

OREGON BULLETIN

Supplements the 2017 Oregon Administrative Rules Compilation

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Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

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

Background on Oregon Administrative Rules

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

OAR Citations

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

Understanding an Administrative Rule’s “History”

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

Locating Current Versions of Administrative Rules

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

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

Locating Administrative Rule Publications

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

Filing Administrative Rules and Notices

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

Administrative Rules Coordinators and Delegation of Signing Authority

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

Publication Authority

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

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

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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 17 - 13

DIRECTING STATE AGENCIES TO CONTINUE PLANNING AND RESPONSE ACTIVITIES FOR THE SOLAR ECLIPSE, TO ENSURE A SAFE AND MEMORABLE EXPERIENCE FOR VISITORS TO AND RESIDENTS OF OREGON.

On August 21, 2017, Oregon will be a part of the Path of Totality for a total solar eclipse. The eclipse passes across the entire State, from Lincoln Beach to Huntington. The rare and unique opportunity to view a total solar eclipse means a large influx of visitors to our State, as well as travelers from inside the State. For more than a year, my office and state agencies have worked with local governments to plan for the anticipated impacts to our State, especially our rural areas. The ongoing work by state agencies will allow their resources to assume a forward-leaning posture to prevent or eliminate situations that may cause threats to lives, property, or the environment, by planning for ways to mitigate issues that may prevent viewers of the eclipse from having a positive, safe, and memorable experience.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. All state agencies are directed to continue to coordinate with the Office of Emergency Management (OEM), which shall activate the State's Emergency Operations Plan and Emergency Coordination Center, and which shall coordinate the implementation of specific Emergency Support Function plans. OEM shall have access to and use of personnel and equipment of all state agencies necessary to assess, alleviate, respond to, mitigate or recover from conditions caused by viewers of the eclipse.
2. OEM shall coordinate all essential protective measures by state agencies in support of areas within and adjacent to the eclipse's Path of Totality to ensure a safe and enjoyable opportunity to view the eclipse for all. OEM shall work with neighboring states and federal partners where needed to ensure coordination, to include the utilization of interstate mutual aid as appropriate.
3. OEM shall work with state agencies now to determine what, if any, gaps in services exist at the state or local level, and how to mitigate those gaps including, if necessary, a temporary suspension of rules.
4. The Oregon Department of Transportation, Oregon State Police, Oregon Public Utility Commission, Oregon Department of Forestry, Oregon Department of Energy, Oregon Parks and Recreation Department, Oregon Health Authority, and Oregon Military Department shall provide any assistance that is deemed necessary to assist leading up to, during, and immediately following this event and to provide all necessary support to statewide response, recovery, and mitigation efforts. All other state agencies shall be prepared to assist as requested by OEM.
5. This order shall expire after August 24, 2017, unless terminated sooner by the governor.

Done at Salem, Oregon this 8th day of August, 2017.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Dennis Richardson
Dennis Richardson
SECRETARY OF STATE

EXECUTIVE ORDER NO. 17 - 14

DETERMINATION OF STATE OF EMERGENCY IN OREGON TO FACILITATE ECLIPSE PREPAREDNESS AND READINESS

ORS 401.165 et seq. empowers the Governor to declare a state of emergency upon determining that an emergency is imminent. ORS 402.105 et seq. facilitates the sharing of resources between states when an emergency is declared.

I find that a Total Solar Eclipse occurring on August 21, 2017, is likely to cause a rapid influx of visitors from outside this State and substantial movement of Oregonians from one part of this State to another, within and proximate to the eclipse's Path of Totality. This unprecedented movement of people through our State could will likely make major roads impassable and could exceed our State's capacity to handle health and safety emergencies. Because this event is now imminent, I find it is prudent to and therefore do declare a state of emergency pursuant to the above-referenced statutes.

This declaration will enable agencies to request assistance from other jurisdictions to facilitate the life and safety missions the agencies may undertake during the Total Solar Eclipse. This declaration further enables me to authorize state agencies to suspend provisions of any order or rule of the agency if strict compliance with the provisions of the order or rule would in any way prevent, hinder, or delay mitigating the effects of the emergency.

This declaration is intended to enhance and complement, not supplant, Executive Order 17-13.

NOW, THEREFORE, IT IS ORDERED AND DIRECTED:

1. Having found that an emergency is imminent, a state of emergency is declared. This declaration covers the entirety of the State of Oregon.
2. The Oregon Office of Emergency Management and the Oregon National Guard shall work with other states where needed to facilitate the utilization of interstate mutual aid and EMAC. The Oregon Office of Emergency Management and the Oregon National Guard shall coordinate as needed with other states to request and receive life and safety resources such as MEDEVAC Helicopter(s) in Oregon to support the 2017 Total Solar Eclipse.
3. The Oregon Health Authority shall immediately exercise its authority to ensure that there are adequate emergency medical services during the Total Solar Eclipse by entering into agreement(s) or contract(s) with any ambulance services within the State or in other states.
4. State agencies may suspend provisions of any order or rule of the agency if strict compliance with the provisions of the order or rule would in any way prevent, hinder, or delay mitigating the effects of the Total Solar Eclipse.
5. This order shall be in effect until August 24, 2017, and shall thereafter expire, unless terminated sooner by the Governor.

Done at Salem, Oregon, this 14th day of August, 2017.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Dennis Richardson
Dennis Richardson
SECRETARY OF STATE

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 17 - 15

PROCLAMATION OF STATE OF EMERGENCY DUE TO IMMINENT THREAT OF WILDFIRE

Pursuant to ORS 401.165, I find that the State of Oregon is in a critical fire danger situation. Much of the State is now in extreme fire danger and red flag warnings have been issued for hot, dry, windy conditions and thunderstorms. We have experienced wildfires this season that resulted in evacuations and threatened critical infrastructure and structures. Other parts of the country, including our neighboring states such as Washington, California, and Idaho, continue to experience similar fires and weather. The extended forecast in Oregon calls for continued warm and dry conditions, resulting in imminent threat of fire over a broad area of the State.

The Oregon Department of Forestry is heavily engaged in initial and extended attack and National Interagency Teams are currently deployed in Oregon. Regional compacts are also being utilized for the deployment of specific wildland fire resources to Oregon. New and existing fire threats elevate the need for immediate access to state resources including firefighting helicopters. This threat is not likely to recede in the near future. It is critically important that National Guard resources be positioned to expedite requested resources and respond effectively to these dangerous and dynamic conditions.

Therefore, subject to the limitations described below, I hereby declare a statewide State of Emergency due to the imminent threat of wildfire.

NOW, THEREFORE, IT IS DIRECTED AND ORDERED:

1. A State of Emergency is declared.
2. All agencies of state government, including the Oregon National Guard, will utilize and employ state personnel, equipment and facilities for any and all activities as requested by the Oregon Department of Forestry and coordinated by the Oregon Office of Emergency Management. The Oregon National Guard will deploy and redeploy firefighting resource assets as needed throughout the remainder of the fire season based upon threat and resource shortfalls. All citizens are implored to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
3. This determination of a wildfire emergency is statewide. It is not to be construed as a comprehensive declaration or proclamation of emergency for other purposes. It is limited to the use of state resources and personnel for fire management required by the emergency. Any local government requests for state resources must be submitted through county governing bodies to the Office of Emergency Management pursuant to ORS Chapter 401.
4. This order shall remain in effect until the threat is significantly relieved or the fire season ends, as determined by the Governor. This order shall expire on November 1, 2017, unless otherwise ordered by the Governor.
5. This order was made by verbal proclamation at 12:27 pm on Wednesday the 2nd Day of August, 2017.

Done at Salem, Oregon, this 22nd day of August, 2017.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Dennis Richardson
Dennis Richardson
SECRETARY OF STATE

EXECUTIVE ORDER NO. 17 - 16

INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE FLOUNCE FIRE IN JACKSON COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

The fire known as the "Flounce Fire" is burning in Jackson County.

The resources necessary for protecting life and property from the Flounce Fire is beyond local capabilities. Assistance with life, safety, and structural fire protection was requested by Mike Kuntz, Jackson County Fire Defense Board Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510 et seq., I have determined that a threat to life, safety, and property exists due to a fire known as the Flounce Fire in Jackson County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 4:16 p.m. on August 8, 2017, and I now confirm them with this Executive Order. We will assume command on this fire at 9:00 a.m. August 9, 2017.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to Flounce Fire, burning near the town of Prospect, may be redistributed by the State Fire Marshal.
2. This emergency is declared only for the Flounce Fire threatening structures in Jackson County near the town of Prospect.
3. This order was made by verbal proclamation at 4:16 p.m. the 8th day of August, 2017, and signed this 22nd day of August, 2017, in Salem, Oregon.
4. This order shall remain in effect for as long as the Office of State Fire Marshal believes resources should be deployed. It shall expire by September 1, 2017, unless otherwise extended by the Governor.

Done at Salem, Oregon, this 22nd day of August, 2017.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Dennis Richardson
Dennis Richardson
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROSPECTIVE PURCHASER AGREEMENT FOR A PORTION OF THE KEN FOSTER FARM SITE IN SHERWOOD, OREGON

COMMENTS DUE: 5 p.m., Monday, Oct. 2, 2017

PROJECT LOCATION: 23000 SW Murdock Road, Sherwood, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) invites public comment on its proposed consent judgment for a prospective purchaser agreement with JT Roth Construction, Inc. (JT Roth) for a portion of the Ken Foster Farm (KFF) site in Sherwood, Oregon.

The subject property is part of the Ken Foster Farm Site, a 40-acre tract of former pasture land at 23000 to 23500 SW Murdock Road in Sherwood, Washington County, Oregon. Between 1962 and 1971, tannery wastes from the former Frontier Leather Tannery were land applied at KFF as a soil amendment.

In 2011, DEQ entered into a settlement in the form of a consent judgment with former owners and operators of the tannery and several former and current land owners of property at the KFF site. Under terms of the settlement DEQ was issued a cash payment of approximately 2.6 million dollars for cleanup of tannery related contamination.

From 2013 to June 2015, DEQ, through its contractor Geosyntec/Kennedy Jenks, completed a remedial investigation and feasibility study. The results showed that many samples contained hexavalent chromium levels above the DEQ human health risk-based concentration for residential use. DEQ evaluated remedial alternatives and concluded that soil removal and/or capping could both be protective and effective remedial alternatives for the residential properties. DEQ documented its recommended cleanup alternative in a Record of Decision issued in January 2017.

The purchaser proposes developing the 4.9 acre portion of KFF into residential lots and associated open-space tracts. The lots will be remediated as needed to applicable DEQ human-health risk-based concentrations for residential use. All tracts will meet human health risk-based concentrations for use as open-space. The soil quality in each lot and tract will be verified thorough confirmation soil testing. All residential lots and tracts will be covered with a protective layer of clean soil or hardscape such as roads, driveways, etc. prior to occupation. If testing shows that soil contamination in any lot or tract remains above applicable cleanup standards after remediation, the area will be covered with an engineered cap equally protective as that described in the Record of Decision. To the extent that the cap requires long-term maintenance, the requirement will be memorialized in a deed notice or easement and equitable servitude recorded on the property deed.

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.

Upon completion of cleanup work DEQ will reimburse JT Roth up to \$278,595, based on approximately \$57,000 per acre for the 4.9 acre property. The proposed consent judgment also will provide JT Roth with a 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 proposed consent judgment will also provide JT Roth with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Mark Pugh at 700 NE Multnomah St., Suite No. 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.oregon.gov/deq/about-us/Pages/Request-Public-Record.aspx>

Find the File Review Application form at: <http://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-Form.aspx>

To access the proposed Consent Judgment, site summary information and other documents in the DEQ Environmental Cleanup Site Information database, click on this link: Ken Foster Farm website documents page. 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 finalizing the consent judgment.

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

REQUEST FOR COMMENTS PROSPECTIVE PURCHASER AGREEMENT FOR A PORTION OF THE KEN FOSTER FARM SITE IN SHERWOOD, OREGON

COMMENTS DUE: 5 p.m., Monday, Oct. 2, 2017

PROJECT LOCATION: Tax lot 1000, of Washington County tax map 2S133CB (Township 2 South, 1 West, Section 33); Parcel 2, Partition Plat No. 1991-078, Sherwood, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) invites public comment on its proposed consent judgment for a prospective purchaser agreement with JT Roth Construction, Inc. (JT Roth) for a portion of the Ken Foster Farm (KFF) site in Sherwood, Oregon.

The subject property is part of the Ken Foster Farm Site, a 40-acre tract of former pasture land at 23000 to 23500 SW Murdock Road in Sherwood, Washington County, Oregon. Between 1962 and 1971, tannery wastes from the former Frontier Leather Tannery were land applied at KFF as a soil amendment.

In 2011, DEQ entered into a settlement in the form of a consent judgment with former owners and operators of the tannery and several former and current land owners of property at the KFF site. Under terms of the settlement DEQ was issued a cash payment of approximately 2.6 million dollars for cleanup of tannery related contamination.

From 2013 to June 2015, DEQ, through its contractor Geosyntec/Kennedy Jenks, completed a remedial investigation and feasibility study. The results showed that many samples contained hexavalent chromium levels above the DEQ human health risk-based concentration for residential use. DEQ evaluated remedial alternatives and concluded that soil removal and/or capping could both be protective and effective remedial alternatives for the residential properties. DEQ documented its recommended cleanup alternative in a Record of Decision issued in January 2017.

The purchaser proposes developing the 3.7 acre portion of KFF into eight residential lots and five open-space tracts. The lots will be remediated to applicable DEQ human-health risk-based concentrations for residential use, with the highest levels to be disposed off-site in a permitted landfill. Lesser impacted soil from the residential lots and four tracts will be consolidated on the fifth tract. All tracts will meet human health risk-based concentrations for use as open-space. The soil quality in each lot and tract will be verified thorough confirmation soil testing. All residential lots and tracts will be covered with a protective layer of clean soil or hardscape such as roads, driveways, etc. prior to occupation. If testing shows that soil contamination in any lot or tract remains above applicable cleanup standards after remediation, the area will be covered with an engineered cap equally protective as that described in the Record of Decision. To the extent that the cap requires long-term maintenance, the requirement will be memorialized in a deed notice or easement and equitable servitude recorded on the property deed.

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

OTHER NOTICES

would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

Upon completion of cleanup work DEQ will reimburse JT Roth up to \$210,368, based on approximately \$57,000 per acre for the 3.7 acre property. The proposed consent judgment also will provide JT Roth with a 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 proposed consent judgment will also provide JT Roth with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Mark Pugh at 700 NE Multnomah St., Suite No. 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.oregon.gov/deq/about-us/Pages/Request-Public-Record.aspx>

Find the File Review Application form at: <http://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-Form.aspx>

To access the proposed Consent Judgment, site summary information and other documents in the DEQ Environmental Cleanup Site Information database, click on this link: Ken Foster Farm website documents page. 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 finalizing the consent judgment.

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

PUBLIC NOTICE PROPOSED SOURCE CONTROL DECISION FOR FERGUSON WATERWORKS, INC.

COMMENTS DUE: 5 p.m., Monday, Oct. 2, 2017

PROJECT LOCATION: 9208 N Tyndall Ave., Portland, OR

PROPOSAL: Consistent with ORS 465.325(10)(a), DEQ is proposing to issue a determination that stormwater source control has been completed at the site. This determination will be supported in the long term by on-going monitoring and corrective action in compliance with the site's NPDES Industrial Stormwater General Permit. The site, located on the Lower Columbia Slough, has been used for the sale and distribution of products used in water distribution since 1996 when Ferguson became the property owner. Prior to this the site was used as a slaughterhouse.

HIGHLIGHTS: Elevated concentrations of contaminants were detected in Slough sediment in the vicinity of outfalls that discharge site stormwater and also in stormwater samples collected at the site and in the shared discharges with the adjacent Pacific Meat site. Therefore, the site was identified by DEQ as a potential source of contaminants to the Slough via stormwater runoff. Ferguson completed a site investigation that discovered high levels of PCBs in caulking present in the joints of a historical concrete pad located on the site. Ferguson removed and properly disposed of the concrete pad and associated impacted soil at the facility and reconfigured the stormwater system at the site. All stormwater runoff now either infiltrates or drains to a central stormwater treatment facility prior to discharge to the Columbia Slough. Stormwater samples collected from the new system demonstrate reduction of contaminants to concentrations that are not expected to adversely impact sediment in the Slough. DEQ determined that the removal action, stormwater system redesign, and associated on-going implementation of stormwater control measures and management practices are effective. DEQ is proposing to issue a No Further Action for stormwater source control, which will be supported in the long term by continued compliance with the site's NPDES Industrial Stormwater General Permit.

HOW TO COMMENT: Send comments to DEQ Project Manager Jennifer Sutter at DEQ's Northwest Region, 700 NE Multnomah St., Suite #600, Portland, OR 97232 or sutter.jennifer@deq.state.or.us. For more information contact the project manager at (503) 229-6148.

Find information about requesting a review of DEQ project files at: <https://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-FAQ.aspx>

Find the File Review Application form at: <https://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-Form.aspx>.

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/eccsquery.asp>, select "Search complete ECSI database", then enter 5295 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5295 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=5295&SourceIdType=11>.

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

THE NEXT STEP: DEQ will consider all public comments and the DEQ Northwest Region Cleanup Manager will make a final decision after consideration of these comments.

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

REQUEST FOR COMMENTS PROPOSED CERTIFICATE OF COMPLETION FOR MORAINÉ INDUSTRIES LLC AT NORTHWEST ALUMINUM – TAX LOT 200

COMMENTS DUE: 5 p.m., Monday, October 2, 2017

PROJECT LOCATION: 2650, 2652 and 2625 River Road, The Dalles

PROPOSAL: In accordance with ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310, DEQ is preparing to certify that all actions required have been satisfactorily completed. This project has resulted in environmental benefits and readied the site for redevelopment, with any resulting economic benefits.

HIGHLIGHTS: In August 2015 Moraine Industries LLC entered a Prospective Purchaser Agreement Consent Judgment with DEQ and agreed to complete a Scope of Work on the subject property, including expanding an existing gravel cap, recording an Easement and Equitable Servitudes with Wasco County, controlling access to the site, and adhering to a contaminated media management plan that was prepared for the site.

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

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

The Certification of Completion confirms Moraine Industries' 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 Moraine Industries with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Bob Schwarz at 400 E. Scenic Drive, Suite 2.307, The Dalles, Oregon 97058, or schwarz.bob@deq.state.or.us.

OTHER NOTICES

For more information contact the project manager at 541-298-7255 x230.

Request DEQ project file review.

File review (records request) application form

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter ECSI # 5955 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI # 5955 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCcontroller.ashx?SourceId=5955&SourceIdType=11>.

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

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

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

REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION FOR PACIFIC HOLDINGS CO. CLEANUP SITE, PORTLAND

COMMENTS DUE: 5 p.m., Mon., Oct. 2, 2017

PROJECT LOCATION: NE 67th Avenue (Block 13, Lot 10-19, Lot H of the Santa Rosa Park Addition) in Portland, OR.

PROPOSAL: The Oregon Department of Environmental Quality seeks comments on its proposal to issue a conditional no further action determination for the property located at NE 67th Avenue (Block 13, Lot 10-19, Lot H of the Santa Rosa Park Addition) in Portland, OR. Pacific Property Holdings, LLC is the responsible party.

The subject property is located on the east side of NE 67th Avenue with NE Halsey as the south cross street. The site is currently owned by Pacific Property Holdings, LLC and will be sold to West Coast Storage. Currently the site is vacant and is used to store construction materials for the City of Portland. The property will be developed into a self-storage facility.

Historically, a majority of the property was excavated and soil was used for fill for roadway development and filled with miscellaneous debris and black sand. After the property was filled, it was used for commercial activities and a service station. Multiple subsurface investigations and risk evaluations were completed.

DEQ has posted a staff memo on the Environmental Site Cleanup Information database proposing a conditional no further action determination. This determination would require that Pacific Property Holdings, LLC enter into an Easement and Equitable Servitudes that documents onsite contamination, requires installation of a methane mitigation system, and references a management plan for properly managing contaminated soil on the property.

HOW TO COMMENT: Send comments to DEQ Project Manager Rob Hood at 700 NE Multnomah St., Suite 600, Portland, OR 97232 or hood.robert@deq.state.or.us. For more information contact the project manager at 503-229-5617.

Find information about requesting a review of DEQ project files at: <http://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-FAQ.aspx>

Find the File Review Application form at: <http://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-Form.aspx>

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/ecsi.aspx>, select "Search complete ECSI database", then enter ECSI #6142 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #6142 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCcontroller.ashx?SourceId=6142&S>

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 proposed prospective purchaser agreement for the site.

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

PROPOSED NO FURTHER ACTION DETERMINATION FOR FOREMAN CLEANERS AND SAGENE PROPERTIES

COMMENTS DUE: 5 p.m., Monday, October 2, 2017

PROJECT LOCATION: 1070 Commercial St. SE & 1038 1044 Commercial St NE Salem

PROPOSAL: DEQ proposes to issue a No Further Action determination for the former Foreman Cleaners and Sagene Building properties, conditioned upon execution and adherence to restrictions recorded in Easement and Equitable Servitudes attached to property deeds.

HIGHLIGHTS: Based on analytical data collected to date, contamination at the sites is likely related to historic dry cleaning operations at the former Foreman's Cleaner that resulted in releases of tetrachloroethene (PCE) and Stoddard solvent to the subsurface. The distribution of PCE and Stoddard solvent appears to be confined to the shallow aquifer, impacting soil, groundwater, and vapors on the Foreman's Cleaner and Sagene Properties. Substantial migration of contamination beyond the two properties is not anticipated due to the fine-grained nature of the soil matrix, prior source area removal, in situ bioremediation work, and on-going natural attenuation. DEQ proposes to place institutional and engineering control requirements on the two properties to protect current and future occupational workers. The site does not pose an unacceptable risk to public health or the environment in its current state.

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

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to <http://www.oregon.gov/deq/pages/index.aspx>, under the "Hazards and Cleanup" section, select "Environmental Cleanup Site Information Database" select "Search complete ECSI database", then enter 2312 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 2312 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 close of the comment period before making a final decision regarding the proposed No Further Action determination.

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

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

**Board of Chiropractic Examiners
Chapter 811**

Rule Caption: Accommodates delegation of exams to national testing agency; Creates a broader exemption for some CE

Date:	Time:	Location:
9-21-17	9 a.m.	Best Western Sunridge Inn 1 Sunridge Ln. Baker City, OR

Hearing Officer: Jason Young DC

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.050, 684.052 & 684.155

Proposed Amendments: 811-010-0085, 811-010-0110, 811-015-0025

Last Date for Comment: 9-21-17, 5 p.m.

Summary: Amending 811-010-0085 and 811-010-0110 accommodates delegation of State Ethics and Jurisprudence exam, and Chiropractic Assistant Exam to a national testing agency.

Amending 811-015-0025 updates which healthcare professionals may be exempt from the over-the-counter continuing education requirement.

Rules Coordinator: Kelly J. Beringer

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

Telephone: (503) 373-1573

**Department of Agriculture
Chapter 603**

Rule Caption: Adopts National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish, 2015 Revision.

Date:	Time:	Location:
9-19-17	9 a.m.	Oregon Department of Agriculture Basement Hearing Rm. 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: OAR 561.190 & 622.180

Stats. Implemented: ORS 622.180

Proposed Amendments: 603-100-0010

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

Summary: The National Shellfish Sanitation Program (NSSP) is the federal/state cooperative program recognized by the U.S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption. The NSSP promotes and improves the sanitation of shellfish (oysters, clams, mussels and scallops) moving in interstate commerce through federal/state cooperation and uniformity of State shellfish programs. As an NSSP participant, the Oregon Department of Agriculture (ODA) works with other States, FDA, the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Association (NOAA), and the shellfish industry to provide guidance and counsel on matters for the sanitary control of shellfish.

The ISSC provides a formal structure for ODA to participate in establishing regulatory guidelines and procedures for uniform state application of the Program. After FDA concurs with the NSSP Model Ordinance proposed by ISSC, the guidelines are published in current revisions of the NSSP Model Ordinance. The Model Ordinance includes guidelines to ensure that the shellfish produced in Oregon are in compliance with sanitary measures, and are safe for human consumption. The most current revision is titled National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish, 2015 Revision. ODA intends to adopt the Guide for the Control of Molluscan Shellfish, 2015 Revision, which will become effective upon filing a permanent administrative rule certificate.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Describes process to monitor for domoic acid in Dungeness Crab and recommend harvest restrictions.

Date:	Time:	Location:
9-26-17	4 p.m.	Hatfield Marine Science Center Oregon Dept. of Fish & Wildlife Conference Rm. 2040 SE Marine Science Dr. Newport, OR 97365

Hearing Officer: Staff

Stat. Auth.: ORS 561.190, 616.215, 616.225; ORS 616.235

Other Auth.: ORS 616.220, 616.305, 561.605-630, 561.280

Stats. Implemented: ORS 616.215, 616.235

Proposed Adoptions: 603-025-0410

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

Summary: This rule describes the monitoring process for domoic acid in Dungeness Crab and the possible harvest restriction options that the Oregon Department of Agriculture may adopt through temporary rule and recommend to the Oregon Department of Fish and Wildlife if domoic acid is detected above thresholds established by the US Food and Drug Administration (FDA). Domoic acid is a naturally occurring marine biotoxin that can cause serious public health impacts if ingested above established thresholds.

During the 2015-2016 and 2016-2017 commercial Dungeness Crab fishing seasons, domoic acid issues delayed the opening of the commercial crabbing season. During the 2016-2017 season, domoic acid was detected in crab viscera above the FDA-established threshold and ODA and ODFW adopted emergency rules to first close the area and then open the area with requirements to eviscerate all crab landed from the area. The agencies and the industry have pursued a permanent rulemaking process to provide greater transparency and clarity during future seasons about the monitoring process as well as the management options.

The rule describes both pre-season and in-season crab sample collection procedures for domoic acid testing in Dungeness Crab. The rule describes the possible harvest restrictions that ODA may rec-

NOTICES OF PROPOSED RULEMAKING

ommend to the Oregon Department of Fish and Wildlife if domoic acid is detected in crab above the FDA-established thresholds, both pre-season and in-season, and describes the conditions under which ODA may recommend keeping the commercial crabbing season open with harvest restrictions in the event of another domoic acid problem.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

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Rule Caption: Adding conversion goals and requirements for commercial egg farms; outlining ODA's authority/procedures for inspections.

Stat. Auth.: ORS 561.275, 632.840

Stats. Implemented: ORS 632.835, 632.850

Proposed Amendments: 603-018-0005, 603-018-0020

Last Date for Comment: 9-21-17, 5 p.m.

Summary: This proposed rule amendment would 1) add conversion requirements and goals for commercial egg farms regarding cage size standards, and 2) outline ODA's authority and procedures regarding inspections of commercial egg farms engaged in the production of eggs and specify a fee schedule for recouping costs associated with such inspections.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

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Department of Agriculture, Oregon Raspberry and Blackberry Commission Chapter 611

Rule Caption: Sets rules for Commissioner per diem compensation, incurring and reimbursement of travel and other expenses.

Date:	Time:	Location:
9-20-17	6 p.m.	8187 Tualatin-Sherwood Rd. Tualatin, OR 97062

Hearing Officer: Philip Gutt

Stat. Auth.: ORS 292, ORS 576

Stats. Implemented: ORS 292.495, ORS 576.206, ORS 576.206(7), ORS 576.265

Proposed Adoptions: 611-040-0010, 611-040-0020, 611-040-0030

Last Date for Comment: 9-20-17, Close of Hearing

Summary: Adopt OAR 611-040-0010 to set per diem compensation. Adopt OAR 611-040-0020 to govern incurring and reimbursement of travel and other expenses. Adopt OAR 611-040-0030 to set reimbursement for hiring a substitute.

The Oregon Raspberry & Blackberry Commission is adopting the above OARs to comply with Oregon laws.

Rules Coordinator: Connie Gutt

Address: Department of Agriculture, Raspberry and Blackberry Commission, 4845 B SW Dresden Ave., Corvallis, OR 97333

Telephone: (541) 758-4043

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Department of Agriculture, Oregon Strawberry Commission Chapter 668

Rule Caption: Sets rules for Commissioner per diem compensation, incurring and reimbursement of travel and other expenses.

Date:	Time:	Location:
9-26-17	6 p.m.	310 NE Evans St. McMinnville, OR 97218

Hearing Officer: Philip Gutt

Stat. Auth.: ORS 292, ORS 576

Stats. Implemented: ORS 292.495, ORS 576.206, ORS 576.206(7), ORS 576.265

Proposed Adoptions: 668-040-0010, 668-040-0020, 668-040-0030

Last Date for Comment: 9-26-17, Close of Hearing

Summary: Adopt OAR 668-040-0010 to set per diem compensation. Adopt OAR 668-040-0020 to govern incurring and reimbursement of travel and other expenses. Adopt OAR 668-040-0030 to set reimbursement for hiring a substitute.

The Oregon Strawberry Commission is adopting the above OARs to comply with Oregon Laws.

Rules Coordinator: Connie Gutt

Address: Department of Agriculture, Oregon Strawberry Commission, 4845 B SW Dresden Ave., Corvallis, OR 97333

Telephone: (541) 758-4043

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

Rule Caption: Amends the Oregon Structural Specialty Code for construction components for emergency responder radio coverage

Date:	Time:	Location:
9-19-17	9:30 a.m.	1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Staff

Stat. Auth.: ORS 447.231, 455.030, 455.110 & 455.496

Stats. Implemented: ORS 455.110

Proposed Amendments: 918-460-0015

Proposed Repeals: 918-460-0015(T)

Last Date for Comment: 9-22-17, 5 p.m.

Summary: This rule implements changes to clarify the construction requirements for emergency responder radio coverage in the Oregon Structural Specialty Code.

Rules Coordinator: Holly A. Tucker

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

Telephone: (503) 378-5331

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

Rule Caption: 2018 Workers' Compensation Premium Assessment Rates

Date:	Time:	Location:
9-21-17	3 p.m.	350 Winter St. NE Rm. B (Basement) Salem, Oregon

Hearing Officer: Fred Bruyns

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

Stats. Implemented: ORS 656.612, ORS 656.614

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

Last Date for Comment: 9-28-17, 5 p.m.

Summary: Each year DCBS adopts by rule the workers' compensation premium assessment rate that is paid by employers to fund workers' compensation and workplace safety and health programs. The rule also adopts the rate for an additional amount that is collected from all self-insured employers and self-insured employer groups to fund the Self-Insured Employers Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. These funds ensure worker benefits are available in the event of a financial failure of a self-insured employer or self-insured employer group. Before recommending the 2018 rate, the department must analyze financial data and review and authorize a proposed workers' compensation pure premium rate filing by the National Council on Compensation Insurance. The proposed premium assessment rate for 2018 is expected to remain unchanged at 6.8%. Additional assessments to fund the Self-Insured Employer Adjustment Reserve and Self-Insured Employer Group Adjustment Reserve are also expected to remain unchanged. These are preliminary rates and are subject to change during the rulemaking process.

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Heather Welburn
Address: Department of Consumer and Business Services, Director's Office, 350 Winter St. NE, Salem, OR 97301
Telephone: (503) 947-7872

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

Rule Caption: Workers' Compensation Statistical Plan

Date:	Time:	Location:
9-27-17	9:30 a.m.	Labor & Industries Bldg. 350 Winter St. NE Basement, Rm. F Salem, OR 97301

Hearing Officer: Alex Cheng

Stat. Auth.: ORS 731.244, 737.225

Stats. Implemented: ORS 737.205, 737.225, 737.265(2) & 737.320

Proposed Amendments: 836-042-0015, 836-042-0035, 836-042-0045

Last Date for Comment: 10-4-17, 5 p.m.

Summary: OAR 836-042-0015(2) requires that rate filings be accompanied by a transmittal letter with a specific format prescribed by rule. The proposed rulemaking would allow insurers to file the transmittal letter without being in a specific format as long as it contains the required information listed on the DFR website.

OAR 836-042-0015(8)-(9) requires insurers to duplicate filings made to DCBS and submit them to its rating organization for review. In practice, this requirement does not serve a meaningful purpose. DCBS reviews submissions from insurers, which is independent from, and does not rely upon a review from the rating organization. The proposed rulemaking would eliminate the requirement to submit duplicate filings to the rating organization for review.

OAR 836-042-0035 contains a reference to a provision in the insurance code that has moved from ORS 743 to ORS 742. The proposed rulemaking updates the statutory reference.

ORS 737.225 directs the Director to designate the statistical plan for workers' compensation insurance. OAR 836-042-0045 designates the Statistical Plan for Workers Compensation and Employers Liability Insurance, 2008 Edition, revised in 2014 and filed by the National Council on Compensation Insurance (NCCI). The proposed rulemaking would designate the NCCI plan with revisions as of January 1, 2018.

Auxiliary aids for persons with disabilities are available upon advance request.

Rules Coordinator: Karen Winkel

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

Telephone: (503) 947-7694

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**Department of Consumer and Business Services,
Workers' Compensation Division
Chapter 436**

Rule Caption: Criteria for determining number of arbiters for medical arbiter panel; implementation of House Bill 2335

Date:	Time:	Location:
9-18-17	10:30 a.m.	Rm. F, 350 Winter St. NE Salem, Oregon

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.268, as amended by enrolled House Bill 2335; Oregon Laws 2017, chapter 68

Proposed Amendments: 436-030-0165

Last Date for Comment: 9-22-17, Close of Business

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

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

To implement enrolled House Bill 2335 (2017), the agency proposes to amend OAR 436-030-0165 to define a "panel" of physicians

and to provide criteria the director may consider when determining whether to appoint two rather than three medical arbiters to a panel.

Rules Coordinator: Fred Bruyns

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

Telephone: (503) 947-7717

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**Department of Energy,
Energy Facility Siting Council
Chapter 345**

Rule Caption: Amend rules and rule provisions addressing structural, geologic, and seismic related issues and hazards.

Date:	Time:	Location:
9-21-17	4:30 p.m.	Boardman City Hall 200 City Center Circle Boardman, OR 97818

Hearing Officer: Jason Sierman

Stat. Auth.: ORS 469.470 & 469.501

Stats. Implemented: ORS 469.375, 469.401 & 469.501

Proposed Amendments: 345-021-0010, 345-022-0020, 345-027-0020, 345-050-0060

Last Date for Comment: 9-21-17, Close of Hearing

Summary: Amend the EFSC rules and rule provisions addressing the structural, geologic, and seismic related issues and hazards the Council examines when issuing site certificates or amendments to site certificates for energy facilities and waste disposal facilities within Council jurisdiction [or when carrying out cooperative agreements or arrangements with an agency of the federal government to clean up radioactive waste, uranium mine overburden or contaminated material pursuant to ORS 469.559(2)].

Broadly speaking, the amendments would: 1) eliminate references to specific codes, which can quickly become outdated; 2) better describe the relationship and consultation requirements between the applicant (or certificate holder) and the Department of Geology and Mineral Industries (DOGAMI); 3) add factors the applicant must consider in its assessments and explanations of how it will design, engineer, construct, and operate the facility to avoid dangers caused by structural, geologic, and seismic related issues and hazards (factors including but not limited to the environment, resiliency, rapid recovery, future climate conditions, etc.); and 4) eliminate inefficient and unnecessary language. The proposed rule language is intended to focus the requirements of Exhibit H and the Structural Standard to site-specific issues and risks, and allow for the appropriate consideration of evolving science of seismic risk and hazard based on consultation with DOGAMI.

EFSC requests public comment on these draft rules. EFSC also requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business. A call-in number is available for the public hearing. Please see the Oregon Department of Energy website for hearing details and other materials: <http://www.oregon.gov/energy/Get-Involved/Pages/Energy-Facility-Siting-Council-Rulemaking.aspx>

Rules Coordinator: Jason Sierman

Address: Department of Energy, Energy Facility Siting Council, 550 Capitol St. NE, 1st Floor, Salem, OR 97301

Telephone: (503) 373-2127

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Rule Caption: Amend the monetary offset rate for carbon dioxide (CO2) emissions and correct CO2 equivalency weights.

Date:	Time:	Location:
9-21-17	3:30 p.m.	Boardman City Hall 200 City Center Circle Boardman, OR 97818

Hearing Officer: Jason Sierman

Stat. Auth.: ORS 469.470, 469.501 and 469.503

Stats. Implemented: ORS 469.503

Proposed Amendments: 345-024-0580, 345-024-0620

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 9-21-17, Close of Hearing

Summary: A 2007 rulemaking amended the monetary offset rate for carbon dioxide (CO₂) emissions (\$ per ton of CO₂ emissions) from \$0.85 to \$1.27 per ton of CO₂ emissions. The monetary offset rate has not been updated since 2007. Based on ODOE's research, the current monetary offset rate is priced considerably below the cost per ton of CO₂ equivalent offsets in other states and regions that have implemented CO₂ trading programs, including California. In order to bring the monetary offset rate closer to the current market cost of offsets, it is necessary to increase the monetary offset rate. This rulemaking proposes to update the monetary offset rate under 345-024-0580 from \$1.27 to \$1.90 per ton of CO₂. This would be a 50 percent increase. Under ORS 469.503, the Council may increase or decrease the monetary offset rate no more percent in any two-year period. If the Council adopts the proposed increase to \$1.90, ORS 469.503 would restrict the Council from adopting another increase or decrease to the monetary offset rate until at least 2-years after the effective date of this rulemaking.

Also, a 2013 rulemaking amended the CO₂ equivalency weights for methane and nitrous oxide under the Council's standard for base load gas plants and its standard for non-base load power plants, but did not amend the same CO₂ equivalency weights under its standard for nongenerating energy facilities that emit carbon dioxide. In order to correct for this oversight, this rulemaking proposes to update the CO₂ equivalency weights for methane and nitrous oxide under 345-024-0620, the Council's standard for nongenerating energy facilities that emit carbon dioxide. The methane equivalency weight is proposed to be updated from 23 to 25 pounds of CO₂, and the nitrous oxide equivalency weight is proposed to be updated from 296 to 298 pounds of CO₂. These proposed equivalency weights are exactly the same as what is already specified under rules 345-024-0550 and 345-024-0590, which govern the same subject matter.

EFSC requests public comment on these draft rules. EFSC also requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business. A call-in number is available for the public hearing. Please see the Oregon Department of Energy website for hearing details and other materials: <http://www.oregon.gov/energy/Get-Involved/Pages/Energy-Facility-Siting-Council-Rulemaking.aspx>

Rules Coordinator: Jason Sierman

Address: Department of Energy, Energy Facility Siting Council, 550 Capitol St. NE, 1st Floor, Salem, OR 97301

Telephone: (503) 373-2127

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Amend Rules Related to Hunting, Angling, and Commercial Fishing Fees

Date:	Time:	Location:
10-13-17	8 a.m.	Crook County Fairgrounds 1280 S Main St. Prineville, OR 97754

Hearing Officer: ODFW Commission

Stat. Auth.: ORS 183 & 496; SB 247

Stats. Implemented: ORS 183 & 496; SB 247

Proposed Amendments: Rules in 635-001, 007, 043, 044, 046, 047, 049, 050, 055, 056, 060, 075, 200

Last Date for Comment: 10-13-17, Close of Hearing

Summary: Adopts amendments to the Oregon Administrative rules to implement SB247, enacted by the 2015 Legislative Assembly. Per Senate Bill 247, proposed rule amendments provide for incrementally decreasing, increasing or establishing certain fees related to hunting, angling and commercial fishing over a six-year period (January 1, 2016, January 1, 2018 and January 1, 2020.)

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 Oregon Cougar Management Plan

Date:	Time:	Location:
10-13-17	8 a.m.	Crook County Fairgrounds 1280 S Main St. Prineville, OR 97754

Hearing Officer: ODFW Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162

Proposed Amendments: Rules in 635-180

Last Date for Comment: 10-13-17, Close of Hearing

Summary: Amend rule relating to the Oregon Cougar Management Plan to maintain plan objectives that seek to maintain viable and healthy cougar populations in Oregon, reduce conflicts with cougars, and manage cougars in a manner compatible with other game mammal species. Revisions will be made to both the Cougar Management Plan and associated administrative rules.

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: Removing 10-day draft APS Report and updating Background Check rules for APD Adult Foster Homes

Date:	Time:	Location:
9-25-17	9:30 a.m.	3406 Cherry Ave. NE, Rm. 123 Keizer, Oregon 97303

Hearing Officer: Staff

Stat. Auth.: ORS 410.070, 443.705-443.825

Stats. Implemented: ORS 443.705-443.825

Proposed Amendments: 411-050-0602, 411-050-0615, 411-050-0620, 411-050-0635, 411-050-0640, 411-050-0645, 411-050-0650, 411-050-0655, 411-050-0665, 411-050-0685

Last Date for Comment: 9-25-17, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the rules in OAR chapter 411, division 050 to make permanent temporary changes that became effective May 1, 2017. The amendments to the rules eliminate the 10-day review period that allows the licensee and the complainant an opportunity to review a preliminary Adult Protective Service (APS) complaint report and provide additional information. The amendments enable the Department to comply with statutory time limits for completion of reports and corrective action. The proposed changes would also enable adult foster home licensees to utilize a preliminary fitness determination in the background check process as agreed upon during the collective bargaining process with SEIU on behalf of adult foster home providers, and add a mandatory penalty for failure to actively supervise an individual with an approved preliminary fitness determination. The Department is also making minor housekeeping changes to correct references to other rules, codes, and forms that are currently incorrect, improve grammar and punctuation, and to clarify rule text.

Rules Coordinator: Kimberly Colkitt-Hallman

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

Telephone: (503) 945-6398

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Rule Caption: Removal of 10-day draft Adult Protective Service Report for Residential Care and Assisted Living Facilities

NOTICES OF PROPOSED RULEMAKING

Date: 9-21-17
Time: 8:30 a.m.
Location: Human Services Bldg.
500 Summer St. NE, Rm.160
Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 410.070, 443.450
Stats. Implemented: ORS 443.400–443.455, 443.991
Proposed Amendments: 411-054-0105
Last Date for Comment: 9-21-17, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the rules in OAR chapter 411, division 054 to make permanent temporary changes that became effective May 1, 2017 that eliminates the 10-day draft review period that allows facilities to review the draft Adult Protective Service (APS) facility investigation report before the report is closed and sent to the Safety, Oversight and Quality (SOQ) Unit for abuse determination and apportionment. The amendment enables the Department to comply with statutory time limits for completion of reports and corrective action. The Department is also making minor housekeeping, grammar, punctuation, and language changes to reflect current Department terminology.

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 Justice
Chapter 137

Rule Caption: Provision of services for administrative hearings, arrears establishment and case closure; new hire reporting.
Stat. Auth.: ORS 25.080, 180.345
Stats. Implemented: ORS 25.015, 25.020, 25.080, 25.167, 25.381, 25.381, 25.790, 110.611, 180.345, 183.415
Proposed Amendments: 137-055-1100, 137-055-1120, 137-055-2045, 137-055-2160, 137-055-2165, 137-055-3240, 137-055-4040
Last Date for Comment: 9-22-17, 5 p.m.

Summary: OAR 137-055-1100 is being amended to clarify that the recipient of services may request that support enforcement services no longer be provided, given that there is no assignment of support to the state. The Program will no longer discontinue enforcement of support for the family while continuing to collect on arrears assigned to the state when current support or arrears are owed to the family under the existing order. It is also being amended to clarify that if a case is reactivated, the Program will resume enforcement of the case balance from the date of closure.

OAR 137-055-1120 and 137-055-2045 are being amended to incorporate the new case closure criteria added to 45 CFR 303.11, as provided in the federal Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (OCSE AT-16-06).

OAR 137-055-2160 and 137-055-2165 are being amended to clarify the process when a party requests an administrative hearing after the timeframe to request a hearing has passed. The same criteria for requesting a late hearing is being applied to the process for requesting that a hearing be rescheduled.

OAR 137-055-3240 is being amended to clarify that the Program will only establish arrears during timeframes when the Program was not keeping records. Upon the case reopening, the balance prior to case closure or non-enforcement will remain on the case and any payments made during the period of closure/non-enforcement can be addressed through the credit for direct payment process.

OAR 137-055-4040 is being amended to update the current methods used for reporting new hire information to the Program. It is also being amended to include the first date an employee started work in the information that must be reported. This requirement is from 42 USC 653a(b)(1)(A), and has been incorporated into the Oregon Employer Services Portal.

Please submit written comments to Lori Woltring, Policy Analyst, Division of Child Support, 1162 Court St NE Salem, Oregon 97301. Questions may be directed to that address or emailed to lori.woltring@doj.state.or.us

Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301
Telephone: (503) 378-5987

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Adds 3 hours of Mental Health/Crisis Intervention related training to law enforcement certification maintenance training.

Stat. Auth.: ORS 181A.410
Stats. Implemented: ORS 181A.410
Proposed Amendments: 259-008-0065
Last Date for Comment: 9-21-17, 5 p.m.

Summary: On July 27, 2017, the Board adopted a recommendation that designates three hours of the maintenance training requirements to mental health/crisis intervention related training.

Implementation of the change to the law enforcement officer maintenance training requirements will be modeled after the current maintenance training standards. The three hours of mental health or crisis intervention related training will be a part of the three year maintenance cycle and not above and beyond the 84 hours required. The title of the training category allows for a broad range of topics within mental health or crisis intervention. The employing agency will maintain discretion on selection of training topics, how training is delivered, and if the training takes place as a lump sum total at one time or in smaller time allotments. The proposed rule change includes a phasing in period that will transition the training from recommended training to required training by January 1, 2020.

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: Changes the definition of discharge for cause for mandatory revocation of fire service professional certification.

Stat. Auth.: ORS 181A.410, 183.341
Stats. Implemented: ORS 181A.410, 183.341
Proposed Amendments: 259-009-0070
Last Date for Comment: 9-21-17, 5 p.m.

Summary: ORS 181A.640 requires that the Department of Public Safety Standards and Training (DPSST) deny or revoke the certification of a fire service professional upon a finding that the person has been discharged for cause from employment as a fire service professional. OAR 259-009-0070 provides the Board on Public Safety Standards and Training's (Board) definition of discharge for cause as it relates to a fire service professional's certifications.

The definition of a discharge for cause for certification purposes changed on January 1, 2016 from an employer initiated termination for conduct involving dishonesty, disregard of the rights of others, gross misconduct, incompetence and misuse of authority to an employer initiated termination of employment for behavior that involved lack of integrity or unprofessionalism.

Since the implementation of that change, the Fire Policy Committee (FPC) and the Board determined that the definition of discharge for cause needed further adjustment as it is applied to an individual's eligibility to hold certifications as a fire service professional.

The proposed language identifies categories of particularly egregious conduct that could also be considered criminal in nature. The language also requires that the behavior that led to the discharge occur while the individual is acting in their official capacity as a fire service professional.

NOTICES OF PROPOSED RULEMAKING

The proposed language does not require that the individual who is reported to DPSST as being discharged from their agency be charged criminally, but does give the FPC and the Board an avenue to ensure that the certifications of fire service professionals who engage in this type of egregious behavior are permanently revoked.

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: Adopts 2017 Edition of the NFPA 1002 Fire Apparatus Driver/Operator standard for DPSST certification requirements.

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Proposed Amendments: 259-009-0005, 259-009-0062

Last Date for Comment: 9-21-17, 5 p.m.

Summary: The proposed rule change for 259-009-0062 (Fire Service Personnel Certification) updates the requirements for the NFPA 1002 Fire Apparatus Driver/Operator certification. The proposed changes to OAR 259-009-0005 (Definitions) update references and definitions related to the adoption of the changes to the 2017 Edition for the NFPA 1002 Fire Apparatus Driver/Operator certification.

Explanation of the changes to NFPA Driver and Pumper Operator:

NFPA Fire Apparatus Driver/Operator (Driver) requirements are essentially unchanged as compared to the 2014 Edition with the exception of adding the communications section from NFPA Fire Fighter I into the Driver section (4.4 Fire Department Communications) as a training requirement. Curriculum that includes the communication section can be attained through nationally recognized curriculum.

NFPA Apparatus Equipped with Fire Pump (Pumper) previously required fire service professionals to be certified as NFPA Fire Fighter I for the purpose of certification and NFPA requirements. The 2017 Edition of NFPA no longer requires this prerequisite but NFPA Fire Fighter I training components are now included throughout the Pumper standard.

The remaining prerequisite requirements for certifications within NFPA 1002 remain unchanged.

The descriptive comparison of the new 2017 Edition for NFPA 1002 Fire Apparatus Driver/Operator is available upon request through the DPSST Rules Coordinator or the DPSST Fire Certification Unit.

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: Adds violation for misrepresentation; clarifies authority to determine a moral fitness violation; includes technical correction.

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.845, 181A.850, 181A.855, 181A.870, 181A.880 & 181A.885

Proposed Amendments: 259-060-0015, 259-060-0300

Last Date for Comment: 9-21-17, 5 p.m.

Summary: 1. Addition of a violation for misrepresentation:

Current OAR does not prohibit or provide a course of action for addressing occurrences when a private security provider uses the DPSST logo or their license or certification to imply or claim that they are an agent, authorizing representative or an employee of the Department.

The proposed rule changes to OAR 259-060-0015 (4) add language prohibiting this type of misrepresentation. DPSST staff would be able to ensure compliance of the proposed rule through the ability to deny or revoke licensure or certification in accordance with

OAR 259-060-0300 or issue a civil penalty in accordance with OAR 259-060-0450.

2. Clarification of the authority to determine a moral fitness violation:

The statutory authority to make a determination that a violation has occurred and whether to deny or revoke is the authority of the Board and the Department and not an employer determination. The proposed changes to OAR 259-060-0300 (1) and (2) revising the introductory statement regarding responsibilities and authorities, and (7) removing the employer request language, were drafted to support the intent to clarify this issue. Employers will still submit terminations to DPSST. When a termination is reported as a possible violation of the Private Security Providers Act, DPSST staff will continue to review the conduct to determine whether or not a violation may have occurred. DPSST staff will continue to review information from any source that a private security provider may not meet the established standards for Oregon private security providers as defined by the Private Security Providers Act and OAR Chapter 259 Division 060.

The proposed changes to OAR 259-060-0300 (7) (a) further revise the remaining language about review of a potential violation to model the Administrative Procedures Act (APA) in that the Department must show substantial evidence exists, by preponderance, that when the record is viewed as a whole it would permit a reasonable person to make the same finding of a violation of the Act or the rules.

3. Technical correction:

DPSST staff identified a technical error in OAR 259-060-0300 regarding the placement of qualifying language that identifies that the included list of misdemeanor crimes that result in a mandatory denial, suspension or revocation also includes any crime with similar elements in any other jurisdiction. The proposed rule changes to OAR 259-060-0300 (3) (c) (F) move the qualifying language, "Any crime with similar elements in any other jurisdiction", from a separate paragraph that follows the crimes list to the correct rule paragraph that contains the crimes list.

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: Rule division reorganization; Amends internship process and requirements, PLAC duties, review of convictions and conduct.

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 181A.195, 670.280, 703.010, 703.030, 703.050, 703.060, 703.070, 703.080, 703.090, 703.100, 703.110, 703.120, 703.130, 703.140, 703.200, 703.210, 703.220, 703.230, 703.240, 703.300, 703.310, 703.325

Proposed Adoptions: 259-020-0100, 259-020-0120, 259-020-0130, 259-020-0140, 259-020-150, 259-020-0160, 259-020-0170, 259-020-0180, 259-020-0190, 259-020-0200, 259-020-0210, 259-020-0220

Proposed Amendments: 259-020-0005

Proposed Repeals: 259-020-0000, 259-020-0010, 259-020-0015, 259-020-0020, 259-020-0025, 259-020-0030, 259-020-0035, 259-020-0040, 259-020-0045, 259-020-0050, 259-020-0055, 259-020-0060, 259-020-0065

Last Date for Comment: 9-21-17, 5 p.m.

Summary: This proposed rule change for OAR chapter 259 division 20 has been developed to ensure that the polygraph licensing program is operating in compliance with Oregon laws and that the scope of the program remains relevant, purposeful and in line with the intent of occupational regulation.

As the changes were developed and the standards that were to be maintained were reorganized, the amount of reorganization necessitated repealing the existing rules and adopting those standards under new rules. While many of the established standards within the polygraph licensing program were carried over in these new rules,

NOTICES OF PROPOSED RULEMAKING

the following abbreviated summary has been included to address some of the most significant changes. A more detailed version of the summary is available upon request through the DPSST Rules Coordinator.

259-020-0005 Definitions. The cited ORS authorizing the rule and implemented in the rule are updated as a technical change.

259-020-0100 Polygraph Examiner Responsibilities. These responsibilities represent actions or standards that polygraph examiners are required to follow. The content was consolidated from multiple rules to reduce the duplication of the rule language throughout the rule set. The current requirements for maintaining examination records have been expanded to include documentation related to a trainee's internship requirements. The requirement for notification of conviction has been expanded to include notification to DPSST if convicted of a criminal offense while licensed as a polygraph examiner.

259-020-0120 Minimum Standards for Licensure as a Polygraph Examiner. This rule outlines the minimum standards that must be met in order to be eligible to hold a general polygraph examiner license. Age, citizenship, education, training and an examination for licensure requirements are defined in ORS. ORS also requires professional fitness. The proposed OAR language identifies these requirements and provides additional interpretation for their application. References and processes that addressed professional fitness, criminal history and the denial/revocation process were amended in recognition that the Department must consider the facts and circumstances pertaining to a conviction when making a determination on whether or not a conviction indicates the applicant is unlikely to perform the duties of a polygraph examiner in a manner that would serve the interests of the public. Such determinations cannot be made on the circumstance of conviction alone.

259-020-0130 Minimum Standards for Licensure as a Polygraph Examiner Trainee. This rule outlines the minimum standards that must be met in order to be eligible to hold a polygraph examiner trainee license. Age, citizenship and training requirements are defined in ORS. ORS also requires internship and professional fitness, but the existing ORS language requires further definition of these standards through OAR. The definition of a "trainee" is a person licensed to engage in an internship. A separate rule has been created to define the requirements of an internship. This rule also incorporates the changes to professional fitness as outlined previously in the summary for 259-020-0120.

259-020-0140 Polygraph Examiner Trainee Internship. This rule was created to define the Board prescribed course of study for a person licensed as a trainee. Completion of the internship when licensed as a trainee is a requirement. The rule maintains consultation with a licensed polygraph examiner and identifies the criteria for this individual as a mentor. The rule maintains the review of completed examinations by the mentor but eliminates the set timeline specific series and the requirement to complete and submit the critique form F-203a to DPSST. The rule adds a new requirement for the direct observation of the administration of polygraph examinations. Section (6) addresses persons who have already been licensed as trainees and engaged in an internship prior to the proposed rule change.

259-020-0150 Examination for Licensure. This rule identifies successful completion of the examination for licensure administered by the Department. The requirement for completion of an oral exam administered by the PLAC has been removed. This rule also includes changes to the process for retesting in the event of failure of the exam and changes to the requirements when an applicant fails the exam three times.

259-020-0160 Continuing Education Requirements for Renewal of a Polygraph Examiner or Trainee License. This rule defines the purpose of continuing education and identifies continuing education requirements. The proposed rule language ties continuing education to a licensee's ongoing maintenance of current knowledge, skills or abilities as an examiner. The changes correct the discrepancy in current rule that requires continuing education every two years for a

license that is only issued for one year. The changes address the option to carry over additional hours for an additional year under certain circumstances.

259-020-0170 Applications for Licensure/Applications for Renewal. This rule outlines application requirements and supporting documentation for a new application for licensure, an application for renewal of a license or a request for a duplicate license.

259-020-0180 Period of Licensure / Expired Licenses. This rule identifies the expiration of a license after one year; prescribes a time limit for licensure as a trainee (increased from 2 years to 4 years); and identifies the timelines for which a person is eligible to renew a license after an expiration and when they must apply for a new license based on the length of the expiration period.

Section (2) of the proposed rule limits a person to four years of licensure as a trainee unless the individual requests a time extension and meets the eligibility for an extension. Time extensions would be limited to one additional year of licensure as a trainee. A time extension would be granted when the trainee needs additional time to complete the education, training or examination for licensure requirements to be eligible for a general polygraph examiner's license. The four year period would be aggregate and would not include time in which the license is expired. The proposed rule provides that a person becomes ineligible for licensure for a period of 2 years and 1 day if they have exhausted their 4 years of licensure and time extension. A person who reapplies for licensure as a trainee after the ineligibility period has been satisfied would be required to complete a new internship.

259-020-0190 Reciprocity. This rule outlines the requirements for Oregon licensure based on polygraph examiner licensure from another state. These requirements have been established by ORS. The requirement for a polygraph examiner, who is not a resident of this state, to submit a written irrevocable consent for the Director to act as an agent for all legal process was moved to the rule for applications.

259-020-0180 Denial, Suspension or Revocation of Licensure. This rule outlines the denial, suspension and revocation process. References and processes that addressed professional fitness, criminal history and the denial/revocation process were amended in recognition that the Department must consider the facts and circumstances pertaining to a conviction when making a determination on whether or not a conviction indicates the applicant is unlikely to perform the duties of a polygraph examiner in a manner that would serve the interests of the public. Such determinations cannot be made on the circumstance of conviction alone.

Once a determination has been made that a license will be denied or revoked, an ineligibility period is determined. In the current rule the ineligibility period is 10 years with the ability to apply for reconsideration after a minimum of 3 years. Section (7) of the proposed rule changes the ineligibility period for licensure from the 10 years to a period up to 10 years allowing for the ineligibility period to be determined based upon the conduct. The reconsideration process outlined in the current rule was replaced with language in section (9) that identifies that once the determined ineligibility period has been satisfied, a person may reapply for licensure if they meet all of the minimum requirements and the conduct resulting in the denial or revocation will no longer be considered a course of behavior that would prohibit licensure.

259-020-0210 Polygraph Licensing Advisory Committee. This rule amends the duties of the PLAC, amends the membership and length of terms, and amends the frequency of required meetings.

259-020-0220 Fees. This rule includes minor changes as the fees themselves have been established in ORS. The requirement to submit a fee that covers the cost of fingerprinting was moved from the minimum standards sections of the current rule to this rule in the proposed language. Language identifying the accepted forms of payment has been added. The repeal of the current rule and the adoption of the proposed rule is meant to rearrange the order of placement of the fee rule within the rule division.

NOTICES OF PROPOSED RULEMAKING

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: Proof of School Attendance or Completion
Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.066
Stats. Implemented: ORS 807.066
Proposed Amendments: 735-062-0035
Last Date for Comment: 9-21-17, 5 p.m.
Summary: Or Laws 2017, ch 66 (HB 2314), effective May 17, 2017, amended ORS 807.066 such that DMV must amend OAR 735-062-0035 not to conflict with statute. SB 20 further amended ORS 807.066 by including the possibility of a modified diploma. OAR 735-062-0035 establishes what DMV will accept as proof that an applicant under 18 years of age is either attending school, has graduated from high school or is exempt from school attendance requirements. Currently one of the proofs authorized by rule is a GED certificate. The wording in ORS 807.066 now reads "a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test." DMV proposes to amend OAR 735-062-0035 to include that same wording as now appears in statute. DMV also proposes to amend OAR 735-062-0035 to remove the section that establishes different proofs of a GED are acceptable. DMV further proposes to add to OAR 735-062-0035 that proof of graduation from high school could be a modified diploma.
Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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**Landscape Contractors Board
Chapter 808**

Rule Caption: Allows additional claim items through the mediation process or on-site meeting, whichever is latest.
Date: 9-28-17 **Time:** 9 a.m. **Location:** Landscape Contractors Board
2111 Front St. NE, Ste 2-101
Salem, OR 97301
Hearing Officer: Elizabeth Boxall
Stat. Auth.: ORS 670.310 & 671.760
Stats. Implemented: ORS 671.700 & 671.703
Proposed Adoptions: 808-004-0360
Last Date for Comment: 9-28-17, Close of Hearing
Summary: Allows additional claim items through the mediation process or on-site meeting, whichever is latest.
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Clarifies definition of Defective Work to include negligent or improper work.
Date: 9-28-17 **Time:** 9 a.m. **Location:** 2111 Front St. NE, Ste 2-101
Salem, OR
Hearing Officer: Elizabeth Boxall
Stat. Auth.: ORS 670.320 & 671.670
Stats. Implemented: ORS 671.610
Proposed Amendments: 808-002-0320
Last Date for Comment: 9-28-17, Close of Hearing
Summary: Clarifies definition of Defective Work to include negligent or improper work.
Rules Coordinator: Kim Gladwill-Rowley

Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Allows late registrations and refunds with a processing fee for practical skills exam.
Date: 9-28-17 **Time:** 9 a.m. **Location:** 2111 Front St. NE, Ste 2-101
Salem, OR 97301

Hearing Officer: Elizabeth Boxall
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.561
Proposed Amendments: 808-003-0700, 808-003-0910, 808-003-0940
Last Date for Comment: 9-28-17, Close of Hearing
Summary: Allows late registrations and refunds with a processing fee for practical skills exam.
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Amends definition of landscape edging to include items that separate different elements of a landscape.
Date: 9-28-17 **Time:** 9 a.m. **Location:** 2111 Front St. NE, Ste 2-101
Salem, OR 97301

Hearing Officer: Elizabeth Boxall
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.520
Proposed Amendments: 808-002-0490
Last Date for Comment: 9-28-17, Close of Hearing
Summary: Amends definition of landscape edging to include items that separate different elements of a landscape.
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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**Oregon Department of Education,
Early Learning Division
Chapter 414**

Rule Caption: Administrative rules governing Central Background Registry in conformance to Chapter 616, 2017 Oregon Laws.
Stat. Auth.: ORS 329A.030
Other Auth.: ORS 326.425(7); Child Care Development Block Grant Act of 2014 & 45 CFR part 98 section 43
Stats. Implemented: ORS 329A.030
Proposed Adoptions: 414-061-0045, 414-061-0075
Proposed Amendments: 414-061-0000, 414-061-0020, 414-061-0050, 414-061-0060, 414-061-0070, 414-061-0090, 414-061-0100, 414-061-0110, 414-061-0120
Last Date for Comment: 10-6-17, 5 p.m.
Summary: Rule amendments are necessary due to the passage of HB 2259 (2017 session), which modifies existing statutory language in ORS 329A.030 related to the Office of Child Care's Central Background Registry (CBR). Additionally, the Child Care Development Block Grant (CCDBG) of 2014, codified at 45 CFR 98, established new requirements for CBR background checks, and established a list of crimes that make an individual ineligible for enrollment in the CBR.
Specifically:
414-061-0000 & 414-061-0020 are amended to update definitions related to adult protective services and foster care checks.
414-061-0045 is added; and, 414-061-0050 414-061-0070 are amended due to the new requirements of CCDGB of 2014 (45 CFR98) that establish disqualifying conditions for enrollment in the CBR and the passage of HB 2259 in 2017.

