	12-18-2015	Amend	2-1-2016	581-017-0291	12-18-2015	Adopt	2-1-2016
575-070-0045	12-18-2015	Amend	2-1-2016	581-017-0294	12-18-2015	Adopt	2-1-2016
575-070-0050	12-18-2015	Amend	2-1-2016	581-017-0297	12-18-2015	Adopt	2-1-2016
575-070-0060	12-18-2015	Amend	2-1-2016	581-017-0301	12-28-2015	Amend(T)	2-1-2016
575-070-0070	12-18-2015	Amend	2-1-2016	581-017-0301	5-17-2016	Amend	7-1-2016
575-070-0080	12-18-2015	Amend	2-1-2016	581-017-0309	12-28-2015	Amend(T)	2-1-2016
575-070-0090	12-18-2015	Amend	2-1-2016	581-017-0312	5-17-2016	Amend	7-1-2016
575-071-0000	12-18-2015	Amend	2-1-2016	581-017-0318	12-28-2015	Amend(T)	2-1-2016
575-071-0040	12-18-2015	Amend	2-1-2016	581-017-0318	5-17-2016	Amend	7-1-2016
575-072-0000	12-18-2015	Amend	2-1-2016	581-017-0321	12-28-2015	Amend(T)	2-1-2016
575-072-0010	12-18-2015	Amend	2-1-2016	581-017-0321	3-22-2016	Amend	5-1-2016
575-072-0040	12-18-2015	Amend	2-1-2016	581-017-0324	12-28-2015	Amend(T)	2-1-2016
575-072-0050	12-18-2015	Amend	2-1-2016	581-017-0324	3-22-2016	Amend	5-1-2016
575-072-0060	12-18-2015	Amend	2-1-2016	581-017-0327	12-28-2015	Amend(T)	2-1-2016
575-072-0080	12-18-2015	Amend	2-1-2016	581-017-0327	3-22-2016	Amend	5-1-2016
575-072-0090	12-18-2015	Amend	2-1-2016	581-017-0330	12-28-2015	Amend(T)	2-1-2016
575-073-0000	12-18-2015	Amend	2-1-2016	581-017-0330	3-22-2016	Amend	5-1-2016
575-074-0000	12-18-2015	Amend	2-1-2016	581-017-0333	12-28-2015	Amend(T)	2-1-2016
575-075-0001	12-18-2015	Amend	2-1-2016	581-017-0333	3-22-2016	Amend	5-1-2016
575-075-0005	12-18-2015	Amend	2-1-2016	581-017-0335	5-17-2016	Amend	7-1-2016
575-075-0007	12-18-2015	Amend	2-1-2016	581-017-0347	5-17-2016	Amend	7-1-2016
575-075-0008	12-18-2015	Amend	2-1-2016	581-017-0350	2-5-2016	Amend	3-1-2016
575-075-0010	12-18-2015	Amend	2-1-2016	581-017-0353	2-5-2016	Amend	3-1-2016
575-075-0030	12-18-2015	Amend	2-1-2016	581-017-0356	2-5-2016	Amend	3-1-2016
575-075-0040	12-18-2015	Amend	2-1-2016	581-017-0359	2-5-2016	Amend	3-1-2016
575-075-0043	12-18-2015	Amend	2-1-2016	581-017-0362	2-5-2016	Amend	3-1-2016
575-075-0044	12-18-2015	Amend	2-1-2016	581-017-0365	4-7-2016	Adopt	5-1-2016
575-075-0045	12-18-2015	Amend	2-1-2016	581-017-0367	4-7-2016	Adopt	5-1-2016
575-075-0046	12-18-2015	Amend	2-1-2016	581-017-0369	4-7-2016	Adopt	5-1-2016
575-075-0047	12-18-2015	Amend	2-1-2016	581-017-0371	4-7-2016	Adopt	5-1-2016
575-075-0049	12-18-2015	Amend	2-1-2016	581-017-0373	4-7-2016	Adopt	5-1-2016
575-075-0050	12-18-2015	Amend	2-1-2016	581-017-0375	4-7-2016	Adopt	5-1-2016
575-075-0055	12-18-2015	Amend	2-1-2016	581-017-0380	2-5-2016	Adopt	3-1-2016
575-076-0010	12-18-2015	Amend	2-1-2016	581-017-0383	2-5-2016	Adopt	3-1-2016
575-080-0100	12-18-2015	Amend	2-1-2016	581-017-0386	2-5-2016	Adopt	3-1-2016
575-085-0000	12-18-2015	Amend	2-1-2016	581-017-0389	2-5-2016	Adopt	3-1-2016
575-085-0020	12-18-2015	Amend	2-1-2016	581-017-0392	2-5-2016	Adopt	3-1-2016
575-085-0030	12-18-2015	Amend	2-1-2016	581-017-0395	2-5-2016	Adopt	3-1-2016
575-085-0040	12-18-2015	Amend	2-1-2016	581-017-0432	2-5-2016	Adopt	3-1-2016
575-085-0050	12-18-2015	Amend	2-1-2016	581-017-0435	2-5-2016	Adopt	3-1-2016
575-085-0060	12-18-2015	Amend	2-1-2016	581-017-0438	2-5-2016	Adopt	3-1-2016
575-085-0070	12-18-2015	Amend	2-1-2016	581-017-0441	2-5-2016	Adopt	3-1-2016
575-090-0020	12-18-2015	Amend	2-1-2016	581-017-0444	2-5-2016	Adopt	3-1-2016
575-090-0030	12-18-2015	Amend	2-1-2016	581-017-0447	2-5-2016	Adopt	3-1-2016
575-090-0040	12-18-2015	Amend	2-1-2016	581-017-0450	2-5-2016	Adopt	3-1-2016
575-090-0050	12-18-2015	Amend	2-1-2016	581-017-0453	2-5-2016	Adopt	3-1-2016

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581-017-0459	2-5-2016	Adopt	3-1-2016	581-020-0536	12-28-2015	Adopt(T)	2-1-2016
581-017-0462	2-5-2016	Adopt	3-1-2016	581-020-0537	3-22-2016	Adopt	5-1-2016
581-017-0465	12-28-2015	Adopt(T)	2-1-2016	581-020-0539	12-28-2015	Adopt(T)	2-1-2016
581-017-0466	3-22-2016	Adopt	5-1-2016	581-020-0540	3-22-2016	Adopt	5-1-2016
581-017-0469	12-28-2015	Adopt(T)	2-1-2016	581-020-0541	12-28-2015	Adopt(T)	2-1-2016
581-017-0470	3-22-2016	Adopt	5-1-2016	581-020-0542	3-22-2016	Adopt	5-1-2016
581-017-0473	12-28-2015	Adopt(T)	2-1-2016	581-020-0600	2-5-2016	Adopt	3-1-2016
581-017-0474	3-22-2016	Adopt	5-1-2016	581-020-0603	2-5-2016	Adopt	3-1-2016
581-017-0477	12-28-2015	Adopt(T)	2-1-2016	581-020-0606	2-5-2016	Adopt	3-1-2016
581-017-0478	3-22-2016	Adopt	5-1-2016	581-020-0609	2-5-2016	Adopt	3-1-2016
581-017-0481	12-28-2015	Adopt(T)	2-1-2016	581-020-0612	2-5-2016	Adopt	3-1-2016
581-017-0482	3-22-2016	Adopt	5-1-2016	581-020-0615	2-5-2016	Adopt	3-1-2016
581-017-0485	12-28-2015	Adopt(T)	2-1-2016	581-021-0017	6-15-2016	Adopt	7-1-2016
581-017-0486	3-22-2016	Adopt	5-1-2016	581-021-0037	3-22-2016	Amend	5-1-2016
581-017-0550	6-15-2016	Adopt	7-1-2016	581-021-0043	2-5-2016	Adopt	3-1-2016
581-017-0553	6-15-2016	Adopt	7-1-2016	581-021-0043	4-28-2016	Amend	6-1-2016
581-017-0556	6-15-2016	Adopt	7-1-2016	581-021-0047	3-22-2016	Amend	5-1-2016
581-017-0559	6-15-2016	Adopt	7-1-2016	581-021-0065	2-5-2016	Amend	3-1-2016
581-017-0562	6-15-2016	Adopt	7-1-2016	581-021-0070	2-5-2016	Amend	3-1-2016
581-017-0565	6-15-2016	Adopt	7-1-2016	581-021-0077	2-5-2016	Amend	3-1-2016
581-018-0010	5-17-2016	Amend	7-1-2016	581-021-0505	4-7-2016	Adopt	5-1-2016
581-018-0020	5-17-2016	Amend	7-1-2016	581-021-0580	4-28-2016	Adopt	6-1-2016
581-018-0110	2-5-2016	Amend	3-1-2016	581-021-0582	4-28-2016	Adopt	6-1-2016
581-018-0110	5-17-2016	Amend	7-1-2016	581-021-0584	4-28-2016	Adopt	6-1-2016
581-018-0120	2-5-2016	Amend	3-1-2016	581-022-0102	12-18-2015	Amend	2-1-2016
581-018-0125	5-17-2016	Amend	7-1-2016	581-022-0421	12-22-2015	Amend	2-1-2016
581-018-0130	12-18-2015	Amend	2-1-2016	581-022-0610	12-21-2015	Amend	2-1-2016
581-018-0145	12-18-2015	Amend	2-1-2016	581-022-0617	3-22-2016	Amend	5-1-2016
581-018-0148	12-18-2015	Amend	2-1-2016	581-022-1133	4-28-2016	Amend	6-1-2016
581-018-0215	5-17-2016	Amend	7-1-2016	581-022-1310	4-7-2016	Amend	5-1-2016
581-018-0265	5-17-2016	Amend	7-1-2016	581-022-1420	12-22-2015	Amend	2-1-2016
581-018-0325	5-17-2016	Amend	7-1-2016	581-022-1440	3-22-2016	Amend	5-1-2016
581-018-0336	5-17-2016	Amend	7-1-2016	581-022-1723	5-5-2016	Amend	6-1-2016
581-018-0509	5-17-2016	Amend	7-1-2016	581-022-1910	12-18-2015	Amend	2-1-2016
581-018-0529	5-17-2016	Amend	7-1-2016	581-022-2130	5-17-2016	Amend	7-1-2016
581-018-0575	5-17-2016	Amend	7-1-2016	581-023-0006	2-5-2016	Amend	3-1-2016
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581-018-0590	5-17-2016	Amend	7-1-2016	581-023-0102	2-5-2016	Amend	3-1-2016
581-019-0036	5-3-2016	Adopt	6-1-2016	581-023-0106	3-22-2016	Amend	5-1-2016
581-019-0037	5-3-2016	Adopt	6-1-2016	581-023-0250	2-5-2016	Adopt	3-1-2016
581-019-0038	5-3-2016	Adopt	6-1-2016	581-024-0275	12-22-2015	Amend	2-1-2016
581-019-0039	5-3-2016	Adopt	6-1-2016	581-026-0210	12-18-2015	Amend	2-1-2016
581-019-0040	5-3-2016	Adopt	6-1-2016	581-027-0005	4-28-2016	Adopt	6-1-2016
581-019-0041	5-3-2016	Adopt	6-1-2016	581-027-0010	4-28-2016	Adopt	6-1-2016
581-019-0042	5-3-2016	Adopt	6-1-2016	581-027-0015	4-28-2016	Adopt	6-1-2016
581-019-0043	5-3-2016	Adopt	6-1-2016	581-027-0020	4-28-2016	Adopt	6-1-2016
581-019-0044	5-3-2016	Adopt	6-1-2016	581-027-0025	4-28-2016	Adopt	6-1-2016
581-019-0045	5-3-2016	Adopt	6-1-2016	581-044-0250	12-18-2015	Amend	2-1-2016
581-019-0046	5-3-2016	Adopt	6-1-2016	583-001-0000	2-19-2016	Amend	4-1-2016
581-019-0047	5-3-2016	Adopt	6-1-2016	583-001-0000(T)	2-19-2016	Repeal	4-1-2016
581-019-0048	5-3-2016	Adopt	6-1-2016	583-001-0005	2-19-2016	Amend	4-1-2016
581-019-0049	5-3-2016	Adopt	6-1-2016	583-001-0005(T)	2-19-2016	Repeal	4-1-2016
581-020-0530	12-28-2015	Adopt(T)	2-1-2016	583-001-0015	2-19-2016	Amend	4-1-2016
581-020-0531	3-22-2016	Adopt	5-1-2016	583-001-0015(T)	2-19-2016	Repeal	4-1-2016
581-020-0533	12-28-2015	Adopt(T)	2-1-2016	583-030-0005	2-19-2016	Amend	4-1-2016

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583-030-0009	2-19-2016	Amend	4-1-2016	583-050-0028(T)	2-19-2016	Repeal	4-1-2016
583-030-0009(T)	2-19-2016	Repeal	4-1-2016	583-050-0036	2-19-2016	Amend	4-1-2016
583-030-0010	2-19-2016	Amend	4-1-2016	583-050-0036(T)	2-19-2016	Repeal	4-1-2016