NOTICES OF PROPOSED RULEMAKING

414-061-0060 is modified to remove conditional enrollment in the CBR.

414-061-0075 is added to define foster care and adult protective services checks as required by changes in ORS 329A due to the passage of HB 2259 (2017).

414-061-0090 and 414-061-0100 are amended due to the addition of 414-061-0045 and 414-061-0075 to rule; modifies time period that a person cannot reapply for the CBR to five years; and removes conditional enrollment for the CBR.

441-061-0120 amended due to changes in ORS 329A.030 due to passage of HB 2259 (2017) which require adult protective services and foster care checks prior to enrollment in the CBR.

Rules Coordinator: Lisa Pinheiro

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

Telephone: (503) 910-8135

Rule Caption: Corrections to rule language to cover license-exempt home-based and center-based child care facilities accepting subsidies.

Stat. Auth.: ORS 329A.505

Other Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

Proposed Amendments: 414-180-0015, 414-180-0020, 414-180-0025, 414-180-0055

Last Date for Comment: 9-22-17, 5 p.m.

Summary: The Child Care Development Block Grant Act of 2014 requires the Early Learning Division to begin annual health and safety inspections of license exempt child care providers who accept federal subsidies. ORS 329A.505 authorizes the Office of Child Care to conduct on-site inspections when such inspections are required under federal law and authorizes the Office of Child Care to require improvements or corrections necessary to bring provider into compliance.

The Early Learning Council adopted administrative rules covering health and safety inspections and corrective actions in June 2016 applicable to home-based Regulated Subsidy Providers. The Council then revised those rules in January 2017 to include rules for center-based child care facilities.

Subsequent rule revisions in March 2017 inadvertently reverted back to pre-January rule language. This rulemaking will correct the rule language to cover home-based and center-based child care facilities accepting subsidies.

Rules Coordinator: Lisa Pinheiro

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

Telephone: (503) 910-8135

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

Rule Caption: Amends Rules Pursuant to Federal Covered Outpatient Drug Final Rule (CMS 2345-FC)

Date:	Time:	Location:
9-15-17	10:30 a.m.	500 Summer St. NE Salem, OR 97301, Rm. 137B

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-146-0000, 410-146-0020, 410-146-0021, 410-146-0040, 410-146-0060, 410-146-0075, 410-146-0080, 410-146-0085, 410-146-0086, 410-146-0100, 410-146-0120, 410-146-0130, 410-146-0160, 410-146-0200, 410-146-0220, 410-146-0240, 410-146-0440, 410-146-0460

Last Date for Comment: 9-18-17, 5 p.m.

Summary: Broadens overall services that may be reimbursed at encounter rates in order to allow for a separate pharmacy encounter option. Adds HERC to further define covered services. Defines med-

ical, behavioral health, substance use disorder or dental encounters. A new section defines a pharmaceutical encounter, including specifying the limits on the number of prescriptions that may be included in a single encounter (decision point). Adds tribal prescription services to definition of allowed telephone encounters. Adds All-Inclusive Rate AIR (encounter rate) to options for separate pharmacy billings, under pharmacy providers separately enrolled from the IHS or Tribal 638 clinics. Adds pharmaceuticals dispensed by IHS or Tribal 638 Pharmacies to the list of services that may meet the criteria of a valid encounter. Adds pharmaceuticals dispensed by IHS or Tribal 638 Pharmacies to the list of services that may meet the criteria of multiple encounters including specifying the limits on the number of prescriptions that may be included in a single encounter. Amending to clarify that prescriptions are not included in calculating the encounter rate for physical, behavioral, or dental health services. Provides for the choice of reimbursement methodologies for IHS or Tribal 638 Pharmacies. Provides for the IHS or Tribal 638 Pharmacies to be allowed to change their methodology and prescribes the allowed frequency. Technical updates of OHA systems and services names, abbreviations, and acronyms have been made.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

Oregon Health Authority, Public Employees' Benefit Board Chapter 101

Rule Caption: PEBB is amending its Dependent Child rule to comply with Affordable Care Act eligibility requirements.

Date:	Time:	Location:
12-4-17	4 p.m.	500 Summer St. NE, HSB-559 Salem, OR

Hearing Officer: Cherie Taylor

Stat. Auth.: ORS 243.061-302, 659A.060-069, 743.600-602 & 743.707

Stats. Implemented: ORS 243.061-302, 292.501 & 2007 OL Chap. 99

Proposed Amendments: 101-015-0011

Last Date for Comment: 12-4-17, Close of Business

Summary: PEBB is amending its Dependent Child rule to comply with Affordable Care Act eligibility requirements.

Rules Coordinator: Cherie Taylor

Address: Oregon Health Authority, Public Employees' Benefit Board, 500 Summer Street NE, MS E-89, Salem, OR 97301

Telephone: (503) 378-6296

Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: POLST Verbal Orders, Authorized Signers and Sunset of POLST Registry Advisory Committee

Date:	Time:	Location:
9-21-17	1 p.m.	Portland State Office Bldg. 800 NE Oregon St., Rm 221 Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 127.666

Other Auth.: HB 2301 (Oregon Laws 2017, chapter 101) ; SB 856 (Oregon Laws 2017, chapter 356)

Stats. Implemented: ORS 127.663-127.684

Proposed Amendments: 333-270-0020, 333-270-0030, 333-270-0040, 333-270-0050, 333-270-0080

Proposed Repeals: 333-270-0070

Last Date for Comment: 9-22-17, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend and repeal rules in chapter 333, division 270 pertaining to the Oregon POLST (Physician Orders for Life-Sustaining Treatment) Registry. In response to passage of HB 2301 (Oregon Laws 2017, chapter 101) and SB 856 (Oregon Laws 2017, chapter 356) and a petition from the Oregon POLST Coalition, the Oregon POLST Registry administrative rules are being amended. Proposed amendments address the needs of hospice programs that may have a pressing need to put a POLST form in place for patients being served and will also help other types of long term care programs such as nursing facilities. 30% of hospice patients die within seven days of coming onto hospice. The proposed changes will allow an authorized POLST signer to issue a phone order for a patient newly enrolled in hospice eliminating the need to obtain an immediate written signature which can take several days. Hospice staff will then proceed with submitting the POLST form directly to the POLST registry. Additionally, the amendments remove the POLST Registry Advisory Committee (PRAC) given passage of HB 2301 and allow a naturopathic physician to sign and submit POLST orders given passage of SB 856.

Rules Coordinator: Brittany Hall
Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (503) 449-9808

Rule Caption: Health Care Practitioner Referral
Date: 9-27-17 **Time:** 2:30 p.m. **Location:** Portland State Office Bldg., 800 NE Oregon St., Rm. 1D Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 441.098
Other Auth.: OL 2017, ch. 356
Stats. Implemented: ORS 441.098
Proposed Amendments: 333-072-0210
Last Date for Comment: 9-29-17, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing permanent amendments to OAR 333-072-0210 pertaining to health care practitioner referrals. In response to passage of SB 856 (Oregon Laws 2017, chapter 356), the definition of 'health practitioner' is being amended to include naturopathic physicians licensed under ORS chapter 685. The proposed change will require a naturopathic physician to provide notice of patient choice related to referrals for diagnostic tests, health care services or treatments.

Rules Coordinator: Brittany Hall
Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (503) 449-9808

Rule Caption: Promotion of seismic resiliency at public water systems and clarification of rule language.
Date: 9-21-17 **Time:** 2 p.m. **Location:** Portland State Office Bldg., 800 NE Oregon St., Rm. 1A Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 197.180, 448.131, 448.150, 448.279 & 448.450
Stats. Implemented: ORS 197.180, 448.131, 448.150, 448.160, 448.175, 448.273, 448.278, 448.279, 448.450, 448.455, 448.460, 448.465 & 448.994
Proposed Amendments: 333-061-0010, 333-061-0020, 333-061-0030, 333-061-0031, 333-061-0032, 333-061-0034, 333-061-0036, 333-061-0040, 333-061-0042, 333-061-0043, 333-061-0050, 333-061-0057, 333-061-0060, 333-061-0061, 333-061-0062, 333-061-0064, 333-061-0065, 333-061-0070, 333-061-0071, 333-061-0073, 333-061-0074, 333-061-0076, 333-061-0077, 333-061-0078, 333-061-0087, 333-061-0235, 333-061-0260
Last Date for Comment: 9-25-17, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division (Authority) is proposing to permanently amend Oregon Administrative Rules in chapter 333, division 061 to promote seismic resiliency through water system master plans and to clarify or improve existing rule language.

Rules Coordinator: Brittany Hall
Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (503) 449-9808

Rule Caption: Updated Computed Tomography (CT) operator requirements and amended radiation rules for federal compatibility

Stat. Auth.: ORS 453.605–453.807
Other Auth.: Nuclear Regulatory Commission's (NRC) 10 CFR Parts 37, 40, and 71
Stats. Implemented: ORS 453.605–453.807

Proposed Amendments: 333-100-0080, 333-102-0305, 333-102-0355, 333-106-0370, 333-118-0020, 333-118-0052, 333-118-0053, 333-118-0070, 333-118-0100, 333-118-0140, 333-118-0170, 333-118-0200, 333-120-0200, 333-125-0025, 333-125-0120, 333-125-0180

Proposed Repeals: 333-118-0080
Last Date for Comment: 9-22-17, 5 p.m.

Summary: The Oregon Health Authority (Authority), Public Health Division, Center for Health Protection is proposing to permanently amend and repeal Oregon Administrative Rules (OAR) relating to the X-ray and radioactive material 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 (NRC)'s regulations 10 CFR parts 37, 40, and 71 within OAR divisions 100, 102, 106, 118, and 125. Amended rules pertain to the domestic licensing, transportation, safety and security of radioactive materials.

Proposed amended rules for domestic licensing will require the licensee to retain records pertaining to the transfer of radioactive materials until the Authority terminates the license rather than the licensee only retaining the records for three years. Amended rules also correct federal regulation referencing within division 102. Amended rules within division 118 relate to the transportation of radioactive materials. Federal regulations require RPS to update rules within the division to maintain compatibility with the NRC's and

U.S. Department of Transportation regulations. OAR 333-118-0080 is being repealed due to amended rules referencing 10 CFR Part 71.1

Amended rules within division 125 pertain to radioactive materials safety and security and are revised to correct Oregon Administrative Rule references within OAR 333-125-0025 and distinguish "plan" and "procedure" within OAR 333-125-0120(1).

The X-ray program is proposing to amend OAR 333-106-0370 to only allow operation of Computed Tomography (CT) machines by individuals who have received CT credentialing through the Nuclear Medicine Technology Certification Board or the American Registry of Radiologic Technologists and are licensed by the Oregon Board of Medical Imaging.

Rules Coordinator: Brittany Hall
Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (503) 449-9808

Oregon Liquor Control Commission Chapter 845

Rule Caption: The amendments and adoptions clarify beverage redemptions, exemptions and sanctions for violations of ORS 459A.
Date: 9-20-17 **Time:** 10 a.m. **Location:** 9079 SE McLoughlin Blvd. Portland, Oregon 97222

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Bryant Haley
Stat. Auth.: ORS 459A.702, 459A.710, 459A.717, 459A.718, 459A.735, 459A.737 & 459A.738
Stats. Implemented: ORS 459A.702, 459A.705, 459.717, 459A.735 & 459A.738
Proposed Adoptions: 845-020-0016, 845-020-0040, 845-020-0060
Proposed Amendments: 845-020-0005, 845-020-0020, 845-020-0025, 845-020-0030, 845-020-0035
Last Date for Comment: 10-4-17, 5 p.m.

Summary: ORS 459A.705 states that "Every beverage container sold or offered for sale in this state shall have a refund value of not less than 10 cents... Eight months after the Oregon Liquor Control Commission determines that, in each of the two previous calendar years, the number of beverage containers returned for the refund value specified in this section was less than 80 percent of the total number of beverage containers that were sold in this state."

In July of 2016, the Commission determined the return rate has been less than 80% in each of the two previous years. This has led the Commission to determine that, effective August 1, 2016, by statute the refund value had to change from five cents to ten cents on refundable beverage containers per statute. In response, staff initiated the rulemaking process to work with industry and the public on how best to respond to the changes made by this determination before the April 1, 2017 implementation of the change. This included informally meeting with industry and monitoring legislative proposals.

Further, with the completion of the 2017 legislative session, and no relevant legislation passed, staff held an advisory committee on August 3rd to review staff's redrafting of Division 20 of Chapter. Staff was specifically interested in listening to industry partners concerning the expansion of the types of beverages that may have a refund value.

Specifically, ORS 459A.702 requires:

"...[O]n January 1, 2018, ... ORS 459A.700 to 459A.740 apply to any individual, separate, sealed glass, metal or plastic bottle or can, except for cartons, foil pouches, drink boxes and metal containers that require a tool to be opened, that contains:

(a) The following beverages, intended for human consumption and in a quantity less than or equal to three fluid liters:

- (A) Water and flavored water;
- (B) Beer or other malt beverages; and
- (C) Mineral waters, soda water and similar carbonated soft drinks.

(b) Any beverage other than those specified in paragraph (a) of this subsection that is intended for human consumption and is in a quantity more than or equal to four fluid ounces and less than or equal to one and one-half fluid liters, except distilled liquor, wine, dairy or plant-based milks, infant formula and any other exemptions set forth in rule of the Oregon Liquor Control Commission."

Finally, the proposed rules clarify the independent audit process and sanctions the Commission may enforce per violations of 459A and Division 20. The Commission walked through these proposed rules with industry.

Rules Coordinator: Bryant Haley
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222
Telephone: (503) 872-5136

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Oregon State Treasury
Chapter 170

Rule Caption: Creates new rules and modifies existing rules for the Oregon Retirement Savings Program

Date:	Time:	Location:
9-19-17	10 a.m.	Oregon State Treasury - Tigard 16290 SW Upper Boones Ferry Rd. Tigard, OR

Hearing Officer: Kimberly Olson
Stat. Auth.: ORS 178.200-178.245

Stats. Implemented: ORS 178.215
Proposed Adoptions: 170-080-0011, 170-080-0036
Proposed Amendments: 170-080-0010, 170-080-0015, 170-080-0020, 170-080-0025, 170-080-0030, 170-080-0035, 170-080-0055, 170-080-0065

Last Date for Comment: 9-22-17, Close of Business
Summary: Creates new rules and modifies existing rules for the Oregon Retirement Savings Program. Specifically, the rules: 1) clarify the definitions in certain joint employment relationships, 2) allow for non-payroll contributions from participating employees, 3) clarify timing related to contributions, 4) allow for dollar-based contributions, and 5) provide a delegation of authority to the executive director. The revisions also update and add new defined terms, and adjust language to clarify existing rules.

Interested parties are welcome to attend in person or call-in to the hearing. The call-in information will be posted on the Oregon State Treasury Retirement Savings Program website (<http://www.oregon.gov/treasury/ORSP/Pages/ORSP-Rulemaking.aspx>) in advance of the hearing. We request interested parties wishing to call-in and provide oral comment to contact Kim Olson, OST Rules Coordinator, in advance of the hearing. The Rules Coordinator will enter the interested party into a queue so we can accept comments from both those in the room and on the phone in an orderly fashion.

Rules Coordinator: Kimberly Olson
Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 378-3562

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Oregon Youth Authority
Chapter 416

Rule Caption: Establish standards for identification, assessment, and case-by-case management of transgender, gender non-conforming and intersex offenders.

Date:	Time:	Location:
9-15-17	9 a.m.	Oregon Youth Authority 530 Center St. NE, Suite 300 Owyhee Conference Rm. Salem, OR 97301

Hearing Officer: Winifred Skinner
Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420A.010, 420A.014, 420A.015
Proposed Adoptions: 416-435-0010, 416-435-0020, 416-435-0030, 416-435-0040, 416-435-0050

Last Date for Comment: 9-15-17, Close of Business
Summary: The purpose of these rules is to establish OYA standards for the identification, assessment, review, and case-by-case management of transgender, gender nonconforming, and intersex offenders.

Rules Coordinator: Winifred Skinner
Address: Oregon Youth Authority, 530 Center St. NE, Suite 500, Salem, OR 97301
Telephone: (503) 373-7570

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Rule Caption: OYA is updating its offender work program stipend rate for Advanced work program level.
Stat. Auth.: ORS 420A.025, 420A.010, 420.240, 420.255
Stats. Implemented: ORS 420A.010, 420A.035, 420.065, 420.225, 420.230, 420.240, 420.245, 420.255, 420.260
Proposed Amendments: 416-415-0050

Last Date for Comment: 9-21-17, Close of Business
Summary: OYA is changing its Work Program Stipend rate chart (Appendix A) for Advanced work program level assignments.
Rules Coordinator: Winifred Skinner
Address: Oregon Youth Authority, 530 Center St. NE, Suite 500, Salem, OR 97301
Telephone: (503) 373-7570

NOTICES OF PROPOSED RULEMAKING

Physical Therapist Licensing Board Chapter 848

Rule Caption: Amend reassessment and discharge requirements, adopt standards for non clinical community care and wellness programs.

Date:	Time:	Location:
10-6-17	8 a.m.	Portland State Office Bldg. Suite 445 800 NE Oregon St. Portland, OR

Hearing Officer: James Heider

Stat. Auth.: ORS 688.160(6)(c)

Stats. Implemented: ORS 688.010 through 688.230

Proposed Adoptions: 848-040-0190

Proposed Amendments: 848-040-0125, 848-040-0130, 848-040-0150, 848-040-0155, 848-040-0160, 848-040-0165, 848-040-0170

Last Date for Comment: 10-6-17, 9 a.m.

Summary: Amend the 30 day required reassessment rule and the mandatory discharge rule noting that under certain circumstances and parameters there may be exceptions to the rules. Amend initiation of physical therapy rules noting that under certain circumstances or situations where a therapist is called upon to provide immediate minimal or basic treatment to a person participating in an athletic activity or event the standards for documentation are less onerous. Adopt new rule addressing standards of practice for a licensee who provides non-individualized instruction to a group of persons in the community or group of employees in a workplace.

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (971) 673-0203

**Real Estate Agency
Chapter 863**

Rule Caption: Rules amendments required to implement SB 67 and SB 68 (2017).

Date:	Time:	Location:
9-19-17	10 a.m.	Oregon Real Estate Agency Equitable Center, Suite 100 530 Center St. NE Salem, OR 97301

Hearing Officer: Michael Hanifin

Stat. Auth.: ORS 696

Other Auth.: SB 67 (Chapter 234, 2017 Laws) and SB 68 (Chapter 193, 2017 Laws)

Stats. Implemented: ORS 696

Proposed Adoptions: 863-014-0097, 863-015-0092, 863-015-0257, 863-015-0259, 863-024-0097, 863-024-0120, 863-025-0027, 863-025-0028, 863-025-0090

Proposed Amendments: 863-001-0007, 863-001-0020, 863-010-0640, 863-010-0650, 863-014-0003, 863-014-0010, 863-014-0015, 863-014-0020, 863-014-0030, 863-014-0035, 863-014-0040, 863-014-0050, 863-014-0060, 863-014-0062, 863-014-0063, 863-014-0065, 863-014-0075, 863-014-0085, 863-014-0095, 863-014-0160, 863-015-0003, 863-015-0081, 863-015-0130, 863-015-0135, 863-015-0140, 863-015-0145, 863-015-0150, 863-015-0186, 863-015-0190, 863-015-0200, 863-015-0210, 863-015-0215, 863-015-0250, 863-015-0255, 863-015-0260, 863-015-0265, 863-020-0000, 863-020-0005, 863-020-0007, 863-020-0010, 863-020-0015, 863-020-0020, 863-020-0025, 863-020-0030, 863-020-0035, 863-020-0050, 863-022-0020, 863-022-0030, 863-022-0035, 863-022-0045, 863-022-0050, 863-024-0003, 863-024-0010, 863-024-0015, 863-024-0020, 863-024-0030, 863-024-0045, 863-024-0050, 863-024-0060, 863-024-0061, 863-024-0062, 863-024-0063, 863-024-0065, 863-024-0070, 863-024-0075, 863-024-0085, 863-024-0095, 863-024-0100, 863-025-0010, 863-025-0015, 863-025-0020, 863-025-0025, 863-025-0030, 863-025-0035, 863-025-0045, 863-025-0055, 863-025-0065, 863-025-0070, 863-025-0080, 863-027-0000, 863-027-

0010, 863-027-0020, 863-040-0040, 863-049-0010, 863-049-0035, 863-050-0052

Proposed Repeals: 863-015-0188

Last Date for Comment: 9-19-17, Close of Hearing

Summary: These rules changes are required to comply with SB 67 and SB 68, 2017 Laws. SB 67 was a comprehensive housekeeping measure that removed the requirement to create a client trust account when acting as courier of a check made out to the other party to a transaction, clarified that licensed real estate property managers may not solicit potential tenants without a written property management agreement from the lessor, restricted registration to registered business names (RBN's), and created renewal requirements for RBN's and continuing education providers. In addition to revising the rules to account for the above changes, statutory references were updated, references to obsolete processes and implementation dates were eliminated, online filing and payment processes were clarified, some material was reorganized for greater readability, and formatting was further standardized.

Rules Coordinator: Michael Hanifin

Address: Real Estate Agency, Equitable Center, Suite 100, 530 Center St. NE, Salem, OR 97301-3740

Telephone: (503) 378-4632

**Veterinary Medical Examining Board
Chapter 875**

Rule Caption: Requires prescription availability notification in veterinary facilities.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.130

Proposed Amendments: 875-015-0020

Last Date for Comment: 10-2-17, Close of Business

Summary: Veterinary facility shall post sign announcing availability of written prescription if requested for medication prescribed by facility.

Rules Coordinator: Lori V. Makinen

Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0224

Rule Caption: Requires notification of supervision change for intern licensees.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.085

Proposed Amendments: 875-010-0050

Last Date for Comment: 10-2-17, Close of Business

Summary: Requires interns and intern supervisors to notify Board of change in supervision within 10 days.

Rules Coordinator: Lori V. Makinen

Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0224

Rule Caption: Clarifies requirements for providing copies of veterinary patient records.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.130

Proposed Amendments: 875-011-0010

Last Date for Comment: 9-15-17, Close of Business

Summary: Clarifies requirements for providing copies of veterinary patient records.

Rules Coordinator: Lori V. Makinen

Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0224

Rule Caption: Clarifies requirements for physical examinations.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.040 & 686.370

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 875-015-0030
Last Date for Comment: 9-15-17, Close of Business
Summary: Clarifies what exams are required and what exams may be waived and who authorizes waivers.
Rules Coordinator: Lori V. Makinen
Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0224

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Rule Caption: Changes 'doctor' to 'veterinarian.'
Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.040, 686.020, 686.130
Proposed Amendments: 875-015-0005
Last Date for Comment: 9-15-17, Close of Business
Summary: Changes 'doctor' to 'veterinarian.'
Rules Coordinator: Lori V. Makinen

Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0224

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Rule Caption: Defines 'year' for purposes of experience requirements.
Stat. Auth.: 686.210
Stats. Implemented: 475.190, 609.405, 686.130, 686.255, 686.510.
Proposed Amendments: 875-005-0005
Last Date for Comment: 09-15-2017, Close of Business
Summary: Defines 'year' as being at least 2,000 hours in any 52-week period.
Rules Coordinator: Lori V. Makinen
Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0224

ADMINISTRATIVE RULES

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: These rules relate to organization, administration and procedures for the Appraiser Certification and Licensure Board.

Adm. Order No.: ACLB 1-2017

Filed with Sec. of State: 7-28-2017

Certified to be Effective: 7-28-17

Notice Publication Date: 6-1-2017

Rules Adopted: 161-006-0185

Rules Amended: 161-006-0000, 161-006-0060, 161-006-0140, 161-006-0155, 161-006-0160, 161-006-0175

Rules Repealed: 161-006-0025, 161-006-0030, 161-006-0050, 161-006-0070, 161-006-0080, 161-006-0110, 161-006-0120

Subject: Division 006 is being amended to include a variety of housekeeping changes in order to clean up language. A number of unnecessary rules are being repealed that would benefit from an agency policy rather than rulemaking. A new rule for Notification of Disciplinary Action has been added.

Rules Coordinator: Reena Keene—(503) 485-2555

161-006-0000

The Agency and Its Purpose

The Appraiser Certification and Licensure Board was created by the 1991 Oregon Legislative Assembly to implement Title XI of the Federal Act in Oregon.

(1) Its purpose is to represent the broad public interest while it implements its functions to license, supervise and regulate appraisers in Oregon, and to develop and establish appraisal education and experience standards.

(2) The Appraiser Certification and Licensure Board is a regulatory agency. Board members shall avoid conflicts of interest in implementing appraiser certification and supervision functions. The Board is to provide adequate safeguards to ensure that the appraisal regulatory function is insulated from the influence of any industry or organization whose members have a direct or indirect financial interest in the outcome of the Board's decisions. The regulatory functions of the Board are independent of other realty related regulatory agencies.

Stat. Auth.: ORS 674.010, 674.305(8) & 674.310

Stats. Implemented: ORS 674.305

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 1-2017, f. & cert. ef. 7-28-17

161-006-0060

Administrator

(1) The Board shall appoint an Administrator. The Administrator will be unclassified service and compensation will be fixed by the Board.

(2) The Administrator shall not be actively engaged in the appraisal business or in any other realty related business for the individual's term of appointment or employment.

(3) The Administrator shall be responsible for the administration of Board policy and applicable state and federal laws and regulations.

(4) The Administrator is designated as agent for the Board for service of legal process upon the Board.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674.305

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2017, f. & cert. ef. 7-28-17

161-006-0140

Registry

The Board shall, compile and publish on the Board website a registry of the names and addresses of all persons both licensed and certified to perform real estate appraisals.

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

Stats. Implemented: ORS 674.310

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2017, f. & cert. ef. 7-28-17

161-006-0155

Allegation Reports

(1) All allegation reports must be in writing.

(2) Any person may file an allegation report. The Board will accept anonymous allegation reports.

(3) A member of the Board or the Administrator may initiate an allegation report.

(a) Before a member of the Board or the Administrator initiates an allegation report and investigation, the Enforcement Oversight Committee must review the allegation report to determine if an objective basis exists that possible violations of ORS Chapter 674 and/or OAR chapter 161 has occurred.

(4) The allegation report will be reviewed by the Administrator or the Administrator's designee to determine whether further action is required, or whether the matter may be dismissed as either frivolous or not within the Board's jurisdiction. If further action is required, the Administrator will initiate the investigation process.

Stat. Auth.: ORS 674.145, 674.305(8) & 674.310

Stats. Implemented: ORS 674.145 & 674.310

Hist.: ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13; ACLB 6-2013(Temp), f. 12-19-13, cert. ef. 1-1-14 thru 6-2-14; ACLB 1-2014, f. & cert. ef. 4-22-14; ACLB 2-2014, f. & cert. ef. 5-20-14; ACLB 5-2014, f. 12-19-14, cert. ef. 1-1-15; ACLB 1-2017, f. & cert. ef. 7-28-17

161-006-0160

Complaints, Investigations and Audits

(1) A notice of investigation, together with a true copy of the allegation report as submitted to the Board's office, including all supporting documentation, shall be promptly sent by certified mail, return receipt requested, to the last known address of the person against whom the allegation is filed. Unless otherwise specified in the notice of investigation, the Respondent must produce within thirty (30) days:

(a) True copies of records, including the workfile. No extension of time for the production of these documents will be granted; and

(b) A written response to the allegations set forth in the allegation report.

(A) A respondent may request an extension to file a response to a notice of investigation. An extension of up to thirty (30) days only will be approved, provided the extension request is submitted in writing to the Administrator within the thirty (30) day time period. Good cause must exist that shows circumstances beyond the reasonable control of the respondent preventing a response within thirty (30) days.

(B) The Administrator may grant one additional extension of no more than thirty (30) days only upon showing of good cause.

(2) The investigation may include all inquiries deemed appropriate to ensure that each case is processed in accordance with ORS Chapter 183.

(3) The Board may initiate an audit or other type of inquiry or investigation to verify an individual's compliance with ORS Chapter 674 and OAR chapter 161.

(4) Every licensed or certified appraiser or registered appraiser assistant must cooperate with the Board and must respond fully and truthfully to Board inquiries and comply with any requests from the Board, subject only to the exercise of any applicable right or privilege. Failure to cooperate with the Board is unethical and is grounds for discipline including revocation or suspension of a license, certificate or registration, imposition of a civil penalty, or denial of a license, certificate, or registration, or any combination thereof.

(5) At the completion of the investigation process, the Enforcement Oversight Committee shall review the allegation report and all documents related to the investigation. If the Enforcement Oversight Committee determines that an objective basis exists to believe that violations of ORS Chapter 674 and/or OAR chapter 161 occurred, the Enforcement Oversight Committee will submit a report to the Board, and may authorize the Administrator to proceed with settlement discussions with the licensee.

(6) The EOC shall submit a report to the Board setting forth specific violations along with the facts supporting the Committee's recommendation.

Stat. Auth.: ORS 674.145, 674.305 & 674.310

Stats. Implemented: ORS 674.145

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13; ACLB 6-2013(Temp), f. 12-19-13, cert. ef. 1-1-14 thru 6-2-14; ACLB 1-2014, f. & cert. ef. 4-22-14; ACLB 2-2014, f. & cert. ef. 5-20-14; ACLB 5-2014, f. 12-19-14, cert. ef. 1-1-15; ACLB 1-2017, f. & cert. ef. 7-28-17

161-006-0175

Enforcement Guidelines

The primary objective of the enforcement guidelines is to fairly and consistently apply appropriate sanctions for violations of Oregon Revised Statutes and Oregon Administrative Rules governing real estate appraisal activity.

(1) Sanctions imposed by the Board are included in ORS 674.140 and 674.850.

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(2) A notice of proposed disciplinary action shall propose the presumptive sanction(s) provided by the guidelines unless there are substantial and compelling reason(s) to propose a departure. If the Notice departs from the presumptive sanctions, the Notice shall state the substantial and compelling reason(s) for the departure.

(3) The Administrator or the Administrator's designee shall have the authority to negotiate and approve a stipulated settlement at any time prior to issuance of a Final Order by the Board. If the parties stipulate to depart from the guidelines, the Administrator or the Administrator's designee shall consider the purpose and principles of the guidelines and may agree to sanctions that are proportionate to the seriousness of the violations.

(4) Departure from the guidelines shall also be allowed in issuance of a Proposed Order by an Administrative Law Judge and/or a Final Order by the Board upon a showing of substantial and compelling reason(s) for said departure. Substantial and compelling reason(s) shall be stated in the Proposed Order and/or Final Order.

(5) In the event of second or subsequent violations of ORS 674.140(2) and/or 674.140(7), the Administrator shall not consider a prior Final Order that was issued more than five (5) years preceding the date of the second or subsequent notice of proposed sanctions.

Stat. Auth.: ORS 674.140 & 674.310
Stats. Implemented: ORS 674.140 & 674.850
Hist.: ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 1-2017, f. & cert. ef. 7-28-17

161-006-0185

Notice of Disciplinary Action

Once an official disciplinary action has occurred, the Board shall:

(1) Report all violations of applicable appraisal related laws, regulations, orders, disciplinary and enforcement actions to the FFIEC Appraisal Subcommittee (ASC);

(2) Advise other State Boards of the stipulated agreement upon request;

(3) Publish notice of the stipulated agreement on the Board's website; and

(4) Provide notice of the stipulated agreement to all parties on the Board's Final Order mailing list.

Stat. Auth.: ORS 674.305 & 674.310
Stats. Implemented: ORS 674.305 & 674.310
Hist.: ACLB 1-2017, f. & cert. ef. 7-28-17

Board of Licensed Professional Counselors and Therapists Chapter 833

Rule Caption: Renewal fee increase for registered interns and active status licensees.

Adm. Order No.: BLPCT 5-2017

Filed with Sec. of State: 8-15-2017

Certified to be Effective: 8-15-17

Notice Publication Date: 7-1-2017

Rules Amended: 833-070-0011

Rules Repealed: 833-070-0011(T)

Subject: This amendment changes the annual renewal fee for registered interns from \$80 to \$120, and changes the annual renewal fee for active status licensees from \$125 to \$165.

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

833-070-0011

Fees

Fees established by the Board of Licensed Professional Counselors and Therapists are as follows:

(1) Application for licensure — \$175; applicants are also required to pay the actual cost to the Board to conduct a criminal background check.

(2) Initial license — \$125.

(3) Annual renewal of license:

(a) Active status license — \$165; or

(b) Inactive status license — \$100.

(4) Restoration fees:

(a) Delinquent fee for late renewals — \$50;

(b) Reactivation of inactive status license — \$125.

(5) Examination — Candidates will pay exam and exam administration fees to the prescribed examination providers.

(6) Duplicate license or certificate of licensure — \$5.

(7) Verification of licensure or examination scores for applicant or licensee to other licensing or certifying agencies — \$10.

(8) Annual renewal of registration as intern in accordance with OAR 833-120-0011 — \$120.

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 2-2010(Temp), f. 1-8-10, cert. ef. 1-11-10 thru 7-9-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10; BLPCT 1-2015, f. & cert. ef. 10-2-15; BLPCT 4-2016, f. & cert. ef. 10-10-16; BLPCT 4-2017(Temp), f. 6-13-17, cert. ef. 7-1-17 thru 12-8-17; BLPCT 5-2017, f. & cert. ef. 8-15-17

Rule Caption: Statements to the Board and failure to disclose an arrest or conviction.

Adm. Order No.: BLPCT 6-2017

Filed with Sec. of State: 8-15-2017

Certified to be Effective: 8-15-17

Notice Publication Date: 7-1-2017

Rules Adopted: 833-110-0031

Subject: This adds "Statements to the Board" to Division 75, Compliance. It requires that licensees, interns and applicants must not make omissions or false, misleading or deceptive statements on any correspondence or form submitted to the Board. It requires that licensure applicants and renewing licensees and interns must respond completely and truthfully to all of the Board's character and fitness questions. It establishes that failure to disclose an arrest or conviction is a violation of ORS 675.825(1)(f) which may result in disciplinary action by the Board, and that the Board will not approve an application until the applicant has paid any civil penalty ordered by the Board.

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

833-110-0031

Statements to the Board

(1) Licensees, interns and applicants must not make omissions or false, misleading or deceptive statements on any correspondence or form submitted to the Board.

(2) Licensure applicants and renewing licensees and interns must respond completely and truthfully to all of the Board's character and fitness questions. Failure to disclose an arrest or conviction is a violation of ORS 675.825(1)(f) and may result in disciplinary action by the Board. The Board will not approve an application until the applicant has paid any civil penalty ordered by the Board.

Stat. Auth.: ORS 675.705 - 675.835

Stats. Implemented: ORS 675.745, 675.785 & 675.825

Hist.: BLPCT 6-2017, f. & cert. ef. 8-15-17

Rule Caption: Licensure application; examination requirements.

Adm. Order No.: BLPCT 7-2017

Filed with Sec. of State: 8-15-2017

Certified to be Effective: 8-15-17

Notice Publication Date: 7-1-2017

Rules Amended: 833-020-0011, 833-020-0081

Subject: This amendment clarifies that, for purposes of completing an application file for approval within one year of receipt, documentation of experience qualifications may not apply to applicants who have not yet completed any experience. Those applicants will complete supervised experience as part of their registered internship, after the application is approved. The amendment modifies the requirement that an application is automatically denied after three competency examination failures so that it will only apply to registered interns once they have completed the experience requirements for licensure. It also reorganizes the examination requirements for clarity.

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

833-020-0011

Applications

(1) Application for licensure as a professional counselor and marriage and family therapist must be submitted to the Board and be on forms provided by the Board.

(2) Application for licensure must include gender, date of birth, social security number, practice and residence addresses, email address, similar

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licenses held in other states, and history of professional discipline, litigation, and criminal involvement and be accompanied by:

- (a) The non-refundable application fee;
- (b) Official transcript sent directly to the Board from the college or university and supporting documentation as necessary showing education requirements have been met;
- (c) Documentation to prove experience requirements have been met or request for registration as an intern with a proposed plan to obtain required experience;
- (d) Verification that approved examination has been passed, or state examination is being requested;
- (e) Proposed professional disclosure statement for review and approval;
- (f) Criminal history information as specified in OAR 833-120-0021; and
- (g) Other clarifying information requested by the Board.

(3) Applicants will be allowed one year from Board receipt of an application to file a completed application which documents that the applicant meets the educational requirements and experience qualifications (if applicable) for licensure.

(4) Failure to withdraw the application or complete the process within the allowed time will result in closure of the file. An incomplete application includes but is not limited to an application in which:

- (a) Required information or original signatures are not provided;
- (b) Required forms are not submitted; or
- (c) No fee or an insufficient fee is received.

(5) The Board retains the right to extend the one year period to complete application for good cause.

(6) Applicants who submit complete documentation but are not approved for registration, examination, or licensure will be notified in writing that the application is being denied and state the reason(s) for denial.

(7) To be reconsidered for licensure, applicants who failed to become licensed, who were refused licensure, who withdrew from consideration, or interns who have allowed their registration to expire will be required to file a new application, fee, and resubmit all documentation necessary to meet the standards for licensure in effect at the time of reapplication. Applicants reapplying must fulfill any deficiencies that are the result of changes to requirements that may have been implemented between former and current application.

(8) An applicant must notify the Board immediately, but not less than within 30 days, if any information submitted on the application changes, including but not limited to: name, address, email address, telephone number, complaints, disciplinary actions, litigation, criminal involvement, and employment investigations which results in disciplinary action. Failure to do so may be grounds for denial of the application or revocation of the license, once issued.

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 1-2011, f. 1-13-11, cert. ef. 2-1-11; BLPCT 4-2016, f. & cert. ef. 10-10-16; BLPCT 7-2017, f. & cert. ef. 8-15-17

833-020-0081 Examination

(1) All applicants must pass a competency exam and an Oregon law and rules exam approved by the Board.

(2) Applicants who have passed the competency exam within 10 years prior to applying for licensure are not required to retake the exam.

(3) Applicants applying by the reciprocity method who have passed the exam 10 years or more prior to applying for licensure in Oregon must:

- (a) Retake the exam; or
- (b) Document completion of continuing education activities which at minimum meet the requirements described in OAR chapter 833, division 80 within the 24 month period prior to application or initial licensure.

(4) For registered interns who have met the experience requirements for licensure, the following will result in denial of the application for licensure and termination of internship registration:

- (a) Failure to register and attempt to pass the competency examination at least once per year;
- (b) Failure to pass the competency exam within two years of meeting the experience requirements; or
- (c) Failure to achieve a passing score on the competency examination after taking the exam three times.

(5) For direct and reciprocity method applicants, the following will result in denial of the application for licensure:

(a) Failure to document passage of an acceptable competency examination or failure to register and attempt to pass the competency examination at least once per year;

(b) Failure to document passage or to pass the competency exam within two years of application; or

(c) Failure to achieve a passing score on the competency examination after taking the exam three times.

(6) The Board will not review a reapplication until at least one year has elapsed from the date of the previous denial. For former registered interns, the Board will only approve a subsequent reapplication under the direct or reciprocity method.

(7) Applicants must complete and return the Oregon law and rules examination within 30 days of the date the Board sends the examination to the applicant. Failure to complete and return the examination to the Board office will result in closure of the application. To be considered for licensure, the person must reapply pursuant to OAR 833-020-0071.

(8) The Board may extend the deadline to take an exam for good cause upon written request of the applicant, which must be received or post-marked prior to the exam deadline.

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 6-2010, f. 12-13-10, cert. ef. 1-1-11; BLPCT 1-2013, f. 1-11-13, cert. ef. 2-1-13; BLPCT 4-2016, f. & cert. ef. 10-10-16; BLPCT 1-2017, f. 6-9-17, cert. ef. 6-10-17; BLPCT 7-2017, f. & cert. ef. 8-15-17

Board of Licensed Social Workers Chapter 877

Rule Caption: Adopts DOJ model rules for confidentiality and inadmissibility of mediation communications.

Adm. Order No.: BLSW 4-2017

Filed with Sec. of State: 7-25-2017

Certified to be Effective: 7-25-17

Notice Publication Date:

Rules Adopted: 877-001-0030

Subject: The new rule would adopt by reference OAR 137-005-0052, Confidentiality and Inadmissibility of Mediation Communications and 137-005-0052, Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications. These model rules promulgated by the Department of Justice will authorize the Board of Licensed Social Workers to enter into mediation and maintain the confidentiality and inadmissibility of the mediation communications. The new rule would authorize confidential mediation, including personnel dispute mediation.

Rules Coordinator: Randy Harnisch—(503) 373-1163

877-001-0030

Confidentiality and Inadmissibility of Mediation Communications

Pursuant to ORS 36.224, the Oregon Board of Licensed Social Workers adopts by reference OAR 137-005-0052, Confidentiality and Inadmissibility of Mediation Communications, and OAR 137-005-0054, Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications, as promulgated by the Attorney General.

Stat. Auth.: ORS 675.600 & 36.224
Stats. Implemented: ORS 675.600
Hist.: BLSW 4-2017, f. & cert. ef. 7-25-17

Board of Medical Imaging Chapter 337

Rule Caption: Amends and clarifies civil penalties and computed tomography rules, and deletes obsolete language.

Adm. Order No.: BMI 1-2017

Filed with Sec. of State: 8-9-2017

Certified to be Effective: 8-9-17

Notice Publication Date: 6-1-2017

Rules Amended: 337-010-0011, 337-030-0010

Subject: This rulemaking accomplishes three measures:

1. Strikes obsolete language from OAR 337-010-0011 and adds clarifying language relating to credentials required to operate positron emission-computed tomography and single photon emission-computed tomography.

2. Establishes a graduated civil penalty schedule for employing an individual to practice medical imaging without a valid license, based

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upon the number of patients served by the unlicensed person: up to 50 patients—\$5,000; 51-100—\$10,000; 101-150—\$20,000; 151-200—\$30,000; over 200—\$50,000.

Rules Coordinator: Ed Conlow—(971) 673-0216

337-010-0011

Qualifications of Computed Tomography Equipment Operators and Merged Technology Equipment Operators' Licensing

(1) Diagnostic Computed Tomography: A licensee who operates computed tomography (CT) equipment, including cone beam CT, for diagnosis must be credentialed in Computed Tomography (CT) by either the American Registry of Radiologic Technologists or the Nuclear Medicine Technology Certification Board or have an active temporary CT license issued by OBMI.

(2) Computed Tomography/Nuclear Medicine Hybrid Imaging: Positron Emission-Computed Tomography (PET/CT) or Single Photon Emission-Computed Tomography (SPECT/CT) systems must be operated by technologists with the active credentials R.T.(N) or CNMT(NMTCB) and licensed by the Oregon Board of Medical Imaging.

(a) A registered radiographer with the credential R.T. (R), or a registered radiation therapist with the credential R.T. (T) may only operate CT for attenuation, not for diagnostic purposes. They may operate the diagnostic portion of the CT hybrid imager if they hold a CT credential from ARRT, or have an active temporary CT license issued by OBMI.

(b) Registered certified nuclear medicine technologists with the active credentials R.T. (N) or CNMT (NMTCB) may operate SPECT and PET with non-diagnostic CT and the attenuation correction portion of the hybrid imager. Certified Nuclear Medicine technologists may operate the diagnostic portion of the CT scanner if they hold a CT credential or have an active temporary CT license issued by OBMI.

(3) Computed Tomography for Radiation Therapy Treatment Planning Purposes: A licensee who operates CT equipment for radiation therapy treatment planning purposes must be credentialed in Radiation Therapy or CT by the ARRT or the Nuclear Medicine Technology Certification Board (NMTCB).

(4) On a case-by-case basis, the board may waive a credential requirement of this rule for a licensed technologist, based upon the board's determination that the following two conditions are met:

(a) The licensee seeking a waiver:

(A) Has substantial experience, as determined by the board, practicing computed tomography; and

(B) Seeks to perform computed tomography as an employee or contractor of a specified rural hospital, as defined in ORS 442.470; and

(C) Under state sponsorship, passes a computed tomography examination by a registry recognized by the board; and

(D) Must have completed and documented vendor-provided applications training specific to any CT machine the waiver applicant will work on; and

(E) Must have completed a minimum of 16 hours in structured CT education requirements within the 24 months prior to applying for the waiver.

(F) Meets clinical experience requirements as specified in the waiver.

(G) Must have completed five supervised diagnostic-quality repetitions of any anatomic area that the waiver recipient will image with computed tomography. The waiver will only cover images of anatomic areas for which the waiver recipient has met this requirement. Supervision must be provided by a licensed technologist with a CT registry credential recognized by the board.

(b) Failure to grant the waiver would result in a substantial shortage in the rural hospital's ability to deliver necessary health services to the community.

(5) The board may prescribe terms of the waiver, including but not limited to time duration of the waiver, supervisory requirements, and clinical experience requirements. The waiver may include deadlines for completing specified requirements included in the waiver. The board may grant a preliminary waiver conditioned upon the waiver applicant's completion of all board-specified waiver requirements within no more than 60 days from the time the applicant submits an initial waiver request to the Board.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.480

Hist.: BRT 2-2006, f. 12-15-06, cert. ef. 1-1-07; BRT 1-2010, f. & cert. ef. 6-15-10; BMI 2-2014, f. & cert. ef. 10-20-14; BMI 3-2014(Temp), f. & cert. ef. 10-21-14 thru 4-19-15; BMI 1-2015, f. & cert. ef. 3-10-15; BMI 1-2017, f. & cert. ef. 8-9-17

337-030-0010

Imposition of Civil Penalties

(1) When a civil penalty is imposed it does not preclude the imposition of any other disciplinary sanction against the licensee or permittee.

(2) Any other penalty shall be payable to the Board by cash, cashier's check, or money order.

(3) Civil penalties shall be imposed per violation according to the following schedule in the absence of a finding of aggravating or mitigating circumstances:

(a) Practicing medical imaging without a current Oregon license or permit due to nonpayment of fees:

(A) Date license becomes void to six months, \$100;

(B) Six months to twelve months, \$200;

(C) One year to two years, \$500;

(D) Two years and up, \$1,000.

(b) Practicing medical imaging without a current Oregon license or permit, not related to nonpayment of fee — \$1,000;

(c) Unprofessional conduct by a licensee or permittee — \$1,000;

(d) Violation of ORS 688.405 to 688.605 or any rule of the Board of Medical Imaging unless otherwise provided in this schedule, \$1,000;

(e) Gross negligence in the practice of medical imaging, \$1,000;

(f) Employing an individual to practice medical imaging when the individual does not have a current, valid Oregon license or permit:

(A) While such employee provided unlicensed imaging services to no more than 50 individual patients, \$5,000;

(B) While such employee provided unlicensed imaging services to between 51 and 100 individual patients, \$10,000;

(C) While such employee provided unlicensed imaging services to between 101 and 150 individual patients, \$20,000;

(D) While such employee provided unlicensed imaging services to between 151 and 200 individual patients, \$30,000;

(E) While such employee provided unlicensed imaging services to more than 200 individual patients, \$50,000.

(g) Making a false statement to the Board, \$500;

(h) Practicing medical imaging outside the scope for which the license or permit is issued, \$500;

(i) Obtaining or attempting to obtain a license or permit or a renewal of a license or permit by false representation, \$500;

(j) Purporting to be a licensee or permittee when the person does not hold a valid license or permit, \$1,000;

(k) Practice medical imaging under a false or assumed name, \$500;

(l) Conviction of a crime where such crime bears a demonstrable relationship to the practice of medical imaging, \$1,000;

(m) Has undertaken to act as a medical imaging licensee independently of the supervision of a practitioner licensed by the State of Oregon to practice one of the healing arts, \$1,000.

(n) Employing or allowing an individual to practice medical imaging outside the scope of the license or permit, \$1,000;

(4) The Board must report to the appropriate credentialing organizations all Board disciplinary actions and all cases where the Board issues a conditional license.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.605(4)

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10; BMI 3-2015, f. 11-4-15, cert. ef. 1-1-16; BMI 1-2017, f. & cert. ef. 8-9-17

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Department of Agriculture Chapter 603

Rule Caption: Amends identification requirements for sheep and goats attending exhibition events.

Adm. Order No.: DOA 12-2017

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-8-17

Notice Publication Date: 6-1-2017

Rules Amended: 603-011-0388

Subject: The proposed change addresses a deficiency in individual identification requirements for sheep and goats attending exhibition events. Requiring all sheep and goats attending exhibition events to have official individual identification strengthens animal disease traceability as per 9 CFR Part 86. Historically, sheep and goat identification rules were aligned with the federal scrapie disease identification laws outlined in 9 CFR Part 79. Those identification requirements focused on sexually intact animals and provided an exemption for neutered animals, i.e., wethers. This makes sense for a scrapie dis-

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ease control strategy, as neutered animals pose little to no risk of transmitting scrapie. The concern, and identification deficiency, applies to tracing other infectious diseases that could be contracted at an exhibition. Exhibitions provide the opportunity for mixing of animals and therefore an increased risk of transmission of diseases other than scrapie. If animals return home after attending a show then there is increased risk of spreading a disease back to the home flock. Non-scrapie diseases of concern include respiratory diseases, certain parasites, bluetongue and malignant catarrhal fever (MCF). Identification of all animals at an exhibition regardless of sex status (ie., intact or neutered), benefits participants in that animal identification provides quick and accurate traceability of livestock in an animal disease event. A quick and efficient disease control response shortens investigation timelines as well as quarantine times and reduces the number of animals that may have to be tested and/or disposed of. The Agency received input and approval of the proposed rule changes from the Oregon State University 4-H and FFA programs and the Oregon Sheep Grower's Association.

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

603-011-0388

Identification of Sheep and Goats

All sexually intact sheep and goats of any age leaving the flock of origin which are not in slaughter channels and all sheep over 18 months of age in slaughter channels must have official identification in accordance with 9 CFR Part 79 prior to leaving the farm of origin for intrastate or interstate movement for any purpose. All sheep and goats for exhibition must bear official individual identification in accordance with 9 CFR Part 79.

Stat. Auth.: ORS 561.190, 596.020, 596.392 & 596.412

Stats. Implemented: ORS 596.392

Hist.: DOA 25-2004, f. & cert. ef. 11-8-04; DOA 21-2006, f. & cert. ef. 12-4-06; Renumbered from 603-011-0371 by DOA 17-2010, f. & cert. ef. 8-31-10; DOA 12-2017, f. & cert. ef. 8-8-17

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

Rule Caption: Implementation of a New Manufactured Home Ownership Document Software System

Adm. Order No.: BCD 8-2017

Filed with Sec. of State: 7-28-2017

Certified to be Effective: 7-31-17

Notice Publication Date: 1-1-2017

Rules Adopted: 918-550-0020, 918-550-0030, 918-550-0040

Rules Amended: 918-550-0000, 918-550-0010, 918-550-0100, 918-550-0120, 918-550-0140, 918-550-0200, 918-550-0600

Rules Repealed: 918-550-0160, 918-550-0180

Subject: These rules align the division's manufactured home ownership document rules with the division's new electronic Manufactured Home Ownership Document Software system.

Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-550-0000

Purpose and Scope

(1) OAR 918-550-0000 through 918-550-0600 establish requirements and procedures to obtain an ownership document for a manufactured structure, or to obtain an ownership document for a manufactured structure that previously did not require a title or ownership document under ORS 820.510, or 446.626 after May 1, 2005.

(2) These rules also describe the requirements for issuing a manufactured structure trip permit for the movement of a manufactured structure from one site to another.

(3) Nothing in these rules shall change any rights and liabilities of the various parties governed by the Uniform Commercial Code, ORS Chapter 79, and any applicable Oregon tax laws.

(4) These rules are intended to repeal all Department of Motor Vehicle rules, located in OAR chapter 735, to the extent that they apply to the titling and registration of manufactured structures and manufactured structure trip permits.

Stat. Auth.: ORS 446.571, 446.631 & 446.646

Stats. Implemented: ORS 446.566, 446.571, 446.576, 446.621, 446.631 & 446.636

Hist.: BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05; BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0010

Definitions

For the purposes of this division of rules, the following definitions apply, unless the context requires otherwise:

(1) "Division" means the appropriate division within the Department of Consumer and Business Services, Building Codes Division, or the county who is acting on behalf of the department.

(2) "Land leaseholder" means the holder of a recorded leasehold estate of 20 years or more, if the lease specifically permits the owner of the manufactured structure to obtain an exemption under ORS 820.510(b).

(3) "Legal description of the manufactured structure" means the model year, make, width, length and vehicle identification number (VIN).

(4) "Owner" when referring to the owner of a manufactured structure does not include a security interest holder or lessee, unless the owner of the manufactured structure is a land leaseholder.

(5) "Ownership document" means a document reflecting the status of a manufactured structure as reported to the division, with respect to ownership, relevant security interests, and other information required by ORS 446.566.

(6) "Release" means the written or electronic relinquishment, concession, or giving up of right, claim or interest in a manufactured structure.

(7) "Security interest holder" means a person who holds an interest in property that secures payment or performance of an obligation pursuant to a security agreement.

(8) "Tax certification form" means a county issued form which contains at a minimum, an expiration date, certification of tax status, and an authorized county official signature. A valid, signed tax certification form is considered county notification.

Stat. Auth.: ORS 446.646

Stats. Implemented: ORS 446.646

Hist.: BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05; BCD 12-2008, f. 6-30-08, cert. ef. 7-1-08; BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0020

Agents of the Department

(1) No county may carry out functions under ORS 446.566 to 446.646 related to manufactured structure ownership documents and trip permits unless it has entered into and maintained participation in an agent agreement with and approved by the division.

(2) Refusal by a county to enter into or maintain participation in an agent agreement with and approved by the division is a refusal to accept all applications submitted to that county under ORS 446.571(1)(b)(C).

(3) Refusal by a county that has entered into and maintained participation in an agent agreement with and approved by the division to perform a duty under ORS 446.566 to 446.646, related to manufactured structure ownership documents and trip permits, is refusal to accept all applications submitted to that county under ORS 446.571(1)(b)(C).

Stat. Auth.: ORS 446.646

Stats. Implemented: ORS 446.646, 446.574

Hist.: BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0030

Division Approved Forms

(1) The following forms are approved by the division for use with the Manufactured Home Ownership Document Software system:

(a) Abandonment Affidavit for Manufactured Homes, form 2951;

(b) Affidavit to Establish Ownership of a Manufactured Structure, form 2947;

(c) Affidavit in Support of Change to a Manufactured Home, form 5221;

(d) Affidavit of Transfer of Interest by Inheritance without Probate, form 2946;

(e) Affidavit of Transfer of Interest by Probate or Small Estate, form 5177;

(f) Application to Remove Manufactured Home from County Deed Records, form 5175;

(g) Application for Recording Manufactured Home as Real Property, form 5176;

(h) Manufactured Home Affidavit of Repossession, form 3926;

(i) Manufactured Home Ownership Document Application for New and Used Homes, form 2952;

(j) Manufactured Structure Security Interest Change, form 2948;

(k) Request for Confidential Address Protection, form 3490; and

(L) County tax certification forms.

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(2) No state or county office providing services under ORS 446.561 through 446.646 may require the use of any form not listed in this rule for the purposes of issuing an ownership document.

Stat. Auth.: ORS 446.646
Stats. Implemented: ORS 446.646
Hist.: BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0040

Transaction Requirements

(1) To be processed and completed, a transaction must have all required forms and attachments completed, including a county tax certification form, and all fees paid in full.

(2) To provide for uniform administration and customer interaction with the Manufactured Home Ownership Document Software system, the division has developed the 2017 Manufactured Home Ownership Document Transaction Guide.

(3) Transactions covered in the 2017 Manufactured Home Ownership Document Transaction Guide shall be processed and completed if all the forms and attachments listed in the guide have been completed in full and all applicable fees have been paid in full.

Stat. Auth.: ORS 446.646
Stats. Implemented: ORS 446.646
Hist.: BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0100

Ownership Document Requirements

(1) Except as provided in ORS 446.626, all owned manufactured structures in the State of Oregon must be registered or titled with DMV, or be issued an ownership document by the division after May 1, 2005.

(2) All applications for ownership documents must be made on valid division approved forms and must be accompanied by a tax certification form.

(3) The county tax certification form submitted pursuant to (2) must be signed by an authorized representative of the appropriate county.

(4) The county tax certification form submitted pursuant to (2) is only valid until the expiration date indicated on the form.

Stat. Auth.: ORS 446.571, 446.621 & 446.646
Stats. Implemented: ORS 446.571 & 446.621
Hist.: BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05; BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0120

Sale of a Used Manufactured Structure

If a purchaser submits a division approved notice of sale under ORS 446.641(8), the purchaser must include one or more of the following as acceptable proof of sale:

(1) A bill of sale from the current owner of record on the division's ownership document; or

(2) A Department of Transportation certificate of title to the structure that has a release of ownership signed by the owner.

Stat. Auth.: ORS 446.641 & 446.646
Stats. Implemented: ORS 446.641
Hist.: BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05; BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0140

Notice of Transfer of Interest in Manufactured Structure

(1) A person who releases, terminates, assigns or otherwise transfers an interest in a manufactured structure, shall within 30 days of the transfer, submit a completed and notarized copy of the division approved form to record the release, termination, assignment or other transfer of the interest in the manufactured structure.

(2) The division approved form submitted pursuant to (1) must be accompanied by a county tax certification form.

(3) The county tax certification form submitted pursuant to (2) must be signed by an authorized representative of the appropriate county.

(4) The county tax certification form submitted pursuant to (2) is only valid until the expiration date indicated on the form.

(5) Signing the division approved form serves as an acknowledgment of the release of the interest by the transferor.

Stat. Auth.: ORS 446.616 & 446.646
Stats. Implemented: ORS 446.616
Hist.: BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05; BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0200

Abandoned Manufactured Structures

(1) If a landlord complies with the notice requirements of ORS 90.425 or 90.675 such that a manufactured structure is presumed abandoned, the landlord may apply for an ownership document by submitting a completed division approved application form and a division approved abandonment affidavit.

(2) If the holder of a possessory lien on a manufactured structure forecloses the lien, the holder may apply for an ownership document by submitting a completed division approved application form and division approved certification of the possessory lien foreclosure.

Stat. Auth.: ORS 446.581 & 446.646
Stats. Implemented: ORS 446.571 & 446.581
Hist.: BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05; BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

918-550-0600

Trip Permit Requirements

(1) A trip permit is required to move a manufactured structure from one location to another unless exempted under ORS 446.631 & 446.646. A person desiring a trip permit to move a manufactured structure shall submit a completed division approved form and a county tax certification form to the division.

(2) The county tax certification form submitted pursuant to (1) must be signed by an authorized representative of the appropriate county.

(3) The county tax certification form submitted pursuant to (1) is only valid until the expiration date indicated on the form.

(4) The expiration date for a trip permit is either the same date as indicated on the county tax certification form or 30 days after issuance of the trip permit, whichever is sooner.

(5) In the case of a multiple-unit-manufactured structure, a trip permit is required for each unit. The manufactured structure trip permit fee, as provided in ORS 446.631 & 446.646 is required for each permit issued.

(6) An issued trip permit is valid for a single move from one situs to another as indicated on the permit, and only until the expiration date as determined by subsection (4).

(7) A trip permit is valid for the owner of the structure and transporter listed on the permit.

(8) A permit may not be transferred to any person or a different manufactured structure.

(9) A trip permit issued by the division is not required to move a new manufactured structure to a destination outside of Oregon. However, a trip permit is required if a manufactured structure is being moved out of state, if the structure currently has an ownership document, or is exempt under ORS 446.

Stat. Auth.: ORS 446.631
Stats. Implemented: ORS 446.631, 446.636 & 446.646
Hist.: BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05; BCD 2-2017(Temp), f. 1-31-17, cert. ef. 2-1-17 thru 7-30-17; BCD 8-2017, f. 7-28-17, cert. ef. 7-31-17

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

Rule Caption: Director's authority to automatically enroll in a new plan a consumer who has lost coverage

Adm. Order No.: HMP 3-2017

Filed with Sec. of State: 8-14-2017

Certified to be Effective: 8-14-17

Notice Publication Date: 7-1-2017

Rules Adopted: 945-020-0030

Rules Amended: 945-001-0002

Subject: To the extent permitted by state law, 45 CFR 155.335(j)(2) and (j)(3) allow the Federally Facilitated Marketplace (FFM) to automatically enroll a qualified individual into a new plan at renewal when the individual's previous carrier ceases to offer qualified health plan coverage through the exchange or ceases to offer a plan under the individual's previous qualified health plan product (automatic enrollment under these conditions is known as a "cross-walk"). Despite an agreement with the Oregon Health Insurance Marketplace (the Marketplace) not to cross-walk affected individuals during the 2017 plan year, the FFM cross-walked several such individuals into

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plans with new carriers without notifying the Marketplace, causing significant carrier, consumer, and agent confusion.

ORS 741.002(2)(f) requires the Marketplace to assist individuals to enroll in qualified health plans through the health insurance exchange. The Director, acting through the Marketplace, is in the best position to determine whether individuals who lose coverage under a qualified health plan offered through the health insurance exchange should be cross-walked to a new plan, or whether targeted marketing urging these individuals to shop for new plan would be more beneficial. Moreover, in the event that the Director determines that these individuals should be cross-walked to a new plan, the Director, acting through the Marketplace, is in the best position to determine to which plans these individuals should be cross-walked.

Enactment of OAR 945-020-0030, which gives the director the sole authority to determine whether cross-walking should occur and if so, to which plans individuals should be cross-walked, will prevent the FFM from cross-walking individuals into plans that are not the best plans for these individuals or for the market. It will also prevent the federal government from cross-walking these individuals without their knowledge and without the knowledge of the Marketplace. The amendment to 945-001-0002 adds the definition of “automatically enroll” to chapter 945 for the newly adopted rule.

Rules Coordinator: Victor Garcia—(971) 283-1878

945-001-0002

Definitions

The following definitions govern the meaning of terms used in administrative rules in this chapter, except where the context otherwise requires:

(1) “Advance payments of the premium tax credit” means payment of the federal health insurance premium tax credit on an advance basis to an eligible individual enrolled in a QHP through the Marketplace.