583-030-0010(T)	2-19-2016	Repeal	4-1-2016	583-050-0040	2-19-2016	Amend	4-1-2016
583-030-0011	2-19-2016	Repeal	4-1-2016	583-050-0040(T)	2-19-2016	Repeal	4-1-2016
583-030-0015	2-19-2016	Amend	4-1-2016	584-010-0090	1-1-2016	Suspend	2-1-2016
583-030-0015(T)	2-19-2016	Repeal	4-1-2016	584-017-1100	2-10-2016	Adopt	3-1-2016
583-030-0016	2-19-2016	Amend	4-1-2016	584-018-0110	1-1-2016	Suspend	2-1-2016
583-030-0016(T)	2-19-2016	Repeal	4-1-2016	584-018-0110	4-15-2016	Repeal	5-1-2016
583-030-0020	2-19-2016	Amend	4-1-2016	584-040-0005	2-10-2016	Repeal	3-1-2016
583-030-0020(T)	2-19-2016	Repeal	4-1-2016	584-040-0008	2-10-2016	Repeal	3-1-2016
583-030-0025	2-19-2016	Amend	4-1-2016	584-040-0010	2-10-2016	Repeal	3-1-2016
583-030-0025(T)	2-19-2016	Repeal	4-1-2016	584-040-0030	2-10-2016	Repeal	3-1-2016
583-030-0030	2-19-2016	Amend	4-1-2016	584-040-0040	2-10-2016	Repeal	3-1-2016
583-030-0030(T)	2-19-2016	Repeal	4-1-2016	584-040-0050	2-10-2016	Repeal	3-1-2016
583-030-0032	2-19-2016	Amend	4-1-2016	584-040-0060	2-10-2016	Repeal	3-1-2016
583-030-0032(T)	2-19-2016	Repeal	4-1-2016	584-040-0080	2-10-2016	Repeal	3-1-2016
583-030-0035	2-19-2016	Amend	4-1-2016	584-040-0090	2-10-2016	Repeal	3-1-2016
583-030-0035(T)	2-19-2016	Repeal	4-1-2016	584-040-0100	2-10-2016	Repeal	3-1-2016
583-030-0036	2-19-2016	Amend	4-1-2016	584-040-0120	2-10-2016	Repeal	3-1-2016
583-030-0036(T)	2-19-2016	Repeal	4-1-2016	584-040-0130	2-10-2016	Repeal	3-1-2016
583-030-0041	2-19-2016	Amend	4-1-2016	584-040-0150	2-10-2016	Repeal	3-1-2016
583-030-0041(T)	2-19-2016	Repeal	4-1-2016	584-040-0160	2-10-2016	Repeal	3-1-2016
583-030-0042	2-19-2016	Amend	4-1-2016	584-040-0165	2-10-2016	Repeal	3-1-2016
583-030-0042(T)	2-19-2016	Repeal	4-1-2016	584-040-0170	2-10-2016	Repeal	3-1-2016
583-030-0043	2-19-2016	Amend	4-1-2016	584-040-0180	2-10-2016	Repeal	3-1-2016
583-030-0043(T)	2-19-2016	Repeal	4-1-2016	584-040-0200	2-10-2016	Repeal	3-1-2016
583-030-0045	2-19-2016	Amend	4-1-2016	584-040-0210	2-10-2016	Repeal	3-1-2016
583-030-0045(T)	2-19-2016	Repeal	4-1-2016	584-040-0230	2-10-2016	Repeal	3-1-2016
583-030-0046	2-19-2016	Amend	4-1-2016	584-040-0240	2-10-2016	Repeal	3-1-2016
583-030-0046(T)	2-19-2016	Repeal	4-1-2016	584-040-0241	2-10-2016	Repeal	3-1-2016
583-030-0049	2-19-2016	Amend	4-1-2016	584-040-0242	2-10-2016	Repeal	3-1-2016
583-030-0049(T)	2-19-2016	Repeal	4-1-2016	584-040-0243	2-10-2016	Repeal	3-1-2016
583-030-0051	2-19-2016	Adopt	4-1-2016	584-040-0250	2-10-2016	Repeal	3-1-2016
583-030-0051(T)	2-19-2016	Repeal	4-1-2016	584-040-0260	2-10-2016	Repeal	3-1-2016
583-030-0052	2-19-2016	Adopt	4-1-2016	584-040-0265	2-10-2016	Repeal	3-1-2016
583-030-0052(T)	2-19-2016	Repeal	4-1-2016	584-040-0270	2-10-2016	Repeal	3-1-2016
583-030-0053	2-19-2016	Adopt	4-1-2016	584-040-0280	2-10-2016	Repeal	3-1-2016
583-030-0053(T)	2-19-2016	Repeal	4-1-2016	584-040-0290	2-10-2016	Repeal	3-1-2016
583-030-0054	2-19-2016	Adopt	4-1-2016	584-040-0300	2-10-2016	Repeal	3-1-2016
583-030-0054(T)	2-19-2016	Repeal	4-1-2016	584-040-0310	2-10-2016	Repeal	3-1-2016
583-030-0056	2-19-2016	Adopt	4-1-2016	584-040-0315	2-10-2016	Repeal	3-1-2016
583-030-0056(T)	2-19-2016	Repeal	4-1-2016	584-040-0350	2-10-2016	Repeal	3-1-2016
583-050-0006	2-19-2016	Amend	4-1-2016	584-050-0150	2-10-2016	Adopt	3-1-2016
583-050-0006(T)	2-19-2016	Repeal	4-1-2016	584-052-0005	2-10-2016	Repeal	3-1-2016
583-050-0011	2-19-2016	Amend	4-1-2016	584-052-0010	2-10-2016	Repeal	3-1-2016
583-050-0011(T)	2-19-2016	Repeal	4-1-2016	584-052-0015	2-10-2016	Repeal	3-1-2016
583-050-0014	2-19-2016	Amend	4-1-2016	584-052-0021	2-10-2016	Repeal	3-1-2016
583-050-0014(T)	2-19-2016	Repeal	4-1-2016	584-052-0025	2-10-2016	Repeal	3-1-2016
583-050-0016	2-19-2016	Amend	4-1-2016	584-052-0027	2-10-2016	Repeal	3-1-2016
583-050-0016(T)	2-19-2016	Repeal	4-1-2016	584-065-0001	2-10-2016	Repeal	3-1-2016
583-050-0026	2-19-2016	Amend	4-1-2016	584-065-0060	2-10-2016	Repeal	3-1-2016
583-050-0026(T)	2-19-2016	Repeal	4-1-2016	584-065-0070	2-10-2016	Repeal	3-1-2016
583-050-0027	2-19-2016	Amend	4-1-2016	584-065-0080	2-10-2016	Repeal	3-1-2016
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584-065-0125	2-10-2016	Repeal	3-1-2016	584-210-0140	2-10-2016	Amend	3-1-2016
584-066-0001	2-10-2016	Repeal	3-1-2016	584-210-0150	2-10-2016	Amend	3-1-2016
584-066-0010	2-10-2016	Repeal	3-1-2016	584-210-0160	2-10-2016	Amend	3-1-2016
584-066-0015	2-10-2016	Repeal	3-1-2016	584-210-0165	2-10-2016	Adopt	3-1-2016
584-066-0020	2-10-2016	Repeal	3-1-2016	584-210-0190	2-10-2016	Amend	3-1-2016
584-066-0025	2-10-2016	Repeal	3-1-2016	584-220-0010	2-10-2016	Amend	3-1-2016
584-066-0030	2-10-2016	Repeal	3-1-2016	584-220-0015	2-10-2016	Amend	3-1-2016
584-070-0012	2-10-2016	Amend	3-1-2016	584-220-0020	2-10-2016	Amend	3-1-2016
584-070-0014	2-10-2016	Repeal	3-1-2016	584-220-0025	2-10-2016	Amend	3-1-2016
584-070-0510	2-10-2016	Adopt	3-1-2016	584-220-0030	2-10-2016	Amend	3-1-2016
584-100-0002	4-15-2016	Repeal	5-1-2016	584-220-0035	2-10-2016	Amend	3-1-2016
584-100-0006	4-15-2016	Repeal	5-1-2016	584-220-0040	2-10-2016	Amend	3-1-2016
584-100-0007	4-15-2016	Repeal	5-1-2016	584-220-0045	2-10-2016	Amend	3-1-2016
584-100-0008	4-15-2016	Repeal	5-1-2016	584-220-0050	2-10-2016	Amend	3-1-2016
584-100-0011	4-15-2016	Repeal	5-1-2016	584-220-0055	2-10-2016	Amend	3-1-2016
584-100-0016	4-15-2016	Repeal	5-1-2016	584-220-0060	2-10-2016	Amend	3-1-2016
584-100-0017	4-15-2016	Repeal	5-1-2016	584-220-0065	2-10-2016	Amend	3-1-2016
584-100-0021	4-15-2016	Repeal	5-1-2016	584-220-0070	2-10-2016	Amend	3-1-2016
584-100-0026	4-15-2016	Repeal	5-1-2016	584-220-0075	2-10-2016	Amend	3-1-2016
584-100-0031	4-15-2016	Repeal	5-1-2016	584-220-0080	2-10-2016	Amend	3-1-2016
584-100-0036	4-15-2016	Repeal	5-1-2016	584-220-0085	2-10-2016	Amend	3-1-2016
584-100-0038	4-15-2016	Repeal	5-1-2016	584-220-0090	2-10-2016	Amend	3-1-2016
584-100-0041	4-15-2016	Repeal	5-1-2016	584-220-0095	2-10-2016	Amend	3-1-2016
584-100-0051	4-15-2016	Repeal	5-1-2016	584-220-0100	2-10-2016	Amend	3-1-2016
584-100-0056	4-15-2016	Repeal	5-1-2016	584-220-0105	2-10-2016	Amend	3-1-2016
584-100-0061	4-15-2016	Repeal	5-1-2016	584-220-0110	2-10-2016	Amend	3-1-2016
584-100-0066	4-15-2016	Repeal	5-1-2016	584-220-0120	2-10-2016	Amend	3-1-2016
584-100-0071	4-15-2016	Repeal	5-1-2016	584-220-0130	2-10-2016	Amend	3-1-2016
584-100-0091	4-15-2016	Repeal	5-1-2016	584-220-0140	2-10-2016	Amend	3-1-2016
584-100-0096	4-15-2016	Repeal	5-1-2016	584-220-0145	2-10-2016	Amend	3-1-2016
584-100-0111	4-15-2016	Repeal	5-1-2016	584-220-0150	2-10-2016	Amend	3-1-2016
584-200-0004	1-1-2016	Adopt(T)	2-1-2016	584-220-0155	2-10-2016	Amend	3-1-2016
584-200-0005	2-10-2016	Adopt	3-1-2016	584-220-0160	2-10-2016	Amend	3-1-2016
584-200-0010	1-1-2016	Amend(T)	2-1-2016	584-220-0165	2-10-2016	Amend	3-1-2016
584-200-0010	2-10-2016	Adopt	3-1-2016	584-220-0170	2-10-2016	Amend	3-1-2016
584-200-0020	2-10-2016	Adopt	3-1-2016	584-220-0175	2-10-2016	Amend	3-1-2016
584-200-0030	2-10-2016	Adopt	3-1-2016	584-220-0180	2-10-2016	Amend	3-1-2016
584-200-0040	2-10-2016	Adopt	3-1-2016	584-220-0185	2-10-2016	Amend	3-1-2016
584-200-0050	1-1-2016	Amend(T)	2-1-2016	584-220-0190	2-10-2016	Amend	3-1-2016
584-200-0050	2-10-2016	Adopt	3-1-2016	584-220-0195	2-10-2016	Amend	3-1-2016
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584-200-0090	2-10-2016	Adopt	3-1-2016	584-220-0215	2-10-2016	Amend	3-1-2016
584-200-0100	2-10-2016	Adopt	3-1-2016	584-220-0220	2-10-2016	Amend	3-1-2016
584-210-0030	2-10-2016	Amend	3-1-2016	584-220-0225	2-10-2016	Amend	3-1-2016
584-210-0040	2-10-2016	Amend	3-1-2016	584-220-0230	2-10-2016	Amend	3-1-2016
584-210-0050	2-10-2016	Amend	3-1-2016	584-225-0010	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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584-420-0010	2-10-2016	Adopt	3-1-2016	603-048-1000	5-3-2016	Amend(T)	6-1-2016
584-420-0020	2-10-2016	Adopt	3-1-2016	603-052-0052	11-18-2015	Adopt(T)	1-1-2016
584-420-0030	2-10-2016	Adopt	3-1-2016	603-052-0347	2-12-2016	Amend	3-1-2016
584-420-0040	2-10-2016	Adopt	3-1-2016	603-052-0385	2-12-2016	Amend	3-1-2016
584-420-0300	2-10-2016	Adopt	3-1-2016	603-054-0014	4-29-2016	Adopt	6-1-2016