(2) “Affordable Care Act” or “ACA” has the meaning given in 45 CFR 155.20.

(3) “American Indian”, for purposes of eligibility for tax credits and cost sharing benefits, means an enrolled member of a federally recognized tribe.

(4) “Applicant” has the meaning given in 45 CFR 155.20.

(5) “Automatically enroll” means the process of enrolling a qualified individual into a new qualified health plan when, at renewal:

(a) The qualified individual’s qualified health plan issuer no longer offers qualified health plans through the health insurance exchange; or

(b) There are no qualified health plans offered through the health insurance exchange under the individual’s previous qualified health plan product.

(6) “Benefit year” has the meaning given in 45 CFR 155.20.

(7) “Catastrophic plan” means a health plan described in §1302(e) of the Affordable Care Act.

(8) “CHIP” or “Children’s Health Insurance Program” means the portion of the Oregon Health Plan established by Title XXI of the Social Security Act and administered by the Oregon Health Authority.

(9) “Cost sharing” has the meaning given in 45 CFR 155.20.

(10) “Cost sharing reductions” has the meaning given in 45 CFR 155.20.

(11) “DCBS” means the Oregon Department of Consumer and Business Services.

(12) “Effectuation” means the activation of QHP or SADP coverage through enrollment and payment of the first month’s premium.

(13) “Employee” has the meaning given in section 2791 of the Public Health Services Act.

(14) “Employer” has the meaning given in 45 CFR 155.20.

(15) “Enrollee” has the meaning given in 45 CFR 155.20.

(16) “Essential health benefits” has the meaning given in OAR 836-053-0008.

(17) “Federal poverty level” or “FPL” has the meaning given in 45 CFR 155.300.

(18) “Full-time employee”:

(a) For plan years beginning prior to January 1, 2016, means an “eligible employee” as defined in ORS 743.730.

(b) For plan years beginning on or after January 1, 2016, full-time employee has the meaning given in section 4980H(c)(4) of the Internal Revenue Code.

(19) “Health benefit plan” has the meaning given in ORS 741.300.

(20) “Health care service contractor” has the meaning given in ORS 741.300.

(21) “Health insurance” has the meaning given in ORS 741.300.

(22) “Health insurance exchange” or “exchange” has the meaning given in ORS 741.300.

(23) “Health plan” has the meaning given in ORS 741.300.

(24) “Household” has the meaning given in 42 CFR 435.603.

(25) “Household income” has the meaning given in 26 CFR 1.36B and 42 CFR 435.603.

(26) “Individual market” has the meaning given the term in section 1304(a)(2) of the ACA.

(27) “Insurer” has the meaning given in ORS 741.300.

(28) “Insurance affordability program” has the meaning given in 42 CFR 435.4.

(29) “Lawfully present” has the meaning given in 45 CFR 152.2.

(30) “MAGI-based Medicaid and CHIP” means Medicaid and CHIP programs for which eligibility is based on modified adjusted gross income, and not primarily on age or disability.

(31) “Medicaid” means medical assistance programs established by Title XIX of the Social Security Act and administered in Oregon by the Oregon Health Authority.

(32) “Minimum contribution requirement in the case of a medical plan” means a small employer must contribute at least 50 percent of the employee-only premium. If a small employer elects to offer more than one medical plan to employees through SHOP, the minimum contribution requirement will be determined based on a reference plan selected by the employer. In the case of a dental plan, the employer must contribute at least \$20 per enrolling employee.

(33) “Minimum essential coverage” has the meaning given in section 5000(A)(f) of the Internal Revenue Code.

(34) “Minimum participation requirement”, in the case of a medical plan, means that at least 75 percent of the employees offered SHOP medical coverage must enroll. In the case of a dental plan, at least 50 percent of the employees offered SHOP dental coverage must enroll.

(35) “Modified adjusted gross income” or “MAGI” has the meaning given in 26 CFR 1.36B-1(e)(2).

(36) “Oregon Health Insurance Marketplace” or “Marketplace” means the health insurance exchange operated within DCBS for the State of Oregon pursuant to ORS chapter 741.

(37) “Oregon Insurance Division” means the Insurance Division of DCBS.

(38) “Pediatric dental benefits” has the meaning given in OAR 836-053-0008.

(39) “Plan year” has the meaning given in 45 CFR 155.20.

(40) “Qualified employer” means an employer who meets the requirements to participate in the Small Business Health Options Program.

(41) “Qualified health plan” or “QHP” has the meaning given in ORS 741.300.

(42) “Qualified Individual” has the meaning given in 45 CFR 155.20.

(43) “Resident” means an individual who lives in Oregon with or without a fixed address, or intends to live in Oregon, including an individual who enters Oregon with a job commitment or looking for work. There is no minimum amount of time an individual must live in Oregon to be a resident. 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. An individual is not a resident if the individual is in Oregon solely for a vacation or other leisure activity.

(44) “Silver-level qualified health plan” means a QHP that provides a level of coverage that is designed to on average provide benefits that are actuarially equivalent to 70 percent of the full actuarial benefits provided under the plan.

(45) “Small Business Health Options Program” or “SHOP” has the meaning given in ORS 741.300.

(46) “Small employer” has the meaning given in ORS 743.730.

(47) “Standalone dental plan” or “SADP” means a health plan that provides pediatric dental benefits and that is not offered in conjunction with a QHP.

(48) “State program” has the meaning given in ORS 741.300.

(49) “Tax filer” has the meaning given in 45 CFR 155.300.

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.500

Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13; OHIE 3-2014, f. & cert. ef. 5-12-14; Renumbered from 945-040-0010 by OHIE 3-2015, f. & cert. ef. 10-15-15; OHIE 4-2015, f. & cert. ef. 11-6-15; HMP 3-2017, f. & cert. ef. 8-14-17

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945-020-0030

Enrollment Authority of the Director

In the event that an insurer ceases to provide qualified health plan coverage or ceases to offer one or more qualified health plans under a qualified health plan product through the health insurance exchange, the Director shall have the sole authority to determine:

(1) Whether a qualified individual enrolled in such a plan shall be automatically enrolled into another qualified health plan offered through the health insurance exchange; and

(2) Into which, if any, qualified health plan, the qualified individual shall be automatically enrolled.

Stat. Auth.: ORS 705.135, 741.002 & 741.003

Stats. Implemented: ORS 741.002

Hist.: HMP 3-2017, f. & cert. ef. 8-14-17

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

Rule Caption: Amendment to 2018 standard bronze and silver health benefit plans

Adm. Order No.: ID 7-2017

Filed with Sec. of State: 7-26-2017

Certified to be Effective: 7-26-17

Notice Publication Date: 6-1-2017

Rules Adopted: 836-053-0011

Rules Amended: 836-053-0013

Subject: This rule establishes the requirement that the standard bronze health benefit plan be HSA eligible, in order to promote consumer choice. The rule brings the standard bronze and standard silver plans into compliance with federal law by amending the exhibits for the plans for plan years beginning on or after January 1, 2018, to meet federal minimum actuarial value (AV) requirements. The rule further clarifies that the insurer or health care service contractor shall clearly indicate on any applicable plan and benefits template or other plan or product specific filing document that the plan is HSA eligible.

Rules Coordinator: Karen Winkel—(503) 947-7694

836-053-0011

Standard Bronze Plan Health Savings Account Eligible Requirement

(1) If a plan or product is HSA eligible under applicable federal law, the insurer or health care service contractor shall clearly indicate on any applicable plan and benefits template or other plan or product specific filing document that the plan is HSA eligible.

(2) All forms relating to HSA eligible plans shall be consistent with current practice and form filing requirements contained in ORS 742.003 and rules adopted under ORS 742.003.

(3) Plan benefits must be administered in compliance with HSA requirements as set forth by the United States Preventive Services Task Force, Health Resource and Services Administration, or other state or federal laws in effect in the adoption of this rule.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 743B.130

Hist.: ID 7-2017, f. & cert. ef. 7-26-17

836-053-0013

Oregon Standard Bronze and Silver Health Benefit Plans for Plan Years Beginning on and after January 1, 2018

(1) When offering a plan required under ORS 743B.130, an insurer must: Use the following naming convention: “[Name of Insurer] Standard [Bronze HSA/Silver] Plan.” The name of insurer may be shortened to an easily identifiable acronym that is commonly used by the insurer in consumer facing publications.

(2) Deductibles for coverage required under ORS 743B.130 must comply with the following:

(a) For a bronze plan, in accordance with the coinsurance, copayment and deductible amounts and coverage requirements for a bronze plan set forth in the cost-sharing matrix as adopted in Exhibit 1 to this rule, beginning with plan year 2018.

(b) For a silver plan, in accordance with the coinsurance, copayment and deductible amounts and coverage requirements for a silver plan set forth in the cost-sharing matrix as adopted in Exhibit 2 to this rule, beginning with plan year 2018.

(c) The individual deductible applies to all enrollees, and the family deductible applies when multiple family members incur claims.

Stat. Auth.: ORS 743B.130

Stats. Implemented: ORS 743B.130

Hist.: ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16; ID 7-2017, f. & cert. ef. 7-26-17

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

Rule Caption: Adopt federal OSHA amendments: Occupational Exposure to Beryllium in General Industry, Construction, and Maritime.

Adm. Order No.: OSHA 4-2017

Filed with Sec. of State: 7-31-2017

Certified to be Effective: 3-12-18

Notice Publication Date: 6-1-2017

Rules Amended: 437-002-2025

Subject: On January 9, 2017, federal OSHA adopted final rules for beryllium for general industry, construction, and maritime. Before these rules, the only specific rule for beryllium was an airborne permissible exposure limit (PEL) of 2 micrograms per cubic meter of air ($\mu\text{g}/\text{m}^3$). With the adoption of these rules, federal OSHA lowered the PEL from 2 $\mu\text{g}/\text{m}^3$ to 0.2 $\mu\text{g}/\text{m}^3$, and instituted an action level of 0.1 $\mu\text{g}/\text{m}^3$. These rules require an exposure assessment, with periodic monitoring under certain circumstances, requires engineering and work practice controls to reduce exposure levels, institutes a written exposure control plan, requires provisions for regulating employee access to certain areas, respiratory protection, medical surveillance, and employee training and information.

Oregon OSHA combined the requirements of the general industry and construction rules into one set of rules applicable to both industries, as new Oregon-initiated rules OAR 437-002-2024 through 437-002-2038.

Oregon OSHA also updated the air contaminants rules for general industry and construction, OAR 437-002-0382 and 437-003-1000, to reflect the new beryllium rules.

This filing is a refile due to a filing error. In OAR 437-002-2025, Definitions, we incorrectly stated the definition of the Permissible Exposure Limit was 0.1 $\mu\text{g}/\text{m}^3$. We changed this to the correct definition of 0.2 $\mu\text{g}/\text{m}^3$.

Rules Coordinator: Heather Case—(503) 947-7449

437-002-2025

Definitions

For the purposes of this subdivision the following definitions apply:

(1) Action level means a concentration of airborne beryllium of 0.1 micrograms per cubic meter of air ($\mu\text{g}/\text{m}^3$), calculated as an 8-hour TWA.

(2) Airborne exposure and airborne exposure to beryllium mean the exposure to airborne beryllium that would occur if the employee were not using a respirator.

(3) Beryllium lymphocyte proliferation test (BeLPT) means the measurement of blood lymphocyte proliferation in a laboratory test when lymphocytes are challenged with a soluble beryllium salt.

(4) Beryllium work area means any work area containing a process or operation that can release beryllium where employees are, or can reasonably be expected to be, exposed to airborne beryllium at any level or where there is the potential for dermal contact with beryllium.

(5) CBD diagnostic center means a medical diagnostic center that has an on-site pulmonary specialist and on-site facilities to perform a clinical evaluation for the presence of chronic bronchoalveolar disease (CBD). This evaluation must include pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. The CBD diagnostic center must also have the capacity to transfer BAL samples to a laboratory for appropriate diagnostic testing within 24 hours. The on-site pulmonary specialist must be able to interpret the biopsy pathology and the BAL diagnostic test results.

(6) Chronic beryllium disease (CBD) means a chronic lung disease associated with airborne exposure to beryllium.

(7) Competent person means an individual who is capable of identifying existing and foreseeable beryllium hazards in the workplace and who has authorization to take prompt corrective measures to eliminate or mini-

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mize them. The competent person must have the knowledge and ability necessary to fulfill the responsibilities set forth in this subdivision.

(8) Confirmed positive means the person tested has beryllium sensitization, as indicated by two abnormal BeLPT test results, an abnormal and a borderline test result, or three borderline test results. It also means the result of a more reliable and accurate test indicating a person has been identified as having beryllium sensitization.

(9) Emergency means any uncontrolled release of airborne beryllium.

(10) High-efficiency particulate air [HEPA] filter means a filter that is at least 99.97 percent efficient in removing particles of 0.3 micrometers in diameter.

(11) Objective data means information, such as air monitoring data from industry-wide surveys or calculations based on the composition of a substance, demonstrating employee exposure to beryllium associated with a particular product or material or a specific process, task, or activity. The data must reflect workplace conditions closely resembling or with a higher exposure potential than the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

(12) Permissible exposure limit (PEL) means a concentration of airborne beryllium of 0.2 µg/m³, calculated as an 8-hour TWA.

(13) Physician or other licensed health care professional [PLHCP] means an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the particular health care services required by 437-002-2034.

(14) Regulated area means an area, including temporary work areas where maintenance or non-routine tasks are performed, where an employee's airborne exposure exceeds, or can reasonably be expected to exceed, either the time-weighted average (TWA) permissible exposure limit (PEL) or short term exposure limit (STEL).

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

Stats. Implemented: ORS 654.001 – 654.295

Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18; OSHA 4-2017, f. 7-31-17, cert. ef. 3-12-18

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Rule Caption: Adopt amendments to remove certain schools and education support from the recordkeeping exempt list.

Adm. Order No.: OSHA 5-2017

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 1-1-18

Notice Publication Date: 5-1-2017

Rules Amended: 437-001-0700

Subject: The Oregon School Employees Association (OSEA) has led a campaign to reduce the amount of preventable injuries sustained by its members that were a result of violent behavior from students. In January of this year OSEA petitioned Oregon OSHA to initiate rulemaking to remove NAICS 6111 (Elementary and Secondary Schools), 6116 (Other Schools of Instruction), and 6117 (Educational Support Services) from the exempt status of Table 1 in OAR 437-001-0700 Recording Workplace Injuries and Illnesses. Typically industries on the list that are exempted from recordkeeping are considered low hazard industries. In considering the petition to Oregon OSHA made by OSEA, it was discovered that industries covered by this rule have injury and illness rates that are significantly higher than would be expected in a low hazard industry. To illustrate: The DART rate (days away, restricted or transferred) for elementary and secondary schools from 2011 through 2015 are slightly higher than that of nonresidential construction. Recording injuries under the rule will enable the employer to identify causes and trends of injuries and create corrective actions to eliminate recurrence.

Two public hearings were held during May of 2017. Oregon OSHA received oral testimony at both of those hearings in addition to written comments. Comments addressed both support and opposition to this rulemaking, and Oregon OSHA considered all comments received. Oregon OSHA has published an Explanation of Rulemaking, Final Action regarding this rule on its website.

Please visit our website: osha.oregon.gov and click "Rules and Laws" in the Topics, Rules, Guidelines column and view our adopted rules, or select other rule activity from the left vertical column.

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437-001-0700

Recordkeeping and Reporting

(1) Purpose. This rule requires employers to record work-related fatalities, injuries and illnesses.

Note: Recording a work-related injury, illness, or fatality does not assign fault to anybody, does not prove the violation of an OSHA rule, nor establish the employee's eligibility for workers' compensation or other benefits.

(2) Scope. This standard covers all employers covered by the Oregon Safe Employment Act, except for the exemptions below.

(3) Exemptions.

(a) If your company never had more than ten (10) employees during the last calendar year, including temporary employees, you do not need to keep Oregon OSHA injury and illness records unless the Director informs you in writing that you must keep records. The exemption for size is based on the number of employees in the entire company within the state of Oregon.

(b) If your company had more than ten (10) employees at any time during the last calendar year, you must keep Oregon OSHA injury and illness records unless your business is in a specific low hazard retail, service, finance, insurance or real estate industry in Table 1. If so, you do not need to keep Oregon OSHA injury and illness records unless the government asks you to keep the records under 437-001-0700(22).

(c) If one or more of your company's establishments are classified in a nonexempt industry, you must keep Oregon OSHA injury and illness records for all of such establishments unless your company is exempted because of size under 437-001-0700(3)(a). If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt.

(4) Alternate or Duplicate Records. If you create records to comply with another government agency's injury and illness recordkeeping requirements, those records meet Oregon OSHA's recordkeeping requirements if Oregon OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this standard requires you to record. Contact Oregon OSHA for help in determining if your records meet Oregon OSHA's requirements.

Table 1

(5) Recording Criteria and Forms.

(a) Each employer required to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

(A) Is work-related; and

(B) Is a new case; and

(C) Meets one or more of the general recording criteria of OAR 437-001-0700(8) or the application to specific cases of OAR 437-001-0700(9) through (12).

Table 2

The decision tree for recording work-related injuries and illnesses below shows the steps involved in making this determination.

Figure 1

(6) Work-Related. You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. You presume work-relatedness for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Table 3 specifically applies.

(a) Oregon OSHA defines the work environment as the establishment and other locations where one or more employees work or are present as a condition of their employment.

(b) If it is not obvious where the precipitating event occurred you must evaluate the employee's work duties and environment to decide whether events or exposures in the work environment either caused or contributed to the condition or significantly aggravated a pre-existing condition.

(c) A pre-existing injury or illness is significantly aggravated when an event or exposure in the work environment results in (A) through (D) below. Oregon OSHA considers an injury or illness to be a pre-existing if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.

(A) Death, provided that the pre-existing injury or illness would likely not have resulted in death but for the occupational event or exposure.

(B) Loss of consciousness, provided that the pre-existing injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

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(C) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(D) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(d) An injury or illness occurring in the work environment that falls under one of the following exceptions found in Table 3 is not work-related, and is not recordable.

Table 3

(e) Travel. Injuries or illnesses occurring during travel are work-related if the employee was engaged in work activities in the interest of the employer and it is not one of the exceptions in Table 4.

Table 4

(f) Work at home. Injuries and illnesses that occur while an employee works at home, including work in a home office, is work-related if the injury or illness relates directly to the work rather than to the general home environment or setting.

(g) Former employees. If you are notified that a former employee has had a work related injury or illness when they were your employee, record the date of the incident on the appropriate OSHA 300 log for the date of the injury. If the date is not known, use the last day of employment.

(7) New Cases. An injury or illness is a "new case" if:

(a) The employee has no previous recorded injury or illness of the same type that affects the same part of the body, or

(b) The employee previously had a recorded injury or illness of the same type that affected the same part of the body but recovered completely (all signs and symptoms disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

(A) For occupational illnesses where the signs or symptoms may recur or continue in the absence of a workplace exposure, record the case only once when it is diagnosed. Examples include occupational cancer, asbestosis, byssinosis and silicosis.

(B) You are not required to seek the advice of a physician or other licensed health care professional. If you do seek such advice, you must follow their recommendation about whether the case is a new case or a recurrence.

(8) General Recording Criteria. A work-related injury or illness is recordable if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must record a case if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

NOTE: Oregon OSHA believes that most significant injuries and illnesses will result in one of the events listed below. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

(a) Death. You must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death.

Note: You must also report any work-related fatality to Oregon OSHA within 8 hours. See OAR 437-001-0704.

(b) Days Away from Work. When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

(A) Begin counting days away on the day after the injury occurred or the illness began.

(B) End the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work. This applies regardless of whether the employee returns earlier or later than recommended. If there is no recommendation from the

physician or licensed health care professional, enter the actual number of days the employee is off work.

(C) You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Include weekend days, holidays, vacation days or other days off in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

(D) You may stop tracking of the number of calendar days away from work once the total reaches 180 days away from work and/or days of job transfer or restriction. Entering 180 in the total days away column is adequate.

(E) If the employee leaves your company for a reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction/job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction/job transfer and enter the day count on the 300 Log.

(F) You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log that you prepare for the year in which the incident occurred. If the time off extends into a new year, estimate the number of days for that year and add that amount to the days from the year of occurrence. Do not split the days between years and enter amounts on the logs for two different years. Use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

(c) Restricted Work or Job Transfer. When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column. Restricted work occurs when, as the result of a work-related injury or illness:

(A) You keep the employee from performing one or more of the routine functions of their job, or from working the full day that they would otherwise work; or

(B) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of their job, or not work the full workday that they would otherwise work.

NOTE: For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(C) A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job.

(D) A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(E) Record job transfer and restricted work cases in the same box on the OSHA 300 Log.

(F) Count days of job transfer or restriction in the same way you count days away from work. The only difference is that, if you permanently assign the injured or ill employee to a job modified or permanently changed to eliminate the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is permanent. You must count at least 1-day of restricted work or job transfer for such cases.

(d) Medical Treatment. If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the employee received medical treatment but remained at work without transfer or restriction and the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a check mark in the box for other recordable cases.

NOTE: You must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(A) "Medical treatment" is the management and care of a patient to combat disease or disorder. For this rule, medical treatment does not include:

(i) Visits to a physician or other licensed health care professional solely for observation or counseling;

(ii) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

(iii) "First aid" as in (B) below.

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(B) First aid is any of the conditions listed in Table 6. This is a complete list of all first aid treatments for this standard. These treatments are considered first aid regardless of the professional status of the person providing the treatment.

(e) Loss of Consciousness. You must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time they remain unconscious.

(f) Other Injuries and Illnesses. Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of occurrence.

(9) Needlestick and Sharps Injury Recording Criteria.

(a) When an injury is diagnosed later as an infectious bloodborne disease, you must update the classification on the 300 log to reflect the new status or classification.

(b) You must record all work-related needlestick injuries and cuts from sharp objects contaminated with another person's blood or other potentially infectious material (as defined by OAR 437-002-1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, do not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in OAR 437-001-0700(14).

NOTE: If you have an exposure incident that is not a needlestick, you must still record it if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or diagnosis of a significant injury or illness, such as HIV, hepatitis B, or hepatitis C.

(10) Medical Removal Recording Criteria. If another Oregon OSHA standard requires the medical removal of an employee, you must record the case on the OSHA 300 Log.

(a) You must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the "poisoning" column.

(b) If the case involves voluntary medical removal before reaching the medical removal levels required by an Oregon OSHA standard, do not record the case on the OSHA 300 Log.

(11) Occupational Hearing Loss Recording Criteria.

(a) Hearing loss must be recorded on the OSHA 300 Log by checking the hearing loss column when:

(A) An annual audiogram reveals a Standard Threshold Shift (STS) in either or both ears; and

(B) The hearing level in the same ear is 25 dB above audiometric zero.

Note: For the ease of the reader the definitions for STS and audiometric zero are provided here.

Standard Threshold Shift (STS) — A change in hearing threshold relative to the baseline audiogram of an average of 10 dB or more in either ear. **Audiometric Zero** — The lowest sound pressure level that the average, young adult with normal hearing can hear.

(b) In determining whether an STS has occurred, you may correct for the age of the employee. Use the appropriate table in Appendix A to determine the age adjustment. If the STS is 10 dB or more after the age correction, it still meets the criteria for recordability.

(c) If you retest the employee's hearing within 30 days of the first test, and the retest does not confirm the recordable STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the recordable STS, you must record the hearing loss case within 7 calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the noise standard (OAR 437-002-1910.95) indicates that an STS is not persistent, you may erase, delete, or line-out the recorded entry.

(d) If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, the case is not work-related. Do not record it on the OSHA 300 Log.

(12) Tuberculosis Reporting Criteria. If any of your employees has an occupational exposure to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the "respiratory condition" column.

(a) Do not record a pre-employment positive skin test because the exposure was not in your workplace.

(b) Line out or erase a recorded case if you prove that:

(A) The worker lives in a household with a person diagnosed with active TB;

(B) The Public Health Department identifies the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

(13) Removed.

(14) Forms.

(a) You must use OSHA 300, 300A, and DCBS Form 801 or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is the Log of Work-Related Injuries and Illnesses, the 300A is the Summary of Work-Related Injuries and Illnesses, and the DCBS Form 801 or equivalent is the Worker's and Employer's Report of Occupational Injury or Disease. The OSHA 300 and 300A Summary forms must be kept on a calendar year basis.

(A) Even if you are exempt from recordkeeping, you must have at each establishment, a copy of DCBS Form 801 or equivalent for each occupational injury or illness that may result in a compensable claim.

(B) You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA 300A Summary form at the end of the year.

(C) You must complete a DCBS Form 801 or equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(D) You must enter each recordable injury or illness on the OSHA 300 Log and DCBS Form 801 or equivalent within 7 calendar days of receiving information that a recordable injury or illness has occurred.

(E) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the DCBS Form 801, or supplement an insurance form by adding any additional information required by OSHA.

(F) You may use a computer to keep your records if it can produce equivalent forms when needed.

(G) Privacy Concern Cases. If you have a "privacy concern case," do not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative has access to the OSHA 300 Log. You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(H) The following injuries or illnesses are privacy concern cases:

(i) An injury or illness to an intimate body part or the reproductive system;

(ii) An injury or illness resulting from a sexual assault;

(iii) Mental illnesses;

(iv) HIV infection, hepatitis, or tuberculosis;

(v) Needlestick injuries and cuts from sharp objects contaminated with another person's blood or other potentially infectious material; and

(vi) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.

NOTE: This is a complete list of all injuries and illnesses that are privacy concern cases.

(I) If you reasonably believe that information describing the privacy concern case may be personally identifiable even though the employee's name is omitted, use discretion in describing the injury or illness on both the OSHA 300 and DCBS 801 Forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, describe a sexual assault case as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(J) If you voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives, you must remove or hide the employees' names and other personally identifying information, except for the following cases:

(i) To an auditor or consultant hired by the employer to evaluate the safety and health program;

(ii) To the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(iii) To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services

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Standards for Privacy of Individually Identifiable Health Information, 45 CFR.164.512.

(b) In addition, health care employers as defined in ORS 654.412 must record assaults against employees on the Health Care Assault Log. See OAR 437-001-0706.

(15) Multiple Business Establishments. You must keep a separate OSHA 300 Log for each establishment that you expect to operate for 1-year or longer.

(a) You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

(b) You may keep the records for an establishment at your headquarters or other central location if you can:

(A) Transmit information about the injuries and illnesses from the establishment to the central location within 7 calendar days of receiving information that a recordable injury or illness has occurred; and

(B) Produce and send the records from the central location to the establishment within the time frames required by OAR 437-001-0700(20) and 437-001-0700(21) when you are required to provide records to a government representative, employees, former employees or employee representatives.

(c) You must link each employee with one of your establishments, for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short-term establishment.

(d) If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment where the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment where the employee normally works.

(16) Covered Employees. You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(a) Record the injuries and illnesses to workers from temporary help agencies or employee leasing services only if you supervise these employees on a day-to-day basis.

(b) If a contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(c) You and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

(17) Annual Summary and Posting Requirements. At the end of each calendar year, you must:

(a) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified.

(b) Use the OSHA 300A Summary form to create an annual summary of injuries and illnesses recorded on the OSHA 300 Log:

(A) Total the columns on the OSHA 300 Log (if you had no recordable cases, enter zeros for each column total); and

(B) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.

(C) If you are using an equivalent form other than the OSHA 300A Summary form, the summary you use must also include the employee access and employer penalty statements found on the OSHA 300A Summary form.

(c) Sign or have a representative sign the 300A Summary to certify that the OSHA 300 Log is correct to the best of the signer's knowledge. If the summary is signed by a person other than a company executive, a company executive must also review the OSHA 300 Log in order to be generally familiar with its contents. A company executive is:

(A) An owner of the company when the company is a sole proprietorship or partnership;

(B) An officer of the corporation;

(C) The highest ranking company official working at the establishment; or

(D) The immediate supervisor of the highest ranking company official working at the establishment.

(d) Post a copy of the 300A Summary form in each establishment in a conspicuous place or places where notices to employees are customarily posted. Ensure that the posted annual summary is not altered, defaced or covered by other material.

(e) Post the 300A Summary no later than February 1 of the year following the year covered by the records and keep it posted until April 30.

(f) When you maintain records for all of your establishments at your headquarters or other central location, each 300A Summary form must be specific to each separate establishment.

(18) Paperwork Retention and Updating.

(a) You must save the OSHA 300 Log, the privacy case list (if any), the 300A Summary form, and the DCBS Form 801 or equivalent forms for 5 years following the end of the calendar year that they cover.

(b) During the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

NOTE: For more information on retention of medical and exposure records, see OAR 437-002-1910.1020.

(19) Change of Business Ownership. If your business changes ownership, you must record and report work-related injuries and illnesses only for the time you owned the establishment. You must transfer the records to the new owner. The new owner must save all records of the establishment kept by the prior owner, but need not update or correct the records of the prior owner.

(20) Prohibition against discrimination. Oregon Revised Statute 654.062(5) prohibits discrimination against an employee for reporting a work-related fatality, injury or illness. It also protects the employee who files a safety and health complaint, asks for access to this rule, records, or otherwise exercises any rights afforded by law or rule.

(21) Employee Involvement. You must involve your employees and their representatives in the recordkeeping system.

(a) You must establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness.

(b) You must inform each employee of your procedure for reporting work related injuries and illnesses and tell each employee how they are to report an injury or illness to you.

(c) You must inform employees that they have the right to report work-related injuries and illnesses; and that employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries and illnesses.

(d) You must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, do not record the employee's name on the OSHA 300 Log for certain "privacy concern cases."

(e) You must provide limited access to your injury and illness records for your employees and their representatives.

(A) Your employees, former employees, their personal representatives, and their authorized collective bargaining representatives have the right to access the OSHA injury and illness records, in accordance with (B) through (E) below.

Note: A personal representative is anybody designated in writing by the employee or former employee, as well as the legal representative of a deceased or legally incapacitated employee.

(B) When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(C) When an employee, former employee, or personal representative asks for a copy of the DCBS Form 801 or equivalent describing an injury or illness to that employee or former employee, you must give the requester a copy of the DCBS Form 801 or equivalent containing that information by the end of the next business day.

(D) When an authorized employee representative asks for copies of the DCBS Form 801 or equivalent for an establishment where the agent represents employees under a collective bargaining agreement, you must

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give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee representative information from the releasable part of the DCBS Form 801 indicated in the "Worker" section. You must remove all other information from the copy of the DCBS Form 801 or equivalent form that you give to the authorized employee representative.

(E) You may not charge for these copies the first time. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

(22) Providing Records to Government Representatives. When an authorized government representative asks for the records you keep in compliance with this standard, you must provide copies of the records within 4 business hours. Authorized government representatives are:

(a) A representative of the Oregon Department of Consumer and Business Services.

(b) A representative of the Secretary of Labor conducting an inspection or investigation under the Act.

(c) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health - NIOSH) conducting an investigation under Section 20(b) of the Act.

(23) Requests from the Bureau of Labor Statistics or DCBS. If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, or a request for data from the Oregon Department of Consumer and Business Services, you must promptly complete the form and return it following the instructions on the survey form.

(24) Electronic submission of injury and illness records to OSHA.

(a) If your establishment had 250 or more employees at any time during the previous calendar year, and you are required to maintain an OSHA 300 log, then you must electronically submit information from the three recordkeeping forms that you keep under this part (OSHA Form 300A Summary of Work-Related Injuries and Illnesses, OSHA Form 300 Log of Work-Related Injuries and Illnesses, and DCBS Form 801 Injury and Illness Incident Report) to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (24)(g) of the year after the calendar year covered by the forms.

(b) If your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in Table 8, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (24)(g) of the year after the calendar year covered by the form.

(c) If you are required to submit information under paragraph (24)(a) or (24)(b), submit all of the information from the form except the following:

(A) Log of Work-Related Injuries and Illnesses (OSHA Form 300): Employee name (column B).

(B) Injury and Illness Incident Report (DCBS Form 801): Employee name, employee address, name of physician or other health care professional, facility name and address if treatment was given away from the worksite.

Note: Each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.

(d) If you are required to submit information under paragraph (24)(a) or (24)(b), then you must submit the information once a year, by the date listed in paragraph (24)(g) of the year after the calendar year covered by the form or forms. If you are submitting information because OSHA notified you to submit information as part of an individual data collection under paragraph (24)(g), then you must submit the information as often as specified in the notification.

(e) You must submit the information electronically. Federal OSHA will provide a secure website for the electronic submission of information.

[ED. NOTE: Forms, Graphics & Tables referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 – 654.295, 654.412 – 654.423, 654.750 – 780

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCD 7-1979, f. 8-20-79, ef. 9-1-79; WCD 4-1981, f. 5-22-81, ef. 7-1-81; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 11-2001, f. 9-14-01, cert. ef. 1-1-02; OSHA 2-2002, f. & cert. ef. 3-12-02; OSHA 7-2002, f. & cert. ef. 11-15-02; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06; OSHA 11-2007, f. 12-21-07, cert. ef. 1-1-08; OSHA 8-2008, f. & cert. ef. 7-14-08; OSHA 2-2015, f. 3-18-15, cert. ef. 1-1-16; OSHA 6-2016, f. 11-10-16, cert. ef. 5-1-17; OSHA 5-2017, f. 8-1-17, cert. ef. 1-1-18

Rule Caption: Extending application deadline for stranded thermal generation eligibility.

Adm. Order No.: DOE 5-2017(Temp)

Filed with Sec. of State: 7-20-2017

Certified to be Effective: 7-24-17 thru 1-19-18

Notice Publication Date:

Rules Amended: 330-160-0015

Subject: The temporary rule amendments would extend the deadline by five months for stakeholders to apply for thermal renewable energy certificates (T-RECs) associated with qualifying thermal generation that occurred between the effective date of Oregon Laws 2016, chapter 28 (SB 1547), March 8, 2016, and the date that relevant Oregon Department of Energy (ODOE) rules were effective, December 21, 2016. Thermal generation associated with this time-frame is defined as "stranded thermal generation" in OAR 330-160-0015(23). In developing rules related to T-RECs for stranded generation, ODOE provided a deadline of August 1, 2017 for stakeholders to register for thermal generation in the Western Renewable Energy Generation Information System (WREGIS) and to submit an application for certification to ODOE.

Due to unforeseen delays related to technical issues, WREGIS does not expect to have the ability to register facilities for thermal energy generation until sometime after August 1, 2017. Additionally, in providing technical assistance to generator representatives on their RPS certification applications, ODOE has made refinements to both the application itself and the application process. The temporary rule would extend the August 1, 2017 deadline for applying to ODOE for stranded thermal generation to January 1, 2018, and would delete the deadline for facilities to register with WREGIS while retaining the requirement for facilities to report thermal generation to WREGIS within six months of gaining approval from ODOE. The department plans to file permanent rules having the same effect as the proposed temporary rules before January 1, 2018.

Rules Coordinator: Elizabeth Ross—(503) 378-8534

330-160-0015

Definitions

For the purposes of Oregon Administrative Rules, chapter 330, division 160, the following definitions apply unless the context requires otherwise:

(1) "Banked Renewable Energy Certificate" has the meaning in ORS 469A.005.

(2) "Bundled Renewable Energy Certificate" has the meaning in ORS 469A.005.

(3) "Compliance Year" has the meaning in ORS 469A.005.

(4) "Department" means the Oregon Department of Energy.

(5) "Director" means the Director of the Oregon Department of Energy.

(6) "Electricity Service Supplier" has the meaning in ORS 469A.005.

(7) "Electric Utility" has the meaning in ORS 469A.005.

(8) "Federal Columbia River Power System" (FCRPS) means the transmission system constructed and operated by Bonneville Power Administration (BPA) and the hydroelectric dams constructed and operated by the U.S. Army Corps of Engineers and the Bureau of Reclamation in Oregon, Washington, Montana and Idaho.

(9) "Generator representative" means an electricity generating facility's owner, operator or WREGIS account holder.

(10) "High Water Mark Contract" means a power sales contract between a consumer-owned utility and BPA that contains a contract high water mark, and under which the utility purchases power from BPA at rates established by BPA in accordance with the tiered rate methodology.

(11) "Joint Operating Entity" means an entity that was lawfully organized under State law as a public body or cooperative prior to September 22, 2000, and is formed by and whose members or participants are two or more public bodies or cooperatives, each of which was a customer of BPA on or before January 1, 1999.

(12) "Multiple-fuel facility" means a facility that is capable of generating electricity using more than one type of fuel. A facility that uses fossil fuel for generator start-up but otherwise uses a single eligible resource and

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is not required to register in WREGIS as a multi-fuel generating unit, as defined by WREGIS, is not a multiple-fuel facility.

(13) “Oregon’s share” as used in ORS 469A.020(3), means the portion of Federal Columbia River Power System generation attributable to the Oregon load of hydroelectric efficiency upgrades that BPA provides to:

(a) Each consumer-owned utility serving load located in Oregon, pursuant to a High Water Mark Contract;

(b) Each Joint Operating Entity with retail utility members serving load located in Oregon, pursuant to a High Water Mark Contract; and

(c) Each investor-owned utility participating in the Residential Exchange Program that serves load located in Oregon.

(14) “Qualifying Electricity” has the meaning in ORS 469A.005.

(15) “Qualifying thermal energy” means thermal energy that meets the requirements of OAR 330-160-0080.

(16) “Renewable Energy Certificate” (REC or Certificate) means a unique representation of the environmental, economic, and social benefits associated with the generation of electricity from renewable energy sources that produce Qualifying Electricity. One Certificate is created in association with the generation of one MegaWatt-hour (MWh) of Qualifying Electricity. While a Certificate is always directly associated with the generation of one MWh of electricity, transactions for Certificates may be conducted independently of transactions for the associated electricity.

(17) “Renewable Energy Source” has the meaning in ORS 469A.005.

(18) “Residential Exchange Program” means the arrangement, based on section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act, whereby regional utilities sell BPA an amount of power equal to their residential and small-farm load at their average system cost in exchange for federal electric power, and pass on the benefits to their residential and small-farm customers in the form of a bill credit.

(19) “RPS” means the Oregon renewable portfolio standard as established in ORS 469A.

(20) “Secondary purpose” means an end use for thermal energy that:

(a) Is for heating, cooling, humidity control, or mechanical or chemical work; and

(b) For which fuel or electricity would otherwise be consumed.

(21) “Station service” means the energy that is used to operate an electric or thermal generating plant. It includes energy consumed for plant lighting, power, and auxiliary facilities in support of the electricity generation system. Station service includes thermal energy used to process the facility’s fuel.

(22) “Stranded electricity” means qualifying electricity that:

(a) Was generated between January 1, 2007, and March 4, 2011, by a generating unit that was registered in WREGIS on or before March 4, 2011; and

(b) Was reported to the Department on or before March 11, 2011.

(23) “Stranded thermal energy” means qualifying thermal energy that:

(a) Was generated between March 8, 2016 and December 21, 2016;

(b) Was generated by a facility for which an application for certification as Oregon RPS-eligible was submitted to the Department on or before January 1, 2018; and

(c) Was reported to WREGIS no later than six months after the application for certification as Oregon RPS-eligible was approved by the Department.

(24) “Thermal Renewable Energy Certificate” (T-REC) means a REC created in association with the generation of 3,412,000 British thermal units of qualifying thermal energy, which is equivalent to one REC created in association with the generation of one megawatt hour of Qualifying Electricity.

(25) “Unbundled Renewable Energy Certificate” has the meaning in ORS 469A.005.

(26) “Vintage” means the month and year that qualifying electricity was created in accordance with WREGIS protocol.

(27) “WREGIS” means the Western Renewable Energy Generation Information System, which is the renewable energy certificate tracking and reporting system established by the California Energy Commission and the Western Governors’ Association and governed by the Western Electricity Coordinating Council for use by states and provinces throughout the western power interconnection.

Stat. Auth.: ORS 469A.130

Stats. Implemented: ORS 469A.130 - 469A.145

Hist.: DOE 6-2008, f. & cert. ef. 9-3-08; DOE 11-2010(Temp), f. & cert. ef. 8-31-10 thru 2-26-11; DOE 1-2011, f. & cert. ef. 2-22-11; DOE 2-2011, f. & cert. ef. 3-4-11; DOE 11-2012, f. & cert. ef. 11-14-12; DOE 1-2014, f. & cert. ef. 2-10-14; DOE 7-2016, f. & cert. ef. 12-21-16; DOE 5-2017(Temp), f. 7-20-17, cert. ef. 7-24-17 thru 1-19-18

Rule Caption: Update and clarify definitions and requirements for State Energy Efficient Design program

Adm. Order No.: DOE 6-2017

Filed with Sec. of State: 8-15-2017

Certified to be Effective: 8-15-17

Notice Publication Date: 6-1-2017

Rules Amended: 330-130-0010, 330-130-0020, 330-130-0030, 330-130-0040, 330-130-0050, 330-130-0060, 330-130-0070, 330-130-0080, 330-130-0090, 330-130-0100

Rules Repealed: 330-130-0025

Subject: The purpose of the proposed rule amendments is to make a number of updates to the requirements and administration of the State Energy Efficient Design (SEED) program. The proposed amendments would better align program rules with ORS 276.900 - 276.915, which require new state facilities to be designed and constructed to perform 20 percent better than a building built to the current energy code. The proposed amendments would also: remove alternate compliance paths no longer applicable to the SEED process; remove rule language pertaining to outdated energy reduction goal timelines; describe methods and frequency of energy use reporting, including the minimum building square footage that triggers reporting requirements; correct inadvertent errors in language that occurred in a previous rulemaking; and make general housekeeping changes to rule language.

Rules Coordinator: Elizabeth Ross—(503) 378-8534

330-130-0010

Purpose

These rules prescribe procedures to promote the design, construction and renovation of highly energy efficient buildings owned and operated by state agencies by:

(1) Minimizing energy use by incorporating the Optimum Energy Conservation Measures Package as defined in these rules into the final building design and by designing all newly constructed or renovated facilities to perform a minimum of 20 percent better than the energy conservation provisions of the state building code.

(2) Reporting monthly energy use for existing buildings over 5,000 square feet using more than 10,000 Btus/square foot/year to a database specified by the department.

Stat. Auth.: ORS 276.900 - 276.915, Ch. 26, OL 2008 HB 3612

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

330-130-0020

Definitions

(1) “Agency” means the authorized state agency, board, commission, department or division which has the authority to enter contracts, finance the construction, purchase, renovation, or leasing of buildings or other structures for use by the State of Oregon.

(2) “Agency contact” means a lead person appointed by the agency who is responsible to coordinate all State Energy Efficient Design related business with the Oregon Department of Energy, such as project notifications, interagency agreements, invoice and payment, project coordination, guideline updates and advisory recommendations.

(3) “Baseline building” means the basic building conceived by the agency and the design team. The baseline building incorporates the standard design features of typical buildings of the same usage and meets the prescriptive or performance requirements of the Oregon Energy Efficiency Specialty Code according to criteria established in the State Energy Efficient Design Program Guidelines.

(4) “Benefit-to-Cost Ratio (BCR)” means the present value of Energy Conservation Measure benefits divided by the present value of incremental Energy Conservation Measure costs.

(a) The Energy Conservation Measure benefit is the difference between the present values of the operating cost of the baseline building and the operating cost of the baseline building with the Energy Conservation Measure added.

(b) The incremental Energy Conservation Measure cost is the difference between the present values of the capital cost of the baseline building and the capital cost of the baseline building with the Energy Conservation Measure added.

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(5) "Biennial report" means the report summarizing the progress toward achieving the goals of ORS 276.900 through ORS 276.915.

(6) Building Class:

(a) "Class 1 Building" means all:

(A) New buildings, additions, or renovations of 10,000 or more square feet of heated or cooled floor area; and

(B) Building additions that increase the size of an existing building to 10,000 or more square feet of heated or cooled floor area and renovations to buildings of 10,000 or more square feet of heated or cooled floor area, which significantly affect:

(i) The existing mechanical or control system; or

(ii) At least two of the following energy systems: interior lighting, building envelope, domestic hot water, or special equipment.

(iii) Only those systems identified in (i) and (ii) that are significantly affected are subject to procedures outlined in 330-130-0040.

(b) "Class 2 Building" means all new buildings or renovations of less than 10,000 square feet of heated or cooled floor area except for new buildings, structures, or facilities of any size which have no energy using systems.

(7) "Building model" means a computer model, which calculates annual building energy use. The Oregon Department of Energy shall approve hourly building models, simplified hourly building models and the approach to modeling Energy Conservation Measure energy savings above the baseline building as established in the State Energy Efficient Design Program Guidelines. The building model for all Class 1 Buildings must be an hourly building model, except for certain Class 1 buildings as approved by the Oregon Department of Energy where simplified hourly building modeling or prescriptive packages established in the State Energy Efficient Design Program Guidelines may be used.

(8) "Capital construction cost" means the cost of current and future building investments including construction, design, administration, major replacement, and salvage values. Costs of compliance with these rules may also be included.

(9) "Commissioning agent" is an individual or firm that has demonstrated experience commissioning Heating, Ventilating, and Air Conditioning (HVAC) mechanical systems and HVAC control systems, commercial and industrial mechanical technologies, lighting controls, and testing and balancing of air and water systems.

(10) "Contracting agency" means the agency entering into a contract for facility construction or renovation.

(11) "Department" means the Oregon Department of Energy.

(12) "Design team" means the architect(s), engineer(s), and other professionals who are responsible for the design of the new building or renovation.

(13) "Director" means the director of the department.

(14) "Energy Use Index (EUI)" is a calculated index that describes a building's energy use in relation to a metric, generally square feet, such as kBtu/ft²-yr or kWh/ft²-yr.

(15) "Energy analysis report" means a report prepared by an energy analyst, under the direction of a professional engineer or licensed architect, recommending an Optimum Energy Conservation Measure Package for a Class 1 building. The report must include:

(a) Department State Energy Efficient Design forms;

(b) A summary of recommendations;

(c) A baseline building description;

(d) Energy Conservation Measure descriptions with analysis results;

(e) Energy Conservation Measure savings calculations; and

(f) Energy Conservation Measure cost estimates.

(16) "Energy analyst" means the individual who prepares the building energy analysis and the energy analysis report under the direction of a professional engineer or licensed architect who reports to the project architect or agency.

(17) "Energy auditor" is an individual or firm that has demonstrated experience performing comprehensive analysis of a building's energy using systems, and performs benefit to cost analysis of energy efficiency measures.

(18) "Energy Conservation Measure (ECM)" means a measure designed to reduce energy use, including alternative energy systems which replace conventional fuels with renewable resources. ECMs must not conflict with applicable codes and other professional standards.

(19) "ECM Package" means two or more ECMs combined for analysis.

(20) "Energy Service Company (ESCO)" means a company, firm or other legal person with the demonstrated technical, operational, financial and managerial capabilities to design, install, construct, commission, man-

age, measure and verify, and otherwise implement ECMs and other work in building systems or building components that are directly related to the ECMs in existing buildings and structures.

(21) "Energy Services Performance Contract (ESPC)" means a public improvement contract between a contracting agency and a qualified energy service company for the identification, evaluation, recommendation, design, and construction of ECMs, including a Design Build Contract, that guarantees the energy savings performance.

(22) "Energy systems performance verification plan" means a plan that outlines how the building's energy systems are to be tested during the construction phase and how the building's performance is to be verified with long-term monitoring during occupancy.

(23) "Highly efficient facility" means a facility that is designed, built and operated according to these State Energy Efficient Design rules, that improves energy performance compared to the state building code by 20 percent or more, that makes use of renewable energy resources where practical, and that incorporates all cost-effective energy efficiency measures.

(24) "High performance target energy use" means a target energy use index for a building or building type as determined by the department, such as the ASHRAE Standard 100 Building Activity Energy Target.

(25) "Measurement and verification (M&V)" means, as used in ESPC Procurement, the examination of installed ECMs using the International Performance Measurement and Verification Protocol or process, to monitor and verify the operation of energy using systems pre-installation and post-installation.

(26) "Net Present Value Savings (NPVS)" means the difference between the present values of the capital and operating costs of the baseline building and the capital and operating costs of the baseline building with the ECM added.

(27) "Operating cost" means the costs for energy, fuel, annual and periodic maintenance, supplies, consumables, and other operating items associated with ECMs, such as water and sewer, during the life of the building.

(28) "Optimum ECM Package" means the ECM package which incorporates all reasonable cost-effective ECMs and which meets the following conditions:

(a) Each ECM included in the package has a BCR greater than 1.0 when modeled independently.

(b) The ECM package has a BCR greater than 1.0.

(c) The ECM Package has the highest NPVS of the analyzed ECM packages.

(29) "Present value" means the value of a financial cost or benefit, discounted to current dollars using discounting factors and methods approved by the department.

(30) "Renewable energy resource" includes, but is not limited to, on-site generation of energy for use in the building from the following sources:

(a) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal energy; or

(b) A hydroelectric generating facility that obtains all applicable permits and complies with all state and federal statutory requirements for the protection of fish and wildlife and:

(A) That does not exceed 10 megawatts of installed capacity; or

(B) Qualifies as a research, development or demonstration facility.

(c) The purchase of renewable energy certificates does not qualify as a renewable energy resource.

(31) "Renovation" means an addition to, alteration of, or repair of a facility that adds to or alters the facility's energy systems, provided that the affected energy systems accounts for 50 percent or more of the facility's total energy use.

(32) "SEED" means State Energy Efficient Design Program as defined in ORS 276.900 through ORS 276.915 under the heading State Agency Facility Energy Design.

(33) "SEED Program Guidelines" are guidelines developed by the department with assistance from an advisory committee that consists of representatives from interested agencies, design professionals, consulting engineers and utilities.

(34) "Simple payback" means the estimated ECM cost divided by the estimated first year ECM energy, operating, and maintenance savings.

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

Stat. Auth.: ORS 276.900 - 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

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330-130-0030

Notification

When the building class has been determined during the pre-design or programming phase of a building project, the following procedures shall be followed:

(1) Class 1 Buildings. The agency shall notify the department of a building project prior to the release of the Request for Proposals (RFP) for contracting/design services. The agency contact shall coordinate with the department to set-up the initial meeting early in the pre-design or programming phase of a building project.

(2) Class 2 Buildings. The agency shall notify the department and may request a list of recommended ECMs and services applicable to the building.

Stat. Auth.: ORS 276.900 - 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2003, f. & cert. ef. 1-10-03; DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

330-130-0040

Procedures for Class 1 Buildings

(1) The SEED process follows typical design process steps as the organizing principle. If the project does not fit the suggested steps, an alternative plan may be developed between the department and the agency.

(2) Meetings in this section of these rules may be eliminated or combined with other meetings as deemed appropriate by the department.

(3) Pre-Design or Programming Phase. The purpose of the SEED process is to ensure that energy efficiency is an integral part of the building design.

(a) Initial Meeting. Early in the pre-design or programming phase, the agency and the department shall meet to:

(A) Discuss the scope of the project;

(B) Define the role of the department including, but not limited to, the level of involvement, decision authority on behalf of the owner, and relationship with contractors. The department shall be notified of all meetings where significant review of or final decisions about energy systems are anticipated.

(C) Develop the RFP and contract. The RFP and the contract's statement of work must include a reference to building a "highly energy efficient facility" as defined in these rules and to the SEED process. The department may develop language for the agency to use for including energy efficient design in the request for proposals and the contract for architectural and engineering services. Upon request, the department will review or comment on the RFP, contract or energy qualifications of proposals as an expanded service under section (9).

(D) The agency must hire an energy analyst as described in OAR 330-130-0090(2)(a).

(b) Schematic Design Phase:

(A) Energy Planning Session. Early in the Schematic Design Phase, the agency, design team, department and energy analyst shall meet to further define the items in the list below:

(i) Project design;

(ii) Construction schedule;

(iii) Energy goals of the project

(iv) Design criteria;

(v) Integrated energy design approach;

(vi) Energy systems performance verification plan; and

(vii) Modeling approach.

(B) Preliminary Investigation. Working with the agency and the design team, the energy analyst must prepare a comprehensive list of ECMs to capture significant opportunities for building energy savings. Two weeks before the scoping process (under section (2)(c)), the agency must deliver to the department the following items:

(i) Description of the baseline building and its energy-using systems;

(ii) List of proposed ECMs;

(iii) Approach and tools for modeling;

(iv) Initial building plans;

(v) Design intent;

(vi) Description of operating criteria; and

(vii) Results of preliminary modeling effort, if any.

(c) Scoping Process. The department, the agency, the design team, and the energy analyst shall select the ECMs for analysis. If needed, further refinement of the modeling effort may be discussed and decided upon.

(4) Design Development Phase:

(a) Baseline and individual ECM analysis. The energy analyst shall use the building model for baseline building analysis and individual ECM analysis. The energy analyst may use fully documented manual calculations

for simple, non-interactive ECMs and may eliminate potential ECMs with preliminary estimates of costs and savings if the simple payback is greater than the equipment life.

(b) Metering Plan. The agency, in consultation with the energy analyst, the design team and the department, must specify what types of utility meters are to be installed and what system is to be used to monitor the building's energy use. Where practical, sub-metering shall be provided on major energy-using equipment or systems. This Metering Plan must be incorporated in the energy systems performance verification plan.

(c) Interim Submittal and Review. Two weeks before the ECM Review Meeting, the agency must submit to the department the preliminary energy analysis report. The department will review the preliminary energy analysis report and provide its written or verbal comments and recommendations to the agency prior to the ECM review meeting. The following items must be submitted as part of the preliminary energy analysis report:

(A) Narrative describing the baseline building and the proposed ECMs;

(B) Tables showing energy use for the baseline building and the building with proposed ECMs;

(C) Baseline building model input and output;

(D) List of eliminated ECMs and calculations;

(E) Analysis results for individual ECMs; and

(F) Metering plan.

(d) ECM Review Meeting. The department, the agency, the design team, and the energy analyst shall meet to review and agree on the results in the preliminary energy analysis report.

(5) Construction Documents Phase:

(a) Implementation of Cost-Effective Measures. The agency must incorporate the Optimum ECM Package into the final building design.

(b) Submittal of Construction Documents. The agency shall provide the department with construction documents in sufficient detail to verify that the Optimum ECM Package will be included in the final construction documents and specifications no later than at 90 percent design completion. This submittal must also include the preliminary energy systems performance verification plan.

(c) The department shall review this submittal and forward its written findings and recommendations to the agency within 10 working days after receiving the documents, if practicable.

(6) Construction Phase:

(a) Contractor Submittals and Substitutions. The design firm shall ensure that contractor equipment submittals, requests for substitutions and change orders adhere to the ECM design intent. The design firm must send any substitutions or submittals that differ from the ECM design intent to the department for review.

(b) Final Report Submittal. The agency shall deliver the final energy analysis report containing the Optimum ECM Package and projected energy use to the department for review.

(c) Delivery of the department findings. The department shall review the report and forward its written findings and recommendations to the agency within 10 working days after receiving the report, if practicable.

(d) Site Inspections. To verify that ECMs are installed correctly and operating efficiently, the department or its representative may make walk-through site inspections during the installation of ECMs.

(e) Performance verification. The energy systems performance verification plan must be carried out and a copy of the commissioning report (if applicable) must be submitted to the department.

(f) Training. Training must be provided for building operators and a training plan must be incorporated into the performance verification plan. The training should parallel the operations manual prepared for the owner. It is highly recommended that instruction on the design intent and operation of the building as a system also be offered to the owners and occupants of the new facility.

(7) Occupancy Phase:

(a) Monitoring. Actual building operation will be compared with assumptions made in the final design phase energy analysis. If significant differences in schedules, equipment, operation, etc. exist, a calibrated energy model must be submitted at the discretion of the department (i.e., if actual energy use is more than five percent of predicted energy use). During the first 18 months into occupancy, energy use by the building systems must be monitored and compared with the modeling results. If significant differences between the actual energy use and the model predictions result, the agency must investigate to find the cause, so that:

(A) An adjustment can be made to the operation of the building; or

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(B) An explanation for the difference can be found that is acceptable to the agency and the department. The agency must send its findings to the department.

(b) Buildings not meeting energy use goals. If, after monitoring the building for 18 months, the building's performance does not meet the projected energy use because of reasons reported under (7)(a), the agency shall submit an energy conservation plan to the department within 90 days after reporting the above target energy use. This plan will outline the modifications to be made until monitoring shows that the building meets the projected energy use, or all reasonable attempts to reduce the energy use have been made. A report of these remedial actions must be submitted to the department.

(c) SEED Award. The department shall give the SEED Award to the agency if the building complies with these SEED rules, is a "highly energy efficient facility," and meets the criteria for the SEED award as determined in the SEED Program Guidelines.

(8) Waiver. The director of the department may waive part of these rules when an agency cannot comply due to extenuating circumstances such as for health or safety reasons, or the building has been designated a historic site.

(9) Expanded Services. Expanded services are services provided by the department that are outside the scope of OAR 330-130-0010 through OAR 330-130-0100. Such services may include, but are not limited to:

(a) Acting as the owner's agent on energy issues;

(b) Modeling during various phases of the design process and when the building is occupied;

(c) Building commissioning; and

(d) Providing resource conservation management assistance and training as needed or requested by the agency.

Stat. Auth.: ORS 276.900 - 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2003, f. & cert. ef. 1-10-03; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

330-130-0050

Procedures for Class 2 Buildings

(1) Role of the agency.

(a) The agency must notify the department of Class 2 projects.

(b) The agency shall determine that the design incorporates all reasonable cost-effective ECMs. ECMs or ECM packages with a Simple Payback shorter than equipment life shall be considered cost-effective for Class 2 Buildings. The agency, with assistance from the design team as necessary, shall provide preliminary benefit/cost results for each ECM implemented.

(c) The agency must send the list of energy efficiency measures included in the building design to the department.

(d) Upon completion of construction, the agency must send a list of the measures that were actually installed in the building to the department.

(2) Role of the department. The department shall be available to the agency to advise or suggest potential energy saving measures.

Stat. Auth.: ORS 276.900 - 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2003, f. & cert. ef. 1-10-03; DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

330-130-0060

Service Charges

Charges to the agency by the department for services shall be as follows:

(1) Class 1 Buildings:

(a) The charges by the department to the agency will be based on an hourly rate for the actual hours worked on the project. Hourly rates charged by the department and invoiced to the agency will include salary, other payroll expenses, the federally allowed indirect rate for the department, staff travel expenses, other service or supply costs, and administrative costs. Invoices may be submitted to the agency by the department monthly commencing one month after notification. Invoices will provide the hours of service and the hourly rate. The maximum charge shall be calculated at \$0.002 for each dollar of capital construction cost unless otherwise agreed to in writing by the agency and the department.

(b) To ensure the agency receives the final invoice prior to closing their construction accounts, the department may invoice in advance for final building inspections and post-occupancy energy use tracking.

(2) Class 2 Buildings. No charge unless the agency chooses to enter into an interagency agreement with the department.

(3) Charges do not include design team or energy analyst services. The agency must obtain these services directly. Charges include all services provided by the department or their representative in fulfilling the requirements described in these rules. Charges do not include services such as described in section 330-130-0040(9) "Expanded Services" provided by the department.

(4) The director may waive charges for special circumstances including, but not limited to, demonstration or pilot projects.

(5) All charges are subject to review and adjustment by the director of the department.

Stat. Auth.: ORS 276.900 - 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2002, f. 5-8-02, cert. ef. 5-13-02; DOE 1-2003, f. & cert. ef. 1-10-03; DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

330-130-0070

Department Administrative Procedures

(1) The department shall provide information and administer the program to ensure the program is in accordance with these rules.

(2) Under special circumstances, the director may waive certain requirements under these rules, provided the intent of the program as described in statute is maintained.

(3) The department has developed guidelines, which contain recommended procedures, instructions, and information relating to these rules. The department shall solicit agency comments on the guidelines on a biennial basis and revise the guidelines as appropriate.

(4) The department shall compile information about agency participation and ECM implementation into a database. The department shall make database information available to agencies and use the data in evaluating agency compliance with the objectives of ORS 276.900 through ORS 276.915.

(5) The department shall prepare a biennial report to the legislature prior to the legislative session of every odd-numbered year.

Stat. Auth.: ORS 276.900 - 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

330-130-0080

Procedures for Monitoring the Reduction in Energy Use by State Agencies

(1) Annual energy use per square foot shall be tracked for all state owned buildings over 5,000 square feet with an annual energy use exceeding 10,000 Btus/square foot/year. The department may exempt specific buildings from reporting energy use, if deemed appropriate, i.e., if the building is to be closed or sold in the near future.

(2) Agencies must report energy use on monthly intervals into the ENERGY STAR Portfolio Manager (ESPM) database, or other database as specified by the department. Energy shall be reported for each separate building or facility. When energy reporting for individual facilities is not possible due to existing energy metering configurations, such as for a campus, facilities may be grouped into a common meter for reporting purposes. Electricity and heating fuels must be tracked separately for each calendar year and entered into the database no later than March 31 of the following year.

(3) When significant changes of facility size or use takes place, each agency must notify the department of the change and is responsible for making revisions to their respective ESPM account.

(4) It is recommended that sub-metering of buildings and/or major energy consuming equipment is added where advisable and feasible in order to get better data on energy use and facilitate better energy management of the facilities.

(5) If the building energy use exceeds the high performance target energy use for that building category, the agency shall investigate the reason for exceeding the target. The agency shall develop a plan that outlines all modifications, procedures and changes that need to be introduced until the target is met and maintained. The agency shall monitor progress and modify the plan as necessary each year until the target is reached and shall report the plan annually to the department.

(6) If a building category does not have an established target EUI, the agency shall work with the department to identify a reasonable energy use target for the building.

Stat. Auth.: ORS 276.900 - 276.915

Stats. Implemented: ORS 469

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Hist.: DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2003, f. & cert. ef. 1-10-03; DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

330-130-0090

Pre-qualification for persons performing Energy Analysis and Energy Savings Performance Contracting Services

(1) The department shall establish criteria to prequalify persons or firms to execute the provisions of the SEED program rules. Agencies must only select persons or firms that have been prequalified by the department to perform energy analysis and energy savings performance contracting (ESPC) services.

(a) Energy analyst

(A) The department shall establish a list of pre-qualified energy analysts through a solicitation process that uses qualifications-based scoring criteria to determine a person's ability to perform building energy analysis.

(B) Agencies that wish to hire a person or firm that has not been previously prequalified by the department must request pre-approval from the department for exemption from this requirement. Only energy analysts that meet the qualifications as described in the SEED Program Guidelines will be considered eligible for exemption from prequalification.

(b) Energy Savings Company (ESCO)

(A) A qualifying firm will have demonstrated expertise in the following areas:

(i) A prior record of successfully performing ESPCs on projects involving existing buildings and structures that are comparable to projects typically undertaken by state agencies; and

(ii) The financial strength to effectively guarantee energy savings and performance for ESPC projects, or the ability to secure necessary funding to effectively guarantee energy savings under an ESPC.

(B) Pre-qualification process: The department will utilize a Request for Qualifications (RFQ) process as the first step in a two-part process to pre-qualify energy service companies to perform energy savings performance contracting services.

(C) RFQ proposal evaluation process: For ESCO proposal evaluations, the department shall establish qualifications-based evaluation factors that outweigh price-related factors, due to the fact that the RFQ process is the first step of a two-step process. A state agency planning to enter into an ESPC must request RFPs from a minimum of three firms on the pre-qualified list.

(3) Agencies must adhere to the following requirements for ESPC projects:

(a) Only select persons or firms that have been pre-qualified by the department to provide energy savings performance contracting services.

(b) Only utilize ESPC for comprehensive facility retrofits that include energy efficiency projects for two or more energy using systems. These systems must contribute to at least 50 percent of a facility's total energy use.

(c) Only use ESPC for projects that save energy and water resources.

(d) Only use ESPC for existing buildings that are two or more years old.

(e) Limit eligible contracting activities to:

(A) Technical energy audit;

(B) Project development plan;

(C) Design and construction;

(D) Measurement and verification;

(E) Energy savings guarantee(s)

(f) Not combine service agreements with an ESPC contract. All service agreement contracts must be mutually exclusive.

(g) Only solicit department-qualified ESCOs as the second step of a two-step process for final selection of an ESCO for ESPC services.

(h) At a minimum, the agency's solicitation process must include a technical facility profile, pre-proposal walk-through, and an interview process.

(4) Agencies may;

(a) Select qualifications-based evaluation factors that outweigh price factors.

(b) Contract with a third party for commissioning and measurement and verification services.

Stat. Auth.: Ch. 26, OL 2008 HB 3612

Stats. Implemented: ORS 276.900 - 276.915

Hist.: DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

330-130-0100

Pre-qualification for persons performing Energy Commissioning, Auditing, and Performance Verification Services

(1) The department shall establish criteria to pre-qualify persons or firms to execute the provisions of this bill. Agencies may select persons or firms that have been pre-qualified by the department to perform auditing, commissioning, and performance verification services for energy systems.

(2) Energy Auditor:

(a) The department shall maintain a list of pre-qualified energy auditing firms. This list must be established through an open RFP process using a qualification-based scoring criteria to determine a person's or firm's ability to perform energy audits in existing buildings.

(b) A qualifying firm must demonstrate expertise in the following areas:

(A) Commercial and industrial technology;

(B) Energy auditing equipment, heating, ventilating, and air conditioning systems;

(C) Lighting design;

(D) Energy efficiency technology; and

(E) Preventative maintenance procedures.

(c) Agencies may use the department's list of pre-qualified energy auditors for the selection of a person or firm to perform energy conservation measure analysis of existing buildings.

(3) Commissioning Agent

(a) The department maintains a list of pre-qualified commissioning firms. This list will be established through an open RFP process that uses a qualifications-based scoring criteria to determine a person's or firm's ability to perform commissioning of energy using systems in new and existing buildings.

(b) At least one individual employed by the firm must be a member of a building commissioning professional association such as Building Commissioning Association (BCA), National Environmental Balancing Bureau (NEBB), or Associated Air Balance Council (AABC).

(c) Agencies may use the department's list of pre-qualified commissioning agents for the selection of a person or firm to perform commissioning services for energy efficiency projects in new and existing buildings.

(4) Measurement and verification.

(a) Agencies may select from the list of pre-qualified ESCOs described in OAR 330-130-0090(2)(b) or the list of commissioning agents described in OAR 330-130-0100(3) for the measurement and verification of implemented energy efficiency measures.

Stat. Auth.: Ch. 26, OL 2008 HB 3612

Stats. Implemented: ORS 276.900 - 276.915

Hist.: DOE 5-2008, f. 7-29-08, cert. ef. 8-1-08; DOE 5-2011, f. & cert. ef. 6-27-11; DOE 6-2017, f. & cert. ef. 8-15-17

Department of Environmental Quality Chapter 340

Rule Caption: North Fork Smith River Outstanding Resource Waters Designation 2017

Adm. Order No.: DEQ 8-2017

Filed with Sec. of State: 7-18-2017

Certified to be Effective: 7-18-17

Notice Publication Date: 2-1-2017

Rules Amended: 340-041-0004, 340-041-0305

Subject: The rules designate the waters of the North Fork Smith River sub basin as Outstanding Resource Waters, the highest level of protection under the Clean Water Act. The rules also establish policies to ensure that the unique water quality values and ecological characteristics of these waters are maintained. Specifically, the rules prohibit new permitted point source discharges to the waters, as well as other activities that would degrade the current high water quality and exceptional ecological characteristics and values of the waters.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-041-0004

Antidegradation

(1) Purpose. The purpose of the Antidegradation Policy is to guide decisions that affect water quality to prevent unnecessary further degradation from new or increased point and nonpoint sources of pollution, and to protect, maintain, and enhance existing surface water quality to ensure the full protection of all existing beneficial uses. The standards and policies set

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forth in OAR 340-041-0007 through 340-041-0350 supplement the Antidegradation Policy.

(2) Growth Policy. In order to maintain the quality of waters in the State of Oregon, it is the commission's general policy to require that more efficient and effective waste treatment and control accommodate growth and development such that measurable future discharged waste loads from existing sources do not exceed presently allowed discharged loads except as provided in section (3) through (9) of this rule.

(3) Nondegradation Discharges. The following new or increased discharges are subject to this division. However, because they are not considered degradation of water quality, they are not required to undergo an antidegradation review under this rule:

(a) Discharges Into Existing Mixing Zones. Pollutants discharged into the portion of a water body that has been included in a previous mixing zone for a permitted source, including the zones of initial dilution, are not considered a reduction in water quality, so long as the mixing zone is established in accordance with OAR 340-041-0053, there are no other overlapping mixing zones from other point sources, and the discharger complies with all effluent limits set out in its NPDES permit.

(b) Water Conservation Activities. An increase in a pollutant concentration is not considered a reduction in water quality so long as the increase occurs as the result of a water conservation activity, the total mass load of the pollutant is not increased, and the concentration increase has no adverse effect on either beneficial uses or threatened or endangered species in the water body.

(c) Temperature. Insignificant temperature increases authorized under OAR 340-041-0028(11) and (12) are not considered a reduction in water quality.

(d) Dissolved Oxygen. Up to a 0.1 mg/l decrease in dissolved oxygen from the upstream end of a stream reach to the downstream end of the reach is not considered a reduction in water quality so long as it has no adverse effects on threatened and endangered species.

(4) Recurring Activities. Since the baseline for applying the antidegradation policy to an individual source is the water quality resulting from the source's currently authorized discharge, and since regularly-scheduled, recurring activities remain subject to water quality standards and the terms and conditions in any applicable federal and state permits, certifications and licenses, the following activities will not be considered new or increasing discharges and will therefore not trigger an antidegradation review under this rule, so long as they do not increase in frequency, intensity, duration or geographical extent:

- (a) Rotating grazing pastures,
- (b) Agricultural crop rotations, and
- (c) Maintenance dredging.

(5) Exemptions to the Antidegradation Requirement. Some activities may, on a short term basis, cause temporary water quality degradation. However, these same activities may also have substantial and desirable environmental benefits. The following activities and situations fall into this category. Such activities and situations remain subject to water quality standards and must demonstrate that they have minimized adverse effects to threatened and endangered species in order to be exempt from the antidegradation review under this rule:

(a) Riparian Restoration Activities. Activities that are intended to restore the geomorphology or riparian vegetation of a water body, or control invasive species need not undergo an antidegradation review so long as the department determines that there is a net ecological benefit to the restoration activity. Reasonable measures that are consistent with the restoration objectives for the water body must be used to minimize the degradation;

(b) Emergency Situations. The director or a designee may, for a period of time no greater than 6 months, allow lower water quality without an antidegradation review under this rule in order to respond to public health and welfare emergencies (for example, a significant threat of loss of life, personal injury or severe property damage); and

(c) Exceptions. Exceptions authorized by the commission or department under (9) of this rule.

(6) High Quality Waters Policy: Where the existing water quality meets or exceeds those levels necessary to support fish, shellfish, and wildlife propagation, recreation in and on the water, and other designated beneficial uses, that level of water quality must be maintained and protected. However, the commission, after full satisfaction of the intergovernmental coordination and public participation provisions of the continuing planning process, and with full consideration of sections (2) and (9) of this rule, and 340-041-0007(4), may allow a lowering of water quality in these high quality waters if it finds:

(a) No other reasonable alternatives exist except to lower water quality; and

(b) The action is necessary and benefits of the lowered water quality outweigh the environmental costs of the reduced water quality. This evaluation will be conducted in accordance with DEQ's "Antidegradation Policy Implementation Internal Management Directive for NPDES Permits and section 401 water quality certifications," pages 27, and 33-39 (March 2001) incorporated herein by reference;

(c) All water quality standards will be met and beneficial uses protected; and

(d) Federal threatened and endangered aquatic species will not be adversely affected.

(7) Water Quality Limited Waters Policy: Water quality limited waters may not be further degraded except in accordance with paragraphs (9)(a)(B), (C) and (D) of this rule.

(8) Outstanding Resource Waters Policy. Where existing high quality waters constitute an outstanding State or national resource such as those waters designated as extraordinary resource waters, or as critical habitat areas, the existing water quality and water quality values must be maintained and protected, and classified as "Outstanding Resource Waters of Oregon."

(a) The commission may specially designate high quality water bodies to be classified as Outstanding Resource Waters in order to protect the water quality parameters that affect ecological integrity of critical habitat or special water quality values that are vital to the unique character of those water bodies. The department will develop a screening process and establish a list of nominated water bodies for Outstanding Resource Waters designation in the Biennial Water Quality Status Assessment Report (305(b) Report). The priority water bodies for nomination include:

- (A) Those in State and National Parks;
- (B) National Wild and Scenic Rivers;
- (C) State Scenic Waterways;
- (D) Those in State and National Wildlife Refuges; and
- (E) Those in federally designated wilderness areas.

(b) The department will bring to the commission a list of water bodies that are proposed for designation as Outstanding Resource Waters at the time of each triennial Water Quality Standards Review; and

(c) When designating Outstanding Resource Waters, the commission may establish the water quality values to be protected and provide a process for determining what activities are allowed that would not affect the outstanding resource values. After the designation, the commission may not allow activities that may lower water quality below the level established except on a short term basis to respond to public health and welfare emergencies, or to obtain long-term water quality improvements.

(d) The following are Outstanding Resource Waters of Oregon: The North Fork Smith River and its tributaries and associated wetlands, South Coast Basin. See OAR 340-041-0305(4).

(9) Exceptions. The commission or department may grant exceptions to this rule so long as the following procedures are met:

(a) In allowing new or increased discharged loads, the commission or department must make the following findings:

(A) The new or increased discharged load will not cause water quality standards to be violated;

(B) The action is necessary and benefits of the lowered water quality outweigh the environmental costs of the reduced water quality. This evaluation will be conducted in accordance with DEQ's "Antidegradation Policy Implementation Internal Management Directive for NPDES Permits and section 401 water quality certifications," pages 27, and 33-39 (March 2001) incorporated herein by reference; and

(C) The new or increased discharged load will not unacceptably threaten or impair any recognized beneficial uses or adversely affect threatened or endangered species. In making this determination, the commission or department may rely on the presumption that, if the numeric criteria established to protect specific uses are met, the beneficial uses they were designed to protect are protected. In making this determination the commission or department may also evaluate other state and federal agency data that would provide information on potential impacts to beneficial uses for which the numeric criteria have not been set;

(D) The new or increased discharged load may not be granted if the receiving stream is classified as being water quality limited under sub-section (a) of the definition of "Water Quality Limited" in OAR 340-041-0002, unless:

(i) The pollutant parameters associated with the proposed discharge are unrelated either directly or indirectly to the parameter(s) causing the

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receiving stream to violate water quality standards and being designated water quality limited; or

(ii) Total maximum daily loads (TMDLs), waste load allocations (WLAs) load allocations (LAs), and the reserve capacity have been established for the water quality limited receiving stream, compliance plans under which enforcement action can be taken have been established, and there will be sufficient reserve capacity to assimilate the increased load under the established TMDL at the time of discharge; or

(iii) Effective July 1, 1996, in water bodies designated water-quality limited for dissolved oxygen, when establishing WLAs under a TMDL for water bodies meeting the conditions defined in this rule, the department may at its discretion provide an allowance for WLAs calculated to result in no measurable reduction of dissolved oxygen (DO). For this purpose, "no measurable reduction" is defined as no more than 0.10 mg/L for a single source and no more than 0.20 mg/L for all anthropogenic activities that influence the water quality limited segment. The allowance applies for surface water DO criteria and for Intergravel dissolved oxygen (IGDO) if a determination is made that the conditions are natural. The allowance for WLAs applies only to surface water 30-day and seven-day means; or

(iv) Under extraordinary circumstances to solve an existing, immediate and critical environmental problem, the commission or department may, after completing a TMDL but before the water body has achieved compliance with standards, consider a waste load increase for an existing source on a receiving stream designated water quality limited under sub-section (a) of the definition of "Water Quality Limited" in OAR 340-041-0002. This action must be based on the following conditions:

(I) That TMDLs, WLAs and LAs have been set; and

(II) That a compliance plan under which enforcement actions can be taken has been established and is being implemented on schedule; and

(III) That an evaluation of the requested increased load shows that this increment of load will not have an unacceptable temporary or permanent adverse effect on beneficial uses or adversely affect threatened or endangered species; and

(IV) That any waste load increase granted under subparagraph (iv) of this paragraph is temporary and does not extend beyond the TMDL compliance deadline established for the water body. If this action will result in a permanent load increase, the action must comply with sub-paragraphs (i) or (ii) of this paragraph.

(b) The activity, expansion, or growth necessitating a new or increased discharge load is consistent with the acknowledged local land use plans as a statement of land use compatibility from the appropriate local planning agency establishes.

(c) Oregon's water quality management policies and programs recognize that Oregon's water bodies have a finite capacity to assimilate waste. Unused assimilative capacity is an exceedingly valuable resource that enhances in-stream values and environmental quality in general. Allocation of any unused assimilative capacity should be based on explicit criteria. In addition to the conditions in subsection (a) of this section, the commission or department may consider the following:

(A) Environmental Effects Criteria:

(i) Adverse Out-of-Stream Effects. There may be instances where the non-discharge or limited discharge alternatives may cause greater adverse environmental effects than the increased discharge alternative. An example may be the potential degradation of groundwater from land application of wastes;

(ii) Instream Effects. Total stream loading may be reduced through elimination or reduction of other source discharges or through a reduction in seasonal discharge. A source that replaces other sources, accepts additional waste from less efficient treatment units or systems, or reduces discharge loadings during periods of low stream flow may be permitted an increased discharge load year-round or during seasons of high flow, so long as the loading has no adverse effect on threatened and endangered species;

(iii) Beneficial Effects. Land application, upland wetlands application, or other non-discharge alternatives for appropriately treated wastewater may replenish groundwater levels and increase streamflow and assimilative capacity during otherwise low streamflow periods.

(B) Economic Effects Criteria. When assimilative capacity exists in a stream, and when it is judged that increased loadings will not have significantly greater adverse environmental effects than other alternatives to increased discharge, the economic effect of increased loading will be considered. Economic effects will be of two general types:

(i) Value of Assimilative Capacity. The assimilative capacity of Oregon's streams is finite, but the potential uses of this capacity are virtually unlimited. Thus it is important that priority be given to those beneficial uses that promise the greatest return (beneficial use) relative to the unused

assimilative capacity that might be utilized. In-stream uses that will benefit from reserve assimilative capacity, as well as potential future beneficial use, will be weighed against the economic benefit associated with increased loading;

(ii) Cost of Treatment Technology. The cost of improved treatment technology, non-discharge and limited discharge alternatives may be evaluated.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07; DEQ 8-2017, f. & cert. ef. 7-18-17

340-041-0305

Water Quality Standards and Policies for South Coast Basin

(1) pH (Hydrogen ion concentration) pH values may not fall outside the following ranges:

(a) Estuarine and fresh waters: 6.5-8.5.

(b) Marine waters: 7.0-8.5.

(2) Total Dissolved Solids. Guide concentrations listed below may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-041-0300: 100.0 mg/l.

(3) Minimum Design Criteria for Treatment and Control of Sewage Wastes:

(a) During periods of low stream flows (approximately May 1 to October 31): Treatment resulting in monthly average effluent concentrations may not exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control;

(b) During the period of high stream flows (approximately November 1 to April 30) and for direct ocean discharges: A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

(4) Outstanding Resource Waters of Oregon (ORWs)

(a) The North Fork Smith River and its tributaries and associated wetlands. These streams include but are not limited to the North Fork Smith River, Chrome Creek, Spokane Creek, Fall Creek, Cedar Creek, Horse Creek, Packsaddle Creek, Baldface Creek, Taylor Creek, Biscuit Creek, Wimer Creek, McGee Creek, Cabin Creek, Diamond Creek, and the North Fork Diamond Creek.

(b) The current high water quality, exceptional ecological values, and existing and designated uses of the ORWs identified in this rule ("these waters") must be maintained and protected except as altered by natural causes.

(c) No new NPDES discharge or expansion of an existing discharge to these waters may be allowed.

(d) No new NPDES discharge or expansion of an existing discharge to waters upstream of or tributary to these waters may be allowed if such discharge would degrade the water quality within these waters.

(e) No activities may be allowed that would degrade the existing water quality and ecological characteristics and values of these waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 8-2017, f. & cert. ef. 7-18-17

Department of Fish and Wildlife Chapter 635

Rule Caption: Treaty Indian Commercial Summer Salmon Fisheries Modified

Adm. Order No.: DFW 91-2017(Temp)

Filed with Sec. of State: 7-18-2017

Certified to be Effective: 7-19-17 thru 7-31-17

Notice Publication Date:

Rules Amended: 635-041-0076

Rules Suspended: 635-041-0076(T)

Subject: This amended rule extends the sales of fish caught in two additional Columbia River Zone 6 Treaty Indian commercial summer salmon set and drift gillnet fishing periods beginning 6:00 a.m. Wednesday, July 19, 2017. Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled fishery. Modifications are consistent with action taken July 18, 2017 by

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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

635-041-0076

Summer Salmon Season

(1) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp may be sold or retained for subsistence from the Columbia River Zone 6 Treaty Indian fishery during the following periods:

(a) 6:00 a.m. Wednesday July 19 through 6:00 p.m. Saturday July 22, and 6:00 a.m. Monday June 24 through 6:00 p.m. Friday July 28 2017, with gear restricted to set and drift gill net with no minimum mesh size restriction. (b) 6:00 a.m. Friday June 16 through 11:59 p.m. Monday July 31, 2017 with gear restricted to subsistence fishing gear which includes hoop nets, bag nets, dip nets, and rod and reel with hook-and-line.

(c) Fish caught during any open period may be sold after the period concludes.

(d) 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 Dalles Pool and John Day pools may not be sold but may be retained for subsistence use.

(e) 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. Friday June 16, 2017, 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 and Drano Lake, 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.

(c) Fish caught during any open period may be sold after the period concludes.

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; DFW 86-2016(Temp), f. 6-30-16, cert. ef. 7-5-16 thru 8-31-16; DFW 88-2016(Temp), f. 7-7-16, cert. ef. 7-11-16 thru 7-31-16; DFW 93-2016(Temp), f. 7-14-16, cert. ef. 7-18-16 thru 7-31-16; Administrative correction, 8-29-16; DFW 75-2017(Temp), f. & cert. ef. 6-15-17 thru 7-31-17; DFW 82-2017(Temp), f. 6-29-17, cert. ef. 7-3-17 thru 7-31-17; DFW 88-2017(Temp), f. 7-11-17, cert. ef. 7-12-17 thru 7-31-17; DFW 91-2017(Temp), f. 7-18-17, cert. ef. 7-19-17 thru 7-31-17

Rule Caption: Price Modification of Oregon's Live Fish Transport Permits.

Adm. Order No.: DFW 92-2017(Temp)

Filed with Sec. of State: 7-20-2017

Certified to be Effective: 7-20-17 thru 10-20-17

Notice Publication Date:

Rules Amended: 635-007-0605

Subject: This amended rule modifies the purchase price of fish transfer permits from \$40 to \$13 beginning July 20, 2017. Fish Division Administrators intend to follow-up this action with modifications to the permanent rule through the Oregon Fish and Wildlife Commission process later this year.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-007-0605

Fish Transport Permit Application

(1) Any person wishing to obtain a Fish Transport Permit shall complete and submit to the Department the appropriate permit application form.

(2) A fee of \$13.00 (no license agent fee) shall be charged for each Fish Transportation Permit issued by the Department.

(a) An invoice will be issued to Private Fish Suppliers for fish transferred to or from their production facilities for permits that the Department has issued the previous year.

(b) Invoice Payment must be received in full by March 1 for permits issued the previous year.

(c) Failure to pay invoice in full by March 1 shall result in suspension of approved permits.

(3) The Department may prescribe such terms and conditions in a permit as it deems necessary, including but not limited to, the period of time (usually 30 days) during which the transportation and/or release of fish is authorized.

(4) Fish may be held for an indefinite period of time under a Fish Transport Permit. The permit, or a copy thereof, shall be made available for inspection upon request by the Department or the Oregon State Police.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Other Auth.: SB 247 (2015)

Stats. Implemented: ORS 497.252 & 498.222

Hist.: FWC 27-1982, f. & ef. 4-30-82; FWC 225-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0305; FWC 3-1991, f. & cert. ef. 1-18-91; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16; DFW 13-2016(Temp), f. & cert. ef. 2-23-16 thru 8-20-16; Administrative correction, 9-23-16; DFW 92-2017(Temp), f. & cert. ef. 7-20-17 thru 10-20-17

Rule Caption: Modifications to Marr Pond Sport Angling Regulations in the Northeast Zone.

Adm. Order No.: DFW 93-2017(Temp)

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17 thru 10-31-17

Notice Publication Date:

Rules Amended: 635-019-0090

Subject: This amended rule liberalizes catch limits and harvest methods for Marr Pond. Due to a sudden failure of the water storage mechanism, the pond will likely be drained of all storage water. Many fish trapped in isolated pools and stressed by warm and turbid water will die. These rule modifications provide the sport fishing public opportunity to salvage fish that will otherwise be killed.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-019-0090

Inclusions and Modifications

(1) **2017 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 2017 Oregon Sport Fishing Regulations.

(2) Marr Pond is open to angling to all game species from July 21 through October 31, 2017 with the following restrictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

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Receiving Ticket provided the original dock ticket is attached to the completed dealer copy of the Fish Receiving Ticket and kept on file for inspection by the Director, the Director's authorized agent, or by the Oregon State Police. Fish Receiving Tickets shall be issued in numerical sequence.

(2) Fish Receiving Tickets shall include the following:

(a) Fish dealer's name and license number, including the buying station and location if the food fish or shellfish were received at any location other than the licensed premises of the fish dealer;

(b) Date of landing;

(c) His or her name from whom purchase is made. If not landed from a vessel, then his or her commercial license number shall be added. If received from a Columbia River treaty Indian, his or her tribal affiliation and enrollment number as shown on the official identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government, shall be used in lieu of an address or commercial fishing license;

(d) Boat name, boat license number, and federal document or State Marine Board number from which catch made;

(e) For groundfish harvested in the limited entry fixed gear fishery, the federal limited entry fixed gear permit number associated with the landing or portion of landing, which shall be provided by the vessel operator to the preparer of the fish ticket;

(f) Port of first landing. The port of first landing will be recorded as where a vessel initially crosses from the Pacific Ocean to inland waters, or is physically removed from the Pacific Ocean, for the purposes of ending a fishing trip;

(g) Fishing gear used by the fisher;

(h) For salmon and Dungeness crab, zone or area of primary catch;

(i) Species or species group, as determined by the Department, of food fish or shellfish received;

(j) Pounds of each species or species group, as determined by the Department, received:

(A) Pounds must be determined and reported based on condition of the fish when landed, either dressed or round. Dressed pounds may only be used for species with a conversion factor listed at OAR 635-006-0215(3)(g). Measures must be taken using a certified scale.

(B) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value. The following species or species groups are exempt from fish ticket requirements when considered "weighbacks":

(i) Sponges;

(ii) Sea Pens;

(iii) Sea Whips;

(iv) Black Corals;

(v) Sea Fans;

(vi) Anemone;

(vii) Jellyfish;

(viii) Whelks;

(ix) Squids other than Humboldt and market;

(x) Octopus other than Pacific giant octopus;

(xi) Mysids;

(xii) Shrimps other than pink shrimp, coonstripe prawns, and spot prawns;

(xiii) Crabs other than Dungeness, tanner, box, Oregon hair, and red rock crabs;

(xiv) Sea Stars including Brittle Stars;

(xv) Urchins;

(xvi) Sand dollars;

(xvii) Sea cucumbers;

(xviii) Eels other than hagfish;

(xix) Blacksmelts;

(xx) Spookfish;

(xxi) Stomiformes including Viperfish and Blackdragons;

(xxii) Slickheads;

(xxiii) Flatnoses;

(xxiv) Lancetfishes;

(xxv) Barricudinas;

(xxvi) Myctophids;

(xxvii) Tomcod;

(xxviii) Eelpouts including Bigfin, Two line, Black, and Snakehead;

(xxix) Dreamers;

(xxx) Anglerfish;

(xxxi) King of the Salmon;

(xxxii) Melamphids;

(xxxiii) Whalefish;

(xxxiv) Oxeye oreo;

(xxxv) Sculpins other than cabezon, buffalo sculpin, red Irish lord, and brown Irish lord;

(xxxvi) Poachers;

(xxxvii) Snailfish;

(xxxviii) Pricklebacks;

(xxxix) Gunnels;

(xl) Scabbardfish;

(xli) Lancetfish;

(xlii) Ragfish;

(xliii) Slender sole;

(xliv) Deepsea sole;

(xlv) Rays including Pacific and electric Rays and Devilfish;

(xlvi) Wolffishes including wolf eels.

(k) For Columbia River sturgeon the exact number of fish received and the actual round weight of that number of fish;

(l) Price paid per pound for each species received;

(m) Signature of the individual preparing the Fish Receiving Ticket;

(n) Signature of the vessel operator making the landing;

(o) Species name, pounds and value of fish retained by fisher for take home use.

(3) Except as provided in OAR 635-006-0212 and OAR 635-006-0213, the original of each Fish Receiving Ticket covering food fish and shellfish received shall be forwarded within five working days of the date of landing to the Oregon Department of Fish and Wildlife, 4034 Fairview Industrial Drive SE, Salem, OR 97302 or through the Pacific States Marine Fisheries Commission West Coast E-Ticket system or as required by Title 50 of the Code of Federal Regulations, part 660 Subpart C. All fish dealer amendments must be conducted in the same system in which the ticket was initially submitted.

(4) For Columbia River non-treaty mainstem and Select Area commercial fisheries downstream of Bonneville Dam, each licensed wholesale fish dealer, wholesale fish bait dealer, limited fish seller, and food fish canner must submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System for all salmon, sturgeon, smelt and shad landed. Electronic fish tickets (e-tickets) must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours. All fish dealer amendments to electronic fish tickets must be conducted in the same system in which the tickets were initially submitted.

(5) Wholesale fish bait dealers landing small quantities of food fish or shellfish may request authorization to combine multiple landings on one Fish Receiving Ticket and to deviate from the time in which Fish Receiving Tickets are due to the Department. Such request shall be in writing, and written authorization from the Department shall be received by the wholesale fish bait dealer before any such deviations may occur.

Stat. Auth.: ORS 496.138, 496.146, 496.162, 506.036, 506.109, 506.119, 506.129, 508.530, 508.535

Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040, 508.550

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0135, Renumbered from 635-036-0580; FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-91; FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 16-1995(Temp), f. & cert. ef. 2-16-95; FWC 23-1995, f. 3-29-95, cert. ef. 4-1-95; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 117-2003(Temp), f. 11-25-03, cert. ef. 12-1-03 thru 2-29-04; DFW 10-2004, f. & cert. ef. 2-13-04; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 100-2015(Temp), f. & cert. ef. 8-4-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 4-2016(Temp), f. 1-26-16, cert. ef. 2-1-16 thru 7-29-16; DFW 90-2016(Temp), f. 7-12-16, cert. ef. 7-29-16 thru 12-31-16; DFW 149-2016, f. 12-7-16, cert. ef. 1-1-17; DFW 7-2017(Temp), f. 2-1-17, cert. ef. 2-2-17 thru 7-29-17; DFW 95-2017(Temp), f. 7-26-17, cert. ef. 7-30-17 thru 12-31-17

Rule Caption: Modifications to Allowable Sturgeon Size Catch
Adm. Order No.: DFW 96-2017(Temp)

Filed with Sec. of State: 7-26-2017

Certified to be Effective: 7-26-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-042-0133

Subject: This amended rule is for housekeeping purposes to eliminate conflict with corresponding rules in place defining legal sturgeon length of 44 to 50 inch fork length.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0133

Sturgeon Size

(1) White sturgeon with a fork length of 44-50 inches may be taken for commercial purposes from the Columbia River below Bonneville Dam

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during commercial salmon and sturgeon fishing seasons with the same fishing gear authorized for the taking of salmon or sturgeon.

(2) Length of a commercially caught sturgeon shall be defined as the shortest distance between the tip of the nose and the fork between the upper and lower lobes of the caudal fin (tail) while the fish lies on its side on a flat surface with its tail in a normal position.

(3) It is *unlawful* to:

(a) Mutilate or disfigure a sturgeon in any manner which extends or shortens its length to the legal limit, or to possess such sturgeon;

(b) Remove the head or tail of any sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;

(c) Have in possession any white sturgeon smaller than 44 inches or larger than 50 inches in fork length.

(d) Fail to return to the water immediately and unharmed, any green sturgeon, any white sturgeon not of lawful size, or any white sturgeon taken in excess of any commercial catch or possession limits prescribed by Department rule.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2009, f. & cert. ef. 2-26-09; DFW 96-2017(Temp), f. & cert. ef. 7-26-17 thru 12-31-17

Rule Caption: 2017 Columbia River Fall Recreational Salmon Seasons Set

Adm. Order No.: DFW 97-2017(Temp)

Filed with Sec. of State: 7-26-2017

Certified to be Effective: 8-1-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-023-0130

Subject: This amended rule sets the 2017 fall recreational Chinook salmon season regulations for the mainstem Columbia River, effective August 1, 2017. Modifications were based on 2017 Non-Indian Columbia River Summer/Fall Fishery Allocation Agreement (6/15/17) that was developed during the Pacific Fisheries Management Council (PFMC) and North of Falcon (NOF) meetings. Fall fisheries in 2017 are structured to optimize the harvest of Chinook, coho and steelhead within Endangered Species Act (ESA) limits and to provide a balanced opportunity for the fishers.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0130

Fall Sport Fishery

(1) The 2017 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 2017 Oregon Sport Fishing Regulations.

(a) Buoy 10. In the area from the Buoy 10 line upstream to a line projected from Rocky Point on the Washington shore through red buoy #44 to red marker #2 at Tongue Point on the Oregon shore:

(A) August 1 through December 31: Retention of hatchery coho salmon (16-inches or longer) is allowed.

(B) August 1 through August 31: Retention of any adult Chinook salmon (24-inches or longer, fin-clipped or not) is allowed. All hatchery and wild steelhead must be released. The daily bag limit is two salmonids, and may include up to one Chinook.

(C) September 1 through 4: Retention of any adult Chinook (24 inches or longer) and hatchery steelhead is allowed. The daily bag limit is two salmonids, and may include up to one Chinook and one hatchery steelhead.

(D) September 5 through September 30: Retention of all Chinook is prohibited. Retention of hatchery steelhead is allowed. The daily bag limit is two hatchery salmonids (coho and steelhead only) and may include up to one hatchery steelhead.

(E) October 1 through December 31: Retention of any Chinook and hatchery steelhead is allowed. The daily bag limit is two adult salmonids and may include up to one hatchery steelhead. Chinook jacks (12-24 inches, fin-clipped or not) and adipose fin-clipped coho jacks may be retained under permanent rules.

(F) The Youngs Bay Control Zone as described in OAR 635-023-0140 is closed to angling during August 1 through September 15 annually.

(b) Lower Columbia River from Tongue Point/Rocky Point upstream to Warrior Rock/Bachelor Island. In the area from a line projected from Rocky Point on the Washington shore through red buoy #44 to the red marker #2 at Tongue Point on the Oregon shore upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island:

(A) August 1 through December 31: Retention of hatchery coho is allowed.

(B) August 1 through August 31: Retention of any Chinook is allowed. All steelhead (hatchery and wild) must be released. The daily bag limit is two adult salmonids, and may include up to one Chinook.

(C) September 1 through September 7: Retention of any Chinook and hatchery steelhead is allowed. The daily bag limit is two adult salmonids, and may include up to one Chinook and one hatchery steelhead.

(D) September 8 through September 14: Retention of hatchery Chinook and hatchery steelhead is allowed. The daily bag limit is two salmonids and may include up to one hatchery Chinook and one hatchery steelhead.

(E) September 15 through September 30: Retention of all Chinook is prohibited. The daily bag limit is two hatchery salmonids (coho and steelhead only) and may include up to one hatchery steelhead.

(F) October 1 through December 31: Retention of any Chinook and hatchery steelhead is allowed. The daily bag limit is two adult salmonids and may include up to one hatchery steelhead.

(c) Lower Columbia River from Warrior Rock/Bachelor Island upstream to Bonneville Dam. In the area from a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island upstream to Bonneville Dam:

(A) August 1 through August 31: Retention of any Chinook and hatchery coho is allowed. All steelhead (hatchery and wild) must be released. The daily bag limit is two adult salmonids.

(B) September 1 through December 31: Retention of any Chinook, hatchery coho and hatchery steelhead allowed. The daily bag limit is two adult salmonids, and may include up to one hatchery steelhead.

(d) Bonneville Dam upstream to McNary Dam:

(A) August 1 through December 31: Retention of any Chinook, coho, and hatchery steelhead is allowed except:

(i) August 1 through August 31 from Bonneville Dam upstream to The Dallas Dam all steelhead (hatchery and wild) must be released.

(ii) September 1 through September 30 from The Dallas Dam upstream to John Day Dam all steelhead (hatchery and wild) must be released.

(iii) September 1 through October 31 from John Day Dam upstream to McNary Dam all steelhead (hatchery and wild) must be released.

(iv) The daily bag limit is two adult salmonids and may include up to one hatchery steelhead.

(v) All coho (adults and jacks) retained downstream of the Hood River Bridge must be adipose fin-clipped.

(e) McNary Dam upstream to the Oregon/Washington border (upstream of McNary Dam):

(A) August 1 through December 31: Retention of any Chinook, coho and hatchery steelhead allowed except:

(i) October 1 through November 30 all steelhead (hatchery and wild) must be released.

(ii) The daily bag limit is two adult salmonids, and may include up to one hatchery steelhead

(2) For all fisheries described in OAR 635-023-0130(a) through OAR 635-023-0130(e) above:

(A) Night angling closure is in effect except for anglers enrolled in the Northern Pikeminnow Sport-Reward Program and targeting Pikeminnow.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(3) All other permanent rules, as provided in the 2017 Oregon Sport Fishing Regulations for the areas described above, remain in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-

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2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10, DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp), f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013(Temp), f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 96-2014(Temp), f. 7-18-14, cert. ef. 8-1-14 thru 12-31-14; DFW 100-2014(Temp), f. 7-22-14, cert. ef. 8-1-14 thru 12-31-14; DFW 128-2014(Temp), f. 9-3-14, cert. ef. 9-6-14 thru 9-30-14; DFW 143-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 95-2015(Temp), f. 7-29-15, cert. ef. 8-1-15 thru 12-31-15; DFW 113-2015(Temp), f. 8-21-15, cert. ef. 8-23-15 thru 12-31-15; DFW 115-2015(Temp), f. 8-28-15, cert. ef. 8-29-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 95-2016(Temp), f. 7-27-16, cert. ef. 8-1-16 thru 12-31-16; DFW 110-2016(Temp), f. 8-29-16, cert. ef. 9-1-16 thru 12-31-16; DFW 112-2016(Temp), f. 8-31-16, cert. ef. 9-6-16 thru 12-31-16; DFW 115-2016(Temp), f. 9-13-16, cert. ef. 9-15-16 thru 12-31-16; DFW 119-2016(Temp), f. 9-14-16, cert. ef. 9-15-16 thru 12-31-16; DFW 122-2016(Temp), f. 9-22-16, cert. ef. 9-23-16 thru 12-31-16; DFW 135-2016(Temp), f. 10-20-16, cert. ef. 10-22-16 thru 12-31-16; DFW 142-2016(Temp), f. 11-4-16, cert. ef. 11-5-16 thru 12-31-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 97-2017(Temp), f. 7-26-17, cert. ef. 8-1-17 thru 12-31-17

Rule Caption: Pacific Halibut Recreational Nearshore Season from Cape Falcon to Humbug Mt. Closed

Adm. Order No.: DFW 98-2017(Temp)

Filed with Sec. of State: 7-27-2017

Certified to be Effective: 7-30-17 thru 10-31-17

Notice Publication Date:

Rules Amended: 635-039-0085

Rules Suspended: 635-039-0085(T)

Subject: This amended rule closes the recreational nearshore Pacific halibut season in the area between Cape Falcon and Humbug Mt. beginning at 11:59 p.m. Sunday, July 30, 2017. The National Oceanic & Atmospheric Administration (NOAA), International Pacific Halibut Commission (IPHC), and the Department (ODFW) conferred on July 27, 2017 and determined that the entire subarea quota will have been taken at that time.

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 039 incorporates into Oregon Administrative Rules, by reference:

(a) Title 50 of the Code of Federal Regulations, Part 300, Subpart E (October 1, 2016 ed.), as amended;

(b) Federal Register Vol. 82, No. 43, dated March 7, 2017; and

(c) Federal Register Vol. 82, No. 75, dated April 20, 2017.

(2) Therefore, persons must consult all publications referenced in this rule in addition to Division 039 to determine applicable halibut fishing seasons.

(3) Effective 11:59 p.m., Thursday, May 25, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) all-depth season is closed to the retention of Pacific halibut.

(4) Beginning 12:01 a.m., Thursday, June 8, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) nearshore season is open to the retention of Pacific halibut seven days per week.

(5) Effective at 12:01 a.m., Saturday, June 17, 2017 through 11:59 p.m., Saturday, June 17, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) all-depth season is open to the retention of Pacific halibut.

(6) Effective at 11:59 p.m. Friday, June 23, 2017, the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) nearshore season is closed to the retention of Pacific halibut.

(7) Effective at 11:59 p.m. Wednesday, July 12, 2017, the Central Oregon Coast Subarea (Cape Falcon to Humbug Mt) spring all-depth season is closed to the retention of Pacific halibut.

(8) Effective at 11:59 p.m. Sunday, July 30, 2017, the Central Oregon Coast Subarea (Cape Falcon to Humbug Mt.) nearshore 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 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; DFW 66-2016(Temp), f. 6-6-16, cert. ef. 6-8-16 thru 9-30-16; DFW 46-2017, f. & cert. ef. 4-24-17; DFW 62-2017(Temp), f. 5-24-17, cert. ef. 5-25-17 thru 9-30-17; DFW 67-2017(Temp), f. 6-6-17, cert. ef. 6-8-17 thru 9-30-17; DFW 71-2017(Temp), f. 6-13-17, cert. ef. 6-17-17 thru 6-18-17; DFW 78-2017(Temp), f. 6-21-17, cert. ef. 6-23-17 thru 9-30-17; DFW 87-2017(Temp), f. 7-7-17, cert. ef. 7-12-17 thru 10-31-17; DFW 98-2017(Temp), f. 7-27-17, cert. ef. 7-30-17 thru 10-31-17

Rule Caption: Set Fall Commercial Seasons in the Select Areas of the Columbia River.

Adm. Order No.: DFW 99-2017(Temp)

Filed with Sec. of State: 7-31-2017

Certified to be Effective: 8-1-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Subject: These amended rules establish the 2017 fall commercial salmon seasons for Select Area fisheries in the Columbia River. Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rule-making process prior to the scheduled start of the next Youngs Bay fishery. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be able to harvest returning hatchery salmon or access their white sturgeon allocation.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0145

Youngs Bay Salmon Season

(1) Chinook, coho, pink and sockeye salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay as described below.

(a) The fall 2017 open fishing periods are as follows:

(A) 7:00 p.m. Tuesday to 7:00 a.m. Thursday beginning August 1 through August 24, 2017.

(B) 7:00 p.m. to 7:00 a.m. Monday, Tuesday and Wednesday nights beginning August 28 through August 31, 2017.

(C) 7:00 p.m. Monday September 4 through noon Tuesday October 31, 2017.

(2) The Youngs Bay fishing area includes all waters from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough, including the lower Walluski River upstream to the Highway

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(iii) 6:00 p.m. to 10:00 a.m. Monday, Tuesday, Wednesday and Thursday nights beginning September 9 through October 27, 2017.

(b) The fishing areas for the season are:

(A) 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 boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. The area within a 100-foot radius of the mouth of Big Creek is closed.

(c) Gear restrictions are as follows:

(A) During the fall fishery, outlined above in subsection (1)(a)(A), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches.

(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.

(2) A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in subsections (1)(a)(A) the weekly aggregate sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109, 506.119 & 507.030
Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06, cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp),

f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 70-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 76-2015(Temp), f. 6-23-15, cert. ef. 6-25-15 thru 7-31-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16; DFW 32-2016(Temp), f. 4-20-16, cert. ef. 4-21-16 thru 7-31-16; DFW 71-2016(Temp), f. 6-13-16, cert. ef. 6-16-16 thru 7-31-16; DFW 78-2016(Temp), f. 6-23-16 thru 7-31-16; DFW 85-2016(Temp), f. & cert. ef. 6-30-16 thru 7-31-16; DFW 87-2016(Temp), f. & cert. ef. 7-7-16 thru 7-31-16; DFW 92-2016(Temp), f. 7-13-16, cert. ef. 7-14-16 thru 7-31-16; DFW 101-2016(Temp), f. 8-2-16, cert. ef. 8-24-16 thru 10-31-16; DFW 129-2016(Temp), f. 9-29-16, cert. ef. 10-1-16 thru 13-31-16; DFW 9-2017(Temp), f. & cert. ef. 2-6-17 thru 3-28-17; DFW 25-2017(Temp), f. & cert. ef. 3-20-17 thru 6-13-17; DFW 32-2017(Temp), f. 3-29-17, cert. ef. 3-30-17 thru 9-15-17; DFW 39-2017(Temp), f. 4-5-17, cert. ef. 4-6-17 thru 9-15-17; DFW 40-2017(Temp), f. 4-12-17, cert. ef. 4-13-17 thru 9-15-17; DFW 61-2017(Temp), f. 5-18-17, cert. ef. 5-22-17 thru 9-15-17; DFW 76-2017(Temp), f. & cert. ef. 6-15-17 thru 9-15-17; DFW 86-2017(Temp), f. 7-6-17, cert. ef. 7-13-17 thru 9-15-17; DFW 99-2017(Temp), f. 7-31-17, cert. ef. 8-1-17 thru 12-31-17

635-042-0170

Tongue Point Basin and South Channel

(1) The Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the north-west tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore.

(2) The South Channel fishing area includes all waters bounded by a line from a marker on John Day Point to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10", northwesterly to the eastern tip of Burnside Island defining the upstream terminus of South Channel.

(3) Chinook, coho, pink and sockeye salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(A) Fall season

(i) 7:00 p.m. to 7:00 a.m. Monday and Wednesday nights beginning August 28 through August 31, 2017;

(ii) 7:00 p.m. to 7:00 a.m. Monday, Tuesday, Wednesday and Thursday nights beginning September 4 through September 8, 2017;

(iii) 4:00 p.m. to 10:00 a.m. Monday, Tuesday, Wednesday and Thursday nights beginning September 9 through October 27, 2017.

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than 6-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 250 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 6-inches.

(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.

(5) A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in section (3)(A)(i)(ii)(iii) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98

ADMINISTRATIVE RULES

Adm. Order No.: DFW 100-2017(Temp)

Filed with Sec. of State: 7-31-2017

Certified to be Effective: 8-1-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-041-0045, 635-041-0075, 635-041-0063

Subject: These amended rules authorize the sales of fish caught in fall Treaty tribal platform commercial fisheries set for the Columbia River from 12:01 a.m. Tuesday, August 1 through 6:00 p.m. Sunday, December 31, 2017. In addition, sales of white sturgeon landed in a John Day setline fishery are allowed. Modifications are consistent with action taken July 27, 2017 by the Departments of Fish & 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 salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp which may be sold at any time if landed during an open treaty commercial fishing period. 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.

(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 & 506.130

Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 149(Temp), f. & ef. 9-21-77 thru 1-18-78; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & ef. 1-28-80; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 4-1984, f. & ef. 1-31-84; FWC 55-1985(Temp), f. & ef. 9-6-85; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 25-1986(Temp), f. & ef. 6-25-86; FWC 42-1986, f. & ef. 8-15-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. 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. 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. 6-2-11, cert. ef. 6-6-11 thru 10-31-11; DFW 63-2011(Temp), f. 6-8-11, cert. ef. 6-9-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 5-2012(Temp), f. 1-30-12, cert. ef. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. 2-28-12, cert. ef. 2-29-12 thru 6-15-12; DFW 46-2012(Temp), f. 5-14-12, cert. ef. 5-15-12 thru 6-30-12; DFW 74-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 10-31-12; DFW 87-2012(Temp), f. 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. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; DFW 8-2013(Temp), f. 1-31-13, cert. ef. 2-1-13 thru 3-31-13; DFW 18-2013(Temp), f. 3-5-13, cert. ef. 3-6-13 thru 6-15-13; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 88-2013(Temp), f. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 116-2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 22-2014(Temp), f. 3-11-14, cert. ef. 3-12-14 thru 7-31-14; DFW 37-2014(Temp), f. & cert. ef. 5-6-14 thru 7-31-14; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 70-2016(Temp), f. 6-13-16, cert. ef. 6-16-16 thru 7-31-16; DFW 98-2016(Temp), f. 7-28-16, cert. ef. 8-1-16 thru 12-31-16; DFW 120-2016(Temp), f. 9-15-16, cert. ef. 9-16-16 thru 12-31-16; Administrative correction, 6-5-17; DFW 75-2017(Temp), f. & cert. ef. 6-15-17 thru 7-31-17; DFW 100-2017(Temp), f. 7-31-17, cert. ef. 8-1-17 thru 13-31-17

635-041-0063

Sturgeon Setline Fishery

(1) White sturgeon may be taken by setline for commercial purposes from 12 Noon January 1 through 12 Noon January 31 in all of Zone 6 and 6:00 a.m. Tuesday August 1 through 6:00 p.m. August 12, 2017 in the John Day Pool Only.

(a) In The John Day pool white sturgeon taken must be 43-54 inches in fork length.

(b) White sturgeon taken as described in subsections (1)(a) and (1)(b) of this rule may be sold or kept for subsistence use.

(2) Closed areas are set forth under OAR 635-041-0045.

(3) During the white sturgeon setline season it shall be unlawful to:

ADMINISTRATIVE RULES

Notice Publication Date:

Rules Amended: 635-053-0005

Subject: This amended rule authorizes the Department to issue the following maximum number of permits for the purpose of hunting sage-grouse in each listed Wildlife Management Unit:

Lookout Mountain = 0
Sumpter = 0
Beulah = 150
Malheur River = 100
Owyhee = 75
Whitehorse = 70
Steens Mountain = 75
Beatys Butte = 150
Juniper = 50
Silvies = 20
North Wagontire = 30
South Wagontire = 0
Warner = 80

Rules Coordinator: Michelle Tate—(503) 947-6044

635-053-0005

Sage Grouse

Notwithstanding the provisions of the 2017–18 Oregon Game Bird Regulations, the Sage-grouse controlled hunt tag numbers for the controlled hunt areas listed on page 17 are as follows:

Lookout Mountain = 0;
Sumpter = 0;
Beulah = 150;
Malheur River = 100;
Owyhee = 75;
Whitehorse = 70;
Steens Mountain = 75;
Beatys Butte = 150;
Juniper = 50;
Silvies = 20;
North Wagontire = 30;
South Wagontire = 0;
Warner = 80

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 59-1982, f. & ef. 8-30-82; FWC 27-1983, f. & ef. 7-8-83; FWC 46-1983, f. & ef. 9-19-83; FWC 47-1984, f. & ef. 8-31-84; FWC 51-1984, f. & ef. 9-5-84; FWC 64-1985, f. & ef. 10-2-85; FWC 106-1989, f. & cert. ef. 9-29-89; FWC 77-1990, f. & cert. ef. 8-1-90; FWC 80-1991, f. & cert. ef. 7-29-91; FWC 71-1992, f. & cert. ef. 8-7-92; FWC 44-1993, f. & cert. ef. 8-4-93; FWC 47-1994, f. & cert. ef. 8-3-94; FWC 58-1994, f. & cert. ef. 9-1-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 105-2012(Temp), f. & cert. ef. 8-10-12 thru 2-6-13; Administrative correction, 2-25-13; DFW 103-2016(Temp), f. & cert. ef. 8-8-16 thru 2-3-17; Administrative correction, 6-5-17; DFW 106-2017(Temp), f. & cert. ef. 8-8-17 thru 2-2-18

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Rule Caption: Amend rule to limit camping to designated campsites during the eclipse.

Adm. Order No.: DFW 107-2017(Temp)

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-16-17 thru 8-25-17

Notice Publication Date:

Rules Amended: 635-008-0153

Subject: The PW Schneider Wildlife Area is currently open to camping anywhere on the wildlife area within 300 feet of an open road. The upcoming solar eclipse occurs during the height of fire season. Due to the anticipated dramatic increase in visitor use related to the solar eclipse, this temporary rule will help decrease the threat of a catastrophic wild fire while allowing some use of the wildlife area for this event. This rule amendment will help reduce the potential for a wildfire, concentrate visitors in manageable areas and reduce sanitation issues.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-008-0153

Phillip W. Schneider Wildlife Area (Grant County)

The Phillip W. Schneider Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2006 Phillip W. Schneider Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Motorized vehicle travel is only allowed on open roads or parking areas and up to 300 feet off open roads for the purpose of moving to and

from campsites. Some roads are closed seasonally from December 1 through April 14.

(2) Camping along the South Fork John Day road is open yearlong. On the remainder of the wildlife area camping is prohibited except during the period April 15 through November 30. Camping may not exceed 14 days per stay.

(3) Campfires or open burning is prohibited except at campsites. Open fires are prohibited during designated fire closures.

(4) The area is closed to entry during the period of February 1 through April 14, including BLM land within the exterior boundaries of the Wildlife Area, except by access permit issued by ODFW.

(5) ODFW Wildlife Area Parking Permit required.

(6) Beginning August 16, 2017 and extending through August 23, 2017 all camping on the Phillip W. Schneider Wildlife Area will be restricted to within 300 feet of designated camping areas. Campers will be required to provide their own personal forms of sanitation and human waste removal as a condition of camping.

Stat. Auth.: ORS 496.012, 496.138, 496.146, & 496.162

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

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(12); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 30-2000, f. & cert., ef. 6-14-00, Renumbered from 635-008-0125; DFW 118-2006, f. & cert. ef. 10-16-06; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 107-2017(Temp), f. 8-8-17, cert. ef. 8-16-17 thru 8-25-17

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Rule Caption: Warm Springs Tribe Hunting for 2017

Adm. Order No.: DFW 108-2017(Temp)

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-9-17 thru 1-31-18

Notice Publication Date:

Rules Adopted: 635-043-0156

Subject: Rule regarding legal authority for Confederated Tribes of the Warm Springs to take big game, furbearer, and upland game bird species for the 2017 hunting season.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-043-0156

Warm Springs Hunting Agreement for 2017

(1) Hunting of big game species and upland game bird species, and taking of furbearer species, by members of the Confederated Tribes of the Warm Springs (CTWS) in the Hunt Areas described below shall be consistent with CTWS regulation and with this rule. Taking, use, and disposal of wildlife will not be done for commercial purposes. CTWS tribal members shall carry tribal identification and tribal license while hunting in the Hunt Areas and shall present the same for inspection to law enforcement personnel or uniformed Oregon Department of Fish and Wildlife (ODFW) employees upon request. All other CTWS hunting shall be consistent with Oregon law.

(a) For purposes of this rule, “big game species” means pronghorn antelope, cougar, bear, mountain goat, bighorn sheep, deer, and elk.

(b) For purposes of this rule, “upland game bird species” means chukar, grouse, Hungarian partridge, quail, and turkey.

(c) For purposes of this rule, “furbearer species” means beaver, bobcat, marten, mink, muskrat, river otter, raccoon, red fox, and gray fox.

(2) The Hunt Areas covered by this rule are as follows:

(a) The following public lands within the boundary described in Exhibit 1 to OAR 635-043-0156 and on the map dated August 1, 2017 that is Exhibit 2 to OAR 635-043-0156.

(A) Federal lands that are managed consistently with hunting activities;

(B) State lands, except wildlife areas, that are managed consistently with hunting; and

(C) State wildlife areas, during times and for the species that those areas are open for hunting under ODFW regulation.

(i) Except that in the White River Wildlife Area, tribal hunting may also occur during the break between early archery season and the normal start of the annual rifle deer season (September 25 to September 29 for the 2017 season).

(ii) The Phillip W. Schneider Wildlife Area (PWSWA) is comprised of both state and federal lands. The federal lands of PWSWA are open for CTWS hunting consistent with CTWS regulation. The state lands of PWSWA are only open for CTWS hunting when there is a state season authorizing hunting of the same species in the PWSWA.

(b) Pine Creek Conservation Area.

ADMINISTRATIVE RULES

(3) Metolius Wildlife Management Unit (WMU). In the Metolius WMU, upon the start and for the duration of the State primitive weapon (muzzleloader and bow hunting) seasons (October 21 to November 30 for the 2017 season), tribal hunting of deer shall be restricted to primitive weapons.

(4) Travel Management Provision. Tribal hunting will be consistent with all state and federal road and access restrictions; additionally the specific closures and Cooperative Travel Access Management Areas (TMA) are the Metolius Wildlife Refuge and Metolius Winter Range Closure in the Metolius WMU; Tumalo Winter Range in the Upper Deschutes WMU; Lower Deschutes TMA (Biggs WMU); Prineville Reservoir TMA and Prineville Wildlife Area (Maury and Ochoco WMUs); Rager TMA and South Boundary TMA (Ochoco WMU); Rimrock Springs Wildlife Area (Grizzly WMU); Murderers Creek-Flagtail TMA (Murderers Creek WMU); Camp Creek TMA (Northside WMU); Trail Creek TMA and McCarty Winter Range Closure (Starkey WMU); and Winter Range Closures on Phillip W. Schneider, White River and Bridge Creek Wildlife Areas.

(5) The CTWS shall provide notice of and deliver to ODFW and the Oregon State Police (OSP), the 2017 CTWS hunting regulations upon adoption and before the start of the tribal hunting season.

(6) The CTWS shall provide notice to ODFW and OSP of any special occasion hunts for ceremonial, hardship or other similar purposes that occur outside of adopted hunting regulations.

Stat. Authority: ORS 496.138, 496.146, 496.162
Stats. Implemented: ORS 496.138, 496.146, 496.162
Hist.: DFW 108-2017(Temp), f. 8-8-17, cert. ef. 8-9-17 thru 1-31-18

Rule Caption: Amend Rules Related to 2018 Oregon Sport Fishing Regulations

Adm. Order No.: DFW 109-2017

Filed with Sec. of State: 8-9-2017

Certified to be Effective: 1-1-18

Notice Publication Date: 7-1-2017

Rules Amended: 635-011-0100, 635-013-0004, 635-014-0080, 635-014-0090, 635-016-0080, 635-016-0090, 635-017-0080, 635-017-0090, 635-017-0095, 635-018-0080, 635-018-0090, 635-019-0080, 635-019-0090, 635-021-0080, 635-021-0090, 635-023-0080, 635-023-0090, 635-023-0095, 635-023-0125, 635-023-0128, 635-023-0130, 635-023-0134, 635-023-0140, 635-039-0080, 635-039-0090

Subject: These amended rules include corrections to sport fishing regulations that were adopted by the Oregon Fish and Wildlife Commission for 2018. Housekeeping and technical corrections were made to ensure rule consistency.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-011-0100

General Rule

It is *unlawful* to take any fish, shellfish, or marine invertebrates for personal use except as provided in these rules which include and incorporate the **2018 Oregon Sport Fishing Regulations** by reference. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2018 Oregon Sport Fishing Regulations**.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 11-1982, f. & ef. 2-9-82; FWC 2-1984, f. & ef. 1-10-84; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 153-2011(Temp), f. 11-7-11, cert. ef. 11-15-11 thru 5-12-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 142-2012(Temp), f. 11-6-12, cert. ef. 11-15-12 thru 5-12-13; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 130-2013(Temp), f. 12-9-13, cert. ef. 12-10-13 thru 6-8-14; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 105-2016, f. & cert. ef. 8-10-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18

635-013-0004

Inclusions and Modifications

(1) OAR 635-013-0005 through 635-013-0009 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2018 Oregon Sport Fishing Regulations**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**, and the **2018 Oregon Sport Fishing Regulations** contain requirements for sport salmon angling in the Pacific Ocean off the Oregon coast. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the published federal regulations and the **2018 Oregon Sport Fishing Regulations**. This means that persons must consult not only the federal regulations and the published sport fishing regulations but also the Department's web page to determine all applicable sport fishing regulations.

(3) This rule contains requirements that modify sport salmon angling regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean sport salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subparts A and H)**.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 43-1997(Temp), f. 8-8-97, cert. ef. 8-10-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 59-1998(Temp), f. & cert. ef. 8-10-98 thru 8-21-98; DFW 66-1998(Temp), f. & cert. ef. 8-21-98 thru 9-24-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 61-1999(Temp), f. 8-31-99, cert. ef. 9-3-99 thru 9-17-99; DFW 66-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; Administrative correction 11-17-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 47-2000(Temp), f. 8-10-00, cert. ef. 8-13-00 thru 9-30-00; 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 16-2001(Temp), f. 3-28-01, cert. ef. 4-1-01 thru 4-30-01; Administrative correction 6-20-01; DFW 59-2001(Temp), f. 7-18-01, cert. ef. 7-19-01 thru 10-31-01; DFW 20-2002(Temp), f. 3-19-02, cert. ef. 4-1-01 thru 4-30-02; DFW 75-2002(Temp), f. 7-19-02, cert. ef. 7-21-02 thru 12-31-02; DFW 80-2002(Temp), f. 7-31-02, cert. ef. 8-1-02 thru 12-31-02; DFW 85-2002(Temp), f. 8-8-02, cert. ef. 8-11-02 thru 12-31-02; DFW 99-2002(Temp), f. 8-30-02, cert. ef. 9-2-02 thru 12-31-02; DFW 100-2002(Temp), f. & cert. ef. 9-6-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 69-2003(Temp), f. 7-21-03, cert. ef. 7-25-03 thru 12-31-03; DFW 78-2003(Temp), f. 8-14-03, cert. ef. 8-20-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 75-2004(Temp), f. 7-20-04, cert. ef. 7-23-04 thru 12-31-04; DFW 80-2004(Temp), f. 8-12-04, cert. ef. 8-13-04 thru 12-31-04; DFW 93-2004(Temp), f. 9-2-04, cert. ef. 9-4-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 81-2005(Temp), f. 7-25-05, cert. ef. 7-29-05 thru 12-31-05; DFW 103-2005(Temp), f. 9-7-05, cert. ef. 9-9-05 thru 12-31-05; DFW 106-2005(Temp), f. 9-14-05, cert. ef. 9-17-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 67-2006(Temp), f. 7-25-06, cert. ef. 8-11-06 thru 12-31-06; DFW 87-2006(Temp), f. 8-18-06, cert. ef. 8-19-06 thru 12-31-06; DFW 90-2006(Temp), f. 8-25-06, cert. ef. 8-26-06 thru 12-31-06; Administrative correction 1-16-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 80-2007(Temp), f. 8-23-07, cert. ef. 8-25-07 thru 12-31-07; DFW 81-2007(Temp), f. 8-31-07, cert. ef. 9-2-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 66-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 10-31-08; DFW 96-2008(Temp), f. & cert. ef. 8-15-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18

635-014-0080

Purpose and Scope

(1) The purpose of Division 014 is to provide for management of sport fisheries in the Northwest Zone over which the State has jurisdiction.

(2) Division 014 incorporates by reference the **2018 Oregon Sport Fishing Regulations** in addition to Division 011 and Division 014 to determine all applicable sport fishing requirements for the Northwest Zone.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94, Renumbered from 635-014-0105 - 635-014-0460; 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 1-2001, f. 1-25-01, cert. ef. 2-1-01; 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 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18

ADMINISTRATIVE RULES

635-023-0140

Youngs Bay Control Zone

(1) The **2018 Oregon Sport Fishing Regulations** provide requirements for the Columbia 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 **2018 Oregon Sport Fishing Regulations**.

(2) The Youngs Bay Control Zone is closed to recreational angling from August 1 through September 15.

(a) The Youngs Bay Control Zone is defined as those waters southerly of a line originating on the Oregon shore at the east end of the seawall at the Warrenton Fiber log yard (approximately river mile 10.1) northeasterly through green navigation buoys 29, 31, 33, and 35A to the center of the Astoria-Megler Bridge abutment adjacent to, and north of the ship channel, and continuing southerly in line with the center of the Megler Bridge span to the Oregon shore.

(b) The Youngs Bay Control Zone includes all waters from the line defined in section (2)(a) above south to the Highway 101 Bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & SB 830 (2013)

Hist.: DFW 4-2014(Temp), f. 1-23-14, cert. ef. 2-1-14 thru 7-30-14; DFW 9-2014, f. & cert. ef. 2-10-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18

635-039-0080

Purpose and Scope

(1) The purpose of Division 039 is to provide for management of sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches over which the State has jurisdiction.