584-420-0310	2-10-2016	Adopt	3-1-2016	603-054-0016	4-29-2016	Amend	6-1-2016
584-420-0345	2-10-2016	Adopt	3-1-2016	603-054-0017	4-29-2016	Amend	6-1-2016
584-420-0360	2-10-2016	Adopt	3-1-2016	603-054-0018	4-29-2016	Amend	6-1-2016
584-420-0365	2-10-2016	Adopt	3-1-2016	603-055-0100	4-5-2016	Amend	5-1-2016
584-420-0375	2-10-2016	Adopt	3-1-2016	603-055-0200	4-5-2016	Adopt	5-1-2016
584-420-0390	2-10-2016	Adopt	3-1-2016	603-056-0095	4-15-2016	Amend	5-1-2016
584-420-0415	2-10-2016	Adopt	3-1-2016	603-057-0107	1-1-2016	Adopt(T)	1-1-2016
584-420-0420	2-10-2016	Adopt	3-1-2016	603-057-0155	1-1-2016	Adopt(T)	1-1-2016
584-420-0425	2-10-2016	Adopt	3-1-2016	603-057-0157	1-1-2016	Adopt(T)	1-1-2016
584-420-0440	2-10-2016	Adopt	3-1-2016	603-057-0502	2-26-2016	Amend	4-1-2016
584-420-0460	2-10-2016	Adopt	3-1-2016	603-057-0529	2-26-2016	Adopt	4-1-2016
584-420-0475	2-10-2016	Adopt	3-1-2016	603-057-0530	2-26-2016	Amend	4-1-2016
584-420-0490	2-10-2016	Adopt	3-1-2016	603-057-0531	2-26-2016	Adopt	4-1-2016
584-420-0600	2-10-2016	Adopt	3-1-2016	603-057-0532	2-26-2016	Amend	4-1-2016
584-420-0610	2-10-2016	Adopt	3-1-2016	611-030-0010	5-9-2016	Amend	6-1-2016
584-420-0620	2-10-2016	Adopt	3-1-2016	623-010-0010	9-1-2016	Amend	7-1-2016
584-420-0630	2-10-2016	Adopt	3-1-2016	629-025-0000	3-11-2016	Amend	4-1-2016
584-420-0640	2-10-2016	Adopt	3-1-2016	629-025-0005	3-11-2016	Amend	4-1-2016
584-420-0650	2-10-2016	Adopt	3-1-2016	629-025-0011	3-11-2016	Amend	4-1-2016
584-420-0660	2-10-2016	Adopt	3-1-2016	629-025-0020	3-11-2016	Amend	4-1-2016
589-002-0120	2-12-2016	Amend	3-1-2016	629-025-0021	3-11-2016	Adopt	4-1-2016
603-011-0212	4-5-2016	Amend	5-1-2016	629-025-0022	3-11-2016	Adopt	4-1-2016
603-012-0210	4-29-2016	Amend	6-1-2016	629-025-0030	3-11-2016	Amend	4-1-2016
603-012-0220	4-29-2016	Amend	6-1-2016	629-025-0040	3-11-2016	Amend	4-1-2016
603-012-0230	4-29-2016	Amend	6-1-2016	629-025-0050	3-11-2016	Amend	4-1-2016
603-012-0240	4-29-2016	Amend	6-1-2016	629-025-0060	3-11-2016	Amend	4-1-2016
603-012-0250	4-29-2016	Adopt	6-1-2016	629-025-0070	3-11-2016	Amend	4-1-2016
603-025-0150	2-9-2016	Amend	3-1-2016	629-025-0080	3-11-2016	Amend	4-1-2016
603-025-0151	2-9-2016	Adopt	3-1-2016	629-025-0090	3-11-2016	Adopt	4-1-2016
603-025-0152	2-9-2016	Adopt	3-1-2016	629-025-0098	3-11-2016	Adopt	4-1-2016
603-025-0190	12-2-2015	Amend	1-1-2016	629-025-0099	3-11-2016	Adopt	4-1-2016
603-025-0315	5-19-2016	Adopt	7-1-2016	629-170-0001	7-1-2016	Adopt	7-1-2016
603-025-0320	5-19-2016	Adopt	7-1-2016	629-170-0005	7-1-2016	Adopt	7-1-2016
603-025-0325	5-19-2016	Adopt	7-1-2016	629-170-0010	7-1-2016	Adopt	7-1-2016
603-025-0330	5-19-2016	Adopt	7-1-2016	629-170-0015	7-1-2016	Adopt	7-1-2016
603-048-0010	5-3-2016	Amend(T)	6-1-2016	629-170-0020	7-1-2016	Adopt	7-1-2016
603-048-0050	5-3-2016	Suspend	6-1-2016	629-170-0025	7-1-2016	Adopt	7-1-2016
603-048-0100	5-3-2016	Amend(T)	6-1-2016	629-170-0030	7-1-2016	Adopt	7-1-2016
603-048-0110	5-3-2016	Suspend	6-1-2016	629-170-0035	7-1-2016	Adopt	7-1-2016
603-048-0200	1-29-2016	Amend(T)	3-1-2016	629-170-0040	7-1-2016	Adopt	7-1-2016
603-048-0200	5-3-2016	Amend(T)	6-1-2016	632-030-0016	1-14-2016	Amend(T)	2-1-2016
603-048-0250	5-3-2016	Suspend	6-1-2016	632-030-0022	1-14-2016	Amend(T)	2-1-2016
603-048-0300	5-3-2016	Amend(T)	6-1-2016	635-001-0030	12-9-2015	Adopt	1-1-2016
603-048-0400	5-3-2016	Amend(T)	6-1-2016	635-001-0210	4-27-2016	Amend	6-1-2016
603-048-0500	5-3-2016	Amend(T)	6-1-2016	635-001-0341	1-6-2016	Adopt	2-1-2016
603-048-0600	1-29-2016	Amend(T)	3-1-2016	635-003-0003	4-25-2016	Amend	6-1-2016
603-048-0600	5-3-2016	Amend(T)	6-1-2016	635-003-0085	4-25-2016	Amend	6-1-2016
603-048-0650	5-3-2016	Adopt(T)	6-1-2016	635-004-0215	1-19-2016	Amend	3-1-2016
603-048-0700	5-3-2016	Amend(T)	6-1-2016	635-004-0275	11-25-2015	Amend(T)	1-1-2016

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635-004-0275(T)	11-25-2015	Suspend	1-1-2016	635-008-0120	4-27-2016	Amend	6-1-2016
635-004-0295	1-19-2016	Amend	3-1-2016	635-008-0123	11-25-2015	Amend	1-1-2016
635-004-0300	1-19-2016	Amend	3-1-2016	635-008-0123(T)	11-25-2015	Repeal	1-1-2016
635-004-0340	1-19-2016	Amend	3-1-2016	635-008-0147	4-27-2016	Amend	6-1-2016
635-004-0350	1-19-2016	Amend	3-1-2016	635-008-0155	4-27-2016	Amend	6-1-2016
635-004-0355	1-19-2016	Amend	3-1-2016	635-008-0190	4-27-2016	Amend	6-1-2016
635-004-0360	1-19-2016	Amend	3-1-2016	635-010-0015	11-25-2015	Amend	1-1-2016
635-004-0370	6-13-2016	Amend	7-1-2016	635-011-0100	1-1-2016	Amend	2-1-2016
635-004-0377	6-13-2016	Adopt	7-1-2016	635-011-0100	4-1-2016	Amend(T)	5-1-2016
635-004-0378	6-13-2016	Adopt	7-1-2016	635-012-0090	6-13-2016	Amend	7-1-2016
635-004-0379	6-13-2016	Adopt	7-1-2016	635-012-0100	6-13-2016	Amend	7-1-2016
635-004-0425	6-13-2016	Repeal	7-1-2016	635-013-0003	4-25-2016	Amend	6-1-2016
635-004-0430	6-13-2016	Amend	7-1-2016	635-013-0004	1-1-2016	Amend	2-1-2016
635-004-0435	6-13-2016	Repeal	7-1-2016	635-013-0007	4-25-2016	Amend	6-1-2016
635-004-0440	6-13-2016	Repeal	7-1-2016	635-014-0080	1-1-2016	Amend	2-1-2016
635-004-0555	6-13-2016	Amend	7-1-2016	635-014-0090	1-1-2016	Amend	2-1-2016
635-004-0585	4-26-2016	Amend	6-1-2016	635-014-0090	4-1-2016	Amend(T)	5-1-2016
635-005-0290	1-1-2016	Amend	1-1-2016	635-014-0090	5-1-2016	Amend(T)	6-1-2016
635-005-0305	1-1-2016	Amend	1-1-2016	635-014-0090(T)	5-1-2016	Suspend	6-1-2016
635-005-0310	1-1-2016	Amend	1-1-2016	635-016-0080	1-1-2016	Amend	2-1-2016
635-005-0350	1-1-2016	Amend	1-1-2016	635-016-0090	1-1-2016	Amend	2-1-2016
635-005-0355	1-1-2016	Amend	1-1-2016	635-016-0090	4-1-2016	Amend(T)	5-1-2016
635-005-0355	2-23-2016	Amend(T)	4-1-2016	635-016-0090	5-11-2016	Amend(T)	6-1-2016
635-005-0385	1-1-2016	Amend	1-1-2016	635-016-0090(T)	5-11-2016	Suspend	6-1-2016
635-005-0387	1-1-2016	Adopt	1-1-2016	635-017-0080	1-1-2016	Amend	2-1-2016
635-005-0465	11-20-2015	Amend(T)	1-1-2016	635-017-0090	1-1-2016	Amend	2-1-2016
635-005-0465	1-1-2016	Amend(T)	2-1-2016	635-017-0090	4-1-2016	Amend(T)	5-1-2016
635-005-0465(T)	1-1-2016	Suspend	2-1-2016	635-017-0090	4-8-2016	Amend(T)	5-1-2016
635-005-0790	4-1-2016	Amend	5-1-2016	635-017-0090	6-9-2016	Amend(T)	7-1-2016
635-005-0795	4-1-2016	Amend	5-1-2016	635-017-0090	6-16-2016	Amend(T)	7-1-2016
635-005-0800	4-1-2016	Amend	5-1-2016	635-017-0090(T)	4-8-2016	Suspend	5-1-2016
635-005-0805	4-1-2016	Amend	5-1-2016	635-017-0090(T)	6-9-2016	Suspend	7-1-2016
635-005-0810	4-1-2016	Amend	5-1-2016	635-017-0090(T)	6-16-2016	Suspend	7-1-2016
635-005-0815	4-1-2016	Amend	5-1-2016	635-017-0095	1-1-2016	Amend	2-1-2016
635-005-0820	4-1-2016	Amend	5-1-2016	635-018-0080	1-1-2016	Amend	2-1-2016
635-005-0825	4-1-2016	Amend	5-1-2016	635-018-0090	1-1-2016	Amend	2-1-2016
635-005-0830	4-1-2016	Amend	5-1-2016	635-018-0090	4-15-2016	Amend(T)	5-1-2016
635-005-0835	4-1-2016	Amend	5-1-2016	635-019-0080	1-1-2016	Amend	2-1-2016
635-005-0840	4-1-2016	Amend	5-1-2016	635-019-0090	1-1-2016	Amend	2-1-2016
635-005-0845	4-1-2016	Amend	5-1-2016	635-019-0090	5-10-2016	Amend(T)	6-1-2016
635-005-0920	6-3-2016	Amend(T)	7-1-2016	635-019-0090	5-28-2016	Amend(T)	7-1-2016
635-005-0931	6-13-2016	Adopt	7-1-2016	635-019-0090	6-15-2016	Amend(T)	7-1-2016
635-005-0932	6-13-2016	Adopt	7-1-2016	635-019-0090(T)	5-28-2016	Suspend	7-1-2016
635-005-0933	6-13-2016	Adopt	7-1-2016	635-019-0090(T)	6-15-2016	Suspend	7-1-2016
635-006-0136	6-13-2016	Adopt	7-1-2016	635-021-0080	1-1-2016	Amend	2-1-2016
635-006-0210	2-1-2016	Amend(T)	3-1-2016	635-021-0090	1-1-2016	Amend	2-1-2016
635-006-0212	5-18-2016	Amend(T)	7-1-2016	635-021-0090	4-1-2016	Amend(T)	5-1-2016
635-006-0215	5-18-2016	Amend(T)	7-1-2016	635-021-0090	5-1-2016	Amend(T)	6-1-2016
635-006-0225	5-18-2016	Amend(T)	7-1-2016	635-021-0090	6-8-2016	Amend(T)	7-1-2016
635-006-0232	1-19-2016	Amend	3-1-2016	635-021-0090(T)	5-1-2016	Suspend	6-1-2016
635-007-0605	2-23-2016	Amend(T)	4-1-2016	635-021-0090(T)	6-8-2016	Suspend	7-1-2016
635-008-0053	4-27-2016	Amend	6-1-2016	635-023-0080	1-1-2016	Amend	2-1-2016
635-008-0068	4-27-2016	Amend	6-1-2016	635-023-0090	1-1-2016	Amend	2-1-2016
635-008-0080	4-27-2016	Amend	6-1-2016	635-023-0095	1-1-2016	Amend	2-1-2016
635-008-0095	4-27-2016	Amend	6-1-2016	635-023-0095	2-8-2016	Amend(T)	3-1-2016