(2) Division 039 incorporates into Oregon Administrative Rules, by reference:

(a) The sport fishing regulations of the State, included in the document entitled **2018 Oregon Sport Fishing Regulations**;

(b) **Title 50 of the Code of Federal Regulations, Part 300, Subpart E** (October 1, 2016 ed.), as amended;

(c) **Title 50 of the Code of Federal Regulations, Part 660, Subpart G** (October 1, 2016 ed.), as amended; and

(d) **Federal Register Vol. 80, No. 46**, dated February 7, 2017 **82FR9634**.

(3) Therefore, persons must consult all publications referenced in this rule in addition to Division 011 and Division 039 to determine all applicable sport fishing requirements for marine fish, shellfish and marine invertebrates.

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

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-39-105 - 635-39-135; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 25-1997, f. 4-22-97, cert. ef. 5-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 91-1998, f. & cert. ef. 11-25-98; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 81-2000, f. 12-22-00, cert. ef. 1-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 33-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 54-2005(Temp), f. 6-10-05, cert. ef. 6-12-05 thru 11-30-05; DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 71-2005(Temp), f. & cert. ef. 7-7-05 thru 11-30-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 1-2013, f. & cert. ef. 1-3-13; DFW 25-2013(Temp), f. 4-2-13, cert. ef. 5-1-13 thru 5-31-13; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 36-2014, f. 4-29-14, cert. ef. 5-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 18-2015, f. & cert. ef. 3-10-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 15-2017, f. & cert. ef. 2-15-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18

635-039-0090

Inclusions and Modifications

(1) The **2018 Oregon Sport Fishing Regulations** provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2018 Oregon Sport Fishing Regulations**.

(2) For the purposes of this rule, a “sport harvest guideline” is defined as a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery. Upon attainment of a sport harvest guideline, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives. The following sport harvest guidelines include the combined landings and other fishery related mortality by the Oregon sport fishery in a single calendar year:

(a) Black rockfish, 400.1 metric tons.

(b) Cabezon, 16.8 metric tons.

(c) Blue rockfish, deacon rockfish, and other nearshore rockfish combined, 33.1 metric tons.

(d) Greenling, 56.3 metric tons.

(3) For the purposes of this rule, “Other nearshore rockfish” means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastrelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serripes*).

(4) In addition to the regulations for Marine Fish in the **2018 Oregon Sport Fishing Regulations**, the following apply for the sport fishery in the Marine Zone:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.

(b) All rockfish (“sea bass” “snapper”), greenling (“sea trout”), cabezon, skates, and other marine fish species not listed in the **2018 Oregon Sport Fishing Regulations** in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number), of which no more than six may be black rockfish, no more than four may be blue rockfish, deacon rockfish, China rockfish, copper rockfish, or quillback rockfish in aggregate, and no more than one may be a cabezon. Retention of the following species is prohibited:

(A) Yelloweye rockfish; and

(B) Cabezon from January 1 through June 30.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut. Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.

(e) Harvest methods and other specifications for marine fish in subsections (4)(a), (4)(b) and (4)(c) including the following:

(A) Minimum length for lingcod, 22 inches.

(B) Minimum length for cabezon, 16 inches.

(C) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(D) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(E) When angling for groundfish or Pacific halibut in the Pacific Ocean or when in possession of groundfish or Pacific halibut, all vessels shall have a functional descending device on board and shall use a descending device when releasing any rockfish outside of the 30-fathom curve (defined by latitude and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71. Upon request, a descending device shall be presented for inspection by any person authorized to enforce the wildlife laws or a representative of the Department. In this subsection, “descending device” means a device capable of returning a rockfish back to a depth of at least 100 feet to assist the fish in recompression and to improve the fish’s chance of survival.

(f) Sport fisheries for species in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections (4)(b) and (4)(d). Ocean waters are closed for these species during April 1 through September 30, outside of the 30-fathom curve (defined by latitude and longitude) as shown on **Title 50 Code of Federal Regulations Part 660 Section 71**, except as provided in subsection 4(d). A 20-fathom, 25-fathom, or 30-fathom curve, as shown on **Title 50 Code of Federal Regulations Part 660 Section 71** may be implemented as the management line as in-season modifications necessitate. In addition, the following management lines may be used to set area specific regulations for inseason action only:

ADMINISTRATIVE RULES

- (A) Cape Lookout (45°20'30" N latitude); and
- (B) Cape Blanco (42°50'20" N latitude).

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in **Title 50 Code of Federal Regulations Part 660 Section 70** (October 1, 2015 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

[Table 1, as referenced, is available from the Department]

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. 1-1-96; FWC 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, f. 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 110-2009(Temp), f. 9-10-09, cert. ef. 9-13-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 103-2010(Temp), f. 7-21-10, cert. ef. 7-23-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 97-2011(Temp), f. & cert. ef. 7-20-11 thru 12-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 90-2012(Temp), f. 7-17-12, cert. ef. 9-20-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 112-2013(Temp), f. & cert. ef. 9-27-13 thru 12-31-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 5-2015(Temp), f. 1-13-15, cert. ef. 1-15-15 thru 7-13-15; Temporary suspended by DFW 18-2015, f. & cert. ef. 3-10-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 35-2016, f. & cert. ef. 4-26-16; DFW 38-2016(Temp), f. & cert. ef. 4-26-16 thru 10-22-16; DFW 91-2016(Temp), f. 7-12-16, cert. ef. 7-14-16 thru 12-31-16; DFW 105-2016, f. & cert. ef. 8-10-16; DFW 117-2016(Temp), f. 9-14-16, cert. ef. 10-1-16 thru 12-31-16; DFW 148-2016, f. 12-7-16, cert. ef. 1-1-17; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 46-2017, f. & cert. ef. 4-24-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18

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Rule Caption: Establish Dressed Fish Conversion Factors for Sharks and Swordfish

Adm. Order No.: DFW 110-2017(Temp)

Filed with Sec. of State: 8-11-2017

Certified to be Effective: 8-11-17 thru 2-5-18

Notice Publication Date:

Rules Amended: 635-006-0215

Rules Suspended: 635-006-0215(T)

Subject: This amended rule establishes dressed weight to round weight conversion factors for several species of sharks and swordfish, which will allow these species to be landed in a dressed condition

Rules Coordinator: Michelle Tate—(503) 947-6044

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 canners, or shellfish canners 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:
 - (i) Gilled and gutted 1.17
 - (C) Halibut:
 - (i) Gilled and gutted 1.15
 - (ii) 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, gutted and headed 1.41
 - (G) Blue shark, gutted and headed 1.49
 - (H) Pacific spiny dogfish, gutted and headed 1.81
 - (I) Shortfin mako shark, gutted and headed 1.45
 - (J) Soupfin shark, gutted and headed 1.96
 - (K) Other sharks, gutted and headed 1.72
 - (L) Swordfish gutted and headed, with fins and bloodline removed
- 1.45
 - (M) Lingcod:
 - (i) Gilled and gutted 1.1
 - (ii) Gilled, gutted and headed 1.5
 - (N) Spot prawn, tails 2.24
 - (O) 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
 - (P) Pacific Ocean Perch:
 - (i) Gilled and gutted 1.14
 - (ii) Gutted and headed 1.6
 - (Q) Pacific Cod, gutted and headed 1.58
 - (R) 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
 - (S) Petrale sole, gutted and headed 1.51
 - (T) Arrowtooth flounder, gutted and headed 1.35
 - (U) Starry flounder, gutted and headed 1.49
 - (V) 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:

ADMINISTRATIVE RULES

(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, cf. 5-15-72; FC 274(74-6), f. 3-20-74, cf. 4-11-74; FWC 28, f. 11-28-75, cf. 1-1-76, Renumbered from 625-040-0140; FWC 48-1978, f. & cf. 9-27-78, Renumbered from 635-036-0585; FWC 17-1981(Temp), f. & cf. 5-22-81; FWC 25-1981(Temp), f. 7-8-81, cf. 7-15-81; FWC 27-1981, f. & cf. 8-14-81; FWC 1-1986, f. & cf. 1-10-86; FWC 4-1987, f. & cf. 2-6-87; FWC 99-1987, f. & cf. 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. & cf. 5-24-99; DFW 112-2003, f. & cf. 11-14-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 118-2005(Temp), f. & cf. 10-10-05 thru 12-31-05; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2008(Temp) f. & cf. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cf. 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. & cf. 7-5-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 68-2013(Temp), f. & cf. 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; Administrative correction, 6-5-17; DFW 72-2017 (Temp), f. & cf. 6-14-17 thru 12-9-17; DFW 110-2017(Temp), f. & cf. 8-11-17 thru 2-5-18

Rule Caption: Amend Southeast Zone Sport Angling Regulations in the Thief Valley Reservoir

Adm. Order No.: DFW 111-2017(Temp)

Filed with Sec. of State: 8-11-2017

Certified to be Effective: 8-11-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-021-0090

Rules Suspended: 635-021-0090(T)

Subject: Amend rule to authorize catch limits and methods of take in Thief Valley Reservoir. Failure to adopt this rule would result in

lost opportunity for harvest of this valuable resource by the sport fishing public.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-021-0090

Inclusions and Modifications

(1) **2017 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 **2017 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 June 27 through August 15, 2017.

(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 **2017 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 **2017 Oregon Sport Fishing Regulations**, remain in effect.

(4) Effective June 27, 2017 the McDermitt Creek is open to angling until further notice.

(a) The daily bag limit is two (2) trout per day; two daily limits in possession.

(b) Artificial flies and lures are allowed.

(c) Size limit is eight (8) inch minimum and only one trout over 20 inches in length may be taken per day.

(d) There is no limit on size or number of brook trout that may be taken.

(e) 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 **2017 Oregon Sport Fishing Regulations**, remain in effect.

(5) Thief Valley Reservoir is open to angling to all game species from August 16 through September 30, 2017 with the following restrictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

(c) There are no minimum length requirements.

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. & cf. 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. & cf. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cf. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cf. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cf. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cf. 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. & cf. 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. & cf. 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. & cf. 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;

ADMINISTRATIVE RULES

rules shall be promulgated under the appropriate statutory authority, if the Board determines that continued protection rules are not warranted, existing rules must be repealed.

The proposed rule changes include rescinding OAR 629-665-0230 for Bald Eagle Roosting Sites and OAR 629-665-0240 for Bald Eagle Foraging Perches. OAR 629-665-220 have been rescinded with Nesting Rules for the bald eagle being modified and moved into 629-665-0100 for Species Using Sensitive Bird Nesting, Roosting and Watering Sites.

Additional amendments to 629-600-0100, 629-665-0100, 629-665-0120, 629-665-0200, and 629-665-0210 include:

- Revisions to the definitions section (629-600-0100) removes references to terminology used only in the roost site and foraging perch rules.

Some other edits are also included.

- Rescind the entire section of Threatened & Endangered rules for bald eagles (OAR 629-665-0220, 0230, and 0240).

- Addition of new rules for bald eagle nest trees under OAR 629-665-0130. The new rules include:

- o Define an active nest site as one that has been used in the last 5 years — this allows for sites to be determined and “abandoned” resource site under the FPA.

- o Protection of active nests by maintaining the nest tree, replacement trees, perch trees, and a 330 foot buffer.

- o Protection of active nests from disturbance by restricting operations during the critical use period (January 1 - August 31) within 660 feet for most activities and within 1000 feet for use of aircraft.

- o Allowing exceptions to the FPA rules if the operator has an incidental take permit under the Bald and Golden Eagle Protection Act.

- o Add language to make operators aware that bald eagles are federally protected under the Bald and Golden Eagle Protection Act.

- In addition to the bald eagle rules, minor corrections were made during this rule process for one clause each in the great-blue heron and northern spotted owl rules.

Rules Coordinator: Sabrina Perez—(503) 945-7210

629-600-0100

Definitions

As used in OAR chapter 629, divisions 605 through 669 and divisions 680 through 699, unless otherwise required by context:

(1) “Abandoned resource site” means a resource site that the State Forester determines is not active.

(2) “Active resource site” means a resource site that the State Forester determines has been used in the recent past by a listed species. ‘Recent past’ shall be identified for each species in administrative rule. Resource sites that are lost or rendered not viable by natural causes are not considered active.

(3) “Active roads” are roads currently being used or maintained for the purpose of removing commercial forest products.

(4) “Aquatic area” means the wetted area of streams, lakes and wetlands up to the high water level. Oxbows and side channels are included if they are part of the flow channel or contain fresh water ponds.

(5) “Artificial reforestation” means restocking a site by planting trees or through the manual or mechanical distribution of seeds.

(6) “Basal area” means the area of the cross-section of a tree stem derived from DBH.

(7) “Basal area credit” means the credit given towards meeting the live tree requirements within riparian management areas for placing material such as logs, rocks or rootwads in a stream, or conducting other enhancement activities such as side channel creation or grazing enclosures.

(8) “Bog” means a wetland that is characterized by the formation of peat soils and that supports specialized plant communities. A bog is a hydrologically closed system without flowing water. It is usually saturated, relatively acidic, and dominated by ground mosses, especially sphagnum. A bog may be forested or non-forested and is distinguished from a swamp and a marsh by the dominance of mosses and the presence of extensive peat deposits.

(9) “Bull Trout” means fish species *Salvelinus confluentus*.

(10) “Channel” is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.

(11) “Chemicals” means and includes all classes of pesticides, such as herbicides, insecticides, rodenticides, fungicides, plant defoliant, plant desiccants, and plant regulators, as defined in ORS 634.006(8); fertilizers, as defined in 633.311; petroleum products used as carriers; and chemical application adjuvants, such as surfactants, drift control additives, anti-foam agents, wetting agents, and spreading agents.

(12) “Commercial” means of or pertaining to the exchange or buying and selling of commodities or services. This includes any activity undertaken with the intent of generating income or profit; any activity in which a landowner, operator or timber owner receives payment from a purchaser of forest products; any activity in which an operator or timber owner receives payment or barter from a landowner for services that require notification under OAR 629-605-0140; or any activity in which the landowner, operator, or timber owner barter or exchanges forest products for goods or services. This does not include firewood cutting or timber milling for personal use.

(13) “Completion of the operation” means harvest activities have been completed to the extent that the operation area will not be further disturbed by those activities.

(14) “Conflict” means resource site abandonment or reduced resource site productivity that the State Forester determines is a result of forest practices.

(15) “Debris torrent-prone streams” are designated by the State Forester to include channels and confining slopes that drain watersheds containing high landslide hazard locations that are of sufficient confinement and channel gradient to allow shallow, rapid landslide movement.

(16) “Department” means the Oregon Department of Forestry.

(17) “Diameter breast height” (DBH) means the diameter of a tree inclusive of the bark measured four and one-half feet above the ground on the uphill side of the tree.

(18) “Domestic water use” means the use of water for human consumption and other household human use.

(19) “Dying or recently dead tree” means a tree with less than ten percent live crown or a standing tree which is dead, but has a sound root system and has not lost its small limbs. Needles or leaves may still be attached to the tree.

(20) “Estuary” means a body of water semi-enclosed by land and connected with the open ocean within which saltwater is usually diluted by freshwater derived from the land. “Estuary” includes all estuarine waters, tidelands, tidal marshes, and submerged lands extending upstream to the head of tidewater. However, the Columbia River Estuary extends to the western edge of Puget Island.

(21) “Exposure categories” are used to designate the likelihood of persons being present in structures or on public roads during periods when shallow, rapidly moving landslides may occur.

(22) “Filling” means the deposit by artificial means of any materials, organic or inorganic.

(23) “Fish use” means inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts.

(24) “Fledging tree” means a tree or trees close to the nest which the State Forester determines are regularly used by young birds to develop flying skills.

(25) “Forestland” means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.

(26) “Forest practice” means any operation conducted on or pertaining to forestland, including but not limited to:

- Reforestation of forestland;
- Road construction and maintenance;
- Harvesting of forest tree species;
- Application of chemicals;
- Disposal of slash; and
- Removal of woody biomass.

(27) “Forest tree species” means any tree species capable of producing logs, fiber or other wood materials suitable for the production of lumber, sheathing, pulp, firewood or other commercial forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used solely for the production of Christmas trees.

(28) “Free to grow” means the State Forester’s determination that a tree or a stand of well distributed trees, of acceptable species and good form, has a high probability of remaining or becoming vigorous, healthy, and dominant over undesired competing vegetation. For the purpose of this definition, trees are considered well distributed if 80 percent or more of the

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portion of the operation area subject to the reforestation requirements of the rules contains at least the minimum per acre tree stocking required by the rules for the site and not more than ten percent contains less than one-half of the minimum per acre tree stocking required by the rules for the site.

(29) "Further review area" means an area of land that may be subject to rapidly moving landslides as mapped by the State Department of Geology and Mineral Industries or as otherwise determined by the State Forester.

(30) "Geographic region" means large areas where similar combinations of climate, geomorphology, and potential natural vegetation occur, established for the purposes of implementing the water protection rules.

(31) "Harvest type 1" means an operation that requires reforestation but does not require wildlife leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free to grow seedlings, saplings, poles and larger trees that is less than the stocking level established by rule of the board that represents adequate utilization of the productivity of the site.

(32) "Harvest type 2" means an operation that requires wildlife leave trees but does not require reforestation. A harvest type 2 does not require reforestation because it has an adequate combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:

(a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre;

(b) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre; or

(c) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre.

(33) "Harvest type 3" means an operation that requires reforestation and requires wildlife leave trees. This represents a level of stocking below which the size of operations is limited under ORS 527.740 and 527.750.

(34) "High landslide hazard location" means a specific site that is subject to initiation of a shallow, rapidly moving landslide. The following criteria shall be used to identify high landslide hazard locations:

(a) The presence, as measured on site, of any slope in western Oregon (excluding competent rock outcrops) steeper than 80 percent, except in the Tye Core Area, where it is any slope steeper than 75 percent; or

(b) The presence, as measured on site, of any headwall or draw in western Oregon steeper than 70 percent, except in the Tye Core Area, where it is any headwall or draw steeper than 65 percent.

(c) Notwithstanding the slopes specified in (a) or (b) above, field identification of atypical conditions by a geotechnical specialist may be used to develop site specific slope steepness thresholds for any part of the state where the hazard is equivalent to (a) or (b) above. The final determination of equivalent hazard shall be made by the State Forester.

(35) "High water level" means the stage reached during the average annual high flow. The "high water level" often corresponds with the edge of streamside terraces, a change in vegetation, or a change in soil or litter characteristics.

(36) "Hydrologic function" means soil, stream, wetland and riparian area properties related to the storage, timing, distribution, and circulation of water.

(37) "Important springs" are springs in arid parts of eastern Oregon that have established wetland vegetation, flow year round in most years, are used by a concentration of diverse animal species, and by reason of sparse occurrence have a major influence on the distribution and abundance of upland species.

(38) "Inactive roads" are roads used for forest management purposes exclusive of removing commercial forest products.

(39) "Key components" means the attributes which are essential to maintain the use and productivity of a resource site over time. The key components vary by species and resource site. Examples include fledging trees or perching trees.

(40) "Lake" means a body of year-round standing open water.

(a) For the purposes of the forest practice rules, lakes include:

(A) The water itself, including any vegetation, aquatic life, or habitats therein; and

(B) Beds, banks or wetlands below the high water level which may contain water, whether or not water is actually present.

(b) "Lakes" do not include water developments as defined in section (90) of this rule.

(41) "Landslide mitigation" means actions taken to reduce potential landslide velocity or re-direct shallow, rapidly moving landslides near structures and roads so risk to persons is reduced.

(42) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an

ownership interest in forestland, including the state and any political subdivision thereof.

(43) "Large lake" means a lake greater than eight acres in size.

(44) "Large wood key piece" means a portion of a bole of a tree, with or without the rootwad attached, that is wholly or partially within the stream, that meets the length and diameter standards appropriate to stream size and high water volumes established in the "Guide to Placement of Wood, Boulders and Gravel for Habitat Restoration," developed by the Oregon Department of Forestry, Oregon Department of Fish and Wildlife, Oregon Department of State Lands, and Oregon Watershed Enhancement Board, January 2010.

(45) "Live tree" means a tree that has 10 percent or greater live crown.

(46) "Local population" means the number of birds that live within a geographical area that is identified by the State Forester. For example: the area may be defined by physical boundaries, such as a drainage or subbasin.

(47) "Main channel" means a channel that has flowing water when average flows occur.

(48) "Natural barrier to fish use" is a natural feature such as a waterfall, increase in stream gradient, channel constriction, or other natural channel blockage that prevents upstream fish passage.

(49) "Natural reforestation" means restocking a site with self-grown trees resulting from self-seeding or vegetative means.

(50) "Nest tree" means the tree, snag, or other structure that contains a bird nest.

(51) "Nesting territory" means an area identified by the State Forester that contains, or historically contained, one or more nests of a mated pair of birds.

(52) "Operation" means any commercial activity relating to the establishment, management or harvest of forest tree species except as provided by the following:

(a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.

(b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood that is:

(A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;

(B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;

(C) Harvested on a rotation cycle that is 12 or fewer years after planting; and

(D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.

(c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.

(d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.

(e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.

(f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.

(g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.

(53) "Operator" means any person, including a landowner or timber owner, who conducts an operation.

(54) "Other wetland" means a wetland that is not a significant wetland or stream-associated wetland.

(55) "Perch tree" means a tree identified by the State Forester which is used by a bird for resting, marking its territory, or as an approach to its nest.

(56) "Plan for an Alternate Practice" means a document prepared by the landowner, operator or timber owner, submitted to the State Forester for written approval describing practices different than those prescribed in statute or administrative rule.

(57) "Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity.

(58) "Removal" means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.

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(59) "Replacement tree" means a tree or snag within the nesting territory of a bird that is identified by the State Forester as being suitable to replace the nest tree or perch tree when these trees become unusable.

(60) "Resource site" is defined for the purposes of protection and for the purposes of requesting a hearing.

(a) For the purposes of protection:

(A) For threatened and endangered bird species, "resource site" is the nest tree and all identified key components.

(B) For sensitive bird nesting, roosting and watering sites, "resource site" is the nest tree, roost tree or mineral watering place, and all identified key components.

(C) For significant wetlands "resource site" is the wetland and the riparian management area as identified by the State Forester.

(b) For the purposes of requesting a hearing under ORS 527.670(4) and 527.700(3), "resource site" is defined in OAR 629-680-0020.

(61) "Riparian area" means the ground along a water of the state where the vegetation and microclimate are influenced by year-round or seasonal water, associated high water tables, and soils which exhibit some wetness characteristics.

(62) "Riparian management area" means an area along each side of specified waters of the state within which vegetation retention and special management practices are required for the protection of water quality, hydrologic functions, and fish and wildlife habitat.

(63) "Salmon" means any of the five salmon species that exist in Oregon. These species are:

(a) Chinook salmon (*Oncorhynchus tshawytscha*);

(b) Coho salmon (*Oncorhynchus kisutch*);

(c) Chum salmon (*Oncorhynchus keta*);

(d) Sockeye salmon (*Oncorhynchus nerka*); and

(e) Pink salmon (*Oncorhynchus gorbuscha*).

(64) "Saplings and poles" means live trees of acceptable species, of good form and vigor, with a DBH of one to 10 inches.

(65) "Seedlings" means live trees of acceptable species of good form and vigor less than one inch in DBH.

(66) "Shallow, rapidly moving landslide" means any detached mass of soil, rock, or debris that begins as a relatively small landslide on steep slopes and grows to a sufficient size to cause damage as it moves down a slope or a stream channel at a velocity difficult for people to outrun or escape.

(67) "Side channel" means a channel other than a main channel of a stream that only has flowing water when high water level occurs.

(68) "SSBT use" means a stream with salmon, steelhead or bull trout present or otherwise used by salmon, steelhead, or bull trout at any time of the year as determined by the State Forester.

(69) "Significant wetlands" means those wetland types listed in OAR 629-680-0310, that require site specific protection, as follows:

(a) Wetlands that are larger than eight acres;

(b) Estuaries;

(c) Bogs; and

(d) Important springs in eastern Oregon.

(70) "Snag" means a tree which is dead but still standing, and that has lost its leaves or needles and its small limbs.

(71) "Sound snag" means a snag that retains some intact bark or limb stubs.

(72) "State Forester" means the State Forester or the duly authorized representative of the State Forester.

(73) "Steelhead" means the anadromous life history variant of *Oncorhynchus mykiss*.

(74) "Stream" means a channel, such as a river or creek, which carries flowing surface water during some portion of the year.

(a) For the purposes of the forest practice rules, streams include:

(A) The water itself, including any vegetation, aquatic life, or habitats therein;

(B) Beds and banks below the high water level which may contain water, whether or not water is actually present;

(C) The area between the high water level of connected side channels;

(D) Beaver ponds, oxbows, and side channels if they are connected by surface flow to the stream during a portion of the year; and

(E) Stream-associated wetlands.

(b) "Streams" do not include:

(A) Ephemeral overland flow (such flow does not have a channel); or

(B) Road drainage systems or water developments as defined in section (90) of this rule.

(75) "Stream-associated wetland" means a wetland that is not classified as significant and that is next to a stream.

(76) "Structural exception" means the State Forester determines that no actions are required to protect the resource site. The entire resource site may be eliminated.

(77) "Structural protection" means the State Forester determines that actions are required to protect the resource site. Examples include retaining the nest tree or perch tree.

(78) "Temporal exception" means the State Forester determines that no actions are required to prevent disturbance to birds during the critical period of use.

(79) "Temporal protection" means the State Forester determines that actions are required to prevent disturbance to birds during the critical period of use.

(80) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.

(81) "Tree leaning over the channel" means a tree within a riparian management area if a portion of its bole crosses the vertical projection of the high water level of a stream.

(82) "Tye Core Area" means a location with geologic conditions including thick sandstone beds with few fractures. These sandstones weather rapidly and concentrate water in shallow soils creating a higher shallow, rapidly moving landslide hazard. The Tye Core area is located within coastal watersheds from the Siuslaw watershed south to and including the Coquille watershed, and that portion of the Umpqua watershed north of Highway 42 and west of Interstate 5. Within these boundaries, locations where bedrock is highly fractured or not of sedimentary origin as determined in the field by a geotechnical specialist are not subject to the Tye Core area slope steepness thresholds.

(83) "Type D stream" means a stream that has domestic water use, but no fish use.

(84) "Type F stream" means a stream with fish use, or both fish use and domestic water use.

(85) "Type N stream" means a stream with neither fish use nor domestic water use.

(86) "Type SSBT stream" means a small or medium stream that is classified as a Type F stream and that has SSBT use. Stream sizes are determined by the State Forester as described in OAR 629-635-0200(15)

(87) "Unit" means an operation area submitted on a notification of operation that is identified on a map and that has a single continuous boundary. Unit is used to determine compliance with ORS 527.676 (down log, snag and green live tree retention), 527.740 and 527.750 (harvest type 3 size limitation), and other forest practice rules.

(88) "Vacated roads" are roads that have been made impassable and are no longer to be used for forest management purposes or commercial forest harvesting activities.

(89) "Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation and duff so that it does not gain the volume and velocity which causes soil movement or erosion.

(90) "Water development" means water bodies developed for human purposes that are not part of a stream such as waste treatment lagoons, reservoirs for industrial use, drainage ditches, irrigation ditches, farm ponds, stock ponds, settling ponds, gravel ponds, cooling ponds, log ponds, pump chances, or heli-ponds that are maintained for the intended use by human activity.

(91) "Waters of the state" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(92) "Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include marshes, swamps, bogs, and similar areas. Wetlands do not include water developments as defined in section (90) of this rule.

(93) "Wildlife leave trees" means trees or snags required to be retained as described in ORS 527.676(1).

(94) "Written plan" means a document prepared by an operator, timber owner or landowner that describes how the operation is planned to be conducted.

Stat. Auth.: ORS 527.710(1)

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Stats. Implemented: ORS 527.630(5), 527.674 & 527.714
Hist.: FB 31, f. 6-14-72, ef. 7-1-72; FB 39, f. 7-3-74, ef. 7-25-74; FB 1-1978, f. & ef. 1-6-78; FB 5-1978, f. & ef. 6-7-78; FB 3-1983, f. & ef. 9-13-83; FB 1-1985, f. & ef. 3-12-85; FB 2-1985(Temp), f. & ef. 4-24-85; FB 2-1987, f. 5-4-87, ef. 8-1-87; FB 4-1988, f. 7-27-88, cert. ef. 9-1-88; FB 4-1990, f. & cert. ef. 7-25-90; FB 1-1991, f. & cert. ef. 5-23-91; FB 7-1991, f. & cert. ef. 10-30-91; FB 3-1994, f. 6-15-94, cert. ef. 9-1-94; FB 5-1994, f. 12-23-94, cert. ef. 1-1-95; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0101; DOF 6-2002, f. & cert. ef. 7-1-02; DOF 13-2002, f. 12-9-02 cert. ef. 1-1-03; DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06; DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06; DOF 7-2006(Temp), f. & cert. ef. 6-27-06 thru 12-23-06; DOF 1-2007, f. & cert. ef. 1-8-07; DOF 2-2013, f. 7-11-13, cert. ef. 9-1-13; DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17; DOF 3-2017, f. 8-14-17, cert. ef. 9-1-17

629-665-0100

Species Using Sensitive Bird Nesting, Roosting, and Watering Sites

The following species use sensitive bird nesting, roosting and watering resource sites:

- (1) Osprey use sensitive bird nesting sites.
- (2) Great blue herons use sensitive bird nesting sites.
- (3) Bald eagle use sensitive bird nesting sites.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715

Hist.: FB 6-1990, f. 8-1-90, cert. ef. 1-1-1991; FB 1-1991, f. & cert. ef. 5-23-91; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0700; DOF 3-2017, f. 8-14-17, cert. ef. 9-1-17

629-665-0120

Great Blue Heron Resource Sites; Key Components; Protection Requirements; Exceptions

(1) For the great blue heron, the resource site is the active nest tree(s) and any identified key components.

(a) An active nest tree is one that has been used by one or more pair of great blue heron within the past three nesting seasons. No protection is required for an abandoned resource site.

(b) The key components associated with a great blue heron resource site are the nest tree(s), a vegetative buffer around the nest tree(s) including perching and fledging trees, and replacement tree(s). Factors to consider when identifying key components:

(A) Actual observation data when available;

(B) Perching, fledging, and replacement tree(s) should be tall with plenty of space for these large birds to fly into and out. Older trees with open branching should be retained;

(C) Areas of high winds may require that additional trees be retained to protect the active nest tree and identified key components from damage.

(2) The operator shall provide the following protection measures when operating within or near a great blue heron resource site:

(a) Retain the active nest tree;

(b) Retain a vegetative buffer not less than 300 feet around the outermost nest trees as key components that includes perching and fledging trees, and replacement trees.

(c) The vegetative buffer around a rookery may be actively managed if the key components in subsection (1) are protected. When conducting forest management activities within this buffer, operators shall consider heron protection as the highest priority. The vegetative buffer needs to provide a visual screen from disturbing influences around the rookery, and must be designed to protect the nest tree(s), perching, fledging, and replacement tree(s) from windthrow. Examples of forest management activities that may occur within the vegetative buffer include tree topping, and/or other methods of "feathering" the outer edges of the buffer to reduce windthrow potential, or remove individual trees (especially along the edge of the buffer) if the integrity of the buffer is maintained and all the key components are adequately protected. Operators should consult with the State Forester and the Oregon Department of Fish and Wildlife when marking trees to be removed from this buffer.

(d) During and after forest operations, the resource site shall be protected from damage. The operation shall be designed to protect the key components from windthrow;

(e) During the critical period of use, operations shall be designed and conducted so as not to disturb great blue herons using the key components. From February 15 through July 31, forest operations shall not be permitted within one-quarter (1/4) mile of the active nest tree(s) unless the State Forester determines that the operations will not cause the birds to flush from these trees. The critical period of use may be modified by the State Forester after the resource site is evaluated following OAR 629-665-0020.

(3) Structural exceptions for the resource site may be approved by the State Forester when addressed in a plan for an alternate practice. The State Forester may approve such a plan when these criteria are met:

(a) The site contains five nests or fewer;

(b) The State Forester determines that the loss of the site will not adversely affect the local population; and

(c) There are no economically feasible alternatives that maintain the key components.

(4) Factors considered by the State Forester before approving a structural exception to protection of a great blue heron resource site shall include, but are not limited to:

(a) The size of the site (number of nests);

(b) The size of the breeding population in the local area;

(c) The productivity of great blue herons in the local area;

(d) The contribution of the site to local productivity;

(e) The probability that protection measures will be successful;

(f) Available alternate nesting sites; and

(g) Whether alternatives that protect the site are economically feasible.

(5) Temporal exceptions to protection of a great blue heron resource site may be approved by the State Forester when addressed in a plan for an alternate practice. The State Forester may approve such a plan when:

(a) The State Forester determines that nest disruption or failure for a season or site abandonment will not adversely affect the local population; and

(b) There are no economically feasible alternatives that will not disturb the birds during the critical period of use.

(6) Factors considered by the State Forester before approving a temporal exception shall include, but are not limited to:

(a) The size of the site (number of nests);

(b) The size of the breeding population in the local area;

(c) The productivity of great blue herons in the local area;

(d) The contribution of the site to local productivity; and

(e) Whether alternatives that protect the site are economically feasible.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715

Hist.: FB 2-1991, f. & cert. ef. 5-23-91; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0711; DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06; DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06; DOF 3-2017, f. 8-14-17, cert. ef. 9-1-17

629-665-0130

Bald Eagle Nesting Sites; Key Components; Protection Requirements; Exceptions

(1) For bald eagle nesting sites, the resource site is the active nest tree and, if present, all identified key components:

(a) An active nest tree is one that has been used by eagles within the past five (5) nesting seasons. No protection is required for abandoned resource sites.

(b) An active nest tree may fall down or may become structurally incapable of supporting a bald eagle nest site. When this happens the nest resource site shall be considered active and shall be protected only if the site contains suitable replacement nesting trees.

(c) The key components associated with a bald eagle nesting site are perching and fledging trees, replacement nest trees, and a forested buffer around the nest tree. Factors to consider when identifying key components:

(A) Actual observation data when available.

(B) Perching and fledging trees should be tall enough to provide maximum visibility of the surrounding area. Perching and fledging trees are often snags or decadent live trees with exposed, strong, lateral branches high in the crown.

(C) Replacement nest trees should provide maximum visibility of the surrounding terrain, and be large enough to support a bald eagle nest. Bald eagles prefer to nest in large, tall trees that are alive, with large limbs, broken tops, or irregular growth patterns with open structure.

(D) Areas of high winds may require that additional trees be retained to protect the active nest tree(s) and identified key components from damage.

(2) The operator shall provide the following protection measures when operating within or near a bald eagle nesting site:

(a) During and after forest operations, the resource site shall be protected from damage. The operation shall be designed to protect the trees from windthrow;

(b) Retain the active nest tree.

(c) Retain a forested buffer not less than 330 feet around the active nest tree as a key component that includes perching, fledging, and replacement tree(s).

(d) During the critical period of use, operations shall be designed and conducted to not disturb bald eagles using the resource site:

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(A) Except as provided in paragraph (B) of this subsection, during the critical period of use, operations shall not be permitted within six hundred and sixty (660) feet, and use of aircraft within one thousand (1,000) feet.

(B) If the State Forester determines through review of the written plan that the operations will not cause the birds to flush from the trees identified in paragraph (A) of this section, then there is no conflict and the distance restrictions in paragraph (A) of this section may be modified.

(C) The critical period of use is January 1 through August 31. The specific critical period of use for individual nesting resource sites may be modified in writing by the State Forester depending upon the actual dates that bald eagles are present at the resource site and are susceptible to disturbance.

(3) Structural or temporal exceptions for the resource site are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Bald and Golden Eagle Protection Act.

(4) (For information only) Federal law prohibits a person from taking bald eagles. Compliance with subsections (1) and (2) of this law is not in lieu of compliance with any federal requirements related to the federal Bald and Golden Eagle Protection Act.

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715
Hist.: DOF 3-2017, f. 8-14-17, cert. ef. 9-1-17

629-665-0200

Resource Sites Used by Threatened and Endangered Species

The following resource sites used by threatened or endangered species are sensitive to forest practices: Northern spotted owl nesting sites.

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715
Hist.: FB 7-1991, f. & cert. ef. 10-30-91; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0800; DOF 3-2017, f. 8-14-17, cert. ef. 9-1-17

629-665-0210

Interim Requirements for Northern Spotted Owl Nesting Sites

(1) Whenever the State Forester determines that an operation will conflict with protection of a nesting site of the northern spotted owl (*Strix occidentalis caurina*), the operator must submit to the State Forester a written plan before commencing the operation. The written plan, at a minimum, must address how the operation will be conducted to provide for the following:

(a) A 70 acre area of suitable spotted owl habitat encompassing the nest site, to be maintained as suitable spotted owl habitat;

(b) Prevention of disturbances resulting from operation activities which cause owls to flush from the nesting site. Such disturbances must be prevented during the critical period of use for nesting. The critical period of use is the time period between March 1 and September 30, each year.

(2) For the purposes of this rule, nesting site means and includes the tree, when known, containing a spotted owl nest; or when not specifically known, includes an activity center of a pair of adult spotted owls. An activity center is a location determined by the State Forester to have been reliably identified as being occupied by an adult pair of spotted owls, capable of breeding. Such determination must be supported by repeated observation of the owls in close proximity or observation of nesting behavior.

(3)(a) For the purposes of this rule, suitable spotted owl habitat means and includes:

(A) A stand of trees with moderate to high canopy closure (60 to 80%); a multi-layered, multi-species canopy dominated by large overstory trees (greater than 30 inches in diameter at breast height); a high incidence of large trees with various deformities (e.g., large cavities, broken tops, and other evidence of decadence); numerous large snags; large accumulations of fallen trees and other woody debris on the ground; and sufficient open space below the canopy for owls to fly; or

(B) In the absence of habitat which exhibits all the characteristics listed above, the available forested habitat which comes closest to approximating the listed conditions.

(b) Stands which do not exhibit at least two of the characteristics listed in paragraph (a)(A) of this section are not suitable habitat.

(4) (For information only) Federal law prohibits a person from taking northern spotted owls. Taking under the federal law may include significant alteration of owl habitat on any class of land ownership. Compliance with subsection (1) of this rule is not in lieu of compliance with any federal requirements related to the federal Endangered Species Act.

(5) Exceptions to the requirements for protecting northern spotted owl nesting sites are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Endangered Species Act.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.674 & 527.715
Hist.: FB 11-1990(Temp), f. 12-20-89, cert. ef. 12-21-90; FB 5-1991, f. & cert. ef. 6-6-91; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0809; DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06; DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06; DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06; DOF 3-2017, f. 8-14-17, cert. ef. 9-1-17

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

Rule Caption: Change to Terminology in the Investigation of Reported Abuse in Certain Child-Caring Agencies Rules

Adm. Order No.: DHSD 8-2017(Temp)

Filed with Sec. of State: 7-17-2017

Certified to be Effective: 7-17-17 thru 1-12-18

Notice Publication Date:

Rules Amended: 407-045-0800, 407-045-0820, 407-045-0885, 407-045-0895

Subject: The Department of Human Services (Department) needs to immediately amend OAR 407-045-0800 through 407-045-0895 to comply with House Bill 2903 (OL 2017 chapter 138) in order to comply with law. The Department is revising the references to the person or CCA that are subject to the investigation (accused of alleged abuse) per OL 2016, chapter 106 §36-38 to the term "respondent." The new law applies to compiling of records, report and other information during the investigation and in issuing findings, letters of concern or reprimands.

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

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-045-0800

Purpose and Applicability

(1) The purpose of OAR 407-045-0800 to 407-045-0955 is to describe the responsibility of the Office of Adult Abuse Prevention and Investigations (OAAPI) to investigate reports of abuse in certain child-caring agencies (CCA).

(2) These rules govern reports of abuse or neglect in which the alleged victim is a child in care receiving services from a CCA and the respondent is a proctor foster parent or one of the following CCA entities or an employee of that CCA, as defined in ORS 418.205 and regulated under OAR 413, division 215 as a:

- (a) Residential care agency;
- (b) Day treatment agency;
- (c) Therapeutic boarding school;
- (d) Foster care agency; or
- (e) Outdoor youth program.

(3) Reported child abuse involving CCA entities not listed in section (2) of this rule, as well as by other respondents not listed in that section must be screened and assessed for investigation by the Department's Child Welfare Program in accordance to OAR 413-015-0200 through 413-015-0225 and 413-015-0620 through 413-015-0640.

Stat. Auth.: ORS 409.050, 418.005 & 418.189
Stats. Implemented: ORS 418.189 & 418.205-418.327, 409.185, 418.015, 419B.005-419B.050 & OL 2016, Ch 106, OL 2017, Ch 138 §4
Hist.: DHSD 12-2007(Temp), f. & cert. ef. 12-3-07 thru 5-30-08; DHSD 4-2008, f. & cert. ef. 5-30-08; DHSD 5-2010, f. 6-30-10, cert. ef. 7-1-10; DHSD 7-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 8-2016, f. & cert. ef. 12-1-16; DHSD 8-2017(Temp), f. & cert. ef. 7-17-17 thru 1-12-18

407-045-0820

Definitions

The following definitions apply to OAR 407-045-0800 through 407-045-0955:

(1) "Abuse" of a child in care means one or more of the following:

(a) Any physical injury to a child in care caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(b) Neglect of a child in care.

(c) Abandonment, including desertion or willful forsaking of a child in care or the withdrawal or neglect of duties and obligations owed a child in care by a child-caring agency, caretaker or other person.

(d) Willful infliction of physical pain or injury upon a child in care.

(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.

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- (f) Verbal abuse.
 - (g) Financial exploitation.
 - (h) Sexual abuse.
 - (i) Involuntary seclusion of a child in care for the convenience of a child-caring agency or caretaker or to discipline the child in care.
 - (j) A wrongful use of a physical or chemical restraint of a child in care, excluding an act of restraint prescribed by a physician licensed under ORS Chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.
- (2) "Abuse" of a child in care also has the meaning given in ORS 419B.005.
- (3) "Chemical restraint" meaning the administration of medication for the management of uncontrolled behavior. Chemical restraint is different from the use of medication for treatment of symptoms of severe emotional disturbances or disorders.
- (4) "Child" means a person who is under 18 years of age.
- (5) "Child in care" means an individual who is under 21 years of age who is residing in or receiving care or services from a child-caring agency or proctor foster home that is subject to ORS 418.205 to 418.327, 418.470, 418.475 or ORS 418.950 to 418.970.
- (6) "Child-caring agency" (CCA) is defined in ORS 418.205 and means:
- (a) Any private school, private agency or private organization that provides:
 - (A) Day treatment for children with emotional disturbances;
 - (B) Adoption placement services;
 - (C) Residential care, including but not limited to foster care or residential treatment for children;
 - (D) Residential care in combination with academic education and therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances;
 - (E) Outdoor youth programs; or
 - (F) Other similar care or services for children.
 - (b) Includes the following:
 - (A) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;
 - (B) An independent residence facility as described in ORS 418.475;
 - (C) A private residential boarding school; and
 - (D) A child-caring facility as defined in ORS 418.950.
 - (c) Child-caring agency does not include:
 - (A) Residential facilities or foster care homes certified or licensed by the Department of Human Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services;
 - (B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this section, respite services means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purpose of providing a parent in crisis with relief from the demands of ongoing care of the parent's child;
 - (C) A youth job development organization as defined in ORS 344.415;
 - (D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645; or
 - (E) A foster home subject to ORS 418.625 to 418.645.
- (7) "Financial exploitation" means:
- (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of a child in care.
 - (b) Alarming a child in care by conveying a threat to wrongfully take or appropriate moneys or property of the child in care if the child would reasonably believe that the threat conveyed would be carried out.
 - (c) Misappropriating, misusing or transferring without authorization any moneys from any account held jointly or singly by a child in care.
 - (d) Failing to use the income or assets of a child in care effectively for the support and maintenance of the child in care.
 - (e) Financial exploitation does not include age-appropriate discipline that may involve the threat to withhold, or the withholding of, privileges.
- (8) "Department" means the Department of Human Services.
- (9) "Designated medical professional" means a medical professional as defined in ORS 418.747 who has been trained to conduct child abuse medical assessments pursuant to 418.782.
- (10) "Inconclusive" means there is some indication that the abuse of a child in care occurred, but there is insufficient evidence to conclude that there is reasonable cause to believe that the abuse occurred.
- (11) "Intimidation" means compelling or deterring conduct by threat. Intimidation does not include age-appropriate discipline that may involve the threat to withhold privileges.
- (12) "Law enforcement agency" means:
- (a) Any city or municipal police department;
 - (b) Any county sheriff's office;
 - (c) The Oregon State Police;
 - (d) Any district attorney;
 - (e) A police department established by a university under ORS 352.121 or 353.125.
- (13) "Legal finding" means a court or administrative finding, judgment, order, stipulation, plea, or verdict.
- (14) "Neglect" of a child in care means:
- (a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a child in care; or
 - (b) The failure of a child-caring agency, proctor foster home, caretaker or other person to make a reasonable effort to protect a child in care from abuse.
- (15) "OAAPI" means the Department's Office of Adult Abuse Prevention and Investigations.
- (16) "OAAPI investigator" means a Department employee who is authorized and receives OAAPI approved training to screen or investigate allegation of abuse under these rules.
- (17) "OAAPI Substantiation Review Committee (OSRC)" means a group of three Department employees selected by the Department's Deputy Director or designee, none of whom was involved in any part of the investigation that resulted in the OAAPI substantiation under review.
- (18) "Person with substantiated abuse" means the person OAAPI has reasonable cause to believe is responsible for abuse of a child in care under these rules, and about whom a substantiated finding has been made.
- (19) "Physical restraint" means the act of restricting a child in care's voluntary movement as an emergency measure in order to manage and protect the child in care or others from injury when no alternate actions are sufficient to manage the child in care's behavior. "Physical restraint" does not include temporarily holding a child in care to assist him or her or assure his or her safety, such as preventing a child in care from running onto a busy street.
- (20) "Proctor foster home" means a foster home certified by a child-caring agency under Oregon Laws 2016, chapter 106, section 6 that is not subject to ORS 418.625 to 418.645.
- (21) "Respondent" means the person or CCA that is subject of the investigation who responds to the complaint of abuse under these rules.
- (22) "Screening" means the process used by the Department to determine the response when information alleging abuse or neglect is received.
- (23) "Seclusion" means that a child in care is involuntarily confined to an area or room, and is physically prevented from leaving.
- (24) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of a child in care.
- (25) "Sexual abuse" means:
- (a) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;
 - (b) Any sexual contact between a child in care and an employee of a child-caring agency or proctor foster home, caretaker or other person responsible for the provision of care or services to a child in care;
 - (c) Any sexual contact between a person and a child in care that is unlawful under ORS Chapter 163 and not subject to a defense under that chapter; or
 - (d) Any sexual contact that is achieved through force, trickery, threat or coercion.
- (26) "Sexual contact" has the meaning given that term in ORS 163.305(1)(a)(E).
- (27) "Sexual exploitation" as described in ORS 419B.005(1)(a)(E).
- (28) "Substantiated" means there is reasonable cause to believe that abuse of a child in care occurred.
- (29) "Suspicious physical injury" is defined in ORS 419B.023(1)(b) and includes but is not limited to:
- (a) Burns or scalds;
 - (b) Extensive bruising or abrasions on any part of the body;
 - (c) Bruising, swelling or abrasions on the head, neck or face;
 - (d) Fractures of any bone of a child in care under the age of three;
 - (e) Multiple bone fractures of a child in care;
 - (f) Dislocations, soft tissue swelling or moderate to severe cuts;

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- (g) Loss of the ability to walk or move normally according to the child's developmental ability;
- (h) Unconsciousness or difficulty maintaining consciousness;
- (i) Multiple injuries of different types;
- (j) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or
- (k) Any other injury that threatens the physical well-being of the child in care.

(30) "Unsubstantiated" means there is no evidence that the abuse of a child in care occurred.

(31) "Verbal abuse" means to threaten significant physical or emotional harm to a child in care through the use of:

- (a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or
- (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.189, 418.205-418.327, 418.747, 418.751, 419B.005-419B.050 & OL 2016, Ch 106 & OL 2017 Ch 138 §4

Hist.: DHSD 12-2007(Temp), f. & cert. ef. 12-3-07 thru 5-30-08; DHSD 4-2008, f. & cert. ef. 5-30-08; DHSD 5-2010, f. 6-30-10, cert. ef. 7-1-10; DHSD 6-2010(Temp), f. & cert. ef. 7-12-10 thru 1-8-11; DHSD 12-2010, f. 12-30-10, cert. ef. 1-1-11; DHSD 7-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 8-2016, f. & cert. ef. 12-1-16; DHSD 8-2017(Temp), f. & cert. ef. 7-17-17 thru 1-12-18

407-045-0885

Investigating Reports of Abuse

(1) In conducting abuse investigations, the OAAPI investigator or designee must attempt and, when possible, complete the following:

(a) Make in-person contact with the child in care who is the alleged victim of the suspected abuse within 24 hours of the investigation being assigned, unless the screener documents a five day response time line per OAR 407-045-0825(2)(b)(B).

(b) Collaborate with law enforcement, Department personnel or other appropriate entities to ensure child safety.

(c) Interview the child in care, any witnesses, the respondent or person responsible for the agency responding to the complaint of alleged abuse, and other individuals who may have knowledge of the facts of the abuse allegation or related circumstances. The OAAPI investigator must conduct in-person interviews where practicable.

(d) Inform persons being interviewed that they may decline to be interviewed and conduct interviews in a place and manner that allows them to leave or terminate the interview at any time.

(e) May interview witnesses and the child in care who is the subject of suspected abuse without the presence of child-caring agency employees, proctor foster parent or Department personnel.

(A) Prior to interviewing any child in care, OAAPI must notify the child's parent or legal guardian, unless notification is prohibited by law or court order, or would compromise the child's safety or a criminal investigation.

(B) When OAAPI interviews a child in care, the child must be informed they have a right to decline the interview and may have present:

(i) The child in care's parent or guardian, if the child has not been committed to the custody of the Department or the Oregon Youth Authority (OYA), or

(ii) The child in care's attorney.

(C) If OAAPI determines contact with the child in care should occur at the child's school, OAAPI must comply with the requirements of ORS 419B.045.

(f) Obtain and review all relevant and material evidence, which includes but is not limited to:

(A) Conducting a site visit at the CCA or proctor foster home; and

(B) Receiving, reviewing, or copying records pertaining to the child in care or the incident, including but not limited to incident reports, evaluations, treatment or support plans, treatment notes or progress records, or other documents concerning the welfare of the child.

(g) Take photographs as appropriate or necessary.

(2) If the investigator observes a child in care who has suffered a suspicious physical injury and the investigator is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the investigator must pursuant to ORS 419B.023, in accordance with the protocols and procedures of the county multidisciplinary child abuse team described in ORS 418.747:

(a) Immediately photograph or cause to have photographed the suspicious physical injury pursuant to ORS 419B.023, unless the child is age 18 or older and exercises their right to decline being photographed; and

(b) Ensure that a designated medical professional conducts a medical assessment within 48 hours of the observation, or sooner if dictated by the child in care's medical needs, unless the child is age 18 or older and exercises their right to decline. If a designated medical professional is not available to conduct a medical assessment within 48 hours, the investigator must ensure that an available physician, physician's assistant or nurse practitioner conducts the medical assessment. The investigator must document the efforts made to locate the designated medical professional.

(A) The investigator must facilitate an assessment by a medical professional if the alleged abuse involves injury to the anal or genital region.

(B) When there are indications of severe physical trauma to the child in care, the investigator must make arrangements to immediately transport the child in care to a medical facility, which may include calling 911. The investigator must also make arrangements for medical examination of a child in care for mild or moderate physical trauma. To make arrangements for the medical examination of a child in care, the investigator must work with the Department's Child Welfare Program to assure OAR 413-015-0415(10)(e) to (i) occurs.

(C) When the investigator determines that the child in care is in need of a medical assessment as part of an abuse investigation, the investigator must consult with an OAAPI supervisor as soon as possible, but not at the expense of delaying medical treatment.

(D) As provided in ORS 147.425, a child in care who is the alleged victim of a person crime and at least 15 years old at the time of the alleged abuse may have a personal representative present during a medical examination.

(i) The personal representative needs to be over 18 years old and is selected by the child in care who is the alleged victim.

(ii) The personal representative may not be a person who is a suspect in, a party to or witness to, the crime.

(iii) If an investigator believes that a personal representative would compromise the abuse investigation, an investigator may prohibit a personal representative from being present during the medical examination.

(3) A law enforcement officer, child welfare worker or the OAAPI investigator may take photographs for the purpose of documenting the child in care's condition at the time of the abuse investigation as required in subsection (2)(a) of this section. Photographs of the anal or genital region may be taken only by medical personnel.

(a) The OAAPI investigator will photograph or cause to be photographed any suspicious injuries if the investigator is certain or has a reasonable suspicion the suspicious injuries are the result of abuse regardless of whether the child in care has previously been photographed or assessed during an abuse investigation:

(A) During the investigation of a new allegation of abuse; and

(B) Each time, during the investigation, an injury is observed that was not previously observed by the assigned investigator.

(b) When a child in care is photographed pursuant to this section, the person taking the photographs or causing to have the photographs taken must, within 48 hours or by the end of the next regular business day, whichever occurs later:

(A) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional; and

(B) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in the Department record labeled with the case name, case number, name of the child in care, and date taken.

(C) If a county multidisciplinary team staffing of the case is held, photographs of the injury will be made available to each team member involved in the case staffing at the first meeting regarding the child in care's case.

(D) Whenever an OAAPI investigator takes photographs of physical injuries of a child in care who is in the custody of the Department, the investigator must promptly forward copies of the photographs to the Department's Child Welfare caseworker assigned to the child.

(4) When a law enforcement agency is conducting an investigation of the alleged abuse, the OAAPI investigator must cooperate with the law enforcement agency. When a law enforcement agency is conducting a criminal investigation of the alleged abuse, OAAPI must also conduct its own investigation, as long as it does not interfere with the law enforcement agency investigation.

(5) During the course of the investigation, the OAAPI investigator must coordinate with others in the Department, including but not limited to the Office of Licensing and Regulatory Oversight, the Child Welfare Well Being Unit, a child protective service worker assigned to investigate abuse

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of the child in care, and the child in care's Child Welfare caseworker if the child is in the custody of the Department.

(6) When the OAAPI investigation is complete, OAAPI must issue a final abuse investigation report as described in OAR 407-045-0890 stating whether the allegation is substantiated, unsubstantiated or inconclusive and explain the basis for that determination.

(7) Any deviations from the investigative process must be staffed and approved by a supervisor. Deviations and approval must be documented clearly in the investigative report.

(8) If during the course of an investigation and OAAPI investigator becomes aware of conditions that do not constitute abuse as defined by this rule and ORS 419B.005, but may pose a risk to the health, safety, or welfare of a child, including possible licensing violations or inadequate living conditions or access to food and personal supplies, the OAAPI investigator must make a report to Department personnel designated to accept such reports and make notifications and take actions as required in Oregon Laws 2016, chapter 106 and OAR 413-080-0070.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.205-418.327, 418.747, 419B.045, 419B.005-419B.050 & OL 2016, Ch 106 & OL 2017 Ch 138 §4

Hist.: DHSD 7-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 8-2016, f. & cert. ef. 12-1-16; DHSD 8-2017(Temp), f. & cert. ef. 7-17-17 thru 1-12-18

407-045-0895

Cross Reporting and Notifications

(1) The screener or investigator, if information is received during screening activities or investigation, must immediately report to law enforcement:

(a) Any crime that OAAPI suspects has occurred with respect to a child in care, at a child-caring agency or proctor foster home, even if the suspected crime is not related to a report of abuse made under these rules.

(b) If OAAPI has reasonable cause to believe that a child in care has died as a result of abuse or where the death occurred under suspicious or unknown circumstances.

(c) OAAPI must notify the law enforcement agency within the city or county where the report was made. If the abuse or crime is reported to have occurred in a different city or county, OAAPI must cross-report a second time to the law enforcement agency in the city or county where the reported abuse or crime occurred. Cross-reports to law enforcement agencies may be verbal, by electronic transmission, or by hand delivery.

(2) Unless the Department determines that disclosure is not permitted under ORS 419B.035, the screener or investigator will make diligent efforts to contact the reporter if contact information was provided to notify the reporter per ORS 419B.020(8) of the following:

(a) Whether contact was made with the child in care;

(b) Whether the Department determined that child abuse or neglect occurred; and

(c) Whether services were provided.

(3) If the OAAPI screener or investigator becomes aware a respondent is licensed or certified by a public agency or board, OAAPI must provide written notification of the abuse investigation being conducted under these rules to the public agency or board that license or certifies the respondent practicing in the CCA.

(4) If the screener or investigator knows or has reason to know that the child is an Indian child, the screener or investigator shall ensure notice is given within 24 hours to the Indian child's tribe that an investigation is being conducted.

(5) The Department must make all other notifications as required by Oregon Laws 2016, chapter 106 and OAR 413-080-0070.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 409.225, 418.005, 418.205-418.327, 419B.015, 419B.035 419B.005-419B.050 & OL 2016, Ch. 106 & OL 2017 Ch 138 §4

Hist.: DHSD 7-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 8-2016, f. & cert. ef. 12-1-16; DHSD 8-2017(Temp), f. & cert. ef. 7-17-17 thru 1-12-18

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

Rule Caption: Individually-Based Limitations for Restraints in Residential Care (RCF) and Assisted Living Facilities (ALF)

Adm. Order No.: APD 17-2017(Temp)

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 8-1-17 thru 1-27-18

Notice Publication Date:

Rules Amended: 411-054-0005, 411-054-0027, 411-054-0038, 411-054-0060

Subject: To implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department of Human Services (Department) is proposing to amend rules in OAR chapter 411, division 054, to ensure individuals who receive Home and Community-Based Services in RCFs and ALFs are free from restraint. The amended rules provide a definition of restraint, and a process that must be followed in order to propose the need for and possible use of a restraint. The rules also update the date by which all requirements of the individually-based limitations rule must be implemented. Minor grammar, punctuation, spelling, housekeeping, and formatting issues were made to the rules as well.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-054-0005

Definitions

For the purpose of these rules, the following definitions apply:

(1) "Abuse" means abuse as defined in OAR 411-020-0002 (Adult Protective Services).

(2) "Activities of Daily Living (ADL)" mean those personal functional activities required by an individual for continued well-being, health, and safety. Activities consist of eating, dressing, grooming, bathing, personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), cognition, and behavior.

(3) "Acute Sexual Assault" means any non-consensual or unwanted sexual contact that warrants medical treatment or forensic collection.

(4) "Administrator" means the individual who is designated by the licensee that is responsible for the daily operation and maintenance of the facility as described in OAR 411-054-0065.

(5) "Advance Directive" means a document that contains a health care instruction or a power of attorney for health care.

(6) "Aging and People with Disabilities" means the program area of Aging and People with Disabilities, within the Department of Human Services.

(7) "APD" means "Aging and People with Disabilities".

(8) "Applicant" means the individual, individuals, or entity, required to complete a facility application for license.

(a) Except as set forth in OAR 411-054-0013(1)(b), applicant includes a sole proprietor, each partner in a partnership, and each member with a 10 percent or more ownership interest in a limited liability company, corporation, or entity that:

(A) Owns the residential care or assisted living facility business; or

(B) Operates the residential care or assisted living facility on behalf of the facility business owner.

(b) Except as set forth in OAR 411-054-0013(1)(b), for those who serve the Medicaid population, applicant includes a sole proprietor, each partner in a partnership, and each member with a five percent or more ownership interest in a limited liability company, corporation, or entity that:

(A) Owns the residential care or assisted living facility business; or

(B) Operates the residential care or assisted living facility on behalf of the facility business owner.

(9) "Area Agency on Aging (AAA)" as defined in ORS 410.040 means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or individuals with disabilities in a planning and service area. For the purpose of these rules, the term Area Agency on Aging is inclusive of both Type A and B Area Agencies on Aging that contract with the Department to perform specific activities in relation to residential care and assisted living facilities including:

(a) Conducting inspections and investigations regarding protective service, abuse, and neglect.

(b) Monitoring.

(c) Making recommendations to the Department regarding facility license approval, denial, revocation, suspension, non-renewal, and civil penalties.

(10) "Assisted Living Facility (ALF)" means a building, complex, or distinct part thereof, consisting of fully, self-contained, individual living units where six or more seniors and adult individuals with disabilities may reside in homelike surroundings. The assisted living facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident

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self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, and independence.

(11) "Building Codes" are comprised of the set of specialty codes, including the Oregon Structural Specialty Code (OSSC), Oregon Mechanical Specialty Code (OMSC), Oregon Electrical Specialty Code (OESC), Oregon Plumbing Specialty Code (OPSC), and their reference codes and standards.

(12) "Caregiver" means a facility employee who is trained in accordance with OAR 411-054-0070 to provide personal care services to residents. The employee may be either a direct care staff or universal worker.

(13) "Change in Use" means altering the purpose of an existing room, within the facility, that requires structural changes.

(14) "Change of Condition — Short-Term" means a change in the resident's health or functioning, that is expected to resolve or be reversed with minimal intervention, or is an established, predictable, cyclical pattern associated with a previously diagnosed condition.

(15) "Change of Condition — Significant" means a major deviation from the most recent evaluation, that may affect multiple areas of functioning or health, that is not expected to be short-term, and imposes significant risk to the resident. Examples of significant change of condition include, but are not limited to:

- (a) Broken bones;
- (b) Stroke, heart attack, or other acute illness or condition onset;
- (c) Unmanaged high blood sugar levels;
- (d) Uncontrolled pain;
- (e) Fast decline in activities of daily living;
- (f) Significant unplanned weight loss;
- (g) Pattern of refusing to eat;
- (h) Level of consciousness change; and
- (i) Pressure ulcers (stage 2 or greater).

(16) "Choice" means a resident has viable options that enable the resident to exercise greater control over his or her life. Choice is supported by the provision of sufficient private and common space within the facility that allows residents to select where and how to spend time and receive personal assistance.

(17) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

(18) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.

(19) "Department" means the Department of Human Services (DHS).

(20) "Designated Representative" means:

(a) Any adult, such as a parent, family member, guardian, advocate, or other person, who is:

(A) Chosen by the individual or, as applicable, the legal representative;

(B) Not a paid provider for the individual; and

(C) Authorized by the individual, or as applicable the legal representative, to serve as the representative of the individual, or as applicable the legal representative, in connection with the provision of funded supports.

(D) The power to act as a designated representative is valid until the individual modifies the authorization or notifies the agency that the designated representative is no longer authorized to act on his or her behalf.

(b) An individual or the legal representative of the individual is not required to appoint a designated representative.

(21) "Dignity" means providing support in such a way as to validate the self-worth of the individual. Dignity is supported by creating an environment that allows personal assistance to be provided in privacy and by delivering services in a manner that shows courtesy and respect.

(22) "Direct Care Staff" means a facility employee whose primary responsibility is to provide personal care services to residents. These personal care services may include:

- (a) Medication administration.
- (b) Resident-focused activities.
- (c) Assistance with activities of daily living.
- (d) Supervision and support of residents.
- (e) Serving meals, but not meal preparation.

(23) "Directly Supervised" means a qualified staff member maintains visual contact with the supervised staff.

(24) "Director" means the Director of the Department or that individual's designee.

(25) "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or man-made, that renders the licensee unable to operate the facility or makes the facility uninhabitable.

(26) "Disclosure" means the written information the facility is required to provide to consumers to enhance the understanding of facility costs, services, and operations.

(27) "Entity" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation of a state.

(28) "Exception" means a written variance granted by the Department from a regulation or provision of these rules.

(29) "Facility" means the residential care or assisted living facility licensee and the operations, policies, procedures, and employees of the residential care or assisted living facility. For purposes of HCBS, "facility" can also mean "provider".

(30) "FPS" means the Facilities, Planning, and Safety Program within the Public Health Division of the Oregon Health Authority (OHA).

(31) "HCB" means "Home and Community-Based".

(32) "HCBS" means "Home and Community-Based Services." HCBS are services provided in the home or community of an individual. DHS, Office of Licensing and Regulatory Oversight and OHA provide oversight and license, certify, and endorse programs, settings, or settings designated as HCB.

(33) "Homelike Environment" means a living environment that creates an atmosphere supportive of the resident's preferred lifestyle. Homelike environment is also supported by the use of residential building materials and furnishings.

(34) "Incident of Ownership" means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interests.

(35) "Independence" means supporting resident capabilities and facilitating the use of those abilities. Creating barrier free structures and careful use of assistive devices supports independence.

(36) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.

(37) "Individual" means a person enrolled in or utilizing HCBS.

(38) "Individually-Based Limitation" means any limitation to the qualities outlined in OAR 411-004-0020(1)(d) and (2)(d) to (2)(j), due to health and safety risks. An individually-based limitation is based on specific assessed need and only implemented with the informed consent of the individual, or as applicable the legal representative, as described in OAR 411-004-0040.

(39) "Informed Consent" means options, risks, and benefits have been explained to an individual, and, as applicable, the legal representative of the individual, in a manner that the individual, and, as applicable, the legal representative, comprehends.

(40) "Individuality" means recognizing variability in residents' needs and preferences and having flexibility to organize services in response to different needs and preferences.

(41) "Licensed Nurse" means an Oregon licensed practical or registered nurse.

(42) "Licensee" means the entity that owns the residential care or assisted living facility business, and to whom an assisted living or residential care facility license has been issued.

(43) "Legal Representative" means a person who has the legal authority to act for an individual.

(a) The legal representative only has authority to act within the scope and limits of his or her authority as designated by the court or other agreement. Legal representatives acting outside of his or her authority or scope must meet the definition of designated representative.

(b) For an individual 18 years of age and older, a guardian appointed by a court order or an agent legally designated as the health care representative, where the court order or the written designation provide authority for the appointed or designated person to make the decisions indicated where the term "legal representative" is used in this rule.

(44) "Major Alteration":

(a) Means:

(A) Any structural change to the foundation, floor, roof, exterior, or load bearing wall of a building;

(B) The addition of floor area to an existing building; or

(C) The modification of an existing building that results in a change in use where such modification affects resident services or safety.

(b) Does not include, cosmetic upgrades to the interior or exterior of an existing building (for example: changes to wall finishes, floor rings, or casework).

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(45) "Management" or "Operator" means possessing the right to exercise operational or management control over, or directly or indirectly conduct, the day-to-day operation of a facility.

(46) "Modified Special Diet" means a diet ordered by a physician or other licensed health care professional that may be required to treat a medical condition (for example: heart disease or diabetes).

(a) Modified special diets include, but are not limited to:

- (A) Small frequent meals;
 - (B) No added salt;
 - (C) Reduced or no added sugar; and
 - (D) Simple textural modifications.
- (b) Medically complex diets are not included.

(47) "New Construction" means:

(a) A new building.

(b) An existing building or part of a building that is not currently licensed.

(c) A major alteration to an existing building.

(d) Additions, conversions, renovations, or remodeling of existing buildings.

(48) "Nursing Care" means the practice of nursing as governed by ORS Chapter 678 and OAR chapter 851.

(49) "OHA" means the Oregon Health Authority.

(50) "Owner" means an individual with an ownership interest.

(51) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.

(52) "Person-Centered Service Plan" means the details of the supports, desired outcomes, activities, and resources required for an individual to achieve and maintain personal goals, health, and safety, as described in OAR 411-004-0030.

(a) FOR INDIVIDUALS RECEIVING MEDICAID. The person-centered service plan coordinator completes the person-centered service plan.

(b) FOR NON-MEDICAID INDIVIDUALS. The person-centered service plan may be completed by the resident, and as applicable, the representative of the individual, and others as chosen by the individual. The licensee may assist non-Medicaid individuals in developing person-centered service plans when no alternative resources are available. The elements of the individual's person-centered service plan may be incorporated into the resident's care plan.

(53) "Person-Centered Service Plan Coordinator" means a:

(a) Resident's AAA or APD case manager assigned to provide case management services or person-centered service planning for and with individuals; or

(b) Person of the individual's choice for individuals who pay privately.

(54) "Personal Incidental Funds (PIF)" means the monthly amount allowed each Medicaid resident for personal incidental needs. For purposes of this definition, personal incidental funds include monthly payments, as allowed, and previously accumulated resident savings.

(55) "Privacy" means a specific area or time over which the resident maintains a large degree of control. Privacy is supported with services that are delivered with respect for the resident's civil rights.

(56) "Provider" means any person or entity providing HCBS.

(57) "P.R.N." means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.

(58) "Psychoactive Medications" mean medications used to alter mood, level of anxiety, behavior, or cognitive processes. Psychoactive medications include antidepressants, anti-psychotics, sedatives, hypnotics, and anti-anxiety medications.

(59) "Remodel" means a renovation or conversion of a building that requires a building permit and meets the criteria for review by the Facilities Planning and Safety Program as described in OAR 333-675-0000.

(60) "Renovate" means to restore to good condition or to repair.

(61) "Residency Agreement" means the written, legally enforceable agreement between a facility and an individual, or legal representative receiving services in a residential setting.

(62) "Resident" means any individual who is receiving room, board, care, and services on a 24-hour basis in a residential care or assisted living facility for compensation.

(63) "Residential Care Facility (RCF)" means a building, complex, or distinct part thereof, consisting of shared or individual living units in a homelike surrounding, where six or more seniors and adult individuals with disabilities may reside. The residential care facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident

self-direction and participation in decisions that emphasize choice, dignity, individuality, and independence.

(64) "Restraint" means:

(a) Physical restraints are any manual method or physical or mechanical device, material, or equipment attached to or adjacent to the individual's body that the individual cannot remove easily, which restricts freedom of movement or normal access of the individual to the individual's body. Any manual method includes physically restraining someone by manually holding someone in place.

(b) Chemical restraints are any substance or drug used for the purpose of discipline or convenience that has the effect of restricting the individual's freedom of movement or behavior and is not used to treat the individual's medical or psychiatric condition.

(65) "Retaliation" means to threaten, intimidate, or take an action that is detrimental to an individual (for example, harassment, abuse, or coercion).

(66) "Risk Agreement" means a process where a resident's high-risk behavior or choices are reviewed with the resident. Alternatives to and consequences of the behavior or choices are explained to the resident and the resident's decision to modify behavior or accept the consequences is documented.

(67) "Service Plan" means a written, individualized plan for services, developed by a service planning team and the resident or the resident's legal representative, that reflects the resident's capabilities, choices, and if applicable, measurable goals, and managed risk issues. The service plan defines the division of responsibility in the implementation of the services.

(68) "Service Planning Team" means two or more individuals, as set forth in OAR 411-054-0036, that assist the resident in determining what services and care are needed, preferred, and may be provided to the resident.

(69) "Services" mean supervision or assistance provided in support of a resident's needs, preferences, and comfort, including health care and activities of daily living, that help develop, increase, maintain, or maximize the resident's level of independent, psychosocial, and physical functioning.

(70) "Subject Individual" means any individual 16 years of age or older on whom the Department may conduct a background check as defined in OAR 407-007-0210 and from whom the Department may require fingerprints for the purpose of conducting a national background check.

(a) For the purpose of these rules, subject individual includes:

(A) All applicants, licensees, and operators of a residential care or assisted living facility;

(B) All individuals employed or receiving training in an assisted living or residential care facility; and

(C) Volunteers, if allowed unsupervised access to residents.

(b) For the purpose of these rules, subject individual does not apply to:

(A) Residents and visitors of residents; or

(B) Individuals that provide services to residents who are employed by a private business not regulated by the Department.

(71) "Supportive Device" means a device that may have restraining qualities that supports and improves a resident's physical functioning.

(72) "These Rules" mean the rules in OAR chapter 411, division 054.

(73) "Underserved" means services are significantly unavailable within the service area in a comparable setting for:

(a) The general public.

(b) A specific population, for example, residents with dementia or traumatic brain injury.

(74) "Unit" means the personal and sleeping space of an individual receiving services in a RCF or ALF setting, as agreed to in the Residency Agreement.

(75) "Universal Worker" means a facility employee whose assignments include other tasks (for example, housekeeping, laundry, or food service) in addition to providing direct resident services. Universal worker does not include administrators, clerical or administrative staff, building maintenance staff, or licensed nurses who provide services as specified in OAR 411-054-0034.

Stat. Auth.: ORS 410.070, 443.450, 443.738

Stats. Implemented: ORS 443.400-443.455, 443.738, 443.991

Hist.: SPD 14-2007, f. 8-31-07, cert. ef. 11-1-07; SPD 16-2008, f. 12-31-08, cert. ef. 1-1-09; SPD 13-2009, f. 9-30-09, cert. ef. 10-1-09; SPD 23-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 10-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 24-2010(Temp), f. & cert. ef. 10-5-10 thru 4-2-11; SPD 7-2011, f. 3-31-11, cert. ef. 4-1-11; SPD 23-2011(Temp), f. & cert. ef. 11-10-11 thru 5-7-12; SPD 4-2012, f. 4-30-12, cert. ef. 5-1-12; SPD 11-2012, f. 8-31-12, cert. ef. 9-1-12; APD 1-2015, f. 1-14-15, cert. ef. 1-15-15; APD 26-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-28-16; APD 10-2016, f. 6-27-16, cert. ef. 6-28-16; APD 17-2017(Temp), f. & cert. ef. 8-1-17 thru 1-27-18

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411-054-0027

Resident Rights and Protections

(1) The facility must implement a residents' Bill of Rights. Each resident and the resident's designated representative, if appropriate, must be given a copy of the resident's rights and responsibilities before moving into the facility. The Bill of Rights must state that residents have the right:

- (a) To be treated with dignity and respect.
- (b) To be given informed choice and opportunity to select or refuse service and to accept responsibility for the consequences.
- (c) To participate in the development of their initial service plan and any revisions or updates at the time those changes are made.
- (d) To receive information about the method for evaluating their service needs and assessing costs for the services provided.
- (e) To exercise individual rights that do not infringe upon the rights or safety of others.
- (f) To be free from neglect, financial exploitation, verbal, mental, physical, or sexual abuse.
- (g) To receive services in a manner that protects privacy and dignity.
- (h) To have prompt access to review all of their records and to purchase photocopies. Photocopied records must be promptly provided, but in no case require more than two business days (excluding Saturday, Sunday, and holidays).
- (i) To have medical and other records kept confidential except as otherwise provided by law.
- (j) To associate and communicate privately with any individual of choice, to send and receive personal mail unopened, and to have reasonable access to the private use of a telephone.
- (k) To be free from physical restraints and inappropriate use of psychoactive medications.
- (l) To manage personal financial affairs unless legally restricted.
- (m) To have access to, and participate in, social activities.
- (n) To be encouraged and assisted to exercise rights as a citizen.
- (o) To be free of any written contract or agreement language with the facility that purports to waive their rights or the facility's liability for negligence.
- (p) To voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of retaliation.
- (q) To be free of retaliation after they have exercised their rights provided by law or rule.
- (r) To have a safe and homelike environment.
- (s) To be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion.
- (t) To receive proper notification if requested to move-out of the facility, and to be required to move-out only for reasons stated in OAR 411-054-0080 (Involuntary Move-out Criteria) and have the opportunity for an administrative hearing, if applicable.

(2) HCBS RIGHTS.

(a) Effective January 1, 2016 for providers initially licensed after January 1, 2016, and effective no later than June 30, 2019 for providers initially licensed before January 1, 2016 the following rights must include the freedoms authorized by 42 CFR 441.301(c)(4) & 42 CFR 441.530(a)(1):

- (A) Live under a legally enforceable residency agreement;
- (B) The freedom and support to access food at any time;
- (C) To have visitors of the resident's choosing at any time;
- (D) Choose a roommate when sharing a bedroom;
- (E) Furnish and decorate the resident's bedroom according to the Residency Agreement; and

(F) The freedom and support to control the resident's schedule and activities.

(b) The rights described in (B) through (F) of this section must meet the requirements set forth in OAR 411-054-0038 and shall not be limited without the informed, written consent of the resident or the resident's representative, and approved by the person-centered service plan coordinator.

(3) Licensees and facility personnel may not act as a resident's guardian, conservator, trustee, or attorney-in-fact unless related by birth, marriage, or adoption to the resident, as follows, parent, child, brother, sister, grandparent, grandchild, aunt or uncle, or niece or nephew. An owner, administrator, or employee may act as a representative payee for the resident or serve in other roles as provided by law.

(4) Licensees and facility personnel may not spend resident funds without the resident's consent.

(a) If the resident is not capable of consenting, the resident's representative must give consent.

(b) If the resident has no representative and is not capable of consenting, licensees and facility personnel must follow the requirements

described in OAR 411-054-0085 and may not spend resident funds for items or services that are not for the exclusive benefit of the resident.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 - 443.455, 443.991

Hist.: SPD 14-2007, f. 8-31-07, cert. ef. 11-1-07; SPD 11-2012, f. 8-31-12, cert. ef. 9-1-12; APD 26-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-28-16; APD 10-2016, f. 6-27-16, cert. ef. 6-28-16; APD 17-2017(Temp), f. & cert. ef. 8-1-17 thru 1-27-18

411-054-0038

Individually-Based Limitations

This rule will begin being implemented January 1, 2017. The requirements in this rule must be in place no later than June 30, 2019.

(1) When the condition under OAR 411-004-0020(1)(d) may not be met due to a threat to the health and safety of an individual or others, an individually-based limitation process, as described in this rule, must apply in any residential or non-residential setting.

(2) When a condition under OAR 411-004-0020(2)(d) to (2)(j) may not be met due to a threat to the health and safety of an individual or others, in a provider owned, controlled, or operated residential setting, an individually-based limitation process, as described in this rule, must apply.

(3) An individually-based limitation must be supported by a specific assessed need and documented in the person-centered service plan by completing and signing a program approved form documenting the consent to the appropriate individually-based limitation. The form identifies and documents, at a minimum, all of the following requirements:

- (a) The specific and individualized assessed need justifying the individually-based limitation.
- (b) The positive interventions and supports used prior to any individually-based limitation.
- (c) Less intrusive methods that have been tried but did not work.
- (d) A clear description of the limitation that is directly proportionate to the specific assessed need.
- (e) Regular collection and review of data to measure the ongoing effectiveness of the individually-based limitation.
- (f) Established time limits for periodic reviews of the individually-based limitation to determine if the limitation should be terminated or remains necessary. The individually-based limitation must be reviewed at least annually.

(g) The informed consent of the individual or, as applicable, the legal representative of the individual, including any discrepancy between the wishes of the individual and the consent of the legal representative.

(h) An assurance that the interventions and support do not cause harm to the individual.

(i) If using a restraint, a facility must meet the requirements of OAR 411-054-0060.

(4) Providers are responsible for:

(a) Maintaining a copy of the completed and signed form documenting the consent to the appropriate limitation. The form must be signed by the individual, or, if applicable, the legal representative of the individual prior to the implementation being implemented.

(b) Regular collection and review of data to measure the ongoing effectiveness of and the continued need for the individually-based limitation.

(c) Requesting a review of the individually-based limitation when a new individually-based limitation is indicated, or change or removal of an individually-based limitation is needed.

Stat. Auth.: ORS 409.050, 413.042, 413.085, 443.738

Stats. Implemented: ORS 409.050, 413.042, 413.085, 443.738

Hist.: APD 26-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-28-16; APD 10-2016, f. 6-27-16, cert. ef. 6-28-16; APD 17-2017(Temp), f. & cert. ef. 8-1-17 thru 1-27-18

411-054-0060

Restraints and Supportive Devices

Residential care and assisted living facilities are intended to be restraint free environments.

(1) Restraints are not permitted except when a resident's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.

(2) Supportive devices with restraining qualities are permitted under the following documented circumstances:

(a) The resident specifically requests or approves of the device and the facility has informed the individual of the risks and benefits associated with the device;

(b) The facility registered nurse, a physical therapist or occupational therapist has conducted a thorough assessment;

(c) The facility has documented other less restrictive alternatives evaluated prior to the use of the device; and

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(d) The facility has instructed caregivers on the correct use and precautions related to use of the device.

(3) Supportive devices with restraining qualities may be utilized for residents who are unable to evaluate the risks and benefits of the device when sections (2)(b), (2)(c) and (2)(d) have been met. As of July 1, 2018 the process as identified in 411-054-0038 for Individually-Based Limitations must be followed.

(4) Documentation of the use of supportive devices with restraining qualities must be included in the resident service plan and evaluated on a quarterly basis.

Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 - 443.455, 443.991
Hist.: SPD 14-2007, f. 8-31-07, cert. ef. 11-1-07; APD 17-2017(Temp), f. & cert. ef. 8-1-17 thru 1-27-18

Rule Caption: In-Home Services Rule Amendment to End Live-in Services for Current Consumers

Adm. Order No.: APD 18-2017(Temp)

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 8-1-17 thru 1-27-18

Notice Publication Date:

Rules Amended: 411-030-0020, 411-030-0068, 411-030-0070, 411-030-0080

Subject: The Department of Human Services (Department) is immediately amending OAR 411-030 to:

- Remove live-in services for individuals currently receiving the service by October 1, 2017.

- Identify criteria for Spousal Pay Services.

- Fix minor grammar, formatting, punctuation, and housekeeping issues in the rules.

The changes are effective August 1, 2017.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-030-0020

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 030:

(1) “AAA” means “Area Agency on Aging” as defined in this rule.

(2) “Activities of Daily Living (ADL)” mean those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities include eating, dressing, grooming, bathing, personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition, and behavior as defined in OAR 411-015-0006.

(3) “ADL” means “activities of daily living” as defined in this rule.

(4) “Architectural Modifications” means any service leading to the alteration of the structure of a dwelling to meet a specific service need of an eligible individual.

(5) “Area Agency on Aging (AAA)” means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to individuals in a planning and service area. The term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210 to 410.300.

(6) “Assessment” or “Reassessment” means an assessment as defined in OAR 411-015-0008.

(7) “Assistive Devices” means any category of durable medical equipment, mechanical apparatus, electrical appliance, or instrument of technology used to assist and enhance an individual’s independence in performing any activity of daily living. Assistive devices include the use of service animals, general household items, or furniture to assist the individual.

(8) “Business Days” means Monday through Friday and excludes Saturdays, Sundays, and state or federal holidays.

(9) “CA/PS” means the “Client Assessment and Planning System” as defined in this rule.

(10) “Case Manager” means an employee of the Department or Area Agency on Aging who assesses the service needs of an individual applying for services, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements an individual’s service plan and monitors the services delivered as described in OAR chapter 411, division 028.

(11) “Central Office” means the main office of the Department.

(12) “Client Assessment and Planning System (CA/PS)”:

(a) Is a single entry data system used for:

(A) Completing a comprehensive and holistic assessment;

(B) Surveying an individual’s physical, mental, and social functioning; and

(C) Identifying risk factors, individual choices and preferences, and the status of service needs.

(b) The CA/PS documents the level of need and calculates an individual’s service priority level in accordance with the rules in OAR chapter 411, division 015, calculates the service payment rates, and accommodates individual participation in service planning.

(13) “Consumer” or “Consumer-Employer” means an individual eligible for in-home services.

(14) “Consumer-Employed Provider Program” refers to the program described in OAR chapter 411, division 031 wherein a provider is directly employed by a consumer to provide either hourly or live-in in-home services.

(15) “Contingency Fund” means a monetary amount that continues month to month, if approved by a case manager, that is set aside in the Independent Choices Program service budget to purchase identified items that substitute for personal assistance.

(16) “Contracted In-Home Care Agency” means an incorporated entity or equivalent, licensed in accordance with OAR chapter 333, division 536 that provides hourly contracted in-home services to individuals receiving services through the Department or Area Agency on Aging.

(17) “Cost Effective” means being responsible and accountable with Department resources. This is accomplished by offering less costly alternatives when providing choices that adequately meet an individual’s service needs. Those choices consist of all available services under the Medicaid home and community-based service options, the utilization of assistive devices, natural supports, architectural modifications, and alternative service resources (defined in OAR 411-015-0005). Less costly alternatives may include resources not paid for by the Department.

(18) “Debilitating Medical Condition” means the individual’s condition is severe, persistent, and interferes with the individual’s ability to function and participate in most activities of daily living.

(19) “Department” means the Department of Human Services (DHS).

(20) “Discretionary Fund” means a monetary amount set aside in the Independent Choices Program service budget to purchase items not otherwise delineated in the monthly service budget or agreed to be savings for items not traditionally covered under Medicaid home and community-based services. Discretionary funds are expended as described in OAR 411-030-0100.

(21) “Disenrollment” means either voluntary or involuntary termination of a participant from the Independent Choices Program.

(22) “Employee Provider” means a worker who provides services to, and is a paid provider for, a participant in the Independent Choices Program.

(23) “Employment Relationship” means the relationship of employee and employer involving an employee provider and a participant.

(24) “Exception” means the following:

(a) An approval for payment of a service plan granted to a specific individual in their current residence or in the proposed residence identified in the exception request that exceeds the CA/PS assessed service payment levels for individuals residing in community-based care facilities or the maximum hours of service as described in OAR 411-030-0070 for individuals residing in their own homes or the home of a relative.

(b) An approval for a live-in or shift care service plan granted to a specific individual that does not otherwise meet the criteria as described in OAR 411-030-0068 based upon the service needs of the individual as determined by the Department.

(c) An approval of a service plan granted to a specific individual and a homecare worker to exceed the limitations as described in OAR 411-030-0070(6) based upon the service needs of the individual as determined by the Department.

(d) “Exceptional rate” or “exceptional payment.” The approval of an exception is based on the service needs of the individual and is contingent upon the individual’s service plan meeting the requirements in OAR 411-027-0020, 411-027-0025 and 411-027-0050.

(25) “FICA” is the acronym for the Social Security payroll taxes collected under authority of the Federal Insurance Contributions Act.

(26) “Financial Accountability” refers to guidance and oversight which act as fiscal safeguards to identify budget problems on a timely basis and allow corrective action to be taken to protect the health and welfare of individuals.

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(27) "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.

(28) "Homecare Worker" means a provider, as described in OAR 411-031-0040, that is directly employed by a consumer to provide either hourly or live-in services to the eligible consumer.

(a) The term homecare worker includes:

(A) A consumer-employed provider in the Spousal Pay and Oregon Project Independence Programs;

(B) A consumer-employed provider that provides state plan personal care services to individuals; and

(C) A relative providing Medicaid in-home services to an individual living in the relative's home.

(b) The term homecare worker does not include an Independent Choices Program provider or a personal support worker enrolled through Developmental Disability Services or the Addictions and Mental Health Division.

(29) "Hourly Services" mean the in-home services, including activities of daily living and instrumental activities of daily living, that are provided at regularly scheduled times, not including live-in services.

(30) "Household" means a group of individuals that live together within the same dwelling. For homeless individuals, the household consists of the individuals who consider themselves living together.

(31) "IADL" means "instrumental activities of daily living" as defined in this rule.

(32) "ICP" means "Independent Choices Program" as defined in this rule.

(33) "Independent Choices Program (ICP)" means a self-directed in-home services program in which a participant is given a cash benefit to purchase goods and services identified in the participant's service plan and prior approved by the Department or Area Agency on Aging.

(34) "Individual" means a person age 65 or older, or an adult with a physical disability, applying for or eligible for services.

(35) "Individualized Back-Up Plan" means a plan incorporated into an Independent Choices Program service plan to address critical contingencies or incidents that pose a risk or harm to a participant's health and welfare.

(36) "In-Home Services" mean the activities of daily living and instrumental activities of daily living that assist an individual to stay in his or her own home or the home of a relative.

(37) "Instrumental Activities of Daily Living (IADL)" mean those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in IADL are identified in OAR 411-015-0007.

(38) "Liability" refers to the dollar amount an individual with excess income contributes to the cost of service pursuant to OAR 461-160-0610 and 461-160-0620.

(39) "Live-In Services" mean services provided when an individual requires and receives assistance with activities of daily living and instrumental activities of daily living throughout a 24-hour work period by one homecare worker.

(40) "Medicaid OHP Plus Benefit Package" means only the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b). This excludes individuals receiving Title XXI benefits.

(41) "Natural Supports" or "Natural Support System" means resources and supports (e.g. relatives, friends, neighbors, significant others, roommates, or the community) who are willing to voluntarily provide services to an individual without the expectation of compensation. Natural supports are identified in collaboration with the individual and the potential "natural support". The natural support is required to have the skills, knowledge, and ability to provide the needed services and supports.

(42) "Oregon Project Independence (OPI)" means the program of in-home services described in OAR chapter 411, division 032.

(43) "Participant" means an individual eligible for the Independent Choices Program.

(44) "Provider" means the person who renders the services.

(45) "Rate Schedule" means the rate schedule maintained by the Department at <http://www.dhs.state.or.us/spd/tools/program/osip/rateschedule.pdf>. Printed copies may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Aging and People with Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-2, Salem, Oregon 97301-1064.

(46) "Relative" means a person, excluding an individual's spouse, who is related to the individual by blood, marriage, or adoption.

(47) "Representative" is a person either appointed by an individual to participate in service planning on the individual's behalf or an individual's natural support with longstanding involvement in assuring the individual's health, safety, and welfare. There are additional responsibilities for an Independent Choices Program (ICP) representative as described in OAR 411-030-0100. An ICP representative is not a paid employee provider regardless of relationship to a participant.

(48) "Service Budget" means a participant's plan for the distribution of authorized funds that are under the control and direction of the participant within the Independent Choices Program. A service budget is a required component of the participant's service plan.

(49) "Service Need" means the assistance an individual requires from another person for those functions or activities identified in OAR 411-015-0006 and 411-015-0007.

(50) "Shift Services" are hourly services provided by an awake homecare worker, Independent Choices Program employee provider, or contracted in-home care agency provider to an individual who is authorized to receive a minimum of 16 hours of services (496 hours per month) during a 24-hour work period. Individuals that have ventilator dependency and have quadriplegia or similar conditions and utilize 24 hours of awake hourly services (744 hours per month) may have homecare workers paid above the rate schedule.

(51) "Spouse" means a person that is legally married to an individual as defined in OAR 461-001-0000.

(52) "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.

(53) "These Rules" mean the rules in OAR chapter 411, division 030.

(54) "Workweek" is defined as 12:00 a.m. on Sunday through 11:59 p.m. on Saturday.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 5-1987, f. & ef. 7-1-87; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 18-2003(Temp), f. & cert. ef. 12-11-03 thru 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 3-2007(Temp), f. 4-11-07, cert. ef. 5-1-07 thru 10-28-07; SPD 17-2007, f. 10-26-07, cert. ef. 10-28-07; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08; SPD 15-2008, f. 12-26-08, cert. ef. 1-1-09; SPD 10-2013(Temp), f. & cert. ef. 5-23-13 thru 11-19-13; SPD 16-2013(Temp), f. & cert. ef. 7-1-13 thru 11-19-13; SPD 43-2013, f. 10-31-13, cert. ef. 11-1-13; APD 9-2014(Temp), f. 4-17-14, cert. ef. 4-21-14 thru 10-18-14; APD 35-2014, f. & cert. ef. 10-1-14; APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16; APD 5-2016, f. 3-15-16, cert. ef. 3-18-16; APD 18-2017(Temp), f. & cert. ef. 8-1-17 thru 1-27-18

411-030-0068

Live-In Services and Shift Services

(1) As of October 1, 2017, no individual may receive live-in services.

(2) As of July 1, 2016, no individual may be approved to receive live-in services who did not receive live-in services on June 30, 2016.

(3) An individual is only eligible for live-in services or shift services if the assessment determines the individual meets the criteria described in section (4) of this rule.

(4) Individuals with service plans that meet the definition of live-in services or shift services must meet subsections (a) and either (b) or (c) of this section of the rule.

(a) The provision of assistance with at least one ADL or IADL task must be required sometime during each hour the individual is awake in order to ensure the safety and well-being of the individual.

(b) The individual is assessed as full assist in mobility or elimination as defined in OAR 411-015-0006, and has at least one of the following conditions:

(A) A debilitating medical condition that includes, but is not limited to, any of the following symptoms:

- (i) Cachexia;
- (ii) Severe neuropathy;
- (iii) Coma;
- (iv) Persistent or reoccurring stage 3 or 4 wounds;
- (v) Late stage cancer;
- (vi) Frequent and unpredictable seizures; or
- (vii) Debilitating muscle spasms.

(B) A spinal cord injury or similar disability with permanent impairment.

(C) An acute care or hospice need that is expected to last no more than six months.

(c) The individual is assessed as full assist in cognition as defined in OAR 411-015-0006 and meets all of the following criteria:

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(A) A diagnosis of traumatic brain injury, dementia or a related disorder, or a debilitating mental health disorder that meets the criteria described in OAR 411-015-0015(2); and

(B) Has one of the following assessed needs as defined in OAR 411-015-0006:

- (i) Full assist in danger to self or others.
- (ii) Full assist in wandering.
- (iii) Full assist in awareness.
- (iv) Full assist in judgment.
- (5) The following limitations apply:

(a) A homecare worker providing live-in services must be available to address the service needs of an eligible individual as they arise throughout an entire 24-hour period. A homecare worker is not providing live-in services if the homecare worker is outside the individual's home or building during the homecare worker's on-duty hours and the homecare worker engages in activities that are unrelated to the provision of the individual's ADL or IADL services and supports. A homecare worker is not providing live-in services if they are offsite and are not performing direct ADL or IADL services.

(b) Hourly services by another homecare worker or contracted in-home agency may be authorized in addition to live-in services for any task that requires more than one homecare worker to simultaneously perform the task, or to allow a live-in homecare worker to sleep for at least five continuous hours during a 24-hour work period.

(c) A homecare worker who is providing live-in services for an individual may not also provide hourly services for the same individual.

(6) Individuals who received live-in services on June 30, 2016 may continue receiving live-in services until one of the following occurs:

(a) The individual moves from an in-home setting that does not meet the requirements of OAR 411-030-0033 for more than 30 days and later moves to an in-home setting that meets the requirements of OAR 411-030-0033.

(b) The individual ends his or her live-in services for more than 30 days.

(c) An assessment determines the individual does not meet the criteria described in section (4) of this rule unless an exception was previously granted.

(d) Exceptions previously granted for live-in services must end when the primary homecare worker or the primary provider under the Independent Choices Program providing live-in services at the time the exception was granted is no longer employed by the individual.

(7) Effective November 1, 2016, an exception to section (4) of this rule may no longer be granted.

(8) An individual may employ homecare workers with a differential rate in accordance with the terms of the ratified collective bargaining agreement described in OAR 411-031-0020, if the following applies:

(a) The individual is diagnosed with quadriplegia or a condition that is substantially similar;

- (b) The individual is dependent on a ventilator;
- (c) The individual is eligible for and receives shift services;
- (d) The individual requires 24-hour awake care, of which, at least 16 hours must be paid shift care; and

- (e) The plan is approved by the Department.
Stat. Auth.: ORS 409.050, 410.070 & 410.090
Stats. Implemented: ORS 410.010, 410.020 & 410.070
Hist.: APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16; APD 5-2016, f. 3-15-16, cert. ef. 3-18-16; APD 12-2016(Temp), f. 6-27-16, cert. ef. 7-1-16 thru 12-27-16; APD 44-2016, f. 12-20-16, cert. ef. 12-28-16; APD 18-2017(Temp), f. & cert. ef. 8-1-17 thru 1-27-18

411-030-0070

Maximum Hours of Service

(1) LEVELS OF ASSISTANCE FOR DETERMINING SERVICE PLAN HOURS.

(a) "Minimal Assistance" means an individual is able to perform the majority of an activity but requires some assistance from another person.

(b) "Substantial Assistance" means an individual is able to perform only a small portion of the tasks that comprise an activity without assistance from another person.

(c) "Full Assistance" means an individual needs assistance from another person through all phases of an activity every time the activity is attempted.

(2) MAXIMUM MONTHLY HOURS FOR ADL.

(a) The planning process uses the following limitations for time allotments for ADL tasks. Hours authorized must be based on the service needs of an individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial, or full assist).

(A) Eating:

- (i) Minimal assistance, 5 hours.
- (ii) Substantial assistance, 20 hours.
- (iii) Full assistance, 30 hours.

(B) Dressing and Grooming:

- (i) Minimal assistance, 5 hours.
- (ii) Substantial assistance, 15 hours.
- (iii) Full assistance, 20 hours.

(C) Bathing and Personal Hygiene:

- (i) Minimal assistance, 10 hours.
- (ii) Substantial assistance, 15 hours.
- (iii) Full assistance, 25 hours.

(D) Mobility:

- (i) Minimal assistance, 10 hours.
- (ii) Substantial assistance, 15 hours.
- (iii) Full assistance, 25 hours.

(E) Elimination (Toileting, Bowel, and Bladder):

- (i) Minimal assistance, 10 hours.
- (ii) Substantial assistance, 20 hours.
- (iii) Full assistance, 25 hours.

(F) Cognition and Behaviors:

- (i) Minimal assistance, 5 hours.
- (ii) Substantial assistance, 10 hours.
- (iii) Full assistance, 20 hours.

(b) Service plan hours for ADL may only be authorized for an individual if the individual requires assistance (minimal, substantial, or full assist) from another person in that activity of daily living as determined by a service assessment applying the parameters in OAR 411-015-0006.

(c) For households with two or more eligible individuals, each individual's ADL service needs must be considered separately. In accordance with section (3)(c) of this rule, authorization of IADL hours is limited for each additional individual in the home.

(d) Hours authorized for ADL are paid at the rates in accordance with the rate schedule. The Independent Choices Program cash benefit is based on the hours authorized for ADLs paid at the rates in accordance with the rate schedule. Participants of the Independent Choices Program may determine their own employee provider pay rates, but must follow all applicable wage and hour rules and regulations.

(3) MAXIMUM MONTHLY HOURS FOR IADL.

(a) The planning process uses the following limitations for time allotments for IADL tasks. Hours authorized must be based on the service needs of an individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial, or full assist).

(A) Medication Management:

- (i) Minimal assistance, 2 hours.
- (ii) Substantial assistance, 4 hours.
- (iii) Full assistance, 6 hours.

(B) Transportation:

- (i) Minimal assistance, 2 hours.
- (ii) Substantial assistance, 3 hours.
- (iii) Full assistance, 5 hours.

(C) Meal Preparation:

- (i) Minimal assistance:
 - (I) Breakfast, 4 hours.
 - (II) Lunch, 4 hours.
 - (III) Supper, 8 hours.
- (ii) Substantial assistance:
 - (I) Breakfast, 8 hours.
 - (II) Lunch, 8 hours.
 - (III) Supper, 16 hours.
- (iii) Full assistance:
 - (I) Breakfast, 12 hours.
 - (II) Lunch, 12 hours.
 - (III) Supper, 24 hours.

(D) Shopping:

- (i) Minimal assistance, 2 hours.
- (ii) Substantial assistance, 4 hours.
- (iii) Full assistance, 6 hours.

(E) Housekeeping and Laundry:

- (i) Minimal assistance, 5 hours.
- (ii) Substantial assistance, 10 hours.
- (iii) Full assistance, 20 hours.

(b) Hours authorized for IADL are paid at the rates in accordance with the rate schedule. The Independent Choices Program cash benefit is based on the hours authorized for IADLs paid at the rates in accordance with the rate schedule. Participants of the Independent Choices Program may deter-

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mine their own employee provider pay rates, but must follow all applicable wage and hour rules and regulations.

(c) When two or more individuals eligible for IADL task hours live in the same household, the assessed IADL need of each individual must be calculated. Payment is made for the highest of the allotments and a total of four additional IADL hours per month for each additional individual to allow for the specific IADL needs of the other individuals.

(d) Service plan hours for IADL tasks may only be authorized for an individual if the individual requires assistance (minimal, substantial, or full assist) from another person in that IADL task as determined by a service assessment applying the parameters in OAR 411-015-0007.

(4) PAYMENT FOR LIVE-IN SERVICES.

(a) Payment for live-in services is authorized only when an individual employs a live-in homemaker worker or enrolls in the Independent Choices Program and meets the requirements of OAR 411-030-0068.

(b) Effective January 1, 2016, payment for live-in services is authorized only when an individual employs a live-in homemaker worker or enrolls in the Independent Choices Program and meets the requirements of OAR 411-030-0068. Individuals that meet these criteria will be authorized to receive at least 16 hours per day (496 hours per month). Additional hours may be authorized by the Department to meet the needs of the individual during the hours of the homemaker worker's scheduled sleep period if the homemaker worker's scheduled sleep period is routinely disrupted.

(c) Rates for live-in services are paid in accordance with the rate schedule.

(d) When a live-in homemaker worker is employed less than seven days per week, the total service hours must be prorated.

(5) When one or more eligible individuals in the same household is eligible for and receiving in-home services, the amount of hours authorized is subject to the following maximums:

(a) If any eligible individual in a specific household is receiving live-in services, the combined authorized hours for all eligible individuals in the same household may not exceed 19 hours within any 24-hour period or 589 hours per month.

(b) Hourly and shift service plans may not exceed 24 hours within any 24-hour period or 744 hours per month in the same household.

(6) For the creation of a new service plan (resulting from an assessment) beginning September 1, 2016, and for all service plans beginning July 1, 2017, subsection (a) and either subsection (b) or (c) of this rule will apply to a homemaker worker:

(a) Hourly or shift services provided are limited to 16 hours of awake care during a 24-hour work period.

(b) Hourly services provided are limited to 220 hours per month, and may not exceed 50 hours per workweek if the homemaker worker's average paid workweek hours in the months of March, April, and May 2016 equals or exceeds 40 hours per workweek. Under this subsection, homemaker workers that provide live-in and hourly services within the same workweek may not exceed 50 hours per workweek.

(c) Hourly services provided are limited to 176 hours per month, and may not exceed 40 hours per workweek if the homemaker worker's average paid workweek hours in the months of March, April, and May 2016 is less than 40 hours per workweek or if the homemaker worker became an enrolled provider after May 2016. Under this subsection, homemaker workers that provide live-in and hourly services within the same workweek may not exceed 40 hours per workweek.

(7) A provider may not receive payment from the Department for more than the total amount authorized by the Department on the service plan authorization form under any circumstances. All service payments must be prior-authorized by a case manager.

(8) Case managers must assess and utilize as appropriate, natural supports, cost-effective assistive devices, durable medical equipment, housing accommodations, and alternative service resources (as defined in OAR 411-015-0005) that may reduce the need for paid assistance.

(9) The Department may authorize paid in-home services only to the extent necessary to supplement potential or existing resources within an individual's natural supports system.

(10) Payment by the Department for Medicaid home and community-based services are only made for the tasks described in this rule as ADL, IADL tasks, and live-in services. Services must be authorized to meet the needs of an eligible individual and may not be provided to benefit an entire household.

(11) EXCEPTIONS TO MAXIMUM HOURS OF SERVICE.

(a) To meet an extraordinary ADL service need that has been documented, the hours authorized for ADL may exceed the full assistance hours

(described in section (2) of this rule) as long as the total number of ADL hours in the service plan does not exceed 145 hours per month.

(b) Monthly service payments that exceed 145 ADL hours per month may be approved by Central Office when the exceptional payment criteria identified in OAR 411-027-0020 and 411-027-0050 is met.

(c) As long as the total number of IADL task hours in the service plan does not exceed 85 hours per month and the service need is documented, the hours authorized for IADL tasks may exceed the hours for full assistance (as described in section (3) of this rule) for the following tasks and circumstances:

(A) Housekeeping based on medical need (such as immune deficiency);

(B) Short-term extraordinary housekeeping services necessary to reverse unsanitary conditions that jeopardize the health of an individual; or

(C) Extraordinary IADL needs in medication management or service-related transportation.

(d) Monthly service plans that exceed 85 hours per month in IADL tasks may be approved by Central Office when an individual meets the exceptional payment criteria identified in OAR 411-027-0020 and 411-027-0050.

(e) One or more individuals in the same household may exceed the maximums in section (5) of this rule in the following circumstances:

(A) The service plan authorizes payment that requires the assistance of more than one homemaker worker to simultaneously perform a specific task.

(B) The service plan authorizes an additional hourly provider when the individual requires care throughout a 24 hour period and the live-in homemaker worker is not able to receive five continuous hours of sleep.

(C) The ADLs of two or more individuals in the same household require a homemaker worker for each individual at the same time.

(f) A homemaker worker may be authorized to provide services totaling more than the hours established by section (6) of this rule if they are prior authorized by the Department. In emergency situations, when the Department is not available, a homemaker worker may work critical hours, but must notify the Department within two business days.

(g) A homemaker worker may be authorized by the Department to work more than 16 hours of hourly services during a 24-hour work period if an unanticipated need arises that requires the homemaker worker to remain awake in order to provide the necessary care.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SDDS 8-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; SDDS 3-2000, f. 4-11-00, cert. ef. 4-12-00; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08; SPD 15-2008, f. 12-26-08, cert. ef. 1-1-09; SPD 24-2011(Temp), f. 11-15-11, cert. ef. 1-1-12 thru 6-29-12; SPD 6-2012, f. 5-31-12, cert. ef. 6-1-12; SPD 14-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 44-2013, f. 12-13-13, cert. ef. 12-15-13; APD 11-2014, f. & cert. ef. 5-1-14; APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16; APD 12-2016(Temp), f. 6-27-16, cert. ef. 7-1-16 thru 12-27-16; APD 44-2016, f. 12-20-16, cert. ef. 12-28-16; APD 18-2017(Temp), f. & cert. ef. 8-1-17 thru 1-27-18

411-030-0080

Spousal Pay Program

(1) The Spousal Pay Program is one of the hourly service options under in-home services for those who qualify.

(2) ELIGIBILITY. An individual may be eligible for the Spousal Pay Program when all of the following conditions are met:

(a) The individual has met all eligibility requirements for in-home services as described in OAR 411-030-0040.

(b) The individual requires full assistance in at least four of the six ADLs described in OAR 411-015-0006 as determined by the assessment described in OAR chapter 411, division 015.

(c) A debilitating medical condition including, but not limited to, any of the following symptoms:

(A) Cachexia;

(B) Severe neuropathy;

(C) Coma;

(D) Persistent or reoccurring stage three or four wounds;

(E) Late stage cancer;

(F) Frequent and unpredictable seizures;

(G) Debilitating muscle spasms; or

(H) A spinal cord injury or similar disability with permanent impairment.

(d) The individual would otherwise require nursing facility services without Medicaid in-home services.

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(e) The individual's service needs exceed in both extent and duration the usual and customary services rendered by one spouse to another.

(f) The spouse demonstrates the capability and health to provide the services and actually provides the principal services, including the majority of service plan hours, for which payment has been authorized.

(g) The spouse meets all requirements for enrollment as a homecare worker in the Consumer-Employed Provider Program as described in OAR 411-031-0040.

(h) The Department has reviewed the request and approved program eligibility at enrollment and annually upon re-assessment.

(3) PAYMENTS.

(a) All payments must be prior authorized by the Department or the Department's designee.

(b) The hours authorized to the spousal pay provider in an individual's service plan must consist of one-half of the assessed hours for IADLs and all of the hours for specific ADLs based on the service needs of the individual. Service plans that authorize a spousal pay provider are not eligible for live-in services.

(c) Except as described otherwise in subsection (d) of this section, spousal pay providers are paid at hourly homecare worker rates for ADLs and IADLs as defined in the rate schedule.

(d) Homecare workers who marry their consumer-employer are not paid under the spousal pay program. Service plans are based on the needs of the consumer. Hours assigned must reflect the service needs with no reduction in hours. The consumer does not need to meet the spousal pay eligibility criteria as described in section (3) of this rule. Hours authorized in CA/PS will be completed in the same manner as other in-home service plans, which include hourly, live-in or independent choices program.

(e) Spousal pay providers may not claim payment from the Department for hours that the spousal pay provider did not work.

(4) Spousal pay providers are subject to the provisions in OAR chapter 411, division 031 governing homecare workers enrolled in the Consumer-Employed Provider Program.

(5) Individuals receiving Spousal Pay Program services who have excess income must contribute to the cost of services pursuant to OAR 461-160-0610 and 461-160-0620.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020, 410.070, 411.802 & 411.803

Hist.: SSD 4-1984, f. 4-27-84, ef. 5-1-84; SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93, Renumbered from 411-030-0027; SDSD 2-2000, f. 3-27-00, cert. ef. 4-1-00; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 3-2007(Temp), f. 4-11-07, cert. ef. 5-1-07 thru 10-28-07; SPD 17-2007, f. 10-26-07, cert. ef. 10-28-07; SPD 15-2008, f. 12-26-08, cert. ef. 1-1-09; SPD 13-2012(Temp), f. & cert. ef. 9-26-12 thru 3-25-13; SPD 4-2013, f. 3-25-13, cert. ef. 3-26-13; SPD 10-2013(Temp), f. & cert. ef. 5-23-13 thru 11-19-13; SPD 43-2013, f. 10-31-13, cert. ef. 11-1-13; APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16; APD 5-2016, f. 3-15-16, cert. ef. 3-18-16; APD 18-2017(Temp), f. & cert. ef. 8-1-17 thru 1-27-18

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Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Temporarily amending rules to update the BRS rate table that is incorporated by reference.

Adm. Order No.: CWP 7-2017(Temp)

Filed with Sec. of State: 7-26-2017

Certified to be Effective: 7-26-17 thru 1-21-18

Notice Publication Date:

Rules Amended: 413-090-0085

Subject: The Oregon Health Authority (OHA) is raising the rates of the BRS providers to comply with the 2017-2019 OHA budget passed by the Legislature and effective July 1, 2017. The Department relies on these rates and the prior version of the OHA rates table (dated May 1, 2016) was previously adopted by the Department. The department is now moving to amend its rules to adopt OHA's revised payment rates.

Rules Coordinator: Amie Fender—(503) 945-8986

413-090-0085

Billing and Payment for Services and Placement-Related Activities

(1) Billable care day (see OAR 410-170-0020):

(a) The BRS contractor (see OAR 410-170-0020) is compensated for a billable care day services (see OAR 410-170-0020) and placement-related activities (see OAR 410-170-0020) rates on a fee-for-service basis in accordance with OAR 410-170-0110.

(b) The BRS contractor may include an overnight transitional visit by the BRS client (see OAR 410-170-0020) to another placement in its billable care days. The BRS contractor must:

(A) Receive prior approval for the transitional visit from the Department;

(B) Ensure that the transitional visit is in support of the MSP (see OAR 410-170-0020) goals related to transition;

(C) Pay the hosting placement at the established absent day rate for the sending BRS provider (see OAR 410-170-0020); and

(D) Ensure the hosting placement will not seek any reimbursement from the Department for the care of the visiting BRS client.

(2) Absent Days:

(a) The BRS contractor is compensated for an absent day at the absent day rate in order to hold a BRS program placement for a BRS client with the prior approval of the BRS client's caseworker (see OAR 410-170-0020).

(b) Notwithstanding OAR 410-170-0110(4), the BRS contractor may request prior approval from the BRS client's caseworker to be reimbursed for more than 8 but no more than 14 calendar days of home visits in a month for a BRS client. However, any additional days of home visits approved under this rule will be paid at the absent day rate.

(3) The BRS contractor may only be reimbursed for the BRS type of care (see OAR 410-170-0020) authorized in the contract with the Department.

(4) Invoice Form:

(a) The BRS contractor must submit to the Department a monthly invoice in a format acceptable to the Department, on or after the first day of the month following the month in which services and placement-related activities were provided to the BRS client. The monthly invoice must specify the number of billable care days and absent days for each BRS client in that month.

(b) The BRS contractor must provide upon request, in a format approved by the Department, written documentation of each BRS client's location for each day claimed as a billable care day and an absent day.

(5) Billable care day and absent day rates for BRS services provided on or after July 1, 2017, are in the "BRS Rates Table", dated July 1, 2017, which is adopted as Exhibit 1 and incorporated by reference into this rule.

A printed copy may be obtained from the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 15-2015(Temp), f. & cert. ef. 8-26-15 thru 2-21-16; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; CWP 9-2016(Temp), f. & cert. ef. 6-14-16 thru 12-10-16; CWP 15-2016, f. 8-31-16, cert. ef. 9-1-16; CWP 7-2017(Temp), f. & cert. ef. 7-26-17 thru 1-21-18

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Rule Caption: Suspending temporary rules relating to Critical Incident Response Teams (CIRT) required by ORS 419B.024

Adm. Order No.: CWP 8-2017(Temp)

Filed with Sec. of State: 7-27-2017

Certified to be Effective: 7-27-17 thru 8-5-17

Notice Publication Date:

Rules Suspended: 413-017-0000(T), 413-017-0010(T), 413-017-0020(T), 413-017-0030(T), 413-017-0040(T)

Subject: The Department of Human Services, Office of Child Welfare Programs, is suspending temporary rules adopted on February 7, 2017. The temporary rules were adopted to describe the requirements and procedure when a Critical Incident Response Team (CIRT) is mandated under ORS 419B.024 or when the Director of the Department may convene a Discretionary Critical Incident Response Team (DCIRT). However, since adoption of the temporary rules, SB 819 (2017) was signed into law, which creates new provisions relating to the Department's responsibilities when a child fatality occurs as the result of abuse or neglect. Therefore, the temporary rules are being suspended and new rules will be adopted by September 2017 to comply with SB 819 (2017).

Rules Coordinator: Amie Fender—(503) 945-8986

413-017-0000

Definitions

Unless the context indicates otherwise, the following definitions apply to OAR chapter 413, division 017.

(1) "Child" means a person who:

(a) Is under 18 years of age; or

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(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency or proctor foster home.

(2) "Child abuse or neglect" means any form of child abuse, including abuse through neglect and abuse or neglect by a third party, as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36.

(3) "Child protective services assessment (CPS assessment)" means an investigation into a report of child abuse or neglect pursuant to ORS 419B.020 that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.

(4) "Critical Incident" means a child fatality which was likely the result of child abuse or neglect when:

(a) The child was in the custody of the Department at the time of death; or

(b) The child was the subject of a child protective services assessment by the Department within 12 months preceding the fatality.

(5) "Critical Incident Response Team (CIRT)" means a committee, appointed by the DHS Director, to conduct an executive review of a critical incident.

(6) "Custody" means legal custody described in ORS 419B.373.

(7) "Department" means the Department of Human Services, Child Welfare.

(8) "DHS" means the Oregon Department of Human Services.

(9) Discretionary Critical Incident Response Team (DCIRT)" means a committee, appointed by the DHS Director to conduct an executive review of a serious physical injury as defined in ORS 161.015 that was likely the result of child abuse or neglect when:

(a) The child was in the custody of the Department at the time of the serious physical injury; or

(b) The child was the subject of a child protective services assessment by the Department within 12 months preceding the serious physical injury.

Stat. Auth.: ORS 418.005, 419B.024

Stats. Implemented: ORS 418.005, 419B.024

Hist.: CWP 3-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; Suspended by CWP 8-2017(Temp), f. & cert. ef. 7-27-17 thru 8-5-17

413-017-0010

Purpose of the Critical Incident Response Team (CIRT)

(1) The purpose of convening the CIRT is to increase child safety by:

(a) Rapidly drawing lessons from a specific incident to improve child welfare practice administered by the Department;

(b) Increasing transparency regarding the Department's processes and practice;

(c) Identifying and evaluating internal or external systemic issues from a child fatality that impact current practice; and

(d) Ensuring timely responses by the Department with respect to a critical incident.

(2) Reviews conducted as provided in these rules are in addition to and separate from reviews conducted by a local Multi-Disciplinary Team pursuant to ORS 418.747, a State Fatality Review team pursuant to ORS 418.748 or the Department protocols "Notification and Review of Child Fatalities" and "Notification and Review of Sensitive Issues."

(3) A CIRT has a limited purpose. It is not a final or comprehensive review of all the circumstances surrounding the death of a child. The CIRT review is generally limited to documents in the possession of or obtained by the Department. The CIRT is not an information gathering inquiry and does not include interviews of witnesses to an incident or parties to a juvenile case. A CIRT is not a fact-finding or forensic inquiry nor should it replace or supersede courts, law enforcement agencies, or other entities with legal responsibility to investigate and review some or all of the circumstances of the child fatality.

Stat. Auth.: ORS 418.005, 419B.024

Stats. Implemented: ORS 418.005, 419B.024

Hist.: CWP 3-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; Suspended by CWP 8-2017(Temp), f. & cert. ef. 7-27-17 thru 8-5-17

413-017-0010

Purpose of the Critical Incident Response Team (CIRT)

(1) The purpose of convening the CIRT is to increase child safety by:

(a) Rapidly drawing lessons from a specific incident to improve child welfare practice administered by the Department;

(b) Increasing transparency regarding the Department's processes and practice;

(c) Identifying and evaluating internal or external systemic issues from a child fatality that impact current practice; and

(d) Ensuring timely responses by the Department with respect to a critical incident.

(2) Reviews conducted as provided in these rules are in addition to and separate from reviews conducted by a local Multi-Disciplinary Team pursuant to ORS 418.747, a State Fatality Review team pursuant to ORS 418.748 or the Department protocols "Notification and Review of Child Fatalities" and "Notification and Review of Sensitive Issues."

(3) A CIRT has a limited purpose. It is not a final or comprehensive review of all the circumstances surrounding the death of a child. The CIRT review is generally limited to documents in the possession of or obtained by the Department. The CIRT is not an information gathering inquiry and does not include interviews of witnesses to an incident or parties to a juvenile case. A CIRT is not a fact-finding or forensic inquiry nor should it replace or supersede courts, law enforcement agencies, or other entities with legal responsibility to investigate and review some or all of the circumstances of the child fatality.

Stat. Auth.: ORS 418.005, 419B.024

Stats. Implemented: ORS 418.005, 419B.024

Hist.: CWP 3-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; Suspended by CWP 8-2017(Temp), f. & cert. ef. 7-27-17 thru 8-5-17

413-017-0020

CIRT Membership and Functioning

(1) The DHS Director or designee appoints members of the CIRT.

(a) Unless a conflict of interest exists, CIRT members must include:

(A) The Child Welfare Director or designee;

(B) An attorney from the Department of Justice assigned to provide legal advice and representation to the Department on the matter of the CIRT;

(C) A Department Human Resources representative;

(D) The District Manager for the county or region in which the critical incident occurred;

(E) The Program Manager for the county or region in which the critical incident occurred;

(F) The Department's Child Protective Services Manager;

(G) The CIRT Coordinator;

(H) Casework supervisors assigned to supervise the workers involved in the identified case;

(I) Casework supervisors assigned to supervise the certification workers involved with the caregiver if the child was in foster care; and

(J) The Department's Public Affairs Director or designee.

(b) The DHS Director has discretion to invite additional persons to an individual CIRT meeting or appoint additional members to the team for the duration of a particular CIRT.

(2) CIRT members who are appointed under subsection (1)(b) of this rule must:

(a) Be provided a meeting invitation and an agenda prior to each CIRT meeting;

(b) Attend the CIRT meetings in person;

(c) Return any copies of documents or materials reviewed at the meeting at the conclusion of each CIRT meeting; and

(d) Surrender any notes taken at the CIRT meeting to the CIRT Coordinator at the conclusion of the CIRT meeting.

(3) CIRT members appointed under subsection (1)(b) of this rule may review materials prior to a CIRT meeting at the designated location of the CIRT meeting.

(4) The CIRT Coordinator has the following responsibilities:

(a) Convenes the CIRT meetings;

(b) Ensures any members who are not Department staff have signed a confidentiality agreement;

(c) Ensures a thorough review of all records related to the circumstances that led to the critical incident;

(d) Ensures the team identifies the internal or external systemic issues; and

(e) Prepares the CIRT reports based on input from the CIRT pursuant to the timelines in section (4) of this rule.

(5) The CIRT:

(a) Reviews records related to the circumstances that led to the critical incident;

(b) During the course of its review, may include or consult with the District Attorney from the county in which the critical incident occurred pursuant to ORS 419B.024(2);

(c) Identifies internal or external systemic or practice issues; and

(d) Provides input for the following reports prepared by the CIRT coordinator:

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(A) An initial report for the DHS Director within 60 days of the CIRT being declared; and

(B) A final report within 180 days of the CIRT being declared, except as provided in section (5) of this rule.

(6) The DHS Director or the Director's designee has the discretion to grant additional time to complete the reports described in (3) of this rule depending upon the complexity of the case under review.

(5) The DHS Director or the Director's designee may determine at any time that the CIRT's work is complete and conclude the CIRT review process.

(6) The DHS Director, or the Director's designee, shall comply with the Oregon public records law ORS 192.410 through 192.505, and may where appropriate claim an exemption that prevents the release of a CIRT report, either temporarily or permanently.

(7) The DHS Director or the Director's designee shall:

(a) Review the recommendations of the CIRT; and

(b) Reconvene the CIRT team within six months of receipt of the final report to review the actions taken to improve practice.

Stat. Auth.: ORS 409.050, 418.005, 419B.024

Stat. Implemented: 409.050, 418.005, 419B.024

Hist.: CWP 3-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; Suspended by CWP 8-2017(Temp), f. & cert. ef. 7-27-17 thru 8-5-17

413-017-0030

Purpose of the Discretionary Critical Incident Response Team (DCIRT)

(1) The purpose of convening the DCIRT is to increase child safety by:

(a) Rapidly drawing lessons from a specific incident to improve child welfare practice administered by the Department;

(b) Increasing transparency regarding the Department's processes and practice;

(c) Evaluating and identifying internal or external systemic issues from a serious physical injury as defined in ORS 161.015 that impact current practice; and

(d) Ensuring timely responses by the Department with respect to an incident of serious physical injury to a child.

(2) The determination of whether a serious physical injury has occurred is solely within the discretion of the DHS Director or the Director's designee.

(3) Reviews conducted as provided in these rules are in addition to and separate from reviews conducted by a local Multi-Disciplinary Team pursuant to ORS 418.747, a State Fatality Review team pursuant to ORS 418.748 or the Department protocols "Notification and Review of Child Fatalities" and "Notification and Review of Sensitive Issues."

(4) A DCIRT has a limited purpose. It is not a final or comprehensive review of all the circumstances surrounding the serious physical injury of a child. The DCIRT review is generally limited to documents in the possession of or obtained by the Department. The DCIRT is not an information gathering inquiry and does not include interviews of witnesses to an incident or parties to a juvenile case. A DCIRT is not a fact-finding or forensic inquiry nor should it replace or supersede courts, law enforcement agencies or other entities with legal responsibility to investigate and review some or all of the circumstances of the serious physical injury.

Stat. Auth.: ORS 409.050, 418.005, 419B.024

Stat. Implemented: 409.050, 418.005, 419B.024

Hist.: CWP 3-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; Suspended by CWP 8-2017(Temp), f. & cert. ef. 7-27-17 thru 8-5-17

413-017-0040

DCIRT Membership and Functioning

(1) The DHS Director or designee appoints members of the DCIRT.

(a) Unless a conflict of interest exists, DCIRT members must include:

(A) The Child Welfare Director or designee;

(B) An attorney from the Department of Justice assigned to provide legal advice and representation to the Department on the matter of the DCIRT;

(C) A Department Human Resources representative;

(D) The District Manager for the county or region in which the serious physical injury occurred;

(E) The Program Manager for the county or region in which the serious physical injury occurred;

(F) The Department's Child Protective Services Manager;

(G) The CIRT Coordinator;

(H) Casework supervisors assigned to supervise the workers involved in the identified case;

(I) Casework supervisors assigned to supervise the certification workers involved with the caregiver if the child is in foster care; and

(J) The Department Public Affairs Director or designee.

(b) The DHS Director has discretion to invite additional persons to an individual DCIRT meeting or appoint additional members to the team for the duration of a particular DCIRT.

(2) DCIRT members who are appointed under subsection (1)(b) of this rule must:

(a) Be provided a meeting invitation and an agenda prior to each DCIRT meeting;

(b) Attend the DCIRT meetings in person;

(c) Return any copies of documents or materials reviewed at the meeting at the conclusion of each DCIRT meeting; and

(d) Surrender any notes taken at the DCIRT meeting to the CIRT Coordinator at the conclusion of the DCIRT meeting.

(3) DCIRT members appointed under subsection (1)(b) of this rule may review materials prior to a CIRT meeting at the designated location of the DCIRT meeting.

(4) The CIRT Coordinator has the following responsibilities:

(a) Convenes the DCIRT meetings;

(b) Ensures any members who are not Department staff have signed a confidentiality agreement;

(c) Ensures a thorough review of all records related to the circumstances that led to the serious physical injury;

(d) Ensures the team identifies the internal or external systemic issues; and

(e) Prepares the DCIRT reports based on input from the DCIRT pursuant to the timelines in section (4) of this rule.

(5) The DCIRT:

(a) Reviews records related to the circumstances that led to the serious physical injury;

(b) During the course of its review, may include or consult with the District Attorney from the county in which the serious physical injury occurred pursuant to ORS 419B.024(2); and

(c) Identifies internal or external systemic or practice issues.