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635-023-0095	5-1-2016	Amend(T)	6-1-2016	635-042-0022	3-28-2016	Amend(T)	5-1-2016
635-023-0095	5-29-2016	Amend(T)	7-1-2016	635-042-0022	4-5-2016	Amend(T)	5-1-2016
635-023-0095(T)	4-30-2016	Suspend	6-1-2016	635-042-0022	5-11-2016	Amend(T)	6-1-2016
635-023-0095(T)	5-1-2016	Suspend	6-1-2016	635-042-0022	5-23-2016	Amend(T)	7-1-2016
635-023-0095(T)	5-29-2016	Suspend	7-1-2016	635-042-0022	5-31-2016	Amend(T)	7-1-2016
635-023-0125	1-1-2016	Amend	2-1-2016	635-042-0022	6-7-2016	Amend(T)	7-1-2016
635-023-0125	3-1-2016	Amend(T)	3-1-2016	635-042-0022(T)	4-5-2016	Suspend	5-1-2016
635-023-0125	4-8-2016	Amend(T)	5-1-2016	635-042-0022(T)	5-11-2016	Suspend	6-1-2016
635-023-0125	5-6-2016	Amend(T)	6-1-2016	635-042-0022(T)	5-23-2016	Suspend	7-1-2016
635-023-0125	5-13-2016	Amend(T)	6-1-2016	635-042-0022(T)	5-31-2016	Suspend	7-1-2016
635-023-0125	5-20-2016	Amend(T)	7-1-2016	635-042-0022(T)	6-7-2016	Suspend	7-1-2016
635-023-0125	5-28-2016	Amend(T)	7-1-2016	635-042-0027	6-16-2016	Amend(T)	7-1-2016
635-023-0125	6-10-2016	Amend(T)	7-1-2016	635-042-0130	2-1-2016	Amend(T)	3-1-2016
635-023-0125	6-10-2016	Suspend	7-1-2016	635-042-0145	2-8-2016	Amend(T)	3-1-2016
635-023-0125(T)	4-8-2016	Suspend	5-1-2016	635-042-0145	3-28-2016	Amend(T)	5-1-2016
635-023-0125(T)	5-6-2016	Suspend	6-1-2016	635-042-0145	4-6-2016	Amend(T)	5-1-2016
635-023-0125(T)	5-13-2016	Suspend	6-1-2016	635-042-0145	4-13-2016	Amend(T)	5-1-2016
635-023-0125(T)	5-20-2016	Suspend	7-1-2016	635-042-0145	4-21-2016	Amend(T)	6-1-2016
635-023-0125(T)	5-28-2016	Suspend	7-1-2016	635-042-0145	5-11-2016	Amend(T)	6-1-2016
635-023-0128	1-1-2016	Amend	2-1-2016	635-042-0145	5-23-2016	Amend(T)	7-1-2016
635-023-0128	6-16-2016	Amend(T)	7-1-2016	635-042-0145	5-31-2016	Amend(T)	7-1-2016
635-023-0130	1-1-2016	Amend	2-1-2016	635-042-0145	6-7-2016	Amend(T)	7-1-2016
635-023-0134	1-1-2016	Amend	2-1-2016	635-042-0145(T)	3-28-2016	Suspend	5-1-2016
635-023-0134	4-23-2016	Amend(T)	5-1-2016	635-042-0145(T)	4-6-2016	Suspend	5-1-2016
635-023-0134	6-2-2016	Amend(T)	7-1-2016	635-042-0145(T)	4-13-2016	Suspend	5-1-2016
635-023-0134(T)	6-2-2016	Suspend	7-1-2016	635-042-0145(T)	4-21-2016	Suspend	6-1-2016
635-023-0140	1-1-2016	Amend	2-1-2016	635-042-0145(T)	5-11-2016	Suspend	6-1-2016
635-039-0080	1-1-2016	Amend	2-1-2016	635-042-0145(T)	5-23-2016	Suspend	7-1-2016
635-039-0080	1-19-2016	Amend	3-1-2016	635-042-0145(T)	5-31-2016	Suspend	7-1-2016
635-039-0085	4-26-2016	Amend	6-1-2016	635-042-0145(T)	6-7-2016	Suspend	7-1-2016
635-039-0085	6-2-2016	Amend(T)	7-1-2016	635-042-0160	2-8-2016	Amend(T)	3-1-2016
635-039-0085	6-8-2016	Amend(T)	7-1-2016	635-042-0160	3-28-2016	Amend(T)	5-1-2016
635-039-0085(T)	6-8-2016	Suspend	7-1-2016	635-042-0160	4-21-2016	Amend(T)	6-1-2016
635-039-0090	1-1-2016	Amend	2-1-2016	635-042-0160	6-16-2016	Amend(T)	7-1-2016
635-039-0090	1-19-2016	Amend	3-1-2016	635-042-0160(T)	3-28-2016	Suspend	5-1-2016
635-039-0090	4-1-2016	Amend(T)	5-1-2016	635-042-0160(T)	4-21-2016	Suspend	6-1-2016
635-039-0090	4-26-2016	Amend	6-1-2016	635-042-0160(T)	6-16-2016	Suspend	7-1-2016
635-039-0090	4-26-2016	Amend(T)	6-1-2016	635-042-0170	2-8-2016	Amend(T)	3-1-2016
635-039-0090(T)	4-26-2016	Repeal	6-1-2016	635-042-0170	4-21-2016	Amend(T)	6-1-2016
635-041-0045	6-16-2016	Amend(T)	7-1-2016	635-042-0170	6-16-2016	Amend(T)	7-1-2016
635-041-0065	2-1-2016	Amend(T)	3-1-2016	635-042-0170(T)	4-21-2016	Suspend	6-1-2016
635-041-0065	2-12-2016	Amend(T)	3-1-2016	635-042-0170(T)	6-16-2016	Suspend	7-1-2016
635-041-0065	2-19-2016	Amend(T)	4-1-2016	635-042-0180	2-8-2016	Amend(T)	3-1-2016
635-041-0065	2-26-2016	Amend(T)	4-1-2016	635-042-0180	3-28-2016	Amend(T)	5-1-2016
635-041-0065	3-5-2016	Amend(T)	4-1-2016	635-042-0180	4-21-2016	Amend(T)	6-1-2016
635-041-0065	5-16-2016	Amend(T)	6-1-2016	635-042-0180(T)	3-28-2016	Suspend	5-1-2016
635-041-0065	5-25-2016	Amend(T)	7-1-2016	635-042-0180(T)	4-21-2016	Suspend	6-1-2016
635-041-0065	6-6-2016	Amend(T)	7-1-2016	635-044-0200	12-9-2015	Repeal	1-1-2016
635-041-0065(T)	2-12-2016	Suspend	3-1-2016	635-044-0205	12-9-2015	Repeal	1-1-2016
635-041-0065(T)	2-19-2016	Suspend	4-1-2016	635-044-0210	12-9-2015	Repeal	1-1-2016
635-041-0065(T)	2-26-2016	Suspend	4-1-2016	635-044-0215	12-9-2015	Repeal	1-1-2016
635-041-0065(T)	3-5-2016	Suspend	4-1-2016	635-044-0240	12-9-2015	Repeal	1-1-2016
635-041-0065(T)	5-25-2016	Suspend	7-1-2016	635-044-0245	12-9-2015	Repeal	1-1-2016
635-041-0065(T)	6-6-2016	Suspend	7-1-2016	635-044-0250	12-9-2015	Repeal	1-1-2016
635-041-0076	6-16-2016	Amend(T)	7-1-2016	635-044-0255	12-9-2015	Repeal	1-1-2016

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635-044-0300	12-9-2015	Repeal	1-1-2016	635-067-0027	12-1-2015	Amend(T)	1-1-2016
635-044-0305	12-9-2015	Repeal	1-1-2016	635-067-0030	3-21-2016	Amend	5-1-2016
635-044-0310	12-9-2015	Repeal	1-1-2016	635-067-0036	3-21-2016	Adopt	5-1-2016
635-045-0000	11-25-2015	Amend	1-1-2016	635-068-0000	3-21-2016	Amend	5-1-2016
635-045-0000	4-27-2016	Amend	6-1-2016	635-069-0000	3-21-2016	Amend	5-1-2016
635-045-0002	11-25-2015	Amend	1-1-2016	635-070-0000	4-6-2016	Amend	5-1-2016
635-047-0010	4-27-2016	Amend	6-1-2016	635-071-0000	4-6-2016	Amend	5-1-2016
635-050-0047	6-14-2016	Amend	7-1-2016	635-072-0000	3-21-2016	Amend	5-1-2016
635-050-0070	6-14-2016	Amend	7-1-2016	635-073-0000	3-21-2016	Amend	5-1-2016
635-050-0080	6-14-2016	Amend	7-1-2016	635-073-0000	5-10-2016	Amend(T)	6-1-2016
635-050-0090	6-14-2016	Amend	7-1-2016	635-073-0100	3-21-2016	Adopt	5-1-2016
635-050-0100	6-14-2016	Amend	7-1-2016	635-075-0020	3-21-2016	Amend	5-1-2016
635-050-0110	6-14-2016	Amend	7-1-2016	635-075-0025	3-21-2016	Amend	5-1-2016
635-050-0120	6-14-2016	Amend	7-1-2016	635-075-0026	3-21-2016	Amend	5-1-2016
635-050-0130	6-14-2016	Amend	7-1-2016	635-200-0020	6-13-2016	Amend	7-1-2016
635-050-0140	6-14-2016	Amend	7-1-2016	635-200-0120	6-13-2016	Amend	7-1-2016
635-050-0150	6-14-2016	Amend	7-1-2016	635-415-0025	3-25-2016	Amend	5-1-2016
635-050-0170	6-14-2016	Amend	7-1-2016	635-435-0000	12-9-2015	Amend	1-1-2016
635-050-0183	6-14-2016	Amend	7-1-2016	635-435-0005	12-9-2015	Amend	1-1-2016
635-050-0189	6-14-2016	Amend	7-1-2016	635-435-0010	12-9-2015	Amend	1-1-2016
635-051-0000	4-27-2016	Amend	6-1-2016	635-435-0010	12-9-2015	Amend(T)	1-1-2016
635-052-0000	4-27-2016	Amend	6-1-2016	635-435-0010	6-14-2016	Amend	7-1-2016
635-053-0000	4-27-2016	Amend	6-1-2016	635-435-0015	12-9-2015	Amend	1-1-2016
635-054-0000	4-27-2016	Amend	6-1-2016	635-435-0020	12-9-2015	Amend	1-1-2016
635-060-0000	11-25-2015	Amend	1-1-2016	635-435-0025	12-9-2015	Amend	1-1-2016
635-060-0000	4-27-2016	Amend	6-1-2016	635-435-0030	12-9-2015	Repeal	1-1-2016
635-060-0005	11-25-2015	Amend	1-1-2016	635-435-0035	12-9-2015	Repeal	1-1-2016
635-060-0018	11-25-2015	Amend	1-1-2016	635-435-0040	12-9-2015	Amend	1-1-2016
635-062-0000	12-9-2015	Adopt	1-1-2016	635-435-0045	12-9-2015	Amend	1-1-2016
635-062-0005	12-9-2015	Adopt	1-1-2016	635-435-0050	12-9-2015	Amend	1-1-2016
635-062-0010	12-9-2015	Adopt	1-1-2016	635-435-0055	12-9-2015	Amend	1-1-2016
635-062-0015	12-9-2015	Adopt	1-1-2016	635-435-0060	12-9-2015	Amend	1-1-2016
635-062-0020	12-9-2015	Adopt	1-1-2016	647-010-0010	7-1-2016	Amend	6-1-2016
635-062-0025	12-9-2015	Adopt	1-1-2016	657-010-0015	7-1-2016	Amend	7-1-2016
635-062-0030	12-9-2015	Adopt	1-1-2016	660-004-0018	2-10-2016	Amend	3-1-2016
635-062-0035	12-9-2015	Adopt	1-1-2016	660-006-0005	2-10-2016	Amend	3-1-2016
635-062-0040	12-9-2015	Adopt	1-1-2016	660-006-0010	2-10-2016	Amend	3-1-2016
635-062-0045	12-9-2015	Adopt	1-1-2016	660-006-0025	2-10-2016	Amend	3-1-2016
635-062-0050	12-9-2015	Adopt	1-1-2016	660-006-0026	2-10-2016	Amend	3-1-2016
635-062-0055	12-9-2015	Adopt	1-1-2016	660-006-0027	2-10-2016	Amend	3-1-2016
635-062-0060	12-9-2015	Adopt	1-1-2016	660-015-0000	1-1-2016	Amend	2-1-2016
635-065-0001	3-21-2016	Amend	5-1-2016	660-023-0115	2-10-2016	Amend	3-1-2016
635-065-0001	3-25-2016	Amend(T)	5-1-2016	660-024-0000	1-1-2016	Amend	2-1-2016
635-065-0011	3-21-2016	Amend	5-1-2016	660-024-0050	1-1-2016	Amend	2-1-2016
635-065-0015	3-21-2016	Amend	5-1-2016	660-024-0060	1-1-2016	Amend	2-1-2016