(d) Provides input for the following reports prepared by the CIRT coordinator:

(A) An initial report for the DHS Director within 60 days of the DCIRT being declared; and

(B) A final report within 180 days of the DCIRT being declared, except as provided in section (5) of this rule.

(6) The DHS Director or the Director's designee has the discretion to grant additional time to complete the reports described in section (4) of this rule depending upon the complexity of the case under review.

(7) The DHS Director or the Director's designee may determine at any time that the DCIRT's work is complete and conclude the DCIRT review process.

(8) The DHS Director, or the Director's designee, shall comply with the Oregon public records law ORS 192.410 through 192.505, and may where appropriate claim an exemption that prevents the release of a DCIRT report, either temporarily or permanently.

(9) The DHS Director or the Director's designee shall:

(a) Review the recommendations of the DCIRT; and

(b) Reconvene the DCIRT team within six months of receipt of the final report to review the actions taken to improve practice.

Stat. Auth.: ORS 409.050, 418.005

Stat. Implemented: 409.050, 418.005

Hist.: CWP 3-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; Suspended by CWP 8-2017(Temp), f. & cert. ef. 7-27-17 thru 8-5-17

Rule Caption: Application of the Indian Child Welfare Act (ICWA)
Adm. Order No.: CWP 9-2017

Filed with Sec. of State: 8-5-2017

Certified to be Effective: 8-6-17

Notice Publication Date: 6-1-2017

Rules Adopted: 413-115-0000, 413-115-0010, 413-115-0020, 413-115-0030, 413-115-0040, 413-115-0050, 413-115-0060, 413-115-0070, 413-115-0080, 413-115-0090, 413-115-0100, 413-115-0110, 413-115-0120, 413-115-0130, 413-115-0140, 413-115-0150

Rules Amended: 413-015-0115, 413-015-0205, 413-015-0215, 413-015-0432, 413-015-0455, 413-020-0000, 413-020-0010, 413-020-0020, 413-020-0050, 413-020-0075, 413-030-0009, 413-030-0210, 413-030-0445, 413-030-0460, 413-040-0000, 413-040-0010, 413-040-0155, 413-040-0159, 413-040-0310, 413-070-0000, 413-070-

ADMINISTRATIVE RULES

0010, 413-070-0072, 413-070-0512, 413-070-0516, 413-070-0519, 413-070-1050, 413-100-0240, 413-110-0000, 413-110-0300, 413-120-0000, 413-120-0020, 413-120-0021, 413-120-0025, 413-120-0057, 413-120-0060, 413-120-0165, 413-120-0175, 413-120-0625, 413-120-0730, 413-120-0750, 413-200-0306, 413-215-0000, 413-215-0081, 413-215-0426, 413-215-0431, 413-215-0441, 413-015-0415, 413-020-0090, 413-030-0000, 413-040-0325, 413-080-0050, 413-100-0020, 413-120-0760, 413-120-0870, 413-120-0880, 413-120-0925, 413-200-0260

Rules Repealed: 413-070-0100, 413-070-0130, 413-070-0140, 413-070-0150, 413-070-0160, 413-070-0170, 413-070-0180, 413-070-0190, 413-070-0200, 413-070-0210, 413-070-0220, 413-070-0230, 413-070-0240, 413-070-0250, 413-070-0260

Subject: On June 14, 2016, the Bureau of Indian Affairs (BIA) published rules relating to implementation of the Indian Child Welfare Act (ICWA). ICWA is the federal law controlling the welfare of Indian children and the Department of Human Services, Office of Child Welfare Programs, is adopting rules to comply with these regulations relating to the Department's responsibilities when serving Indian children. Previous rules governing ICWA, OAR 413-070-0100 to 413-070-0260, have been repealed and the updated requirements are reflected in new rules, OAR 413-115-0000 to 413-115-0150. Primary changes of the BIA regulations that are reflected in Department rules include clarification around the following ICWA provisions:

- Definition of key terms;
- Process for determination of tribal membership or enrollment;
- Responsibilities relating to "active efforts" to involve the child's tribe and to prevent removal of an Indian child from his or her family;
- Emergency removal;
- The placement of Indian children;
- Notification and Notice requirements;
- Qualifications for a qualified expert witness; and
- Parental consent for voluntary proceedings.

Additionally, Child Welfare rules throughout OAR chapter 413 that reference the ICWA requirements have been amended where needed to reflect the new rule references or new substantive requirements.

Rules Coordinator: Amie Fender—(503) 945-8986

413-015-0115

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 015:

- (1) "Caregiver" means a guardian, legal custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a child.
- (2) "Child" means a person who:
 - (a) Is under 18 years of age; or
 - (b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency or proctor foster home.
- (3) "Child abuse or neglect" means any form of child abuse, including abuse through neglect and abuse or neglect by a third party, as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36.
- (4) "Child-caring agency" is defined in ORS 418.205 and means a "child-caring agency" that is not owned, operated, or administered by a governmental agency or unit.
- (5) "Child protective services" (CPS) means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.
- (6) "Child protective services assessment" (CPS assessment) means an investigation into a report of child abuse or neglect pursuant to ORS 419B.020 that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.
- (7) "Child protective services supervisor" (CPS supervisor) means an employee of the Department trained in child protective services and designated as a supervisor.

(8) "Child protective services worker" (CPS worker) means an employee of the Department who has completed the mandatory Department training for child protective service workers.

(9) "Child Safety Meeting" means a meeting held at the conclusion of a CPS assessment for the purpose of developing an ongoing safety plan.

(10) "Conditions for return" means 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.

(11) "Day Care Facility" means each of the following:

(a) A Registered Family Child Care Home, which is the residence of a provider who has a current Family Child Care Registration at that address and who provides care in the family living quarters.

(b) A Certified Family Child Care Home, which is a child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 16 children at any one time.

(c) A Certified Child Care Center, which is certified to care for 13 or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.

(d) A Listed Facility, which is a child care provider that is exempt from Office of Child Care licensing and that receives subsidy payments for child care on behalf of clients of the Department of Human Services.

(12) "Department" means the Department of Human Services, Child Welfare.

(13) "Department response" means how the Department intends to respond to information that a child is unsafe after a report of alleged abuse or neglect is received.

(14) "Designated medical professional" means (as described in ORS 418.747(9)) a physician, physician assistant, or nurse practitioner who has been designated by the local multi-disciplinary team and trained to conduct child abuse medical assessments (as defined in ORS 418.782), and who is — or who may designate another physician, physician assistant, or nurse practitioner who is — regularly available to conduct these medical assessments.

(15) "Domestic violence" means a pattern of coercive behavior, which can include physical, sexual, economic, and emotional abuse that an individual uses against a past or current intimate partner to gain power and control in a relationship.

(16) "Face-to-face" means an in-person interaction between individuals.

(17) "Former foster child" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.

(18) "Founded" means there is reasonable cause to believe that child abuse or neglect, as defined in ORS 419B.005, occurred.

(19) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(20) "Harm" means any kind of impairment, damage, detriment, or injury to a child's physical, sexual, psychological, cognitive, or behavioral development or functioning. "Harm" is the result of child abuse or neglect and may vary from mild to severe.

(21) "ICWA" means the Indian Child Welfare Act.

(22) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. When it is occurring, this type of threat to a child 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 functioning.

(23) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(24) "Initial contact" means the first face-to-face contact between a CPS worker and a family. The initial contact includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, and other children and adults living in the home; accessing the home environment; and gathering sufficient information on the family conditions and functioning to determine if present danger safety threats or impending danger safety threats exist.

(25) "Initial safety plan" means a documented set of actions or interventions sufficient to protect a child from an impending danger safety threat in order to allow for completion of the CPS assessment.

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(26) “Moderate to high needs” means observable family behaviors, conditions, or circumstances that are occurring now; and over the next year without intervention, are likely to have a negative impact on a child’s physical, sexual, psychological, cognitive, or behavioral development or functioning. The potential negative impact is not judged to be severe. While intervention is not required for the child to be safe, it is reasonable to determine that short-term, targeted services could reduce or eliminate the likelihood that the negative impact will occur.

(27) “Monthly face-to-face contact” means in-person interaction between individuals at least once each and every full calendar month.

(28) “Multi-disciplinary team” (MDT) means a county child abuse investigative team as defined in ORS 418.747.

(29) “Observable” means specific, real, can be seen and described. Observable does not include suspicion or gut feeling.

(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) “Out of control” means family behaviors, conditions, or circumstances that can affect a child’s safety are unrestrained, unmanaged, without limits or monitoring, not subject to influence or manipulation within the control of the family, resulting in an unpredictable and chaotic family environment.

(32) “Personal representative” means a person who is at least 18 years of age and is selected to be present and supportive during the CPS assessment by a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the crime. The personal representative may not be a person who is a suspect in, party or witness to, the crime.

(33) “Pre-adoptive family” means an individual or individuals who:

(a) Has been selected to be a child’s adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(34) “Present danger safety threat” means an immediate, significant, and clearly observable family behavior, condition, or circumstance occurring in the present tense, already endangering or threatening to endanger a child. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a child in peril.

(35) “Proctor foster home” means a foster home certified by a child-caring agency that is not subject to ORS 418.625 to 418.470.

(36) “Protective action plan” means an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect a child from a present danger safety threat.

(37) “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.

(38) “Protective custody” means custody authorized by ORS 419B.150.

(39) “Reasonable suspicion” means a reasonable belief given all of the circumstances, based upon specific and describable facts, that the suspicious physical injury may be the result of abuse. Explanation: The belief must be subjectively and objectively reasonable. In other words, the person subjectively believes that the injury may be the result of abuse, and the belief is objectively reasonable considering all of the circumstances. The circumstances that may give rise to a reasonable belief may include, but not be limited to, observations, interviews, experience, and training. The fact that there are possible non-abuse explanations for the injury does not negate reasonable suspicion.

(40) “Referral” means a report that has been assigned for the purpose of CPS assessment.

(41) “Report” means an allegation of child abuse or neglect provided to the Department that the screener evaluates to determine if it constitutes a report of child abuse or neglect as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36.

(42) “Reporter” means an individual who makes a report.

(43) “Safe” means there is an absence of present danger safety threats and impending danger safety threats.

(44) “Safety service provider” means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child’s safety.

(45) “Safety services” mean the actions, assistance, and supervision provided by safety service providers to manage the identified present danger safety threats or impending danger safety threats to a child.

(46) “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.

(47) “School administrator” means the principal, vice principal, assistant principal, or any other person performing the duties of a principal, vice principal, or assistant principal at a school, as defined in the Teacher Standards and Practices Commission (TSPC) OAR 584-005-0005.

(48) “Screener” means a Department employee with training required to provide screening services.

(49) “Screening” means the process used by a screener to determine the Department response when information alleging abuse or neglect is received.

(50) “Severe harm” means:

(a) Significant or acute injury to a child’s physical, sexual, psychological, cognitive, or behavioral development or functioning;

(b) Immobilizing impairment; or

(c) Life threatening damage.

(51) “Sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person under the age of 18 for the purpose of a commercial sex act or the recruitment, harboring, transportation, provision, or obtaining of a person over the age of 18 using force, fraud, or coercion for the purpose of a commercial sex act.

(52) “Substance” means any controlled substance as defined by ORS 475.005, prescription medications, over-the-counter medications, or alcoholic beverages.

(53) “Substantiated” means there is reasonable cause to believe that child abuse, as defined in ORS 419B.005 or Oregon Laws 2016, chapter 106, section 36, occurred.

(54) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(55) “Suspicious physical injury” (as defined in ORS 419B.023) includes, but is not limited to:

(a) Burns or scalds;

(b) Extensive bruising or abrasions on any part of the body;

(c) Bruising, swelling, or abrasions on the head, neck, or face;

(d) Fractures of any bone in a child under the age of three;

(e) Multiple fractures in a child of any age;

(f) Dislocations, soft tissue swelling, or moderate to severe cuts;

(g) Loss of the ability to walk or move normally according to the child’s developmental ability;

(h) Unconsciousness or difficulty maintaining consciousness;

(i) Multiple injuries of different types;

(j) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or

(k) Any other injury that threatens the physical well-being of the child.

(56) “Teacher” means (as defined in TSPC OAR 584-005-0005) a licensed or registered employee in a public school or charter school, or employed by an education service district, who has direct responsibility for instruction, coordination of educational programs, or supervision or evaluation of teachers; and who is compensated for services from public funds.

(57) “Third-party abuse” means abuse by a person who is not the child’s parent, not the child’s caregiver or other member of the child’s household, and not a person responsible for the child’s care, custody, and control. Examples of persons who could be considered as a third-party under this definition include school personnel, day-care providers, coaches, and church personnel.

(58) “Unsafe” means the presence of a present danger safety threat or an impending danger safety threat.

(59) “Vulnerable child” means a child who is unable to protect him or herself. This includes a child who is dependent on others for sustenance and protection. A “vulnerable child” is defenseless, exposed to behaviors, conditions, or circumstances that he or she is powerless to manage, and is susceptible and accessible to a threatening parent or caregiver. Vulnerability is judged according to physical and emotional development, ability to communicate needs, mobility, size, and dependence.

(60) “Young adult” means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.185, 418.005, 418.747, 419B.017, 419B.024, 419B.035, OL 2016, ch 106

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050, OL 2016, ch 106

ADMINISTRATIVE RULES

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 22-2007(Temp), f. & cert. ef. 12-3-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10; CWP 21-2010, f. & cert. ef. 11-15-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 17-2016, f. & cert. ef. 9-29-16; CWP 23-2016, f. & cert. ef. 12-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-015-0205

Screening Activities

The screener must complete the following activities:

(1) Gather information. When gathering information, the screener must do both of the following:

(a) Accept reports of child abuse or neglect regardless of where the child resides or where the alleged child abuse or neglect may have occurred. If the report is about a child that does not reside in the county where the report is received, the screener must forward the completed screening report form to the local child welfare office in the county or state where the child resides. The screener must forward the screening report form on the same day the report is received and confirm that it has been successfully forwarded.

(b) Accept and handle anonymous reports of child abuse or neglect in the same manner as other reports, gather the same information from the anonymous reporter as the screener would from any other reporter, and encourage the reporter to provide identifying information.

(2) If appropriate, refer the person to community services and resources.

(3) Determine the type of information received, Child Protective Services or Family Support Services, and where and when to document the information received.

(a) Child Protective Services. This type of information is related to reports of alleged child abuse or neglect.

(A) Child Protective Services information is documented in the Department's electronic information system.

(B) The time line for screeners to complete and document their actions, and document information gathered, unless a CPS supervisor grants the screener an extension as provided in OAR 413-015-0220, is:

(i) Immediately when a "within 24 hours" response time line is assigned;

(ii) Within the same day when a "within five days" response time line is assigned; or

(iii) No later than the next working day after the screening determination is made when the report is closed at screening.

(b) Family Support Services. This type of information is not a report of alleged child abuse or neglect, and it does not include information that indicates a child is unsafe.

(A) This information is documented in the Department's electronic information system using a screening report form.

(B) The time line for screeners to complete and document their actions, and document information gathered is within two days of receiving the request for services.

(C) Family Support Services information falls within one of the categories described below:

(i) Request for Placement — Information falls within this category when:

(I) A parent or guardian requests out-of-home placement of their child due solely to obtain services for the emotional, behavioral, or mental disorder or developmental or physical disability of the child;

(II) The parent or guardian requests the Department take legal custody of their child; or

(III) The court has ordered a pre-adjudicated delinquent into the care of the Department.

(ii) Request for Independent Living Program Services — Information falls within this category when a former foster child qualifies for Independent Living Program (ILP) services, is not a participant on an open case, and requests to enroll in the Department's ILP.

(iii) Request for Post Legal Adoption and Post Guardianship Services — Information falls within this category when a family requests post legal adoption or post guardianship services, if the adoption or guardianship occurred through the Department.

(iv) Request for Voluntary Services — Information falls within this category when it does not meet the criteria in subparagraphs (i), (ii), or (iii)

of this paragraph, a parent or caregiver requests assistance with a child in the home, and all of the following apply:

(I) Other community resources have been utilized and determined to be ineffective.

(II) Members of the extended family and other responsible adults who are well known to the child have been explored or utilized and determined to be unsafe, unavailable, unwilling, or ineffective as support for the family.

(III) The parent or caregiver is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical condition or a mental health diagnosis.

(IV) The parent's or caregiver's inability to fulfill parental responsibilities is temporary and immediate, and will be alleviated with short term services or short term services will transition the family to community services.

(V) A Child Welfare program manager approves the request for voluntary services.

(4) When the screener receives Child Protective Services information, the screener must complete the screening activities described below.

(a) The screener must gather the following information, which is critical to effectively identify if there is a report of child abuse or neglect as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36 and if the information alleges that behaviors, conditions, or circumstances could result in harm to the child:

(A) The type of alleged child abuse or neglect and the circumstances surrounding the report;

(B) How the alleged child abuse or neglect or the surrounding circumstances are reported to affect the safety of the child;

(C) Information that identifies how the child is vulnerable; and

(D) Reported parent or caregiver functioning and behavior.

(b) After gathering and documenting the information required in subsection (a) of this section, if the report involves a child-caring agency or proctor foster home, the screener must immediately comply with "Department Responsibilities When a Report Involves a Child-Caring Agency or Proctor Foster Home" in OAR 413-015-0620 to 413-015-0640.

(c) Gather information from individuals who can provide firsthand information necessary to determine the appropriate Department response. This may include individuals who have regular contact with the child, doctors, teachers, or others who have evaluated or maintain records on the child, people who are in an established personal or professional relationship with the parent or caregiver and who can judge the quality and nature of the parent or caregiver behavior, and those who have records or reason to know things about the parent or caregiver as a result of their involvement with or exposure to the parent or caregiver.

(d) Research Department history of every identified child, parent, caregiver, and household member for information about current or previous Department involvement relevant to the current child abuse or neglect report. If the research reveals an "unable to locate" disposition that has not been assessed, the screener must reference that assessment, the date the assessment was completed, and those allegations not able to be assessed in the current report summary.

(e) Inquire regarding possible Indian or Alaskan Native heritage (for further direction see OAR 413-115-0040(1)).

(f) Request relevant information when available and appropriate from law enforcement agencies (LEA), including domestic disturbance calls, arrests, warrants, convictions, restraining orders, probation status, and parole status.

(g) Determine the location and corresponding law enforcement jurisdiction of the family's residence and the site where the alleged child abuse or neglect may have occurred.

(h) Immediately comply with "Department Responsibilities During Screening and Assessment of a Child Abuse or Neglect Report Involving the Home of a Department Certified Foster Parent or Relative Caregiver", OAR 413-200-0404 to 413-200-0424, when information is related to a Department approved and certified home that is a foster home, relative caregiver home, or home of a pre-adoptive family.

(i) Immediately comply with the Child Welfare "Fatality Protocol" when information is related to the death of a child.

(5) Explain to reporters the information in all of the following subsections:

(a) That the Department will not disclose the identity of the reporter unless disclosure is to an LEA for purposes of investigating the report, disclosure is required because the reporter may need to testify as a witness in court, or the court orders the Department to disclose the identity of the reporter.

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(b) That anyone making a report of child abuse or neglect in good faith, who has reasonable grounds to make the report, is immune from liability in respect to making the report and the contents of the report.

(c) The Department's decisions about paragraphs (A) through (C) of this subsection. If the decisions have not been made when the report is completed, the screener must notify the reporter that, if contact information is provided, diligent efforts will be made to contact him or her at a later date and inform him or her of the decisions:

- (A) Whether contact with the child was made;
- (B) Whether the Department determined child abuse occurred; and
- (C) Whether services will be provided.

(d) If applicable, that the information reported does not meet the screening criteria to be documented and retained in the Department's electronic information system.

(e) That mandatory reporters should consider maintaining a record of their report to document compliance with mandatory reporting laws.

Stat. Auth.: ORS 418.005, OL 2016, ch 106

Stats. Implemented: ORS 418.005 & 419B.020, OL 2016, ch 106

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 22-2007(Temp), f. & cert. ef. 12-3-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 5-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 20-2008, f. & cert. ef. 9-2-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 23-2016, f. & cert. ef. 12-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-015-0215

Notifications and Reports to Specific Agencies or Entities

(1) Law Enforcement Agency (LEA). The screener must

(a) Cross report to LEA as required by OAR 413-015-0305(1); and

(b) Notify law enforcement when information is received from a Department caseworker that a child or young adult on an open CPS assessment or a child or young adult on an open Department case is identified as a sex trafficking victim by a Department caseworker.

(2) Office of Child Care, Department of Education, Early Learning Division. The screener must notify the Office of Child Care when a report involves a day care facility, as required by ORS 419B.020(1). If the report is closed at screening, a copy of the completed screening report form must be sent to the Compliance Unit of the Office of Child Care after information related to the reporter's identity and other confidential information is removed.

(3) Office of Adult Abuse Prevention and Investigation (OAAPI). The screener must report to the OAAPI when a report involves a child with intellectual or developmental disabilities in a 24 hour residential setting licensed by the Office of Developmental Disabilities Services.

(4) Office of Developmental Disabilities Services (ODDS). The screener must notify the ODDS when a report involves:

(a) A child with intellectual or developmental disabilities in a home certified by the ODDS or the Department;

(b) A child with intellectual or developmental disabilities in a 24 hour residential setting licensed by the ODDS;

(c) A home certified by the ODDS; or

(d) A 24 hour residential setting licensed by the ODDS.

(5) Indian Tribes. If the screener knows or has reason to know that the child is an Indian child, the screener must comply with OAR 413-115-0040(1).

(6) Teacher Standards and Practices Commission (TSPC). The screener must notify the TSPC when a teacher or school administrator, as defined in OAR 413-015-0115, is identified as an alleged perpetrator in a report. A copy of the report must be sent to the TSPC after information related to the reporter's identity and other confidential information is removed.

(7) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The screener must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the screener has reasonable cause to believe:

(a) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the screener comes into contact while the screener is acting in an official capacity, has suffered abuse; or

(b) That any person with whom the screener comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, developmental disability, or physical disability, or any person 65 years of age or older.

Stat. Auth.: ORS 418.005 & 419B.017

Stats. Implemented: ORS 418.005, 419B.015 & 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 5-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 17-2016, f. & cert. ef. 9-29-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-015-0415

CPS Assessment Activities

The required CPS assessment activities are outlined below. The activities are described in a logical order in these rules, but the order in which they occur is controlled by the specific circumstances in a given case.

(1) Review Records.

(a) The assigned CPS worker must:

(A) Thoroughly review the documentation in the referral;

(B) Thoroughly review the paper and electronic records maintained by the Department for historical information on the family and the child that may be useful in completing the CPS assessment;

(C) Thoroughly review available Self-Sufficiency records; and

(D) Make diligent efforts to contact another state's child welfare agency to obtain records, if any, when the CPS worker has information that the family has lived in another state.

(b) The CPS worker must review the documents to identify information related to:

(A) Present danger safety threats or impending danger safety threats;

(B) History or a pattern of abuse or neglect;

(C) Child and family support systems and protective capacity; and

(D) Worker safety.

(2) Addressing Prior Allegations That Have Not Been Assessed

Because the Department was Unable to Locate the Family. The assigned CPS worker must address in the current assessment any allegations not previously assessed because the Department was unable to locate the family as follows:

(a) Discuss the prior unassessed allegations during interviews;

(b) Consider all information about prior unassessed allegations when determining child safety; and

(c) Document the consideration of prior unassessed allegations in interviews, observations, and dispositional findings.

(3) Contact Collateral Sources.

(a) The CPS worker must contact collateral sources who can clarify or supplement the information in the referral and in records already reviewed.

(A) The CPS worker must contact the assigned Self-Sufficiency worker, if any.

(B) The CPS worker may contact other collateral sources including, but not limited to:

(i) Individuals who have regular contact with the child;

(ii) Doctors or others who have evaluated or maintain records on the child;

(iii) People who are in an established personal or professional relationship with the parent or caregiver and who can judge the quality and nature of the parent or caregiver behavior and functioning; and

(iv) People who have records or information about the parent or caregiver as a result of their involvement with, or exposure to, the parent or caregiver.

(b) The CPS worker must gather information from collateral sources throughout the CPS assessment.

(c) The CPS worker must:

(A) Protect the identity of collateral sources to the extent possible.

(B) Consult with the district attorney or the assistant attorney general to obtain a court order for records from a collateral source, if the source is unable or unwilling to share information with the Department.

(4) Consult with CPS Supervisor.

(a) The CPS worker must consult with a CPS supervisor or designee:

(A) When the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department of Human Services or Oregon Youth Authority (OYA);

(B) When a referral involves the home of a Department certified foster parent or relative caregiver;

(C) When a referral involves allegations that child abuse or neglect occurred in a child-caring agency or proctor foster home;

(D) When a CPS worker receives notification from a screener that a closed at screening or new referral was created on an open CPS assessment;

(E) Prior to a decision to place a child in protective custody, or after placement if consultation before placement will delay the safety intervention;

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(F) Prior to initiating court action, or after initiating court action if consultation before will delay the safety intervention;

(G) Prior to developing an initial safety plan with a Department certified foster parent or relative caregiver;

(H) When the referral involves a child fatality;

(I) When making a disposition in a complicated or sensitive situation or case; or

(J) When closing an assessment with the disposition of “unable to locate”.

(b) Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at additional key points during the assessment, such as:

(A) Before making initial contact with the family; or

(B) When a referral indicates potential danger to the worker.

(5) Contact and Work with Other Entities.

The CPS worker may need to work with representatives of other entities to gather and analyze safety-related information, develop a sufficient protective action plan, initial safety plan, or ongoing safety plan, and to complete the CPS assessment.

(a) The CPS worker may, as appropriate, notify or consult with other Department of Human Services programs or other agencies, including but not limited to the Office of Vocational Rehabilitation Services and Animal Control.

(b) The CPS worker must report to or contact and work with other entities as follows:

(A) Office of Child Care. The CPS worker must notify and coordinate with the Compliance Unit of the Office of Child Care when a report involves a registered day-care home or a licensed day-care center, as required by ORS 419B.020(1).

(B) Oregon Youth Authority (OYA). The CPS worker must notify OYA when the allegation involves an OYA certified foster home.

(C) Office of Adult Abuse Prevention and Investigation (OAAPI). The CPS worker must notify the OAAPI when an allegation involves a child with intellectual or developmental disabilities in a 24 hour residential setting licensed by the Office of Developmental Disabilities Services.

(D) Office of Developmental Disabilities Services (ODDS). The CPS worker must notify and coordinate with an ODDS Community Developmental Disabilities Program service coordinator when a report involves:

(i) A child with intellectual or developmental disabilities in home certified by the ODDS or the Department;

(ii) A child with intellectual or developmental disabilities in a 24 hour residential setting licensed by the ODDS;

(iii) A home certified by the ODDS; or

(iv) A 24 hour residential setting licensed by the ODDS.

(E) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The CPS worker must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the CPS worker has reasonable cause to believe:

(i) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the CPS worker comes into contact while acting in an official capacity, has suffered abuse.

(ii) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older.

(F) Indian Tribes. If the CPS worker knows or has reason to know that the child is an Indian child, the CPS worker must give notice within 24 hours to the Indian child’s tribe that a CPS assessment is being conducted unless the screener documented completion of this notification in the referral.

(G) Probation and Parole. The CPS worker must contact probation and parole when the allegation involves a parent or caregiver, or alleged perpetrator who is supervised by probation or parole.

(H) Law Enforcement. If the screener did not cross report, the CPS worker must contact one or more law enforcement agencies (LEA) in accordance with the protocols of the local MDT agreement and in accordance with cross reporting rules, OAR 413-015-0300 to OAR 413-015-0310. When there is a joint response involving a CPS worker and LEA staff, the CPS worker is still responsible for all of the activities necessary to complete a CPS assessment which are summarized in OAR 413-015-0400. The CPS worker must, in consultation with a CPS supervisor, deter-

mine whether to coordinate assessment activities with LEA in the following situations:

(i) Presence of danger. When the CPS worker has information that indicates that the child is unsafe right now.

(ii) Family cooperation. When the CPS worker has information that the family may not allow the CPS worker to observe the alleged victim or other children in the home.

(iii) Protective custody. When the CPS worker has information that a child may need to be placed in protective custody for the child’s safety.

(iv) Child interview. When the CPS worker and the LEA officer must each interview a child, it is preferable to coordinate the interviews to reduce the number of interactions with the child.

(v) Worker safety. When the CPS worker has information that indicates the family behaviors, conditions, or circumstances could pose a danger to the CPS worker.

(vi) Crime committed. When the CPS worker suspects or receives a report that a crime may have been committed.

(I) Public or Private Schools. The CPS worker may interview a child at school when the worker believes it will be the best environment in which to assure a child’s safety when making contact with the child. ORS 419B.045 provides requirements for CPS investigations that are conducted on school premises. The CPS worker must do following:

(i) Notify the school administrator that a CPS assessment must be conducted. If the school administrator is a subject of the CPS assessment, then notification is not required.

(ii) Report to the school office, provide identification, inform school personnel of the CPS assessment, and provide the name of the child to be interviewed.

(iii) Request information from school personnel regarding the disabilities of the child, if any, prior to an interview with the affected child.

(iv) Interview the child out of the presence of other persons, unless the CPS worker believes the presence of a school employee or other person would facilitate the interview. If the CPS worker believes that a school employee does not need to be present, but the school employee insists on being present during the interview, the worker may confer with the CPS supervisor for assistance in handling the situation.

(v) Discuss further actions with the child at the conclusion of the interview.

(vi) Inform school personnel when the interview has been completed.

(vii) Inform school personnel if the child is taken into protective custody.

(viii) Inform school personnel that the CPS worker will notify parents of the interview.

(ix) Contact the CPS supervisor if school officials refuse to allow the assessment to take place on school property.

(J) Multi-Disciplinary Teams (MDTs). Department district managers must develop interagency agreements regarding assessment of child abuse and neglect, as necessary, with local MDTs. Requirements for MDT protocols are set out in ORS 418.747.

(6) Obtain Interpreters and Translation.

The CPS worker must obtain the services of a competent interpreter and competent written translation service for families, including hearing-impaired family members, who have limited or no means of communicating in or reading English.

(7) Complete actions required to comply with the ICWA under OAR 413-115-0040 to 413-115-0090.

(8) Determine Refugee Status and Comply with the Refugee Children Act, if applicable.

During a CPS assessment, the CPS worker must consider whether the child is a refugee child. Under ORS 418.925, a “refugee child” is a “person under 18 years of age who has entered the United States and is unwilling or unable to return to the person’s country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion.”

(a) If it appears that a child is a refugee child, the CPS worker must ask about the child or parents’ country of origin, length of time the child or parents have been in the United States, reasons why the child or parents came to the United States, and ethnic and cultural information relevant to the child’s status as a refugee. The CPS worker does not have to make a legal determination that the child and parent are refugees, but if the child or

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the parents indicate they are refugees, then the CPS worker must proceed as if they are, until or unless it is known that they are not refugees.

(b) The CPS worker may not take a refugee child into protective custody unless, in addition to the other requirements for taking a child into custody, the CPS worker determines that:

(A) Removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(B) Reasonable efforts to alleviate the harm through remedial or preventive services do not alleviate the harm, have failed, or are not practical in an emergency situation.

(c) Unless it is a voluntary placement, no refugee child may remain in placement more than five days unless there has been a judicial determination, supported by clear and convincing evidence that:

(A) Preventative or remedial services provided by the Department have failed to alleviate the need for removal; and

(B) Return to the home will likely result in psychological or physical damage to the child.

(d) When a refugee child is placed in care, the juvenile court petition must include, in addition to the information required by ORS 419B.809, the following information:

(A) A specific and detailed account of the circumstances that led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;

(B) Specific actions the Department has taken or is taking to alleviate the need for removal;

(C) Assurance that the Department has complied with placement preferences listed in ORS 418.937 and listed in subsection (e) of this section; and

(D) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected refugee family members and to the Refugee Child Welfare Advisory Committee that the petition has been filed.

(e) The CPS worker must consider the refugee child's culture and tradition when making any placement decision for a refugee child and, unless shown to be inappropriate and inconsistent with the best interests of the child, place the child with the following in order of preference:

(A) Natural parents.

(B) Extended family member.

(C) Members from the same cultural heritage.

(D) Persons with knowledge and appreciation of the child's cultural heritage.

(f) The CPS worker may determine that placement under subsection (e) of this section is inappropriate and inconsistent with the best interests of the child if:

(A) The preferred placement presents a threat to the child's safety;

(B) The extreme medical, physical, or psychological needs of the child cannot be met in the placement; or

(C) There is an informed request from either of the child's biological parents not to use a placement, if the request is consistent with stability, security, and the individual needs of the child.

(g) When a juvenile court petition is filed and a refugee child is placed in care, the CPS worker must staff the case with the Refugee Child Welfare Advisory Committee (RCWAC). The CPS worker must contact the International Case Consultant for the Department to arrange a time for the staffing. In preparation for the staffing, the CPS worker must:

(A) Invite the CPS supervisor to the staffing; and

(B) Be prepared to discuss the reasons for the CPS referral, the information indicating that family members are refugees, and their country of origin.

(9) Take Photographs.

The CPS worker must, during the CPS assessment, take photographs and document, as necessary, child abuse or neglect and the observable nature of any present danger safety threat or impending danger safety threat.

(a) As provided in ORS 419B.028, a law enforcement officer or the CPS worker may take photographs for the purpose of documenting the child's condition at the time of the CPS assessment.

(b) As provided in ORS 419B.028, if the CPS worker conducting a CPS assessment observes a child who has suffered suspicious physical injury and the CPS worker is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the CPS worker, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, will immediately photograph or cause to have photographed the suspicious physical injuries. Regardless of whether the child has previously been photographed or assessed during a CPS assess-

ment, the CPS worker will photograph or cause to be photographed any suspicious injuries if the CPS worker is certain or has a reasonable suspicion the suspicious injuries are the result of abuse:

(A) During the assessment of a new allegation of abuse; and

(B) Each time, during the assessment, an injury is observed that was not previously observed by the assigned CPS worker.

(c) When a child is photographed pursuant to subsection (b) of this section:

(A) The person taking the photographs or causing to have the photographs taken must, within 48 hours or by the end of the next regular business day, whichever occurs later:

(i) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional; and

(ii) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in the Department record labeled with the case name, case number, child's name, and date taken.

(B) If a county multidisciplinary team staffing of the case is held, photographs of the injury will be made available to each team member involved in the case staffing at the first meeting regarding the child's case.

(d) The CPS worker must document injuries, hazardous environments, and the observable nature of any present danger safety threat or impending danger safety threat in the assessment narrative by use of photographs, written description, or illustrations.

(e) Photographs of the anal or genital region may be taken only by medical personnel.

(10) Obtain Medical Assessment.

The CPS worker must, during the CPS assessment as required in this section, facilitate a medical assessment of the child and obtain the child's medical history when necessary to assure child safety, determine treatment needs, reassure the child and family, or assist in analyzing safety-related information.

(a) When the CPS worker determines that the child is in need of a medical assessment as part of a CPS assessment, the CPS worker must consult with a CPS supervisor as soon as possible, but not at the expense of delaying medical treatment.

(b) If a person conducting an assessment under ORS 419B.020 observes a child who has suffered suspicious physical injury as defined in ORS 419B.023 and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person must, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, ensure that:

(A) A designated medical professional conducts a medical assessment within 48 hours of the observation of the suspicious physical injury, or sooner if dictated by the child's medical needs; or

(B) An available physician, physician assistant, or nurse practitioner conducts a medical assessment if, after reasonable efforts to locate a designated medical professional, a designated medical professional is not available to conduct a medical assessment within 48 hours. The CPS worker is required to document in the Department's electronic information system efforts to locate the designated medical professional when an available physician, physician assistant, or nurse practitioner is used.

(c) The CPS worker must facilitate an assessment by a medical professional if the alleged child abuse or neglect involves injury to the anal or genital region.

(d) When there are indications of severe physical trauma to the child, the CPS worker must make arrangements to immediately transport the child to a medical facility, which may include calling 911. The CPS worker must also make arrangements for medical examination of a child for mild or moderate physical trauma.

(e) To make arrangements for the medical examination of a child, the CPS worker must do the following, unless completing the action would delay medical treatment for the child:

(A) Discuss with the parent or caregiver the need for medical examination or treatment.

(B) Ask the parent or caregiver to take the child to a medical facility for a medical examination or treatment.

(C) Request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Information".

(D) Contact an LEA immediately and seek a juvenile court order to obtain protective custody of the child for the purpose of obtaining a medical examination or treatment when:

(i) The parent or caregiver refuses to obtain needed medical examination or treatment;

(ii) The parent or caregiver may flee with the child; or

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(iii) Delaying medical examination or treatment could result in severe harm to the child.

(E) Immediately seek medical care and consultation when the child may have a life-threatening condition, or a deteriorating condition that may become life-threatening.

(F) As soon as possible and not later than 24 hours after learning of the exposure, make arrangements to have the child tested for chemical exposure to harmful substances when there is reason to believe a child has been exposed to dangerous chemicals such as those found in a chemical drug lab.

(f) When a report of suspected medical neglect of an infant with a disability and with life-threatening conditions is referred for CPS assessment, the assigned CPS worker must comply with "Investigation of Suspected Medical Neglect-Infants", OAR 413-030-0600 to 413-030-0650.

(g) When it is medically indicated to subject a child in the custody of the Department to HIV testing, the CPS worker must comply with "HIV Testing of Children in Custody and HIV Confidentiality", OAR 413-040-0400 to 413-040-0450.

(h) As provided in ORS 147.425, a child who is the victim of a person crime and is at least 15 years of age at the time of the abuse may have a personal representative present during a medical examination. If a CPS worker believes that a personal representative would compromise the CPS assessment, a CPS worker may prohibit a personal representative from being present during the medical examination.

(i) When the CPS worker is assessing a CPS allegation of medical neglect, the CPS worker must consult with a health care professional as part of the assessment.

(11) Obtain Psychological and Psychiatric Evaluations.

(a) The CPS worker must make a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child by a mental health professional to assure child safety, determine treatment needs, or assist in analyzing safety-related information when during the CPS assessment the CPS worker identifies a specific condition or behavior that requires additional professional evaluation. This includes but is not limited to:

- (A) Unusual or bizarre forms of punishment;
- (B) Mental illness;
- (C) Suicidal ideation;
- (D) Homicidal ideation; or
- (E) Unusual or bizarre child or parental behavior that is indicative of emotional problems.

(b) The CPS worker must obtain consent of the parent or caregiver prior to making a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child, unless the evaluation is court ordered.

(12) Make Efforts to Locate. When a child or young adult in substitute care is missing, the CPS worker must complete required actions as described in OAR 413-080-0053.

(13) Make Monthly Face-to-Face Contact. The CPS worker must make a minimum of monthly face-to-face contact as described in OAR 413-080-0054.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 418.747, 418.785, 419B.005 to 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 6-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 20-2008, f. & cert. ef. 9-2-08; CWP 23-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; CWP 4-2010, f. & cert. ef. 4-2-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 17-2016, f. & cert. ef. 9-29-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-015-0432

Develop Safety Plans

(1) When a present danger safety threat or impending danger safety threat is identified, a CPS worker must put a safety plan in place to manage the threat. There are three types of safety plans: the protective action plan which manages present danger safety threats, and the initial safety plan and the ongoing safety plan, which manage impending danger safety threats.

(2) Shared requirements for a protective action plan, initial safety plan, or ongoing safety plan:

(a) When developing a protective action plan, initial safety plan, or ongoing safety plan, the CPS worker must:

(A) Assure the plan focuses on and controls the identified present danger safety threat or impending danger safety threat;

(B) Not use a parent or caregiver who is the alleged perpetrator of physical abuse, sexual abuse, or domestic violence to provide protection or

any other adult who was aware of the threats to child safety and did not protect;

(C) Include safety service providers that have been confirmed to be suitable to provide safety for the child (refer to OAR 413-015-1200 through 413-015-1230, "Assessment of an Individual as a Safety Service Provider");

(D) Involve the child's parent or caregiver;

(E) Involve the child's tribe as a resource and comply with OAR chapter 413, division 115 when the CPS worker knows or has reason to know that the child is an Indian child; and

(F) Assure it has been approved by a Department supervisor.

(b) The protective action plan, initial safety plan, or ongoing safety plan, whether in-home or out-of-home, must:

(A) Have a written document between the parent or caregiver and the Department;

(B) Provide a detailed description of the present danger safety threat or impending danger safety threat;

(C) Describe how identified present danger safety threats or impending danger safety threats will be managed, including:

(i) If impending danger safety threats will be managed in-home, an explanation of how the in-home criteria outlined in (2)(c)(B) of this rule were met;

(ii) If impending danger safety threats will be managed out-of-home, an explanation of how the in-home criteria outlined in (2)(c)(B) of this rule were not met; and

(iii) How the plan will be monitored.

(D) Identify the safety service providers and the safety services necessary to implement the plan; and

(E) Establish the time commitments and availability of those involved in the plan.

(c) The CPS worker must determine whether the impending danger safety threat will be managed with an in-home or out-of-home initial safety plan or ongoing safety plan by determining how the impending danger safety threat is occurring and applying the in-home safety plan criteria.

(A) The CPS worker must understand how the impending danger safety threat is occurring as required in OAR 413-015-0428, "Identify How the Impending Danger Safety Threat is Occurring", and use the information about how the impending danger safety threat is occurring to develop the least intrusive plan that can manage the identified impending danger safety threat occurring within the particular family;

(B) An in-home initial safety plan or in-home ongoing safety plan is required when all of the following in-home safety plan criteria are met:

(i) There is a home-like setting where the parent and child live.

(ii) The home is calm enough to allow safety service providers access and activities to occur.

(iii) At least one parent is willing to cooperate with the plan.

(iv) The necessary safety activities and resources are available to implement the plan.

(C) An out-of-home initial safety plan or out-of-home ongoing safety plan is required when any of the in-home safety plan criteria outlined in (B)(i) through (iv) above are not met.

(d) A protective action plan, initial safety plan, or ongoing safety plan may be a combination of in-home and out-of-home in order to assure the least intrusive intervention.

(e) The CPS worker must make modifications to the protective action plan, initial safety plan, or ongoing safety plan, as necessary, to continue to control the identified present danger safety threats or impending danger safety threats.

(f) When assessing an allegation of sexual abuse, if a plan includes a parent or caregiver, who is the alleged perpetrator, consenting to leave the family home, the CPS worker must notify the local district attorney responsible for the MDT in the county where the child resides that a plan of this type has been developed, pursuant to ORS 418.800. The notice must:

(A) Be in writing; and

(B) Be provided within three business days of the date the parent or caregiver leaves the family home.

(g) When a plan includes a parent or caregiver, who is the alleged perpetrator, consenting to leave the family home without their children or have their children leave the family home without them, the CPS worker must, in consultation with a supervisor, file a petition alleging the child is within the jurisdiction of the juvenile court pursuant to ORS 419B.100 within 10 calendar days of the date the parent or caregiver or their children leave the home if the plan is still necessary to assure child safety and will continue to be necessary for the immediate future.

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(3) Additional Requirements for a Protective Action Plan. Refer to OAR 413-015-0435, "Develop a Protective Action Plan", for additional requirements when developing a protective action plan.

(4) Additional Requirements for an Initial Safety Plan. Refer to OAR 413-015-0437, "Develop an Initial Safety Plan", for additional requirements when developing an initial safety plan.

(5) Additional Requirements for an Ongoing Safety Plan. Refer to OAR 413-015-0450, "Develop an Ongoing Safety Plan", for additional requirements when developing an ongoing safety plan.

(6) Documentation. The CPS worker must provide a detailed description of the protective action plan, initial safety plan, or ongoing safety plan developed to manage the present danger safety threat or impending danger safety threat. Documentation must be completed in the Department's electronic information system within five business days following the identification of the threat and must include:

(a) All requirements outlined in paragraphs (2)(b)(B) through (E) of this rule;

(b) A summary of the parents' and caregivers' agreement to and acceptance of the plan; and

(c) The date the plan was reviewed by a supervisor and the name of the supervisor who reviewed it.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015 & 419B.005 - 419B.050

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-015-0455

Protective Custody and Juvenile Court Action

(1) Protective Custody

(a) The CPS worker may take a child into emergency protective custody when there is severe harm or threat of severe harm to a child in the present and law enforcement assistance is not available. If there is any resistance or threatened resistance to taking the child into protective custody, which creates a substantial risk of physical injury to any person, the CPS worker may not take the child into custody, but must wait for law enforcement assistance or obtain an order of protective custody from the juvenile court.

(b) As provided in ORS 419B.171, when a child is taken into protective custody without a court order, the person taking the child into custody must promptly file a brief written report with the court. A written report is required even if the child is released to a parent or other responsible person prior to a shelter care hearing. The written report must be completed and sent to the court the day the child is taken into custody or no later than the morning of the next working day.

(c) If the child is not released to a parent or other responsible person, but is retained in protective custody, a shelter hearing must be scheduled as required by ORS 419B.183.

(d) If a child is placed in protective custody, the CPS worker must notify, in writing, the child's parents, including a non-custodial parent; the child's caregivers; and if the CPS worker knows or has reason to know the child is an Indian child, the child's tribe. If the CPS worker knows or has reason to know the child is an Indian child, the worker must also comply with OAR chapter 413, division 115.

(e) The CPS worker or designee must immediately make diligent efforts to identify the child's legal parents and any putative fathers after a child is taken into protective custody. Information about putative fathers must be recorded on form CF 418, "Father(s) Questionnaire" and filed in the case record.

(2) Juvenile Court Petition. When a child is taken into protective custody or juvenile court intervention is necessary to assure the child and family receive appropriate services, the CPS worker must make arrangements for a juvenile court petition to be filed, as provided in ORS 419B.809.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050, 419B.171, 419B.183, 419B.809

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; Renumbered from 413-015-0410, CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-020-0000

Definitions

The following definitions apply to OAR chapter 413, division 20.

(1) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the pre-adoptive family or adop-

tive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(2) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child through a judgment of the court.

(3) "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 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.

(4) "BRS" means Behavior Rehabilitation Services, a Medicaid-funded program that provides behavioral intervention, counseling, or skill building services in a professional, shelter, or residential (including therapeutic foster care formerly referred to as proctor care) placement setting.

(5) "CANS screener" means an individual, who performs CANS screenings under the supervision of the Level of Care Manager, under a contract with the Department, and who annually completes the training in the use of the Oregon CANS Comprehensive Screening Tool with a documented reliability score of 0.70 or greater.

(6) "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 used 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

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(7) "Caseworker" means the agency staff person assigned primary responsibility for a child or young adult served by the Department.

(8) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which he or she resides, to a child or young adult in the care or custody of the Department.

(9) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster care home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(10) "Child" means a person under 18 years of age.

(11) "Department" means the Department of Human Services, Child Welfare.

(12) "Designated Consultant Neonatologist" means a neonatologist whose services are available to Child Welfare to review medical information and consult with Child Welfare and other experts deemed necessary in cases of suspected medical neglect.

(13) "Designated hospital liaison" means an individual, usually the hospital administrator, designated by each respective hospital to assist Child Welfare with coordination, consultation, and prompt notification of suspected cases of medical neglect.

(14) "Disabled infant" means a child of less than one year of age having a physical or mental impairment which may substantially limit one or more major life functions such as breathing, seeing, hearing, walking, caring for one's self, performing manual tasks, learning, and working.

(15) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(16) "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.

(17) "Guardian" means an individual who has been granted guardianship of the child through a judgment of the court.

(18) "Guardianship assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of payments,

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medical coverage, or reimbursement of nonrecurring guardianship expenses.

(19) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the guardian of an eligible child or young adult setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(20) "Hospital Review Committee (HRC)" is a committee established by a medical facility or hospital to offer counsel and review in cases involving a disabled infant with life-threatening conditions.

(21) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(22) "Legal custodian" means a person, agency, or institution with legal custody of a child and all of the following duties and authority:

(a) To have physical custody and control of a child.

(b) To supply the child with food, clothing, shelter, and incidental necessities.

(c) To provide the child with care, education, and discipline.

(d) To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the child and, in an emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care.

(e) To make such reports and to supply such information as the court may require.

(f) To apply for any benefits to which the child is entitled and to use them to pay for the child's care.

(23) "Legal custody" means that a person or agency has legal authority:

(a) To have physical custody and control of a child;

(b) To supply the child with food, clothing, shelter and other necessities;

(c) To provide the child with care, education and discipline;

(d) To authorize medical, dental, psychiatric, psychological, hygienic or other remedial care or treatment for the child, and in any emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care; and

(e) "Legal custody" includes temporary custody of a child under an order of a court.

(24) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family or an adoptive family based on the child or young adult's need for enhanced supervision as determined by applying the CANS algorithm to the results of the CANS screening.

(25) "Mechanical restraint" means the use of any physical device to involuntarily restrain the movement of all or a portion of a child's body as a means of controlling his or her physical activities in order to protect the child or other persons from injury. "Mechanical restraint" does not apply to movement restrictions stemming from medicinal, dental, diagnostic, or surgical procedures which are based on widely accepted, clinically appropriate methods of treatment by qualified professionals operating within the scope of their licensure.

(26) "Medical neglect" means the failure to provide adequate medical care, including the withholding of medically indicated treatment, from a disabled infant with life-threatening conditions.

(27) "Medical Neglect Investigator" means Child Welfare staff designated and trained to provide consultation and complete investigations of alleged medical neglect reports.

(28) "Medically indicated treatment" means treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's reasonable medical judgment, is most likely to be effective in amelioration or correcting a life-threatening condition. It does not include the failure to provide treatment other than nutrition, hydration, or medication to an infant when, in the treating physician's reasonable medical judgment, any of the following circumstances apply:

(a) The infant is chronically irreversibly comatose.

(b) The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of survival of the infant.

(c) The provisions of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(29) "Participating tribe" means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(30) "Permanent custody" means legal custody of a child:

(a) Who has been permanently committed to the Department by the juvenile court after parental rights have been terminated under ORS 419B.527; or

(b) Who has been released and surrendered to the Department by the parents under ORS 418.270.

(31) "Physical custodian" means a person or agency, including a child's legal or biological parent, a relative, foster parent, adoptive parent, or a licensed child-caring agency who is authorized by the Department to provide a residence and day-to-day care for a child who is in the legal custody of the Department.

(32) "Physical restraint" means the act of restricting a child or young adult's voluntary movement as an emergency measure to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult's behavior. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(33) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be a child's guardian; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(34) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be a child's adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(35) "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 to participate in extracurricular, enrichment, cultural, and social activities.

(36) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(37) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(38) "Seclusion" means the involuntary confinement of a child alone in a specifically designed room from which the child is physically prevented from leaving.

(39) "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.

(40) "Supervision plan" means a documented set of strategies that is developed to assist a relative caregiver or foster parent in providing the additional support, observation, direction, and guidance necessary to promote and ensure the safety and well-being of a child or young adult.

(41) "Voluntary custody" means legal custody given to the Department, by written agreement, by a parent or guardian of a child.

(42) "Voluntary Custody Agreement" means a written agreement between the Department and the parent or guardian of a child, which transfers legal custody to the Department; the Department assumes all parental authority and responsibilities that the agreement does not specifically reserve to the parents or guardians, as permitted by state law; and the Department provides the child substitute care or treatment, or both, if the family falls within a circumstance described in OAR 413-020-0010(2)(a)-(c).

(43) "Voluntary Placement Agreement" means a binding, written agreement between the Department and the parent or guardian of a child that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or guardian, the child, and the Department while the child is in placement.

(44) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening condition.

(45) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

ADMINISTRATIVE RULES

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-020-0010

Voluntary Custody Agreement

(1) Under a “Voluntary Custody Agreement”, the parent or legal guardian gives the Department the legal custody of the child. The Department assumes all parental and legal responsibilities that the agreement does not specifically reserve to the parents or legal guardians as permitted under ORS 418.015 and becomes the child’s legal custodian.

(2) It is appropriate for the Department to place a child in substitute care and provide services if all of the following subsections apply:

(a) The parent or legal guardian requests the Department take custody of the child.

(b) The parent or legal guardian is immediately and temporarily unable to fulfill his or her parental responsibilities.

(c) This inability will be alleviated with short-term placement when one of the following conditions exists:

(A) The child cannot remain at home due to a temporary crisis in the family, and cannot safely stay with a member of the extended family or another responsible adult who is well known to the child.

(B) The parent or legal guardian is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical or mental health condition.

(C) The child needs to be placed outside the home due to problems in the family that could compromise the safety of a family member, and a placement of limited duration in conjunction with intensive services is likely to reunite the family and reduce safety concerns.

(3) A Voluntary Custody Agreement is not appropriate when the Department’s Child Protective Services has determined, within the past 12 months, that the parent or legal guardian was the perpetrator of a founded disposition of child abuse or neglect or when the parent or legal guardian is unwilling to be a permanent resource for the child.

(4) If the Department knows or has reason to know that the child is an Indian child, the Department must comply with OAR 413-115-0050 and OAR 413-115-0090.

(5) A Child Welfare Program Manager must approve entering into a Voluntary Custody Agreement.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-020-0020

Legal Consent

(1) Only a parent or guardian who has legal custody of the child may enter into a Voluntary Custody Agreement (CF 1005).

(2) All persons who have legal custody of the child must sign the agreement unless one person with legal custody of the child is missing.

(3) If one person with legal custody of the child is missing, all other persons with legal custody of the child must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person’s whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with legal custody of the child to provide him or her notice of the agreement.

(4) The parent or guardian must provide information to the Department about insurance and other financial resources to meet the medical, dental, and mental health needs of the child by completing a Medical Resource Report Form (DHS 415H).

(5) If the Department knows or has reason to know the child is an Indian child, each parent or Indian custodian who has legal custody must sign the Voluntary Custody Agreement in a hearing before a judge of a court with appropriate jurisdiction. The child must be more than 10 days old.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-020-0050

Termination of Voluntary Agreement

(1) Either the Department or a parent or legal guardian who signed the agreement may terminate the agreement by providing 48 hours written

notice. If an agreement continues after the child reaches 18 years of age, a young adult may terminate the agreement by providing 48 hours written notice.

(2) If a parent or legal guardian requests the termination of the voluntary agreement and there is reason to believe the child will be unsafe if returned to the home of the parent or legal guardian, the caseworker must report the information to a CPS screener.

(3) If the withdrawal of consent is by a parent or Indian custodian concerning a child who is an Indian child under the Indian Child Welfare Act, who is in substitute care and the subject of a “Voluntary Custody Agreement” with the Department, the following applies:

(a) The parent or Indian custodian may withdraw consent orally or in writing at any time;

(b) An Indian child shall immediately be released to the parent or Indian custodian upon withdrawal of a voluntary consent; and

(c) Notification to the court, and other actions are required when return of an Indian child to the parent or Indian custodian would place the child in imminent danger or harm.

Stat. Auth.: ORS 418.005, 418.027
Stats. Implemented: ORS 418.015, 418.027
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-020-0075

Legal Consent

(1) Only a parent or guardian who has legal custody of the child may enter into a Voluntary Placement Agreement.

(2) All persons who have legal custody of the child must sign the agreement unless one person with legal custody of the child is missing.

(3) If one person with legal custody of the child is missing, all other persons with legal custody of the child must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person’s whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with legal custody of the child to provide him or her notice of the agreement.

(4) If the child is an Indian child the Department must comply with OAR 413-115-0100.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-020-0090

Termination of Voluntary Agreement

(1) Either the Department or a parent or legal guardian who signed the Voluntary Placement Agreement may terminate the agreement by providing 48 hours written notice. The child support agreement may be terminated at the same time by sending a copy of the written termination notice to the Children’s Benefits Unit of the Department.

(2) If the parent or legal guardian requests the termination of the Voluntary Placement Agreement and there is reason to believe the child is unsafe, the caseworker must report the information to a CPS screener.

(3) OAR 413-115-0100(6) governs the withdrawal of consent by a parent or Indian custodian concerning an Indian child who is in substitute care and the subject of a Voluntary Placement Agreement with the Department.

(4) A Voluntary Placement Agreement ends when the child reaches 18 years of age.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312, 419C.080
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-030-0000

Definitions

The following definitions apply to OAR chapter 413, division 30:

(1) “APPLA” means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child or young adult’s life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interest of a child or young adult.

(a) “Planned” means the arrangement is intended, designed, and deliberate.

(b) “Permanent” means enduring and stable.

ADMINISTRATIVE RULES

(2) "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.

(3) "Chafee housing" means a payment to assist in covering the costs of room and board made to an eligible individual between 18 and 20 years of age who was discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(4) "Child" means a person under 18 years of age.

(5) "Department" means the Department of Human Services, Child Welfare.

(6) "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.

(7) "Family support services case plan" means a goal-oriented, time-limited, individualized plan for a child and the child's family or a former foster child. The Department and the family or former foster child jointly develop a "family support services case plan" that addresses the service goals and the identified needs of the child and the child's family or the former foster child.

(8) "Former foster child" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.

(9) "GED" means a General Educational Development certificate issued pursuant to ORS 351.768.

(10) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(11) "ILP" means the Independent Living Program services provided by the Department to an eligible foster child or former foster child.

(12) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(13) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(14) "Legal custody" means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.

(15) "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), parent means any biological parent of an Indian child, or any Indian who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed biological father where paternity has not been acknowledged or established. "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.

(16) "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 resources with the parents, relatives, or other people who may assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(17) "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.

(18) "Service Agreement" means a written document between the Department and a parent, guardian, or former foster child that identifies one or more of the service goals in a family support services case plan, and the services and activities that are necessary for the parent, guardian, or former foster child to achieve the goal.

(19) "Service goal" means the observable, sustained change in behavior, condition, or circumstance that, when accomplished, achieves the desired effect.

(20) "Short term services" mean actions or activities that are limited in duration to a maximum of 180 days.

(21) "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.

(22) "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.

(23) "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.

(24) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-030-0009

Determination of the Service Needs

(1) Within 30 days of receiving the family support services screening information, the caseworker must determine the service needs by completing the following actions:

(a) Provide the parent, guardian, or former foster child with a Service Application.

(b) If the caseworker knows or has reason to know the child is an Indian child, the caseworker must comply with OAR chapter 413, division 115.

(c) Within five working days of receipt of the case, confirm there is no current reported safety threat to the child by reviewing the screening information and the child welfare case records for all family members living in the household.

(d) Within ten working days of receipt of the case, make initial face-to-face contact with the parent, guardian, or former foster child to assess current behaviors, conditions, and circumstances in the family and gather specific information on the needs of the parent, guardian, or former foster child.

(e) Within ten working days of receipt of the case, when the child is in the home of the parent or guardian, make initial face-to-face contact with the child to assess the identified needs of the child.

(f) When the child is in substitute care, make monthly face-to-face contact as required under OAR 413-080-0054.

(g) To determine service needs, the caseworker must, at a minimum, observe:

(A) The parent, guardian, or former foster child in the home environment;

(B) The child or former foster child in his or her home or substitute care placement; and

(C) The interactions between family members.

(h) Obtain from the parent, guardian, or former foster child the names of persons who can provide additional information on the needs of the child, former foster child, or the family, when appropriate.

(i) Ask the parent, guardian, or former foster child to sign an authorization to release information to enable the Department to obtain additional information from physicians, mental health providers, school employees, or other service and treatment providers, when appropriate.

(j) After obtaining the authorization to release information, contact service and treatment providers, when appropriate, to understand the past and current services and treatment of the family and the child or former foster child.

(k) Obtain expert evaluations when appropriate to determine specific service or treatment needs when a condition or behavior requires additional professional information regarding a person's functioning.

(l) Analyze the behaviors, conditions, and circumstances of the family to determine service or treatment needs based upon information gathered from the activities in subsections (a) to (k) of this section.

(m) Document the findings of the activities in subsections (a) to (k) of this section in the Department's electronic information system.

ADMINISTRATIVE RULES

(2) The caseworker must use the information and determination of service and treatment needs to develop an individualized family support services case plan that addresses the specific identified needs:

(a) The caseworker must also refer to OAR 413-070-0100 to 413-070-0260 if the child is an Indian child.

(b) When a family is eligible for out-of-home placement due to the child's special needs or placement is ordered through the court, the caseworker must also refer to OAR 413-070-0600 to 413-070-0645, 413-020-0060 to 413-020-0090, 413-070-0100 to 413-070-0260 if the child is an Indian child, and OAR 413-080-0040 to 413-080-0067.

(c) When a former foster child requests ILP services, the caseworker must also refer to OAR 413-030-0400 to 413-030-0460 and OAR 413-070-0100 to 413-070-0260 if the child is an Indian child.

(d) When a family requests that the Department take voluntary custody of the child, the caseworker must also refer to OAR 413-070-0600 to 413-070-0645, 413-020-0005 to 413-020-0050, 413-070-0100 to 413-070-0260 if the child is an Indian child, and 413-080-0040 to 413-080-0067.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-030-0210

Eligibility Criteria for Substitute Care Placement

For a child to be eligible for initial and continuing substitute care, the Department must meet the following criteria:

(1) Legal Basis. The Department must have a current legal basis for placement:

(a) Temporary custody under ORS 419B.165;

(b) Legal custody of the child through a juvenile court order;

(c) A voluntary custody agreement in accordance with OAR 413-020-0005 to 413-020-0005;

(d) A voluntary placement agreement in accordance with OAR 413-020-0060 to 413-020-0090;

(e) Permanent custody based on a permanent commitment or release and surrender agreement of a parent; or

(f) Verification that the child is an unaccompanied refugee minor.

(2) The child must be under 18 years of age at the time the child is placed in the legal custody of the Department and placement services are first initiated.

(3) Reasonable or Active Efforts. Except in those cases with a Voluntary Custody Agreement or Voluntary Placement Agreement, the Department will make reasonable efforts to prevent or eliminate the need for removal of the child and to alleviate the barriers that keep the child from returning home. This includes an assessment of appropriate treatment and supportive services and providing such services when available through the Department or by referral to other community resources. To aid the court or Citizen Review Board (CRB) in making the findings required by this section, the Department shall present documentation to the court or CRB showing its reasonable efforts or, if the Indian Child Welfare Act applies, active efforts, to prevent or eliminate the need for removal of the child and services provided to safely return the child to the home. The department shall seek a reasonable efforts judicial determination within 60 days of a child's removal from the home, or a determination that due to aggravated circumstances reasonable efforts were not required to prevent the child's removal from the home. If the court does not make the reasonable efforts determination within 60 days, the child is not eligible for Title IV-E foster care maintenance payments program throughout the duration of that child's stay in substitute care. Refer to OAR 413-100-0240.