635-065-0090	3-21-2016	Amend	5-1-2016	660-024-0065	1-1-2016	Adopt	2-1-2016
635-065-0401	3-21-2016	Amend	5-1-2016	660-024-0067	1-1-2016	Adopt	2-1-2016
635-065-0625	3-21-2016	Amend	5-1-2016	660-024-0070	1-1-2016	Amend	2-1-2016
635-065-0720	3-21-2016	Amend	5-1-2016	660-025-0020	2-10-2016	Amend	3-1-2016
635-065-0735	3-21-2016	Amend	5-1-2016	660-025-0035	2-10-2016	Amend	3-1-2016
635-065-0740	3-21-2016	Amend	5-1-2016	660-025-0040	2-10-2016	Amend	3-1-2016
635-065-0760	3-21-2016	Amend	5-1-2016	660-025-0060	2-10-2016	Amend	3-1-2016
635-065-0765	2-25-2016	Amend(T)	4-1-2016	660-025-0085	2-10-2016	Amend	3-1-2016
635-065-0765	3-21-2016	Amend	5-1-2016	660-025-0090	2-10-2016	Amend	3-1-2016
635-066-0000	3-21-2016	Amend	5-1-2016	660-025-0130	2-10-2016	Amend	3-1-2016

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660-025-0150	2-10-2016	Amend	3-1-2016	690-051-0270	1-1-2016	Repeal	2-1-2016
660-025-0160	2-10-2016	Amend	3-1-2016	690-051-0280	1-1-2016	Amend	2-1-2016
660-025-0175	2-10-2016	Amend	3-1-2016	690-051-0290	1-1-2016	Amend	2-1-2016
660-027-0070	2-10-2016	Amend	3-1-2016	690-051-0310	1-1-2016	Repeal	2-1-2016
660-033-0020	3-24-2016	Amend	5-1-2016	690-051-0320	1-1-2016	Amend	2-1-2016
660-033-0030	2-10-2016	Amend	3-1-2016	690-051-0330	1-1-2016	Repeal	2-1-2016
660-033-0030	3-24-2016	Amend	5-1-2016	690-051-0340	1-1-2016	Repeal	2-1-2016
660-033-0045	2-10-2016	Amend	3-1-2016	690-051-0350	1-1-2016	Amend	2-1-2016
660-033-0100	3-24-2016	Amend	5-1-2016	690-051-0360	1-1-2016	Repeal	2-1-2016
660-033-0120	2-10-2016	Amend	3-1-2016	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
660-038-0000	1-1-2016	Adopt	2-1-2016	690-079-0010	4-19-2016	Amend	6-1-2016
660-038-0010	1-1-2016	Adopt	2-1-2016	690-079-0160	12-2-2015	Adopt(T)	1-1-2016
660-038-0020	1-1-2016	Adopt	2-1-2016	690-079-0160	4-19-2016	Amend	6-1-2016
660-038-0030	1-1-2016	Adopt	2-1-2016	690-079-0170	4-19-2016	Adopt	6-1-2016
660-038-0040	1-1-2016	Adopt	2-1-2016	690-509-0000	3-1-2016	Amend	4-1-2016
660-038-0050	1-1-2016	Adopt	2-1-2016	690-509-0100	3-1-2016	Amend	4-1-2016
660-038-0060	1-1-2016	Adopt	2-1-2016	690-512-0010	4-15-2016	Adopt	5-1-2016
660-038-0070	1-1-2016	Adopt	2-1-2016	690-512-0020	4-15-2016	Adopt	5-1-2016
660-038-0080	1-1-2016	Adopt	2-1-2016	690-512-0040	4-15-2016	Repeal	5-1-2016
660-038-0090	1-1-2016	Adopt	2-1-2016	690-512-0090	4-15-2016	Adopt	5-1-2016
660-038-0100	1-1-2016	Adopt	2-1-2016	715-013-0005	12-14-2015	Amend(T)	1-1-2016
660-038-0110	1-1-2016	Adopt	2-1-2016	715-013-0005	2-19-2016	Amend	4-1-2016
660-038-0120	1-1-2016	Adopt	2-1-2016	715-013-0005(T)	2-19-2016	Repeal	4-1-2016
660-038-0130	1-1-2016	Adopt	2-1-2016	715-015-0005	6-14-2016	Adopt	7-1-2016
660-038-0140	1-1-2016	Adopt	2-1-2016	715-045-0001	3-9-2016	Amend	4-1-2016
660-038-0150	1-1-2016	Adopt	2-1-2016	715-045-0007	3-9-2016	Amend	4-1-2016
660-038-0160	1-1-2016	Adopt	2-1-2016	715-045-0012	3-9-2016	Amend	4-1-2016
660-038-0170	1-1-2016	Adopt	2-1-2016	731-007-0500	4-29-2016	Adopt	6-1-2016
660-038-0180	1-1-2016	Adopt	2-1-2016	731-007-0510	4-29-2016	Adopt	6-1-2016
660-038-0190	1-1-2016	Adopt	2-1-2016	731-007-0520	4-29-2016	Adopt	6-1-2016
660-038-0200	1-1-2016	Adopt	2-1-2016	731-007-0530	4-29-2016	Adopt	6-1-2016
668-010-0010	3-9-2016	Amend	4-1-2016	731-007-0540	4-29-2016	Adopt	6-1-2016
690-051-0000	1-1-2016	Amend	2-1-2016	731-007-0550	4-29-2016	Adopt	6-1-2016
690-051-0010	1-1-2016	Amend	2-1-2016	731-007-0560	4-29-2016	Adopt	6-1-2016
690-051-0020	1-1-2016	Amend	2-1-2016	731-007-0570	4-29-2016	Adopt	6-1-2016
690-051-0030	1-1-2016	Amend	2-1-2016	731-035-0010	12-17-2015	Amend	2-1-2016
690-051-0050	1-1-2016	Amend	2-1-2016	731-035-0020	12-17-2015	Amend	2-1-2016
690-051-0060	1-1-2016	Amend	2-1-2016	731-035-0030	12-17-2015	Amend	2-1-2016
690-051-0090	1-1-2016	Amend	2-1-2016	731-035-0040	12-17-2015	Amend	2-1-2016
690-051-0095	1-1-2016	Amend	2-1-2016	731-035-0050	12-17-2015	Amend	2-1-2016
690-051-0130	1-1-2016	Amend	2-1-2016	731-035-0060	12-17-2015	Amend	2-1-2016
690-051-0140	1-1-2016	Amend	2-1-2016	731-035-0070	12-17-2015	Amend	2-1-2016
690-051-0150	1-1-2016	Amend	2-1-2016	731-035-0080	12-17-2015	Amend	2-1-2016
690-051-0160	1-1-2016	Amend	2-1-2016	731-070-0010	3-22-2016	Amend	5-1-2016
690-051-0170	1-1-2016	Amend	2-1-2016	731-070-0020	3-22-2016	Amend	5-1-2016
690-051-0180	1-1-2016	Amend	2-1-2016	731-070-0030	3-22-2016	Repeal	5-1-2016
690-051-0190	1-1-2016	Amend	2-1-2016	731-070-0050	3-22-2016	Amend	5-1-2016
690-051-0200	1-1-2016	Amend	2-1-2016	731-070-0055	3-22-2016	Amend	5-1-2016
690-051-0210	1-1-2016	Amend	2-1-2016	731-070-0060	3-22-2016	Amend	5-1-2016
690-051-0220	1-1-2016	Amend	2-1-2016	731-070-0080	3-22-2016	Amend	5-1-2016
690-051-0230	1-1-2016	Amend	2-1-2016	731-070-0110	3-22-2016	Amend	5-1-2016
690-051-0240	1-1-2016	Amend	2-1-2016	731-070-0130	3-22-2016	Amend	5-1-2016

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731-070-0195	3-22-2016	Repeal	5-1-2016	738-080-0020	12-15-2015	Amend	1-1-2016
731-070-0240	3-22-2016	Am. & Ren.	5-1-2016	738-080-0030	12-15-2015	Amend	1-1-2016
731-070-0245	3-22-2016	Am. & Ren.	5-1-2016	738-080-0040	12-15-2015	Repeal	1-1-2016
731-070-0250	3-22-2016	Am. & Ren.	5-1-2016	738-080-0045	12-15-2015	Adopt	1-1-2016
731-070-0260	3-22-2016	Am. & Ren.	5-1-2016	738-124-0010	5-11-2016	Adopt(T)	6-1-2016
731-070-0350	3-22-2016	Amend	5-1-2016	738-124-0015	5-11-2016	Adopt(T)	6-1-2016
731-070-0360	3-22-2016	Repeal	5-1-2016	738-124-0020	5-11-2016	Adopt(T)	6-1-2016
734-010-0200	4-29-2016	Repeal	6-1-2016	738-124-0025	5-11-2016	Adopt(T)	6-1-2016
734-010-0210	4-29-2016	Repeal	6-1-2016	738-124-0030	5-11-2016	Adopt(T)	6-1-2016
734-010-0220	4-29-2016	Repeal	6-1-2016	738-124-0035	5-11-2016	Adopt(T)	6-1-2016
734-010-0230	4-29-2016	Repeal	6-1-2016	738-124-0040	5-11-2016	Adopt(T)	6-1-2016
734-010-0240	4-29-2016	Repeal	6-1-2016	738-124-0045	5-11-2016	Adopt(T)	6-1-2016
734-010-0250	4-29-2016	Repeal	6-1-2016	738-125-0010	5-26-2016	Amend	7-1-2016
734-010-0260	4-29-2016	Repeal	6-1-2016	738-125-0015	5-26-2016	Amend	7-1-2016
734-010-0270	4-29-2016	Repeal	6-1-2016	738-125-0020	5-26-2016	Amend	7-1-2016
734-010-0280	4-29-2016	Repeal	6-1-2016	738-125-0025	5-26-2016	Amend	7-1-2016
734-020-0018	11-20-2015	Amend	1-1-2016	738-125-0030	5-26-2016	Amend	7-1-2016
734-020-0019	11-20-2015	Amend	1-1-2016	738-125-0035	5-26-2016	Amend	7-1-2016
734-074-0027	12-17-2015	Amend	2-1-2016	738-125-0040	5-26-2016	Amend	7-1-2016
734-082-0005	12-17-2015	Amend	2-1-2016	738-125-0045	5-26-2016	Amend	7-1-2016
734-082-0040	12-17-2015	Amend	2-1-2016	738-125-0050	5-26-2016	Amend	7-1-2016
734-082-0045	12-17-2015	Amend	2-1-2016	738-125-0055	5-26-2016	Amend	7-1-2016
734-082-0070	12-17-2015	Amend	2-1-2016	738-140-0005	12-15-2015	Adopt	1-1-2016
735-032-0070	1-1-2016	Adopt	1-1-2016	738-140-0010	12-15-2015	Adopt	1-1-2016
735-061-0210	4-29-2016	Amend	6-1-2016	738-140-0015	12-15-2015	Adopt	1-1-2016
735-062-0005	1-1-2016	Amend	2-1-2016	738-140-0020	12-15-2015	Adopt	1-1-2016
735-062-0007	4-29-2016	Amend	6-1-2016	738-140-0025	12-15-2015	Adopt	1-1-2016
735-062-0035	1-1-2016	Amend	2-1-2016	738-140-0030	12-15-2015	Adopt	1-1-2016
735-062-0110	1-1-2016	Amend	2-1-2016	738-140-0035	12-15-2015	Adopt	1-1-2016
735-062-0120	1-1-2016	Amend	2-1-2016	738-140-0040	12-15-2015	Adopt	1-1-2016
735-064-0070	1-1-2016	Amend	2-1-2016	741-520-0010	11-17-2015	Repeal	1-1-2016
735-070-0080	1-1-2016	Amend	2-1-2016	800-020-0025	4-1-2016	Amend	5-1-2016
735-070-0082	1-1-2016	Amend	2-1-2016	801-001-0035	1-1-2016	Amend(T)	2-1-2016
735-118-0000	1-1-2016	Amend	2-1-2016	804-025-0000	5-25-2016	Amend	7-1-2016
735-118-0050	1-1-2016	Amend	2-1-2016	804-025-0010	5-25-2016	Amend	7-1-2016
735-150-0010	1-1-2016	Amend	2-1-2016	804-025-0015	5-25-2016	Amend	7-1-2016
735-150-0015	1-1-2016	Amend	2-1-2016	804-025-0020	5-25-2016	Amend	7-1-2016
735-150-0017	1-1-2016	Amend	2-1-2016	804-025-0030	5-25-2016	Amend	7-1-2016
735-150-0020	1-1-2016	Amend	2-1-2016	804-025-0035	5-25-2016	Amend	7-1-2016
735-150-0037	1-1-2016	Amend	2-1-2016	806-010-0010	12-14-2015	Amend	1-1-2016
735-150-0047	1-1-2016	Amend	2-1-2016	806-010-0020	12-14-2015	Amend	1-1-2016
735-150-0055	1-1-2016	Amend	1-1-2016	806-010-0035	12-14-2015	Amend	1-1-2016
735-150-0110	1-1-2016	Amend	2-1-2016	808-001-0005	5-23-2016	Amend	7-1-2016
735-150-0110	1-1-2016	Amend	2-1-2016	808-002-0020	1-1-2016	Amend	2-1-2016
735-150-0140	1-1-2016	Amend	1-1-2016	808-002-0200	1-1-2016	Amend	2-1-2016
736-009-0025	5-2-2016	Amend	6-1-2016	808-002-0200	5-23-2016	Amend	7-1-2016
736-009-0030	5-2-2016	Amend	6-1-2016	808-002-0250	1-1-2016	Repeal	2-1-2016
736-015-0035	3-16-2016	Amend	5-1-2016	808-002-0300	1-1-2016	Amend	2-1-2016
738-001-0035	12-15-2015	Amend	1-1-2016	808-002-0320	1-1-2016	Amend	2-1-2016
738-010-0025	12-15-2015	Amend	1-1-2016	808-002-0338	1-1-2016	Amend	2-1-2016
738-010-0035	12-15-2015	Amend	1-1-2016	808-002-0455	1-1-2016	Amend	2-1-2016
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808-002-0500	1-1-2016	Amend	2-1-2016	808-004-0160	5-23-2016	Amend	7-1-2016
808-002-0620	5-23-2016	Amend	7-1-2016	808-004-0180	1-1-2016	Amend	2-1-2016
808-002-0730	1-1-2016	Amend	2-1-2016	808-004-0180	5-23-2016	Repeal	7-1-2016
808-002-0780	1-1-2016	Amend	2-1-2016	808-004-0211	1-1-2016	Amend	2-1-2016
808-002-0810	1-1-2016	Repeal	2-1-2016	808-004-0211	5-23-2016	Amend	7-1-2016
808-002-0884	1-1-2016	Repeal	2-1-2016	808-004-0240	5-23-2016	Repeal	7-1-2016
808-002-0920	1-1-2016	Amend	2-1-2016	808-004-0250	5-23-2016	Amend	7-1-2016
808-003-0015	1-1-2016	Amend	2-1-2016	808-004-0260	5-23-2016	Amend	7-1-2016
808-003-0018	1-1-2016	Amend	2-1-2016	808-004-0310	5-23-2016	Amend	7-1-2016
808-003-0025	5-23-2016	Amend	7-1-2016	808-004-0320	1-1-2016	Amend	2-1-2016
808-003-0030	5-23-2016	Amend	7-1-2016	808-004-0320	5-23-2016	Amend	7-1-2016
808-003-0040	1-1-2016	Amend	2-1-2016	808-004-0350	5-23-2016	Amend	7-1-2016
808-003-0045	5-23-2016	Amend	7-1-2016	808-004-0400	5-23-2016	Amend	7-1-2016
808-003-0055	5-23-2016	Repeal	7-1-2016	808-004-0440	5-23-2016	Amend	7-1-2016
808-003-0060	1-1-2016	Amend	2-1-2016	808-004-0450	5-23-2016	Amend	7-1-2016
808-003-0060	5-23-2016	Repeal	7-1-2016	808-004-0460	5-23-2016	Repeal	7-1-2016
808-003-0065	5-23-2016	Repeal	7-1-2016	808-004-0470	5-23-2016	Repeal	7-1-2016
808-003-0075	5-23-2016	Repeal	7-1-2016	808-004-0480	5-23-2016	Amend	7-1-2016
808-003-0080	5-23-2016	Repeal	7-1-2016	808-004-0500	5-23-2016	Amend	7-1-2016
808-003-0081	5-23-2016	Repeal	7-1-2016	808-004-0510	5-23-2016	Amend	7-1-2016
808-003-0085	5-23-2016	Repeal	7-1-2016	808-004-0520	5-23-2016	Amend	7-1-2016
808-003-0095	1-1-2016	Amend	2-1-2016	808-004-0530	5-23-2016	Amend	7-1-2016
808-003-0125	1-1-2016	Amend	2-1-2016	808-004-0540	5-23-2016	Amend	7-1-2016
808-003-0126	1-1-2016	Amend	2-1-2016	808-004-0550	5-23-2016	Repeal	7-1-2016
808-003-0130	5-23-2016	Amend	7-1-2016	808-004-0560	5-23-2016	Repeal	7-1-2016
808-003-0230	1-1-2016	Amend	2-1-2016	808-004-0590	5-23-2016	Amend	7-1-2016
808-003-0230	5-23-2016	Amend	7-1-2016	808-030-0020	5-23-2016	Amend	7-1-2016
808-003-0234	5-23-2016	Adopt	7-1-2016	808-030-0040	5-23-2016	Amend	7-1-2016
808-003-0610	1-1-2016	Amend	2-1-2016	808-040-0020	1-1-2016	Amend	2-1-2016
808-003-0610(T)	1-1-2016	Repeal	2-1-2016	808-040-0020	5-23-2016	Amend	7-1-2016
808-003-0611	1-1-2016	Amend	2-1-2016	808-040-0025	4-8-2016	Amend	5-1-2016
808-003-0613	1-1-2016	Amend	2-1-2016	808-040-0050	4-8-2016	Amend	5-1-2016
808-003-0700	5-23-2016	Adopt	7-1-2016	808-040-0060	4-8-2016	Amend	5-1-2016
808-003-0710	5-23-2016	Adopt	7-1-2016	808-040-0070	5-23-2016	Amend	7-1-2016
808-003-0720	5-23-2016	Adopt	7-1-2016	808-040-0080	1-1-2016	Amend	2-1-2016
808-003-0730	5-23-2016	Adopt	7-1-2016	808-040-0080	5-23-2016	Amend	7-1-2016
808-003-0740	5-23-2016	Adopt	7-1-2016	811-010-0084	6-6-2016	Amend	7-1-2016
808-003-0750	5-23-2016	Adopt	7-1-2016	811-010-0085	5-2-2016	Amend	5-1-2016
808-003-0800	5-23-2016	Adopt	7-1-2016	811-010-0110	6-6-2016	Amend	7-1-2016
808-003-0810	5-23-2016	Adopt	7-1-2016	812-006-0100	7-1-2016	Amend	7-1-2016
808-003-0820	5-23-2016	Adopt	7-1-2016	812-006-0150	7-1-2016	Amend	7-1-2016
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808-003-0930	5-23-2016	Adopt	7-1-2016	812-008-0074	7-1-2016	Amend	7-1-2016
808-003-0940	5-23-2016	Adopt	7-1-2016	812-020-0050	7-1-2016	Amend	7-1-2016
808-003-0950	5-23-2016	Adopt	7-1-2016	812-020-0062	7-1-2016	Amend	7-1-2016
808-003-0960	5-23-2016	Adopt	7-1-2016	812-020-0070	7-1-2016	Amend	7-1-2016
808-003-0970	5-23-2016	Adopt	7-1-2016	812-020-0071	7-1-2016	Amend	7-1-2016
808-003-0980	5-23-2016	Adopt	7-1-2016	812-020-0080	7-1-2016	Repeal	7-1-2016
808-003-0985	5-23-2016	Adopt	7-1-2016	812-021-0000	7-1-2016	Repeal	7-1-2016

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812-021-0010	7-1-2016	Repeal	7-1-2016	817-090-0025	4-4-2016	Amend	5-1-2016
812-021-0011	7-1-2016	Repeal	7-1-2016	817-090-0035	4-4-2016	Amend	5-1-2016
812-021-0015	7-1-2016	Repeal	7-1-2016	817-090-0050	4-4-2016	Repeal	5-1-2016
812-021-0016	7-1-2016	Repeal	7-1-2016	817-090-0080	4-4-2016	Amend	5-1-2016
812-021-0019	7-1-2016	Repeal	7-1-2016	817-090-0090	4-4-2016	Amend	5-1-2016
812-021-0021	7-1-2016	Repeal	7-1-2016	817-090-0100	4-4-2016	Amend	5-1-2016
812-021-0023	7-1-2016	Repeal	7-1-2016	820-010-0505	2-16-2016	Amend	4-1-2016
812-021-0025	7-1-2016	Repeal	7-1-2016	820-010-0615	5-12-2016	Amend	6-1-2016
812-021-0028	7-1-2016	Repeal	7-1-2016	820-010-3020	1-14-2016	Adopt	2-1-2016
812-021-0030	7-1-2016	Repeal	7-1-2016	820-010-4000	3-15-2016	Amend(T)	4-1-2016
812-021-0031	7-1-2016	Repeal	7-1-2016	820-010-5000	1-15-2016	Amend(T)	2-1-2016
812-021-0032	7-1-2016	Repeal	7-1-2016	820-010-5000	5-12-2016	Amend	6-1-2016
812-021-0033	7-1-2016	Repeal	7-1-2016	820-010-5000(T)	5-12-2016	Repeal	6-1-2016
812-021-0034	7-1-2016	Repeal	7-1-2016	820-015-0026	2-16-2016	Amend	4-1-2016
812-021-0035	7-1-2016	Repeal	7-1-2016	820-020-0015	2-16-2016	Amend	4-1-2016
812-021-0037	7-1-2016	Repeal	7-1-2016	820-020-0025	2-16-2016	Amend	4-1-2016
812-021-0040	7-1-2016	Repeal	7-1-2016	820-020-0030	2-16-2016	Amend	4-1-2016
812-021-0042	7-1-2016	Repeal	7-1-2016	820-020-0035	2-16-2016	Amend	4-1-2016
812-021-0045	7-1-2016	Repeal	7-1-2016	820-020-0040	1-14-2016	Amend	2-1-2016
812-021-0047	7-1-2016	Repeal	7-1-2016	820-025-0005	5-12-2016	Amend	6-1-2016
812-022-0010	7-1-2016	Amend	7-1-2016	820-025-0015	1-15-2016	Amend(T)	2-1-2016
812-022-0011	7-1-2016	Repeal	7-1-2016	820-025-0015	5-12-2016	Amend	6-1-2016
812-022-0021	7-1-2016	Amend	7-1-2016	820-025-0015(T)	5-12-2016	Repeal	6-1-2016
813-013-0001	11-30-2015	Amend(T)	1-1-2016	820-030-0005	2-16-2016	Adopt	4-1-2016
813-013-0001	5-27-2016	Amend	7-1-2016	820-040-0005	2-16-2016	Amend	4-1-2016
813-013-0005	11-30-2015	Amend(T)	1-1-2016	830-011-0000	1-1-2016	Amend	2-1-2016
813-013-0005	5-27-2016	Amend	7-1-2016	830-011-0020	1-1-2016	Amend	2-1-2016
813-013-0010	11-30-2015	Amend(T)	1-1-2016	830-011-0040	1-1-2016	Amend	2-1-2016
813-013-0010	5-27-2016	Amend	7-1-2016	830-011-0065	1-1-2016	Adopt	2-1-2016
813-013-0015	11-30-2015	Amend(T)	1-1-2016	830-020-0000	1-1-2016	Amend	2-1-2016
813-013-0015	5-27-2016	Amend	7-1-2016	830-020-0030	1-1-2016	Amend	2-1-2016
813-013-0020	11-30-2015	Amend(T)	1-1-2016	830-020-0040	1-1-2016	Amend	2-1-2016
813-013-0020	5-27-2016	Amend	7-1-2016	830-030-0004	1-1-2016	Amend	2-1-2016
813-013-0035	11-30-2015	Amend(T)	1-1-2016	830-030-0090	1-1-2016	Amend	2-1-2016
813-013-0035	5-27-2016	Amend	7-1-2016	830-040-0095	1-1-2016	Adopt	2-1-2016
813-013-0040	11-30-2015	Amend(T)	1-1-2016	833-020-0101	6-7-2016	Amend	7-1-2016
813-013-0040	5-27-2016	Amend	7-1-2016	833-120-0011	4-1-2016	Amend	5-1-2016
813-013-0050	11-30-2015	Amend(T)	1-1-2016	834-020-0000	3-1-2016	Amend	4-1-2016
813-013-0050	5-27-2016	Amend	7-1-2016	834-030-0000	3-1-2016	Amend	4-1-2016
813-013-0054	11-30-2015	Amend(T)	1-1-2016	834-030-0010	3-1-2016	Amend	4-1-2016
813-013-0054	5-27-2016	Amend	7-1-2016	834-040-0000	3-1-2016	Amend	4-1-2016
813-110-0010	5-5-2016	Amend(T)	6-1-2016	834-050-0000	3-1-2016	Amend	4-1-2016
813-110-0013	5-5-2016	Amend(T)	6-1-2016	834-050-0010	3-1-2016	Amend	4-1-2016
813-110-0015	5-5-2016	Amend(T)	6-1-2016	836-009-0020	4-8-2016	Repeal	5-1-2016
813-300-0005	3-25-2016	Amend	5-1-2016	836-009-0025	4-8-2016	Repeal	5-1-2016
813-300-0120	3-25-2016	Amend	5-1-2016	836-009-0030	4-8-2016	Repeal	5-1-2016
813-300-0150	3-25-2016	Amend	5-1-2016	836-009-0035	4-8-2016	Repeal	5-1-2016
813-300-0150	4-20-2016	Amend(T)	6-1-2016	836-009-0040	4-8-2016	Repeal	5-1-2016
813-300-0150(T)	3-25-2016	Repeal	5-1-2016	836-010-0013	4-8-2016	Amend	5-1-2016
813-330-0000	2-11-2016	Adopt	3-1-2016	836-010-0013	4-28-2016	Amend(T)	6-1-2016
813-330-0010	2-11-2016	Adopt	3-1-2016	836-010-0155	4-26-2016	Adopt	6-1-2016
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813-330-0030	2-11-2016	Adopt	3-1-2016	836-027-0005	3-3-2016	Amend	4-1-2016
813-330-0040	2-11-2016	Adopt	3-1-2016	836-027-0010	3-3-2016	Amend	4-1-2016
813-330-0050	2-11-2016	Adopt	3-1-2016	836-027-0012	3-3-2016	Amend	4-1-2016

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836-027-0125	3-3-2016	Amend	4-1-2016	836-053-1500	4-8-2016	Adopt	5-1-2016
836-027-0140	3-3-2016	Amend	4-1-2016	836-053-1500(T)	4-8-2016	Repeal	5-1-2016
836-027-0160	3-3-2016	Amend	4-1-2016	836-053-1505	4-8-2016	Adopt	5-1-2016
836-051-0150	1-1-2016	Adopt	2-1-2016	836-053-1505(T)	4-8-2016	Repeal	5-1-2016
836-051-0153	1-1-2016	Adopt	2-1-2016	836-053-1510	4-8-2016	Adopt	5-1-2016
836-051-0156	1-1-2016	Adopt	2-1-2016	836-053-1510(T)	4-8-2016	Repeal	5-1-2016
836-052-0142	1-1-2016	Amend	2-1-2016	836-054-0000	1-1-2016	Amend	2-1-2016
836-052-1000	4-8-2016	Amend	5-1-2016	836-054-0000(T)	1-1-2016	Repeal	2-1-2016
836-053-0002	12-17-2015	Amend(T)	2-1-2016	836-054-0020	1-1-2016	Adopt	2-1-2016
836-053-0002	4-26-2016	Amend	6-1-2016	836-071-0354	1-1-2016	Adopt	2-1-2016
836-053-0004	12-17-2015	Adopt(T)	2-1-2016	836-071-0354	1-20-2016	Adopt	3-1-2016
836-053-0004	4-26-2016	Adopt	6-1-2016	836-071-0355	1-1-2016	Amend	2-1-2016
836-053-0004(T)	4-26-2016	Repeal	6-1-2016	836-071-0355	1-20-2016	Amend	3-1-2016
836-053-0008	12-17-2015	Amend(T)	2-1-2016	836-071-0370	1-1-2016	Amend	2-1-2016
836-053-0008	4-26-2016	Amend	6-1-2016	836-071-0370	1-20-2016	Amend	3-1-2016
836-053-0009	12-17-2015	Amend(T)	2-1-2016	836-071-0380	1-1-2016	Amend	2-1-2016
836-053-0009	4-26-2016	Amend	6-1-2016	836-071-0380	1-20-2016	Amend	3-1-2016
836-053-0010	4-8-2016	Amend	5-1-2016	837-012-0305	1-1-2016	Amend	2-1-2016
836-053-0010	4-26-2016	Am. & Ren.	6-1-2016	837-012-0310	1-1-2016	Amend	2-1-2016
836-053-0012	12-17-2015	Adopt(T)	2-1-2016	837-012-0315	1-1-2016	Amend	2-1-2016
836-053-0012	4-26-2016	Adopt	6-1-2016	837-012-0320	1-1-2016	Amend	2-1-2016
836-053-0012(T)	4-26-2016	Repeal	6-1-2016	837-012-0325	1-1-2016	Amend	2-1-2016
836-053-0013	12-17-2015	Adopt(T)	2-1-2016	837-012-0330	1-1-2016	Amend	2-1-2016
836-053-0013	4-26-2016	Adopt	6-1-2016	837-012-0340	1-1-2016	Amend	2-1-2016
836-053-0013(T)	4-26-2016	Repeal	6-1-2016	837-012-0350	1-1-2016	Amend	2-1-2016
836-053-0014(T)	4-8-2016	Repeal	5-1-2016	837-012-0360	1-1-2016	Amend	2-1-2016
836-053-0015	4-8-2016	Adopt	5-1-2016	837-012-0370	1-1-2016	Amend	2-1-2016
836-053-0015(T)	4-8-2016	Repeal	5-1-2016	837-012-0500	1-1-2016	Amend	2-1-2016
836-053-0021	4-8-2016	Amend	5-1-2016	837-012-0510	1-1-2016	Amend	2-1-2016
836-053-0030	4-8-2016	Amend	5-1-2016	837-012-0515	1-1-2016	Amend	2-1-2016
836-053-0050	4-8-2016	Amend	5-1-2016	837-012-0520	1-1-2016	Amend	2-1-2016
836-053-0066	4-8-2016	Amend	5-1-2016	837-012-0525	1-1-2016	Amend	2-1-2016
836-053-0230	4-8-2016	Amend	5-1-2016	837-012-0530	1-1-2016	Amend	2-1-2016
836-053-0410	4-8-2016	Amend	5-1-2016	837-012-0535	1-1-2016	Amend	2-1-2016
836-053-0431	4-8-2016	Amend	5-1-2016	837-012-0540	1-1-2016	Amend	2-1-2016
836-053-0465	4-8-2016	Amend	5-1-2016	837-012-0545	1-1-2016	Amend	2-1-2016
836-053-0472	4-8-2016	Amend	5-1-2016	837-012-0550	1-1-2016	Amend	2-1-2016
836-053-0510	4-8-2016	Amend	5-1-2016	837-012-0555	1-1-2016	Amend	2-1-2016
836-053-0600	1-1-2016	Adopt	2-1-2016	837-012-0560	1-1-2016	Amend	2-1-2016
836-053-0600(T)	1-1-2016	Repeal	2-1-2016	837-012-0565	1-1-2016	Amend	2-1-2016
836-053-0605	1-1-2016	Adopt	2-1-2016	837-012-0570	1-1-2016	Amend	2-1-2016
836-053-0605(T)	1-1-2016	Repeal	2-1-2016	837-012-0600	1-1-2016	Amend	2-1-2016
836-053-0610	1-1-2016	Adopt	2-1-2016	837-012-0610	1-1-2016	Amend	2-1-2016
836-053-0610(T)	1-1-2016	Repeal	2-1-2016	837-012-0615	1-1-2016	Amend	2-1-2016
836-053-0615	1-1-2016	Adopt	2-1-2016	837-012-0620	1-1-2016	Amend	2-1-2016
836-053-0615(T)	1-1-2016	Repeal	2-1-2016	837-012-0625	1-1-2016	Amend	2-1-2016
836-053-0825	4-8-2016	Amend	5-1-2016	837-012-0630	1-1-2016	Amend	2-1-2016
836-053-0830	4-8-2016	Amend	5-1-2016	837-012-0635	1-1-2016	Amend	2-1-2016
836-053-0835	4-8-2016	Amend	5-1-2016	837-012-0640	1-1-2016	Amend	2-1-2016
836-053-1020	12-17-2015	Amend(T)	2-1-2016	837-012-0645	1-1-2016	Amend	2-1-2016
836-053-1020	4-26-2016	Amend	6-1-2016	837-012-0650	1-1-2016	Amend	2-1-2016
836-053-1404	12-17-2015	Amend(T)	2-1-2016	837-012-0655	1-1-2016	Amend	2-1-2016
836-053-1404	4-26-2016	Amend	6-1-2016	837-012-0660	1-1-2016	Amend	2-1-2016
836-053-1405	12-17-2015	Amend(T)	2-1-2016	837-012-0665	1-1-2016	Amend	2-1-2016
836-053-1405	4-26-2016	Amend	6-1-2016	837-012-0670	1-1-2016	Amend	2-1-2016

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837-012-0700	1-1-2016	Amend	2-1-2016	839-007-0020	1-1-2016	Adopt	1-1-2016
837-012-0710	1-1-2016	Amend	2-1-2016	839-007-0025	1-1-2016	Adopt	1-1-2016
837-012-0720	1-1-2016	Amend	2-1-2016	839-007-0030	1-1-2016	Adopt	1-1-2016
837-012-0730	1-1-2016	Amend	2-1-2016	839-007-0032	1-1-2016	Adopt	1-1-2016
837-012-0740	1-1-2016	Amend	2-1-2016	839-007-0035	1-1-2016	Adopt	1-1-2016
837-012-0750	1-1-2016	Amend	2-1-2016	839-007-0040	1-1-2016	Adopt	1-1-2016
837-012-0760	1-1-2016	Amend	2-1-2016	839-007-0045	1-1-2016	Adopt	1-1-2016
837-012-0770	1-1-2016	Amend	2-1-2016	839-007-0050	1-1-2016	Adopt	1-1-2016
837-012-0780	1-1-2016	Amend	2-1-2016	839-007-0055	1-1-2016	Adopt	1-1-2016
837-012-0790	1-1-2016	Amend	2-1-2016	839-007-0060	1-1-2016	Adopt	1-1-2016
837-012-0800	1-1-2016	Amend	2-1-2016	839-007-0065	1-1-2016	Adopt	1-1-2016
837-012-0810	1-1-2016	Amend	2-1-2016	839-007-0100	1-1-2016	Adopt	1-1-2016
837-012-0820	1-1-2016	Amend	2-1-2016	839-007-0120	1-1-2016	Adopt	1-1-2016
837-012-0830	1-1-2016	Amend	2-1-2016	839-009-0270	1-1-2016	Amend	2-1-2016
837-012-0835	1-1-2016	Amend	2-1-2016	839-020-0004	7-1-2016	Amend	7-1-2016
837-012-0840	1-1-2016	Amend	2-1-2016	839-020-0010	7-1-2016	Amend	7-1-2016
837-012-0850	1-1-2016	Amend	2-1-2016	839-020-0011	7-1-2016	Adopt	7-1-2016
837-012-0855	1-1-2016	Amend	2-1-2016	839-020-0030	1-1-2016	Amend	2-1-2016
837-012-0860	1-1-2016	Amend	2-1-2016	839-020-0042	1-1-2016	Amend	2-1-2016
837-012-0865	1-1-2016	Amend	2-1-2016	839-020-0052	1-1-2016	Adopt	2-1-2016
837-012-0870	1-1-2016	Amend	2-1-2016	839-020-0125	1-1-2016	Amend	2-1-2016
837-012-0875	1-1-2016	Amend	2-1-2016	839-020-1010	1-1-2016	Amend	2-1-2016
837-012-0880	1-1-2016	Amend	2-1-2016	839-025-0004	3-31-2016	Amend	5-1-2016
837-012-0890	1-1-2016	Amend	2-1-2016	839-025-0020	3-31-2016	Amend	5-1-2016
837-012-0900	1-1-2016	Amend	2-1-2016	839-025-0037	3-31-2016	Amend	5-1-2016
837-012-0910	1-1-2016	Amend	2-1-2016	839-025-0100	3-31-2016	Amend	5-1-2016
837-012-0920	1-1-2016	Amend	2-1-2016	839-025-0320	3-31-2016	Amend	5-1-2016
837-012-0940	1-1-2016	Amend	2-1-2016	839-025-0530	3-31-2016	Amend	5-1-2016
837-012-0950	1-1-2016	Amend	2-1-2016	839-025-0700	1-1-2016	Amend	1-1-2016
837-012-0960	1-1-2016	Amend	2-1-2016	839-025-0700	4-1-2016	Amend	5-1-2016
837-012-0970	1-1-2016	Amend	2-1-2016	839-025-0700	7-1-2016	Amend	7-1-2016
837-012-1000	1-1-2016	Amend	2-1-2016	845-003-0210	2-23-2016	Amend(T)	4-1-2016
837-012-1010	1-1-2016	Amend	2-1-2016	845-003-0220	2-23-2016	Amend(T)	4-1-2016
837-012-1020	1-1-2016	Amend	2-1-2016	845-003-0270	2-23-2016	Amend(T)	4-1-2016
837-012-1030	1-1-2016	Amend	2-1-2016	845-003-0331	2-23-2016	Amend(T)	4-1-2016
837-012-1040	1-1-2016	Amend	2-1-2016	845-004-0015	2-23-2016	Amend(T)	4-1-2016
837-012-1050	1-1-2016	Amend	2-1-2016	845-004-0101	2-1-2016	Amend	2-1-2016
837-012-1060	1-1-2016	Amend	2-1-2016	845-004-0105	2-1-2016	Repeal	2-1-2016
837-012-1070	1-1-2016	Amend	2-1-2016	845-005-0400	3-1-2016	Amend	4-1-2016
837-012-1080	1-1-2016	Amend	2-1-2016	845-005-0413	2-1-2016	Amend	2-1-2016
837-012-1090	1-1-2016	Amend	2-1-2016	845-005-0417	1-1-2016	Amend(T)	2-1-2016
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837-012-1110	1-1-2016	Amend	2-1-2016	845-005-0428	4-1-2016	Amend	5-1-2016
837-012-1120	1-1-2016	Amend	2-1-2016	845-005-0431	2-1-2016	Amend	2-1-2016
837-012-1130	1-1-2016	Amend	2-1-2016	845-006-0392	1-1-2016	Amend(T)	2-1-2016
837-012-1140	1-1-2016	Amend	2-1-2016	845-006-0396	1-1-2016	Amend(T)	2-1-2016
837-012-1150	1-1-2016	Amend	2-1-2016	845-006-0446	4-1-2016	Adopt	5-1-2016
837-012-1160	1-1-2016	Amend	2-1-2016	845-006-0450	4-1-2016	Amend	5-1-2016
839-005-0003	1-1-2016	Amend	2-1-2016	845-006-0452	2-1-2016	Amend	2-1-2016
839-005-0400	1-1-2016	Amend	2-1-2016	845-013-0040	4-1-2016	Amend	5-1-2016
839-007-0000	1-1-2016	Adopt	1-1-2016	845-015-0148	5-2-2016	Amend	6-1-2016
839-007-0005	1-1-2016	Adopt	1-1-2016	845-025-1000	1-1-2016	Adopt(T)	1-1-2016
839-007-0007	1-1-2016	Adopt	1-1-2016	845-025-1015	1-1-2016	Adopt(T)	1-1-2016
839-007-0010	1-1-2016	Adopt	1-1-2016	845-025-1030	1-1-2016	Adopt(T)	1-1-2016
839-007-0012	1-1-2016	Adopt	1-1-2016	845-025-1045	1-1-2016	Adopt(T)	1-1-2016

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847-017-0015	4-8-2016	Amend	5-1-2016	855-019-0430	5-1-2016	Adopt	6-1-2016
847-017-0020	4-8-2016	Amend	5-1-2016	855-019-0430(T)	5-1-2016	Repeal	6-1-2016
847-020-0135	1-1-2016	Adopt	1-1-2016	855-019-0435	5-1-2016	Adopt	6-1-2016
847-023-0005	4-8-2016	Amend	5-1-2016	855-019-0435(T)	5-1-2016	Repeal	6-1-2016
847-050-0025	1-8-2016	Amend	2-1-2016	855-025-0015	12-23-2015	Amend	2-1-2016
847-050-0025(T)	1-8-2016	Repeal	2-1-2016	855-025-0015(T)	12-23-2015	Repeal	2-1-2016
847-050-0043	1-8-2016	Amend	2-1-2016	855-041-1120	7-1-2016	Amend	2-1-2016
847-050-0063	1-8-2016	Repeal	2-1-2016	855-043-0130	12-23-2015	Amend	2-1-2016
847-050-0065	1-8-2016	Repeal	2-1-2016	855-043-0130(T)	12-23-2015	Repeal	2-1-2016
847-070-0045	1-8-2016	Amend	2-1-2016	855-062-0040	12-23-2015	Amend	2-1-2016
847-080-0010	4-8-2016	Amend	5-1-2016	855-062-0040(T)	12-23-2015	Repeal	2-1-2016
847-080-0018	4-8-2016	Amend	5-1-2016	855-090-0005	12-23-2015	Repeal	2-1-2016
847-080-0021	4-8-2016	Amend	5-1-2016	856-010-0010	3-31-2016	Amend	5-1-2016
847-080-0022	4-8-2016	Amend	5-1-2016	856-010-0012	1-25-2016	Amend	3-1-2016
847-080-0035	4-8-2016	Amend	5-1-2016	856-010-0012	2-10-2016	Amend	3-1-2016
850-005-0190	12-30-2015	Amend	2-1-2016	856-010-0026	3-31-2016	Amend	5-1-2016
850-060-0226	12-30-2015	Amend	2-1-2016	856-030-0040	5-25-2016	Amend(T)	7-1-2016
851-031-0005	1-1-2016	Amend	1-1-2016	858-010-0007	2-1-2016	Amend	3-1-2016
851-031-0086	1-1-2016	Amend	1-1-2016	858-010-0020	2-1-2016	Amend	3-1-2016
851-050-0138	11-24-2015	Amend(T)	1-1-2016	858-010-0020	5-23-2016	Amend	7-1-2016
851-050-0138	4-1-2016	Amend	4-1-2016	858-010-0036	2-2-2016	Amend	3-1-2016
851-056-0000	11-30-2015	Amend(T)	1-1-2016	858-010-0041	6-15-2016	Amend	7-1-2016
851-056-0000	4-1-2016	Amend	4-1-2016	858-020-0075	5-23-2016	Amend	7-1-2016
851-056-0020	11-30-2015	Amend(T)	1-1-2016	858-040-0035	2-1-2016	Amend	3-1-2016
851-056-0020	4-1-2016	Amend	4-1-2016	858-040-0055	2-1-2016	Amend	3-1-2016
852-010-0015	4-1-2016	Amend	4-1-2016	858-040-0065	2-1-2016	Amend	3-1-2016
852-010-0080	4-1-2016	Amend	4-1-2016	859-010-0005	12-3-2015	Amend(T)	1-1-2016
852-010-0080	4-8-2016	Amend	5-1-2016	859-020-0005	3-17-2016	Amend	5-1-2016
852-050-0006	4-1-2016	Amend	4-1-2016	859-020-0010	3-17-2016	Amend	5-1-2016
852-050-0014	4-1-2016	Amend	4-1-2016	859-020-0015	3-17-2016	Amend	5-1-2016
852-050-0018	4-1-2016	Amend	4-1-2016	859-030-0005	3-17-2016	Amend	5-1-2016
852-050-0025	4-1-2016	Amend	4-1-2016	859-030-0010	3-17-2016	Amend	5-1-2016
852-050-0025	4-8-2016	Amend	5-1-2016	859-040-0005	3-17-2016	Amend	5-1-2016
852-070-0010	4-1-2016	Amend	4-1-2016	859-040-0010	3-17-2016	Amend	5-1-2016
852-070-0020	4-1-2016	Amend	4-1-2016	859-040-0015	3-17-2016	Amend	5-1-2016
852-070-0035	4-1-2016	Amend	4-1-2016	859-040-0020	3-17-2016	Amend	5-1-2016
852-070-0037	4-1-2016	Adopt	4-1-2016	859-040-0025	3-17-2016	Amend	5-1-2016
852-070-0047	4-1-2016	Adopt	4-1-2016	859-045-0005	3-17-2016	Adopt	5-1-2016
855-006-0005	12-23-2015	Amend	2-1-2016	859-045-0010	3-17-2016	Adopt	5-1-2016
855-019-0110	12-23-2015	Amend	2-1-2016	859-050-0001	3-17-2016	Adopt	5-1-2016
855-019-0200	12-23-2015	Amend	2-1-2016	859-050-0005	3-17-2016	Amend	5-1-2016
855-019-0264	12-23-2015	Adopt	2-1-2016	859-050-0010	3-17-2016	Amend	5-1-2016
855-019-0270	12-23-2015	Amend	2-1-2016	859-050-0015	3-17-2016	Amend	5-1-2016
855-019-0280	12-23-2015	Amend	2-1-2016	859-050-0020	3-17-2016	Amend	5-1-2016
855-019-0400	5-1-2016	Adopt	6-1-2016	859-050-0025	3-17-2016	Amend	5-1-2016
855-019-0400(T)	5-1-2016	Repeal	6-1-2016	859-050-0030	3-17-2016	Amend	5-1-2016
855-019-0405	5-1-2016	Adopt	6-1-2016	859-050-0035	3-17-2016	Amend	5-1-2016
855-019-0405(T)	5-1-2016	Repeal	6-1-2016	859-050-0040	3-17-2016	Amend	5-1-2016
855-019-0410	5-1-2016	Adopt	6-1-2016	859-050-0045	3-17-2016	Amend	5-1-2016
855-019-0410(T)	5-1-2016	Repeal	6-1-2016	859-050-0050	3-17-2016	Amend	5-1-2016
855-019-0415	5-1-2016	Adopt	6-1-2016	859-050-0055	3-17-2016	Amend	5-1-2016
855-019-0415(T)	5-1-2016	Repeal	6-1-2016	859-050-0060	3-17-2016	Amend	5-1-2016
855-019-0420	5-1-2016	Adopt	6-1-2016	859-050-0065	3-17-2016	Amend	5-1-2016
855-019-0420(T)	5-1-2016	Repeal	6-1-2016	859-050-0070	3-17-2016	Amend	5-1-2016
855-019-0425	5-1-2016	Adopt	6-1-2016	859-050-0075	3-17-2016	Amend	5-1-2016
855-019-0425(T)	5-1-2016	Repeal	6-1-2016	859-050-0080	3-17-2016	Amend	5-1-2016

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859-050-0085	3-17-2016	Amend	5-1-2016	918-098-1010	1-26-2016	Amend(T)	3-1-2016
859-050-0090	3-17-2016	Amend	5-1-2016	918-098-1010	4-1-2016	Amend	5-1-2016
859-050-0095	3-17-2016	Amend	5-1-2016	918-098-1010(T)	4-1-2016	Repeal	5-1-2016
859-050-0100	3-17-2016	Amend	5-1-2016	918-098-1012	4-1-2016	Amend	5-1-2016
859-050-0105	3-17-2016	Amend	5-1-2016	918-098-1015	4-1-2016	Amend	5-1-2016
859-200-0070	3-17-2016	Amend	5-1-2016	918-098-1025	1-26-2016	Amend(T)	3-1-2016
859-400-0001	3-17-2016	Adopt	5-1-2016	918-098-1025	4-1-2016	Amend	5-1-2016
859-400-0005	3-17-2016	Adopt	5-1-2016	918-098-1025(T)	4-1-2016	Repeal	5-1-2016
859-400-0010	3-17-2016	Adopt	5-1-2016	918-098-1210	4-1-2016	Amend	5-1-2016
859-400-0015	3-17-2016	Adopt	5-1-2016	918-098-1215	4-1-2016	Amend	5-1-2016
859-400-0020	3-17-2016	Adopt	5-1-2016	918-098-1305	4-1-2016	Amend	5-1-2016
859-400-0025	3-17-2016	Adopt	5-1-2016	918-098-1320	4-1-2016	Amend	5-1-2016
859-400-0030	3-17-2016	Adopt	5-1-2016	918-098-1470	1-26-2016	Amend(T)	3-1-2016
859-400-0035	3-17-2016	Adopt	5-1-2016	918-098-1470	4-1-2016	Amend	5-1-2016
859-400-0040	3-17-2016	Adopt	5-1-2016	918-098-1470(T)	4-1-2016	Repeal	5-1-2016
859-400-0045	3-17-2016	Adopt	5-1-2016	918-098-1480	1-26-2016	Amend(T)	3-1-2016
860-024-0020	5-17-2016	Amend	7-1-2016	918-098-1480	4-1-2016	Amend	5-1-2016
860-024-0021	5-17-2016	Amend	7-1-2016	918-098-1480(T)	4-1-2016	Repeal	5-1-2016
860-038-0300	3-10-2016	Amend	4-1-2016	918-098-1900	1-26-2016	Amend(T)	3-1-2016
860-200-0005	5-3-2016	Adopt	6-1-2016	918-098-1900	4-1-2016	Amend	5-1-2016
860-200-0005(T)	5-3-2016	Repeal	6-1-2016	918-098-1900(T)	4-1-2016	Repeal	5-1-2016
860-200-0050	5-3-2016	Adopt	6-1-2016	918-271-0040	1-1-2016	Amend	1-1-2016
860-200-0050(T)	5-3-2016	Repeal	6-1-2016	918-271-0105	4-1-2016	Adopt	5-1-2016
860-200-0100	5-3-2016	Adopt	6-1-2016	918-309-0000	4-1-2016	Amend	5-1-2016
860-200-0100(T)	5-3-2016	Repeal	6-1-2016	918-309-0030	4-1-2016	Amend	5-1-2016
860-200-0150	5-3-2016	Adopt	6-1-2016	918-309-0040	4-1-2016	Amend	5-1-2016
860-200-0150(T)	5-3-2016	Repeal	6-1-2016	918-309-0060	4-1-2016	Amend	5-1-2016
863-060-0011	4-25-2016	Adopt	6-1-2016	918-309-0070	4-1-2016	Amend	5-1-2016
863-060-0011	5-13-2016	Adopt	6-1-2016	918-309-0075	4-1-2016	Adopt	5-1-2016
877-001-0020	1-1-2016	Amend	2-1-2016	918-460-0015	2-1-2016	Amend	3-1-2016
877-015-0108	3-14-2016	Amend(T)	4-1-2016	918-460-0500	3-3-2016	Amend(T)	4-1-2016
877-020-0005	12-15-2015	Amend	1-1-2016	918-480-0010	2-1-2016	Amend	3-1-2016
877-020-0009	3-14-2016	Amend(T)	4-1-2016	918-695-0410	4-1-2016	Amend	5-1-2016
877-020-0021	12-15-2015	Adopt	1-1-2016	945-030-0020	3-25-2016	Amend(T)	5-1-2016
877-030-0110	1-1-2016	Adopt	2-1-2016	945-030-0030	4-12-2016	Amend	5-1-2016
918-020-0090	1-1-2016	Amend	1-1-2016	945-030-0035	4-12-2016	Repeal	5-1-2016