(4) The child requires substitute care placement because there is no parent or guardian available and able to provide safe care for the child even with the assistance of available supportive resources, and no relative is willing and appropriate to assume full responsibility for the child.

(5) Placement is needed for one of the following reasons:

(a) The parent or guardian is not available to care for the child due to death, abandonment, desertion, incarceration, institutionalization, or catastrophic illness;

(b) The child is at significant risk of abuse or neglect;

(c) The child is in the permanent custody of the Department for adoption planning;

(d) The child has a severe disabling condition requiring skilled care that the family cannot provide even with the assistance of community resources but the Department can provide the care the child requires in an available substitute care resource; or

(e) The child's behavior is a serious danger to the child, the child's family, or the community but the child can, without threat to self or others, be managed in an available and appropriate substitute care resource.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.015 – 418.315, 419B.331 – 419B.349

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; SOSCF 17-2000, f. & cert. ef. 7-25-00; SOSCF 10-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 4-2003, f. & cert. ef. 1-7-03; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-030-0445

Development of the Comprehensive Transition Plan

(1) Development of the comprehensive transition plan. The Department must initiate the development of the comprehensive transition plan for a:

(a) Child 14 years of age or older and in substitute care or a young adult; or

(b) Former foster child who requests services as described in OAR 413-030-0003 to 413-030-0030 and would benefit from a comprehensive transition plan.

(2) The Department must ensure the comprehensive transition plan includes:

(a) The completion of a life skills assessment, which includes:

(A) Assessment of the skills and readiness of the child or young adult through interviews with substitute caregiver, parent or guardian, and any other significant adult; and

(B) Completion of a written independent living assessment in the format required by the Department.

(b) The written life skills assessment must include a description of:

(A) The strengths of the child or young adult; and

(B) His or her need for ongoing skill development in the following ability areas:

(i) Interaction with and connection to adults who can assist in the transition to independent living;

(ii) Transition successfully to independent living;

(iii) Engagement in educational and vocational interests;

(iv) Management of his or her physical and mental health; and

(v) Achievement of residential stability.

(3) After completing the activities in section (2) of this rule, the Department must convene a planning meeting to develop the comprehensive transition plan. The Department must:

(a) Ensure the child or young adult plays a central role in planning for and participating in the meeting, when developmentally appropriate;

(b) Involve the child or young adult in determining who may participate in the planning meeting which may include a parent or guardian, substitute caregiver, service providers, a court appointed special advocate, authorized representative of the Indian child's tribe, the attorney for the child or young adult or other adults important to the child or young adult;

(c) At the option of the child or young adult, involve the two additional members of the case planning team chosen by the child or young adult as described in OAR 413-040-0010(3)(c); and

(d) If the child or young adult makes the request, include any additional members the child or young adult would like to add to his or her comprehensive youth transition planning meeting when it is determined to be in the best interest of the child or young adult.

(4) The comprehensive transition plan must identify goals and services in each of the following domains:

(a) Education;

(b) Employment;

(c) Health;

(d) Housing;

(e) Life skills;

(f) Supportive relationships;

(g) Cultural and community connections; and

(h) Transportation.

(5) The child age 14 or older, young adult, or former foster child must agree to the comprehensive transition plan and the plan is signed by each person who participated in the planning meeting.

(6) A Department supervisor must review and acknowledge the completion of the comprehensive transition plan in the Department's information system.

(7) When a child is placed in another state through the Interstate Compact on the Placement of Children (ICPC), and the Department is unable to complete the comprehensive transition planning process as described in this rule, the Department remains responsible for working with the receiving state and with the child in developing a comprehensive transition plan.

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Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476
Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; SOSCF 8-2002, f. & cert. ef. 5-6-02; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-030-0460

Requirements at Independence

(1) At least 60 days prior to the date on which the Department is requesting relief of legal custody of a child or young adult reaching independence, the Department must inform the child or young adult of:

- (a) The date, time, and location of the hearing;
- (b) The right to attend the hearing, and the importance of attending;

and

(c) The right to request assistance with transportation to and from the hearing.

(2) When the court relieves the Department of the custody of the child or young adult reaching independence, the Department must provide the child or young adult with the following written records:

(a) Unless the release is prohibited by law or the law requires the child or young adult to make a specific request for the records under ORS 432.250 and ORS 109.425 to 109.507, information concerning the case of the child or young adult, including family and placement history, location and status of each sibling, and contact information the child or young adult may use to seek additional information about his or her case or family history.

(b) Health and education records, including:

(A) Health and immunization records;

(B) Educational summary and records; and

(C) Information on how to identify a Health Care Representative, complete an Oregon Advance Directive, and complete the Former Foster Care Youth Medical Referral Form.

(c) A copy of each of the following, and documentation that each has been provided to the child or young adult in official form:

(A) The birth certificate of the child or young adult.

(B) Official proof of the citizenship or residence status of the child or young adult in a form acceptable to an employer required to verify immigration status.

(C) The social security card, or a copy of the original, of the child or young adult.

(D) A driver's license or another form of state identification, or a copy of the original, of the child or young adult;

(E) Where applicable, a death certificate of a parent of the child or young adult.

(F) Where applicable, the tribal membership or enrollment information of the child's parents.

(G) Written verification of placement in substitute care through the Department or one of the federally recognized tribes of the child or young adult when 14 years of age or older and 18 years of age and younger.

(H) The child or young adult's credit report.

(3) When the Department is unable to provide the documentation and information described in section (2) of this rule prior to the court order by which the Department is relieved of legal custody of the child or young adult, the Department must prepare the written records and either deliver them to the child or young adult or, when the whereabouts of the child or young adult are unknown, retain the records in the case file of the child or young adult until requested by the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.00

Hist.: CWP 16-2009, f. & cert. ef. 11-3-09; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-040-0000

Definitions

Unless the context indicates otherwise, the following definitions apply to rules in OAR chapter 413, division 040:

(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

(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

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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 419.B876 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. When it is occurring, this type of threat to a child is not immediate, obvious, or occurring at the onset of CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family function.

(28) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(29) "Indian custodian" means any Indian who has legal custody of an Indian child under applicable tribal law or custom or under applicable state law, or to whom temporary physical care, custody, and control has been transferred by the parent of such child.

(30) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. § 1602.

(31) "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).

(32) "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.

(33) "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.

(34) "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 416.610, or by a juvenile court. In cases involving an Indian child under the ICWA, parent means any biological parent of an Indian child, or any Indian who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed biological father where paternity has not been acknowledged or established. "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.

(35) "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.

(36) "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.

(37) "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.

(38) "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.

(39) "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.

(40) "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.

(41) "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.

(42) "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.

(43) "Reunification" means placement with a parent or guardian.

(44) "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,

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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.

(45) “SAIP” means Secure Adolescent Inpatient Program.

(46) “SCIP” means Secure Children’s Inpatient Program.

(47) “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.

(48) “Sending state” means the state from which a proposed placement is made.

(49) “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.

(50) “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.

(51) “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).

(52) “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; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-040-0010

Requirements for the Case Plan

(1) The caseworker must analyze the information gathered during the protective capacity assessment to develop a case plan. The case plan must include all of the following information:

(a) Family composition, which includes the information identifying each child, each young adult, and each parent or guardian.

(b) Original impending danger safety threats identified in the CPS assessment as described in OAR 413-015-0425.

(c) The ongoing safety plan including any additional impending danger safety threats identified since the CPS assessment, as described in OAR 413-015-0450 and recorded in the Department’s information system.

(d) The findings of the protective capacity assessment.

(e) Expected outcomes and actions that each parent or guardian is taking to achieve them.

(f) Services (if applicable) to the child or young adult that include:

(A) The identified needs of and services provided to any child or young adult placed in substitute care, including the results of the CANS screening, the personal care services provided to an eligible child or young adult under OAR 413-090-0100 to 413-090-0210, and other current assessments or evaluations of the child or young adult, and the reasons the substitute care placement is the least restrictive placement to meet the child or young adult’s identified needs;

(B) The health information of the child or young adult, which documents the child’s routine and specialized medical, dental, and mental health services;

(C) The education services of the child or young adult, the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or a young adult, and any special educational needs; and

(D) Services to transition the child or young adult to successful adulthood in all cases when the child is 14 years of age or older.

(g) Services the Department will provide including:

(A) Case oversight and routine contact with the parents or guardians and the child or young adult;

(B) Appropriate and timely referrals to services and service providers suitable to address identified impending danger safety threats or strengthen parental protective capacity;

(C) Appropriate and timely referrals to services and service providers suitable to address the needs of the child or young adult as identified through the CANS screening and other current assessments or evaluations of the child or young adult; and

(D) Timely preparation of reports to the court or other service providers.

(h) The date that the progress of the parents or guardians in achieving expected outcomes will be reviewed. The case plan must be reviewed with the parents or guardians every 90 days; however, the caseworker and parents or guardians may agree on a review date at any time within the 90-day period.

(i) When the child or young adult is in substitute care, the case plan must also include:

(A) Current placement information including:

(i) The location of the child or young adult and the substitute caregiver of the child or young adult, except when doing so would jeopardize the safety of the child, young adult, or the substitute caregiver, or the substitute caregiver will not authorize release of the address; and

(ii) Documentation that shows that the child or young adult is receiving safe and appropriate care in the least restrictive environment able to provide safety and well-being for the child or young adult.

(B) The child or young adult’s record of visits with his or her parents and siblings.

(C) The permanency plan.

(D) The conditions for return.

(E) The concurrent permanent plan and the progress the Department has made in implementing the concurrent permanent plan.

(j) The case plan for any child or young adult in foster care who has attained 14 years of age must include:

(A) A document that describes:

(i) The rights of the child or young adult with respect to education, health, visitation, and court participation;

(ii) The right to be provided with a copy of the young adult’s birth certificate, social security card, health insurance information, medical records, and a driver’s license or equivalent state-issued identification card when the child leaves foster care having attained age 18 or greater; and

(iii) The right to stay safe and avoid exploitation.

(B) A signed acknowledgment by the child or young adult that the child or young adult has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(2) As applicable, the caseworker must also include in the case plan:

(a) The goals and activities required for an Indian child under OAR 413-115-0030 to 413-115-0130 or for a refugee child under OAR 413-070-0300 to 413-070-0380.

(b) Recommendations of expert evaluations requested by the Department whenever the recommendations may impact parental protective capacities or treatment services for the child or young adult. If the recommendations are not included in the case plan, the rationale must be documented in the Department’s information system.

(c) Diligent efforts to place the child or young adult with relatives and with siblings who are also in substitute care, sibling connections, and the Department’s efforts to keep siblings together.

(d) Orders of the court.

(3) The persons involved with the Department in the development of the case plan include:

(a) The parents or guardians, unless their participation threatens or places other participants at risk;

(b) The child who has obtained 14 years of age or the young adult; and

(c) At the option of the child or young adult, up to two members of the case planning team chosen by the child or young adult who are not:

(A) A foster parent;

(B) A caseworker for the child or young adult; or

(C) An individual the Department has good cause to believe would not act in the best interests of the child or young adult.

(d) One of the individuals in subsection (c) of this section may be designated to be the advisor of the child or young adult, and as needed, advocate for the child or young adult with respect to the application of the reasonable and prudent parent standard to the child or young adult.

(4) Additional persons involved with the Department in the development of the case plan may include the child regardless of age or young adult, adoptive parents, an Indian custodian when applicable, other relatives, persons with significant attachments to the child or young adult, the substitute caregiver, and other professionals when appropriate.

(5) The case plan must include the signature of the caseworker and each parent or guardian, unless subsections (7)(a) or (7)(b) of this rule apply.

(6) Approval and distribution of the case plan.

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(a) The Child Welfare supervisor must approve and sign the case plan.
(b) The caseworker must give a copy of the case plan to the parents or guardians of the child or young adult, and the Indian child's tribe when applicable, as soon as possible but no later than seven working days after the case plan is approved by the supervisor, except when doing so would provide information that places another person at risk.

(7) Exceptions and exemptions to the required case plan.

(a) A court may authorize an exception to the involvement of the parents or guardians when it determines that reasonable efforts to return the child home are not required, as described in OAR 413-070-0515.

(b) When the Department has custody of a child or young adult in substitute care and is unable to obtain the signature of a parent or guardian, the caseworker must prepare and send a letter of expectations and a copy of the case plan to the parent or guardian within seven working days after the supervisor has approved and signed the case plan. A letter of expectations means an individualized written statement for the family of the child or young adult that identifies family behaviors, conditions, or circumstances that resulted in an unsafe child; the expected outcomes; and what the Department expects each parent or guardian will do to achieve safety, permanency, and well-being of the child or young adult in the parental home.

(c) A case plan as described in sections (1) to (5) of this rule is not required if a family, child, or young adult is eligible for Family Support Services as described in OAR 413-030-0000 to 413-030-0030.

(8) Timeline for case plan development. The caseworker must develop the case plan within 60 days of a child's removal from home or within 60 days of the completion of the CPS assessment, in cases where the child remains in the home of a parent or guardian.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; SOSCF 4-2000(Temp), f. & cert. ef. 1-31-00 thru 7-28-00; SOSCF 19-2000, f. & cert. ef. 8-8-00; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 25-2015(Temp), f. & cert. ef. 11-24-15 thru 5-21-16; CWP 2-2016, f. & cert. ef. 2-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-040-0155

Participants in Administrative Reviews and Permanency Hearings

(1) All legal custodians and parents must be invited and encouraged to participate in Administrative Reviews and Permanency Hearings.

(2) Other individuals to invite are:

(a) Substitute care providers;

(b) Children, when it is determined that the child's attendance would be appropriate and the child wishes to attend;

(c) Attorneys and Court Appointed Special Advocates (CASA);

(d) Indian tribe (if applicable).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-040-0159

Notification and Distribution Requirements for Administrative Reviews and Permanency Hearings

(1) Case records must contain documentation that written advance notice was provided to the persons cited in OAR 413-040-0150 inviting them to attend the Administrative Review or Permanency Hearing.

(2) The Department will provide copies of the Substitute Care Case Plan narrative (CF 147B) to:

(a) Legal custodial and non-custodial parents;

(b) Parents out-of-state;

(c) Parents who have not had their parental rights terminated or have not signed a release and surrender agreement for adoption;

(d) Indian tribes (if applicable);

(e) Parents' and child's attorneys; and

(f) Court Appointed Special Advocates (CASA).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-040-0310

Independent and Private Agency Adoptions; Documentation Required for Placement in or from Oregon

(1) When a child is placed out of or into Oregon by a sending agency, including a parent or a private licensed agency, for purposes of adoption, the ICPC applies. Independent and private agency adoption referrals are processed as soon as practicable after receipt by the ICPC office of the complete compact placement referral.

(2) Referrals for placement covered by the Compact must be sent to the Oregon ICPC office, after the birth of the child, containing three copies of the following:

(a) Form CF 100A;

(b) Cover letter;

(c) Forms CF 246, 246A, and 246B;

(d) Medical information on the child;

(e) The consents and surrenders required by law. A mother must sign the consent and surrender after the birth of the child;

(f) An affidavit from the child's mother regarding the biological father and, if the legal father is not the biological father, regarding the legal father. The affidavit is not necessary unless the biological or the legal father has not signed a consent and surrender;

(g) A statement regarding the applicability of the Indian Child Welfare Act;

(h) If the child is an Indian child, the parental consents for adoption must comply with the ICWA;

(i) Documentation regarding all known facts about each legal or putative father. If the mother has stated that the identity or whereabouts of the father is unknown, documentation regarding what advice and information the mother was given and the reason why the father's identity or whereabouts are unknown to the mother;

(j) Affidavit regarding counseling;

(k) Affidavit regarding the Voluntary Adoption Registry;

(l) The completed home study;

(m) An update to the current home study if the completed home study is completed more than one year from the date the ICPC referral is made; and

(n) A legal risk statement signed by the adoptive family that acknowledges that the child is not legally free for adoption and that there is a risk of having the child removed from the home. This statement is required when one of the biological or legal parents has not signed a consent and surrender.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-040-0325

Termination of Jurisdiction over Child

(1) The sending agency retains jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child that it would have had if the child had remained in the sending agency's state until the child:

(a) Is adopted;

(b) Reaches the age of majority according to the law of the sending state;

(c) Becomes self supporting;

(d) Is discharged with the concurrence of the appropriate authority in the receiving state; or

(e) Is returned to the sending state.

(2) Interstate services are not terminated until the receiving state's compact office concurs with closure.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 260, Article V

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04, Renumbered from 413-040-0250; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-070-0000

Definitions

The following definitions apply to OAR chapter 413, division 70.

(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) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adop-

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tion 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 has been sustained by that review and the review is complete.

(3) "Affected family members" means biological and legal parents, extended family members, and any person within the fifth degree of consanguinity to the child.

(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) "Antipsychotic medication" means a medication, specified in class 28:16:08 by the American Hospital Formulary Service, used to treat psychosis and other conditions.

(6) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child's life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interests of a child or young adult.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(7) "Assessment" means the determination of a child or young adult's need for mental health services through interviewing the child or young adult and obtaining all pertinent medical and psychosocial history information from the individual, family, and collateral sources. The "assessment":

(a) Addresses the current complaint or condition presented by the child or young adult;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(8) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(9) "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

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(10) "Caregiver relationship" means a relationship between a person and a child or young adult that meets all of the following requirements:

(a) The relationship has existed for the 12 months immediately preceding the initiation of a dependency proceeding, for at least six months during a dependency proceeding, or for half of the child's life if the child is less than six months of age. A "caregiver relationship" does not include a

relationship between a child or young adult and a person who is an unrelated foster parent of the child or young adult unless the relationship continued for a period of at least twelve consecutive months.

(b) The person had physical custody of the child or young adult or resided in the same household as the child or young adult and provided the child or young adult on a daily basis with the love, nurturing, and other necessities required to meet the psychological and physical needs of the child or young adult.

(c) The child or young adult depended on the relationship to meet the needs of the child or young adult.

(11) "CASA" means a court appointed special advocate: a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419B.112.

(12) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(13) "Child" means a person under 18 years of age.

(14) "Child-family contact" means communication between the child or young adult and family and includes, but is not limited to, visitation with the child or young adult, participation in the child or young adult's activities, and appointments, phone calls, e-mail, and written correspondence.

(15) "Child's home" means the home from which the child is removed under the provisions of ORS 419B.150.

(16) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency or adoption committee meeting.

(17) "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.

(18) "Conditions for return" means 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.

(19) "Cultural heritage" means the language, customary beliefs, social norms, and material traits including, but not limited to, the dress, food, music, and dance of a racial, religious, or social group that are transmitted from one generation to another.

(20) "Current caretaker" means a foster parent who:

(a) Is currently caring for a child in the care and custody of the Department and who 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.

(21) "Department" means the Department of Human Services, Child Welfare.

(22) "Designee" means a person who the designator directly and immediately supervises or a person with equal or greater management responsibility than the designator.

(23) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of the child or young adult when the child or young adult qualifies for a level of care payment.

(24) "Entity" means any organization or agency including, but not limited to a private child placing agency, that is separate and independent of the Department, performs functions pursuant to a contract or subcontract with the Department, and receives federal funds.

(25) "Extended family member" means a person ordinarily recognized as the refugee child's parent by the custom of the child's culture, or a person 18 years of age or older who is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(26) "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, and 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. Under the Indian Child Welfare Act (ICWA), "family member" has the meaning given by the law or custom of the child's tribe.

(27) "Fit and willing relative" means an individual who meets the eligibility criteria in OAR 413-070-1010.

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(28) "Foster care agency" means a private child-caring agency that offers to place children by taking physical custody of and then placing the children in a home certified by the agency.

(29) "Foster care placement" means any action removing, or which could result in the removal of, a child from his or her parent or Indian custodian, such as court-ordered supervision in the home, for placement in foster care, with a guardian, or in an institution where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

(30) "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.

(31) "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.

(32) "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's or young adult's legal parent have been terminated under ORS 419B.500 to 419B.524.

(33) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(34) "Guardianship assistance" means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(35) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(36) "Guardianship assistance agreement only" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian of an eligible child or young adult, when the potential guardian or guardian is not receiving a guardianship assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(37) "Guardianship assistance base rate" means the portion of the guardianship assistance payment that is negotiated with the potential guardian or guardian and cannot exceed the amount of the Oregon foster care base rate payment for the child or young adult's age.

(38) "Guardianship assistance payment" means a monthly payment made by the Department to the guardian on behalf of the eligible child or young adult.

(39) "Guardianship Assistance Review Committee" means a committee composed of local and central office Department staff with expertise in the area of guardianship.

(40) "ICWA" means the Indian Child Welfare Act.

(41) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. When it is occurring, this type of threat to a child 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.

(42) "Incapacity" means a physical or mental illness, or impairment that reduces substantially or eliminates the individual's ability to support, care for, or meet the needs of the child and is expected to be permanent.

(43) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(44) "Indian child" means an unmarried person who is under age 18 and either:

- (a) Is a member or citizen of an Indian tribe; or
- (b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(45) "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member or eligible for membership in more than one Indian tribe, it is the Indian tribe with which the Indian child has the most significant contacts.

(46) "Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996" ("IEPA") means section 1808 of the act which is

entitled "Removal of Barriers to Interethnic Adoption", and affirms and strengthens the prohibition against discrimination in adoption or foster care placements, and is codified in 42 USC section 671(a)18.

(47) "Legal assistance specialist" means an Adoption Program staff member who provides consultation on the technical and legal processes to achieve a permanency plan for a child in the legal custody of the Department.

(48) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult determined by applying the CANS algorithm to the results of the CANS screening.

(49) "Licensed medical professional" means an individual who meets the criteria of both of the following subsections:

(a) The individual holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or

(C) Physician assistant licensed to practice in the State of Oregon.

(b) The individual's training, experience, and competence demonstrate expertise in children's mental health, the ability to conduct a mental health assessment, and the ability to provide psychotropic medication management for children and young adults.

(50) "Medically accepted indication," defined in ORS 418.517, means any use for a covered outpatient drug that is approved under the Federal Food, Drug and Cosmetic Act, or recommended by the Pharmacy and Therapeutics Committee, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

(a) American Hospital Formulary Services drug information;

(b) United States Pharmacopoeia drug information or any successor publication;

(c) The DRUGDEX Information System; or

(d) Peer-reviewed medical literature.

(51) "Multiethnic Placement Act of 1994" means federal statutes which prohibit discrimination based on race, color, or national origin as considerations in adoption and foster placements.

(52) "Nonrecurring guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian of an eligible child for a one-time payment to reimburse the guardian for the reasonable and necessary expenses incurred in legally finalizing the guardianship.

(53) "Nonrecurring guardianship expenses" means a one-time payment of up to \$2,000 per child that the Department will make to a guardian to assist with the reasonable and necessary expenses associated with obtaining legal guardianship of an eligible child.

(54) "Office of Developmental Disabilities Services" means the Department of Human Services, Office of Developmental Disabilities Services.

(55) "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), parent means any biological parent of an Indian child, or any Indian who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed biological father where paternity has not been acknowledged or established. "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.

(56) "Participating tribe" means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(57) "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.

(58) "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 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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(59) "Permanent foster care" means the out of home placement of a child or young adult in which there is a long-term foster care agreement between each substitute caregiver and the Department approved by the juvenile court under which the substitute caregiver commits to raise a child in substitute care until the age of majority and be accessible to and supportive of the child into adulthood, until the court determines that APPLA - "permanent foster care" is no longer the appropriate permanency plan for the child or young adult.

(62) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be the guardian of a child; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(60) "Provider" means an individual approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(61) "Psychotropic medication," defined in ORS 418.517, means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(62) "Qualified mental health professional" means an individual who meets the requirements of both of the following subsections:

(a) Holds at least one of the following educational degrees:

(A) Graduate degree in psychology;

(B) Bachelor's degree in nursing and is licensed by the state of Oregon;

(C) Graduate degree in social work;

(D) Graduate degree in a behavioral science field;

(E) Graduate degree in recreational, art, or music therapy; or

(F) Bachelor's degree in occupational therapy and is licensed by the State of Oregon.

(b) Whose education and experience demonstrates the competencies to:

(A) Identify precipitating events;

(B) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;

(C) Assess family, social, and work relationships;

(D) Conduct a mental status examination;

(E) Document a multiaxial DSM diagnosis;

(F) Develop and supervise a treatment plan;

(G) Conduct a mental health assessment; and

(H) Provide individual, family, or group therapy within the scope of his or her practice.

(63) "Race" means American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White.

(64) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(65) "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.

(66) "Refugee child" has the meaning given the term in ORS 418.925.

(67) "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.

(68) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been

filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(69) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(70) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(70) "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;

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(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.

(71) "Special immigrant juvenile status" means a legal process to obtain lawful permanent resident status for a child who does not have lawful permanent resident status because he or she entered the United States without inspection and who meets the other criteria required by federal law.

(72) "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.

(73) "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.

(74) "Successor legal guardian" means an individual who has been named in the guardianship assistance agreement, including any amendments to the agreement, as a replacement legal guardian in the event of the death or incapacity of the guardian.

(75) "Supervised visit" means a child-family contact that includes a designated third party to protect the emotional and physical safety of a child or young adult.

(76) "Title VI of Civil Rights Act of 1964" prohibits discrimination on the basis of race, color or national origin under programs receiving federal assistance through the United States Department of Health and Human Services.

(77) "Tribal court" means the court which holds jurisdiction over Indian child custody proceedings and is either a Court of Indian Offenses, a court established and operated under code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

(78) "Urgent medical need" means the onset of psychiatric symptoms requiring professional attention within 48 hours to prevent a serious deterioration in a child or young adult's mental or physical condition.

(79) "Visit" means planned, in-person contact between the child or young adult and one or more family members.

(80) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-070-0010

Purpose and Applicability

(1) OAR 413-070-0010 to 413-070-0030 implement the Multiethnic Placement Act of 1994, which applies to all activities of the Department and to all private child placement and adoption agencies who directly or indirectly receive federal funds.

(2) The purpose of OAR 413-070-0010 to 413-070-0030 is to:

(a) Decrease the length of time a child waits to be adopted;

(b) Prevent discrimination in foster care and adoption; and

(c) Promote the recruitment of ethnic and minority families that reflect the children in the child welfare system. These rules establish a policy of non-discrimination in the practice of foster and adoptive placement of children, and in the recruitment and selection of family resources.

(3) OAR 413-070-0010 to 413-070-0030 do not apply to the placement of children pursuant to the Indian Child Welfare Act. In the case of an Indian child, the Department and entity follow the Indian Child Welfare Act and OAR chapter 413, division 115.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-070-0072

Contact with Relatives or Persons with a Caregiver Relationship

(1) Unless a child welfare program manager or designee approves no contact, or a court orders no contact, with an identified individual because contact may compromise the safety of a child or young adult or another individual, the Department must make diligent efforts to contact the following individuals as soon as reasonably possible and no later than 30 calendar days after a child's initial removal from the custody of a parent or guardian, or placement in substitute care through a voluntary placement agreement or voluntary custody agreement:

(a) The child or young adult's parents or legal guardians, grandparents, parents of a sibling of a child where the parent has custody of the sibling, adult relatives, and persons with a caregiver relationship;

(b) When the child or young adult is a refugee, other individuals identified in OAR 413-070-0300 to 413-070-0380; and

(c) When there is reason to know the child or young adult is an Indian child, the tribe, pursuant to OAR chapter 413, division 115.

(2) During the contact required under section (1) of this rule, the Department must:

(a) Provide notice in the individual's primary language that specifies:

(A) Whether the child or young adult has been removed from the custody of a parent or guardian to manage child safety or has been placed in substitute care through a voluntary placement agreement or voluntary custody agreement;

(B) Whether the child or young adult is currently residing with a relative;

(C) The opportunities and requirements associated with being assessed as a safety service provider;

(D) The opportunities and requirements associated with being assessed to become a relative caregiver; and

(E) The rights of relatives set forth in OAR 413-010-0300 to 413-010-0340, and the statutes governing intervention, limited participation, and post-adoption communication agreements.

(b) Request the names of other relatives not previously identified.

(3) The Department must document in the Department's information system:

(a) The approval not to contact an individual under section (1) of this rule;

(b) The name of each individual with whom the Department attempted or made contact;

(c) The individual's relationship to the child or young adult;

(d) The type of contact;

(e) Each individual's response to the notice required in subsection (2)(a) of this rule when a response is received; and

(f) The individual's contact information.

(4) The Department must respond to inquiries from a relative in person or by telephone as soon as reasonably possible and no later than within 15 business days. When a telephone number or opportunity to meet in person has not been provided, the Department must contact the individual by other means, including by mail or electronic mail.

(5) The caseworker may utilize any meeting or other contact with the family to identify and communicate with relatives for the purposes set forth in OAR 413-070-0060.

(6) Whenever the Department is provided the name of a relative or person with a caregiver relationship previously unknown to the Department, the Department must:

(a) Document the name and contact information in the Department's information system;

(b) Attempt to contact the individual as soon as reasonably possible and no later than within 15 business days; and

(c) Provide notice as required by sections (1) and (2) of this rule.

(7) When the Department is unable to locate contact information for an identified relative or person with a caregiver relationship, the Department must document the efforts to obtain contact information in the Department's information system.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 5-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-070-0512

Development and Review of the Permanency Plan and Concurrent Permanent Plan

(1) When developing the permanency plan and concurrent permanent plan, the caseworker must complete all of the following actions:

(a) Develop a permanency plan and a concurrent permanent plan for each child or young adult in the Department's custody within 60 days of the placement of the child or young adult into substitute care.

(b) Review the plan every 90 days, pursuant to OAR 413-040-0005 to 413-040-0032.

(c) Involve a team of individuals knowledgeable about the needs of the child or young adult in the development and ongoing assessment of the

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most appropriate permanency plan and concurrent permanent plan for the child or young adult. The team must include all of the following:

(A) The parents, unless a supervisor approves not including a specified parent because the contact may compromise the safety of a child or young adult or another individual; parental rights have been terminated; or the parent has signed a release and surrender agreement.

(B) The attorney of the parents, unless parental rights have been terminated or the parents have signed a release and surrender agreement.

(C) The child who has attained 14 years of age or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c).

(D) The CASA.

(E) The attorney of the child or young adult.

(F) A representative of the child's tribe, if the caseworker knows or there is reason to know the child is an Indian child pursuant to OAR 413-115-0060.

(G) A member of the RCWAC, if the child is a refugee child.

(H) The team may include any of the following:

(i) The child at any age, whenever developmentally appropriate.

(ii) The substitute caregiver of the child or young adult.

(iii) The substitute caregiver's certifier.

(iv) The relatives of the child or young adult.

(v) Persons with a caregiver relationship.

(vi) Other individuals with involvement in the life of the child or young adult.

(vii) Individuals with expertise in permanency.

(d) Use ongoing contacts with the individuals in subsection (c) of this section to:

(A) Monitor the progress toward achieving the permanency plan.

(B) Provide the child or young adult, and the parents of the child or young adult, the opportunity to identify available permanency resources should reunification not be achievable.

(C) Review the efforts to identify and place the child or young adult with a relative and to place siblings together.

(D) Consider the parents' acceptance of a plan other than reunification and their preference for continued contact with the child or young adult.

(E) Identify and consider which concurrent permanent plan best meets the current and lifelong safety, permanency, and well-being needs of the child or young adult in the following preferential order:

(i) Adoption.

(ii) Guardianship, which may be considered only when there are compelling reasons why adoption cannot be achieved.

(iii) Placement with a fit and willing relative, which may be considered only when there are compelling reasons why adoption or guardianship cannot be achieved.

(iv) If the child has reached the age of 16, Another Planned Permanency Living Arrangement, which may be considered only when there are compelling reasons why adoption, guardianship or placement with a fit and willing relative cannot be achieved.

(e) Determine the Department has taken action on the potential permanency resources identified by the child or young adult, the family of child or young adult, a member of the team of the child or young adult, or the Department.

(f) Determine which permanency plan best meets the safety, permanency, and well-being needs of the child or young adult and provides the child or young adult with support and connection in adulthood, and document the basis for the determination.

(g) Submit a recommendation to the permanency committee as required in OAR 413-070-0516.

(h) Obtain the approval of a legal assistance specialist before recommending a change of permanency plan to adoption.

(2) Participants in the development and review process must be informed of all of the following:

(a) The purpose of permanency and concurrent planning.

(b) The timelines under which the Department pursues permanency pursuant to federal and state law.

(c) The resources which may be available to relatives when adoption or guardianship is a permanency plan.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04; Renumbered from 413-070-0515 by CWP 27-2010, f. & cert. ef. 12-29-10; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-070-0516

Composition, Scheduling, Responsibilities, and Recommendations of the Permanency Committee

(1) A permanency committee is composed of the following individuals:

(a) Two individuals who have been appointed by a Child Welfare Program Manager to attend a permanency committee.

(A) A committee facilitator, who must be a Department staff member and who must ensure all of the following:

(i) The meeting is held according to the requirements of OAR chapter 413.

(ii) Individuals are informed of the responsibilities of the committee and the confidentiality of information presented during the meeting.

(iii) Committee recommendations are thoroughly and accurately documented.

(B) A second individual who may be either a community partner or another Department staff member.

(C) The individuals in this subsection must meet the following requirements:

(i) Be knowledgeable about permanency issues.

(ii) Be knowledgeable of the importance of lifelong family attachment and cultural connections.

(iii) Have no current personal or professional relationship to the child or a potential placement resource or potential adoptive resource being considered.

(b) The following members of the child's team:

(A) The caseworker of the child or young adult;

(B) The attorney of the child or young adult;

(C) The CASA of the child or young adult;

(D) A representative of the child's tribe, if the caseworker knows or has reason to know the child is an Indian child pursuant to OAR 413-115-0060; and

(E) A member of the RCWAC, if the child or young adult is a refugee child.

(2) The substitute caregiver of the child or young adult, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to come and present information to the permanency committee, but is excused after presenting information and responding to questions.

(3) The Child Welfare Program Manager or designee responsible for making the decision on behalf of the Department attends the permanency committee and may ask clarifying questions, but does not participate in the deliberation and recommendation.

(4) The Department is responsible for scheduling and notifying the following individuals of the date, time, and location of the permanency committee:

(a) Appointed permanency committee members;

(b) The Child Welfare Program Manager or designee making a recommendation or decision on the issue before the permanency committee;

(c) Each member of the child's or young adult's team identified in subsection (1)(b) of this rule; and

(d) Any other individual invited to present specific information to the permanency committee.

(5) Each individual attending a permanency committee is bound by Oregon statutes regarding confidentiality and OAR 413-010-0010 to 413-010-0075.

(6) Consideration, review, and recommendation.

(a) The permanency committee must consider and review the information presented by any individual invited to the permanency committee, whether the information is presented in person, by phone, through other electronic communication, or in writing.

(b) The permanency committee may seek clarification of information presented, and may request additional information during the presentations.

(c) The permanency committee must consider the safety, permanency, and well-being needs of the child or young adult and, when there are siblings, the safety, permanency, and well-being needs of each sibling and make a recommendation regarding the issue brought before the committee to the Child Welfare Program Manager or designee as follows:

(A) When the caseworker recommends a change in permanency plan to guardianship, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-0660 and OAR 413-070-0665 subject to OAR 413-070-0518.

(B) When the caseworker recommends a change in permanency plan to placement with a fit and willing relative, the permanency committee pro-

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vides a recommendation based upon the considerations in OAR 413-070-1020 subject to OAR 413-070-0518.

(C) When a caseworker recommends a change in permanency plan to APPLA, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-0550(1).

(D) When a caseworker considers the separation of siblings in adoption under OAR 413-110-0132, the permanency committee provides a recommendation based upon the considerations in OAR 413-110-0132(2).

(E) When the caseworker requests that a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption, the permanency committee provides a recommendation based upon the considerations in OAR 413-120-0750(6)(b).

(d) When members of the permanency committee have not come to consensus on a recommendation, the committee facilitator must document all recommendations and the basis provided by the permanency committee member for that recommendation.

(e) The committee facilitator must provide the written documentation of the permanency committee's recommendation or recommendations to the Child Welfare Program Manager or designee within three business days of the date on which the permanency committee was held.

(7) For the purpose of OAR 413-070-0514(4), a current caretaker or relative caregiver request for consideration as an adoptive resource, the following also apply:

(a) The permanency committee is composed of the individuals in sections (1) and (3) of this rule, and:

(A) The assigned certifier for the current caretaker or relative caregiver.

(B) The assigned adoption worker for the current caretaker or relative caregiver.

(b) The current caretaker or relative caregiver of the child or sibling group under consideration for adoption, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to present information to the permanency committee, but is excused after presenting information and responding to questions.

(c) The permanency committee must review the following:

(A) The safety, attachment, and well-being needs of the child or sibling group under consideration for adoption together and how the current caretaker or relative caregiver has met those needs to date;

(B) The current caretaker's or relative caregiver's history of meeting the standards of certification pursuant to OAR 413-200-0301 to 413-200-0396;

(C) Any child abuse and neglect reports made to the Department that were assigned for assessment, closed at screening, or documented in the Department's paper or electronic information system;

(D) Recommendations for continued contact with birth parents, birth family, or other significant persons for the child or sibling group under consideration for adoption; and

(E) Any other information pertinent to the evaluation of the ability of the current caretaker or relative caregiver to meet the lifelong safety, attachment, and well-being needs of the child or sibling group under consideration.

(d) The permanency committee must document and provide to the assigned adoption worker any specific information they determine must be explored in the adoption home study for the current caretaker or relative caregiver.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 24-2016, f. 12-23-16, cert. ef. 1-1-17; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-070-0519

Decision and Notice

(1) Except when a permanency committee is scheduled for the purpose of a current caretaker or relative caregiver request to be considered as a potential adoptive resource, the Child Welfare Program Manager or designee must:

(a) Consider the recommendations of the permanency committee;

(b) Make a decision within one business day following the receipt of the written recommendations of the permanency committee; and

(c) Provide written notification of the decision and the basis of the decision to the caseworker on a form approved by the Department.

(2) The caseworker must notify the following individuals of the decision under section (1) of this rule:

(a) Each child or young adult, when required by law and developmentally appropriate;

(b) The attorney of each child or young adult, if one has been appointed;

(c) The CASA of each child or young adult, if one has been appointed;

(d) An tribal representative from each child's or young adult's tribe when the ICWA applies to the case, pursuant to OAR 413-115-0010 and 413-115-0050;

(e) The member of the RCWAC when a child or young adult is a refugee child; and

(f) The substitute caregiver of each child or young adult.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-070-1050

Placement with a Fit and Willing Relative Permanency Plan Reviews

(1) The caseworker must review the placement with a fit and willing relative case plan at least every six months and the review must occur prior to a review by the court or citizen review board as required by ORS 419B.470 and 419A.106(1) respectively.

(a) The review must take place in a face-to-face meeting with the child or young adult, and may include members of the team of the child or young adult.

(A) When appropriate, the meeting may include a parent or guardian, unless the parent or guardian is not available for the review. When a parent or guardian is unavailable, the caseworker must document the reason the parent or guardian was unavailable and the efforts made to involve the parent or guardian.

(B) During the meeting the caseworker must consider input received from the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), other participants in the meeting, and other information received from the child or young adult's service providers, substitute caregivers, attorney, court appointed special advocate, the Indian child's tribe if the child is an Indian child, persons with significant attachments to the child or young adult, and relatives.

(b) After the meeting described in subsection (a) of this section, the caseworker must document in the case record:

(A) Whether the current placement continues to be the least restrictive setting available to meet the safety and permanency needs of the child or young adult; or

(B) Whether a more permanent permanency plan, such as reunification, adoption, or guardianship is more appropriate for the child or young adult.

(2) When a placement with a fit and willing relative plan has been approved by the court as the permanency plan for a child or young adult in the legal custody of the Department, the Department must notify the court and request a review or permanency hearing:

(a) Not less frequently than once every 12 months while the child or young adult remains in substitute care in accordance with ORS 419B.470(2).

(b) Unless good cause is shown, at any time upon the request of the Department, a relative caregiver directly responsible for the care of the child or young adult, a parent of the child or young adult, an attorney for the child or young adult, a court appointed special advocate, a citizen review board, or a tribal court in accordance with ORS 419B.470(5).

(c) By the citizen review board no less frequently than every six months in accordance with ORS 419A.106(1)(a) unless the court has relieved the citizen review board of its responsibility to review a case in accordance with ORS 419A.106(1)(b).

(d) Within 90 days of a placement change that removes the child or young adult from the placement with the fit and willing relative.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-080-0050

Definitions

Unless the context indicates otherwise, the following definitions apply to OAR chapter 413, division 080:

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(1) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(2) "Child" means a person under 18 years of age.

(3) "Child in care" means a person under 21 years of age who is residing in or receiving care or services from a child-caring agency or proctor foster home subject to ORS 418.205 to 418.328, 418.470, 418.470 or 418.950 to 418.970.

(4) "Child-caring agency" is defined in ORS 418.205 and means a "child-caring agency" that is not owned, operated, or administered by a governmental agency or unit.

(5) "Conditions for return" means 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 initial safety plan or in-home ongoing safety plan.

(6) "Contact" means any communication between Child Welfare staff and a child, parent or guardian, foster parent or relative caregiver, provider, or other individual involved in a Child Welfare safety plan or case. "Contact" includes, but is not limited to, communication in person, by telephone, by video-conferencing, or in writing. "Contact" may occur, for instance, during a face-to-face visit; a treatment review meeting for a child, young adult, parent, or guardian; a court or Citizen Review Board hearing; or a family meeting.

(7) "Department" means the Department of Human Services, Child Welfare.

(7) "Face-to-face" means an in-person interaction between individuals.

(8) "Foster parent" means a person 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.

(9) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(10) "ICPC" means the Interstate Compact for the Placement of Children (see ORS 417.200).

(11) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. When it is occurring, this type of threat to a child 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 functioning.

(12) "Initial safety plan" means a documented set of actions or interventions sufficient to protect a child from an impending danger safety threat in order to allow for completion of the CPS assessment.

(13) "Monthly face-to-face contact" means in-person interaction between individuals at least once each and every full calendar month.

(14) "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.

(15) "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), parent means any biological parent of an Indian child, or any Indian who has lawfully adopted an Indian child, including adoptions under tribal law or custom. "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.

(16) "Present danger safety threat" means an immediate, significant, and clearly observable family behavior, condition or circumstance occurring in the present tense, already endangering or threatening to endanger a child. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a child in peril.

(17) "Proctor foster home" means a foster home certified by a child-caring agency that is not subject to ORS 418.625 to 418.645.

(18) "Protective action plan" means an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect a child from a present danger safety threat.

(19) "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.

(20) "Provider" means an employee of a child-caring agency approved to provide care for a child in care or a proctor foster parent.

(21) "Relative caregiver" means a person 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.

(22) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(23) "Safety services" means the actions, assistance, and supervision provided by safety service providers to manage the identified present danger safety threats or impending danger safety threats to a child.

(24) "Screener" means a Department employee with training required to provide screening services.

(25) "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person under the age of 18 for the purpose of a commercial sex act or the recruitment, harboring, transportation, provision, or obtaining of a person over the age of 18 using force, fraud, or coercion for the purpose of a commercial sex act.

(26) "Social service assistant" means a Department employee with training required to provide services to assist a caseworker on an open case.

(27) "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.

(28) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; 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 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16; CWP 25-2015(Temp), f. & cert. ef. 11-24-15 thru 5-21-16; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 23-2016, f. & cert. ef. 12-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-100-0020

Definitions

The following definitions apply to OAR 413-100-0000 to 413-100-0345:

(1) "AFDC" means the Aid to Families with Dependent Children Program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

(2) "Assistance unit" means a group of individuals whose needs, income, and resources are considered together to determine their public assistance eligibility and the grant amount.

(3) "Child" means a person under 18 years of age.

(4) "Child care institution" means a private child care institution, or a public child care institution which accommodates no more than 25 children, licensed by the state or tribe in which it is situated or approved by the agency of the state or tribal licensing authority (with respect to child care institutions on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing or approval. "Child care institution" does not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(5) "Child support" means any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.

(6) "Constructive removal" means the non-physical, paper, or legal removal of a child who is not living with a specified relative when the voluntary custody or voluntary placement agreement is signed or the judicial order is entered. Constructive removal is described further in OAR 413-100-0135(3)(b).

(7) "Countable income" means the amount of available income, including earned and unearned income not specifically excluded by OAR 461-140-0040, used to determine eligibility for public assistance.

(8) "Date the child is considered to have entered foster care" means the earlier of the following:

(a) The date that the court found the child to be within the jurisdiction of the court under ORS 419B.100; or

(b) 60 days from the date of removal.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "Earned income" means all legal reportable income resulting from an individual's employment or self-employment.

(11) "Eligibility month" means:

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(a) The month in which the court was petitioned or court action was initiated that resulted in the child's "constructive" or "physical" removal from the home of his or her specified relative; or

(b) The month a voluntary custody or voluntary placement agreement is signed.

(12) "Family" means for purposes of determining Title IV-E foster care eligibility under these rules, the parent or parents, stepparent, or relative or relatives from whom the child is removed.

(13) "First cousin once-removed" means a child of a first cousin.

(14) "Foster care" means 24 hour substitute care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.

(15) "Foster home", as defined in ORS 418.625(3), means any home maintained by a person who has under the care of the person in such home any child under the age of 21 years unattended by the child's parent or guardian, for the purpose of providing such child with care, food, and lodging. This definition does not include any foster home under the direct supervision of a private child caring agency or institution certified by the Department, any home under the direct supervision of a custodial parent for the purpose of providing respite care, or any developmental disability child foster home as defined in ORS 443.830.

(16) "Incapacity" means a physical or mental defect, illness, or impairment that reduces substantially or eliminates the individual's ability to support or care for the child and may be expected to last a period of at least 30 days.

(17) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(18) "Need" means, using the Department AFDC standards, the monetary amount by which an individual or family's requirements exceeds all of the income and resources available to the individual or family.

(19) "Nunc pro tunc order" means, under Oregon law, a court order that restores to the record an action that actually occurred, but was inadvertently or mistakenly omitted from the record.

(20) "Parent" means, under the AFDC rules in effect on July 16, 1996, the biological or legal (step or adoptive) mother or father of a person.

(a) If the mother lives with a male, who either she or he claims is the father of the child, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) The Voluntary Acknowledgment Form (HS 45-21, available from Vital Statistics) jointly signed by the mother and putative father, is a legal document that establishes paternity and allows the father's name to be added to the birth certificate.

(c) A stepparent relationship exists if:

(A) The person is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(d) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent, who is the adoptive parent, has given up care, control, and supervision of the child.

(21) "Payment or need standard" means the amount set by the Department as the AFDC net income limit. It is used to determine the actual grant amount. This amount refers to the payment or need standard in effect on July 16, 1996.

(22) "Physical removal" means the removal of a child that occurs when a child is placed in substitute care, who was living with the specified relative when the voluntary custody or voluntary placement agreement was signed or court proceedings were initiated.

(23) "Removal home" means the home from which the child was removed as a result of a judicial finding, voluntary custody agreement, or

voluntary placement agreement. This term is further described at OAR 413-100-0135(3).

(24) "Resource" means any personal or real property that is or can be made available to meet the need of the assistance unit that the Department does not specifically exclude from consideration.

(25) "Specified relative" means:

(a) A parent as defined in this rule;

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological parent are half-blood relatives);

(c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed;

(d) A person who legally adopts a child or the child's parent, other legally adopted children of such persons, and any persons related to the child through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;

(e) A stepmother, stepfather, stepbrother, or stepsister; or

(f) A spouse of anyone listed in subsections (b) to (e) of this section, even if the marriage is terminated by death or divorce.

(26) "Unearned income" means all income that does not directly result from an individual's employment or self-employment.

(27) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.010, 409.050, 418.005 & 418.625

Stats. Implemented: ORS 409.010, 409.050, 418.005 & 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 11-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 21-2008, f. & cert. ef. 9-2-08; CWP 19-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-100-0240

Judicial Finding Requirements for Title IV-E Eligibility

(1) Contrary to the Welfare or Best Interest Findings Requirement. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement a child is not Title IV-E eligible for the duration of the substitute care episode, unless the first court ruling that addresses the removal includes a determination to the effect that continued residence in the home would be contrary to the welfare of the child or that placement would be in the best interest of the child.

(2) Reasonable Efforts Finding at Removal. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement a child is not Title IV-E eligible for the duration of the substitute care episode, unless a judicial finding is made, no later than 60 days from the date the child was removed, to the effect that reasonable efforts have been made to prevent or eliminate the need for removal or that reasonable efforts are not required to prevent a child's removal from the home or to reunify the child and family.

(3) When a court determines that reasonable efforts to return the child home are not required, a permanency hearing is held within 30 days of that determination, unless the requirements of the permanency hearing were fulfilled at the court hearing in which the court determined that reasonable efforts to reunify the child and family are not required. Reasonable efforts to prevent a child's removal from the home or to reunify the child and family are not required when the Department obtains a judicial finding that such efforts are not required because one or more of the following subsections applies:

(a) The court has determined that the parent has subjected the child to aggravated circumstances;

(b) As described in ORS 419B.340, the court has determined that the parent has been convicted of:

(A) Murder of another child of the parent;

(B) Voluntary manslaughter of another child of the parent;

(C) Aiding or abetting, attempting, conspiring, or soliciting to commit an offense described in subparagraphs (A) or (B) of this subsection;

(D) A felony assault that results in serious bodily injury to the child or another child of the parent; or

(c) The parental rights of the parent with respect to a sibling have been terminated involuntarily.

(4) Annual Reasonable Efforts Finding.

(a) If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement unless a judicial finding is made, no later than 12 months from the date the child is considered to have entered foster care, to the effect that reasonable efforts have been made for reunification of the family or to achieve the permanency plan, the child is temporarily ineligible for Title IV-E foster care. The child remains

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temporarily ineligible for Title IV-E foster care until such a judicial finding is made.

(b) At least once every 12 months thereafter while the child or young adult is in foster care, unless a judicial determination of reasonable efforts to finalize a permanency plan is made, the child or young adult is temporarily ineligible for Title IV-E foster care. The date of the child or young adult's last judicial determination determines the date the next judicial determination is due. The child or young adult remains temporarily ineligible for Title IV-E foster care until such a judicial finding is made.

(5) Judicial orders concerning placements.

(a) If the court disagrees with the Department's placement recommendation, Title IV-E eligibility may continue if:

(A) The court heard the relevant testimony and will continue to work with all parties, including the Department, to make appropriate placement decisions; and

(B) The Department continues to have responsibility for the placement and care of the child or young adult.

(b) If the court recommends a placement or names the child or young adult's placement in the court order as an endorsement or approval of the Department's placement choice the child or young adult's Title IV-E foster care eligibility is not affected.

(6) Nunc Pro Tunc Orders. The Department considers a nunc pro tunc order to correct the omission of a "best interest" or "reasonable efforts" finding only if a court transcript accompanies the order and verifies that the judicial determination was made at the original removal hearing.

(7) A court order that only references state or tribal law to substantiate judicial determinations is not acceptable, even if the law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal may be ordered only after reasonable efforts have been made.

Stat. Auth.: ORS 409.010, 409.050, 418.005 & 419B.340

Stats. Implemented: ORS 409.010, 409.050, 418.005 & 419B.340

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-110-0000

Definitions

The following definitions apply to OAR chapter 413, division 110.

(1) "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 has been sustained by that review and the review is complete.

(2) "Appropriateness of adoption" means the determination that a child can be successfully freed, placed, and maintained in an adoptive placement and that adoption is in the best interest of the child.

(3) "Approved family" means a family that has been selected for a child in accordance with OAR 413-120-0010 to 413-120-0060.

(4) "Birth parent" means the woman or man who holds a legally recognized parental relationship to the child.

(5) "Child" means a person under 18 years of age.

(6) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency or adoption committee meeting.

(7) "Compelling reason" means a reason meeting specific criteria and documented in the case plan by the local Department staff for not to file a petition to terminate parental rights of the parents of a child where the Department would otherwise be required to do so under state and federal law.

(8) "Date child entered substitute care": Oregon statute and federal law use the date the child is found to be within the jurisdiction of the court under ORS 419B.100 or 60 days from date of removal, whichever is earlier. The Department uses the date of the child's initial substitute care placement for calculating Citizens Review Board reviews, court, or permanency hearings intervals.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(11) "Legal risk placement" means a placement that occurs when the Department believes that an adoption is in the best interests of the child; that the child is placed in an approved adoptive home; and the agency intends to approve this placement for adoption if the child becomes legally free for adoption.

(12) "Local Office Permanency/Adoption Committee" means the branch committee responsible for certain permanency and adoptions decisions, as specified in these rules. Members are selected by the local office from among the staff of the Department's field offices. The members must not be involved in the case to be heard.

(13) "Permanency/Adoption Council" (Council) means a council consisting of field management staff, permanency and adoption staff, and community partners from several districts, except that the Council in District 2 consists only of representatives from Multnomah County. A Council makes decisions for children whose county of jurisdiction is within their geographic area about appropriateness of adoption as a permanency plan, sibling planning, recruitment, adoption disruptions, and adoption selections referred by the local office. It also may provide permanency staffings to decide whether to place a child with an out-of-state relative resource prior to receipt by the Department of an approved adoption home study.

(14) "Permanency/Adoption Council Committee" (Committee) means a committee established by the Permanency/Adoption Council that is responsible for decisions regarding adoptive placement selections that are not the responsibility of the local office or the Department's Adoption Services Unit. The district manager or designee responsible for the local office may delegate a decision to the Committee. Each Committee must include at least three members not involved in the case to be heard by the Committee. There are two types:

(a) An ad-hoc committee selected by the child's worker. This committee consists of three people drawn from a pool of qualified permanency and adoption staff designated by the Council.

(b) The Standing Permanency/Adoption Committee. This committee is a standing committee of three persons appointed by the Council or the Council chair. Responsibilities of this committee include making decisions, such as those relating to sibling placement planning or current caretaker placement decisions, delegated by the Local Office Permanency/Adoption Committee to the Council.

(15) "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.

(16) "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 people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(17) "Relative" has the same meaning as in OAR 413-070-0000.

(18) "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.

(19) "Substitute care" means an out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-110-0300

Purpose

The purpose of OAR 413-110-0300 to 413-110-0360 is to establish the Department's policies for determining whether adoption is an appropriate plan for a child. In the case of an Indian child, the Department follows OAR chapter 413, division 115.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

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413-115-0000

Definitions

Unless the context indicates otherwise, the following definitions apply to OAR chapter 413, division 115.

(1) "Active efforts" means affirmative, active, proactive, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with his or her family. Active efforts must involve assisting the parent or parents or Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan.

(2) "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.

(3) "Adoptive placement" means the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

(4) "BIA" means the U.S. Department of the Interior, Bureau of Indian Affairs.

(5) "Child" means a person under 18 years of age.

(6) "Child-custody proceeding" includes any action, other than an emergency proceeding, that may culminate in one of the following outcomes: a foster-care placement, the termination of parental rights, a pre-adoptive placement, or an adoptive placement. An action that may culminate in one of these four outcomes is considered a separate "child-custody proceeding" from an action that may culminate in a different one of these four outcomes. There may be several child-custody proceedings involving any given Indian child. Within each "child-custody proceeding", there may be several hearings. If a child is placed in foster care or another out-of-home placement as a result of a status offense, that status offense proceeding is a "child-custody proceeding".

(7) "Continued custody" means physical custody, legal custody, or both, under any applicable tribal law or tribal custom or state law that a parent or Indian custodian already has or had at any point in the past. The biological mother of a child has had custody of a child.

(8) "CPS assessment" means a child protective services assessment, which is an investigation into a report of child abuse or neglect pursuant to ORS 419B.020 that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "Domicile" means:

(a) For a parent or Indian custodian, the place at which a person has been physically present and that the person regards as home; a person's true, fixed, principal, and permanent home, to which that person intends to return and remain indefinitely even though the person may be currently residing elsewhere.

(b) For an Indian child, the "domicile" of the Indian child's parents or Indian custodian or guardian, or in the case of an Indian child whose parents are not married to each other, the "domicile" of the Indian child's custodial parent.

(11) "Emergency proceeding" means any court action that involves an emergency removal or emergency placement of an Indian child. An "emergency proceeding" is not a child-custody proceeding.

(12) "Emergency removal" means a removal of an Indian child that occurs because removal is necessary to prevent imminent physical damage or harm to the child.

(13) "Entity" means any organization or agency including, but not limited to a private child placing agency, that is separate and independent of the Department, performs functions pursuant to a contract or subcontract with the Department, and receives federal funds.

(14) "Extended family member" is defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, is a person who has reached age 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(15) "Foster-care placement" means any action removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

(16) "Grandparent" for purposes of notification, visitation, contact, or communication ordered by the court under ORS 419.B876 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.

(17) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(18) "ICWA" or "the Act" means the Indian Child Welfare Act of 1978, 25 U.S.C. §§1901-63.

(19) "Imminent physical damage or harm" means impending and certain physical harm will occur to the Indian child unless a protective action plan can be put in place or an emergency removal is initiated.

(20) "Indian" means any person who is a member of or eligible for membership in an Indian tribe or who is an Alaskan native and a member of a Regional Corporation as defined in 43 U.S.C. § 1606.

(21) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(22) "Indian custodian" means any Indian who has legal custody of an Indian child under applicable tribal law or custom or under applicable state law, or to whom temporary physical care, custody, and control has been transferred by the parent of such child.

(23) "Indian foster home" means a substitute care placement where at least one of the licensed or approved foster parents is an Indian.

(24) "Indian organization" means any group, association, partnership, corporation, or legal entity owned or controlled by Indians or a majority of whose members are Indians, such as an Indian Child Welfare Committee.

(25) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. § 1602.

(26) "Initial safety plan" means a documented set of actions or interventions sufficient to protect a child from imminent physical damage or harm in order to allow for completion of the CPS assessment.

(27) "Involuntary proceeding" means a child-custody proceeding in which the parent does not consent of his or her free will to the foster-care, pre-adoptive, or adoptive placement or termination of parental rights or in which the parent consents to the foster-care, preadoptive, or adoptive placement under threat of removal of the child by a state court or agency.

(28) "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 416.610, or by a juvenile court. In cases involving an Indian child under the ICWA, parent means any biological parent of an Indian child, or any Indian who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed biological father where paternity has not been acknowledged or established. "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.

(30) "Protective action plan" means an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect a child from imminent physical damage or harm.

(31) "QEW" means qualified expert witness. A qualified expert witness is a person who is qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child, and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe. A person may be designated by the Indian child's Tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's Tribe.

(32) "Reservation" means Indian country as defined in 18 U.S.C. §1151, and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(33) "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.

(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.

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(34) “Status offense” means an offense that would not be considered criminal if committed by an adult; they are acts prohibited only because of a person’s status as a minor (e.g., truancy, runaway, beyond control).

(35) “Substitute care” means the out-of-home placement of a child or young adult who is in the custody and care of the Department.

(36) “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.

(37) “Termination of parental rights” means any action which results in the termination of the parent-child relationship.

(38) “Tribal Affairs Unit” means designated staff who monitor Department policy and procedures for compliance with the ICWA, investigate complaints of non-compliance from tribes, provide consultation to caseworkers and Department staff regarding related law and administrative rules, and provide ICWA materials and training.

(39) “Tribal court” means the court which holds jurisdiction over Indian child-custody proceedings and is either a Court of Indian Offenses, a court established and operated under code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child-custody proceedings. Tribal court may also include a tribal council, if so designated by the tribe.

(40) “Upon demand” means that the parent or Indian custodian can regain custody simply upon verbal request, without any formalities or contingencies.

(41) “Voluntary placement agreement” means a binding, written agreement between the Department and the parent or Indian custodian of a minor child that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or Indian custodian, the child and the Department while the child is in placement.

(42) “Young adult” means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.625

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0010

History, Purpose, and Applicability

(1) History and Purpose.

(a) On November 8, 1978, utilizing its power over Indian affairs and its “responsibility for the protection and preservation of Indian tribes and their resources,” while acknowledging “that there is no resource more vital to the continued existence and integrity of Indian tribes than their children,” Congress enacted the Indian Child Welfare Act (the Act or ICWA). The Act was passed because Congress found that “an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children” by courts and welfare departments and placed in non-Indian foster homes and institutions. In 2016, the Bureau of Indian Affairs (BIA) revisited the ICWA and added a subpart to the regulations to improve ICWA implementation (see 25 C.F.R. § 23).

(b) The Act sets forth that it is the policy of this nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families.

(c) Further, the Department has the responsibility to ensure that active efforts must be made to:

(A) Prevent the removal of such children; and

(B) If removal becomes necessary:

(i) Take remedial actions to promote timely return; and

(ii) Place such children in foster or adoptive homes that comply with the placement preferences of the ICWA.

(2) Applicability and Limitations.

(a) The provisions of the ICWA apply when an Indian child is the subject of:

(A) A child-custody proceeding;

(B) An involuntary proceeding;

(C) A voluntary placement agreement, consent to termination of parental rights or voluntary relinquishment;

(D) A proceeding involving a status offense if any part of the proceeding results in the need for out-of-home placement of the child, including a foster care, pre-adoptive, or adoptive placement or termination of parental rights; or

(E) An emergency proceeding.

(b) If the ICWA applies during a proceeding, it will not cease to apply simply because the child reaches 18 during the pendency of the proceeding.

(c) The ICWA does not apply to:

(A) A tribal court proceeding.

(B) A proceeding regarding a criminal act that is not a status offense.

(C) An award of custody of the Indian child to one of the parents including, but not limited to, an award in a divorce proceeding.

(d) Cultural Heritage Protection. In instances where the ICWA does not apply, but the child is biologically an Indian or considered to be an Indian by the Indian community, the Department must respect the child’s right to participate in the culture of origin in case planning. Participation in the culture includes the language, customary beliefs, social norms, and material traits including, but not limited to, the dress, food, music, and dance of a racial, religious, or social group that are transmitted from one generation to another.

(e) The Act does not cover the full range of procedures involved in a juvenile court proceeding; where it is silent, the usual state court procedure applies. Under constitutional law, the Act takes precedence where it conflicts with state law. When federal or state law affords a higher standard of protection than the ICWA, the higher standard applies.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0020

Department Authority

Once it is found that an Indian child is involved, and the tribe or tribes who have an interest have been determined, the authority of the Department must be established. In some instances, the Department will have no authority to become involved in a case.

(1) Exclusive Tribal Jurisdiction. Indian tribes have exclusive jurisdiction over child-custody proceedings involving children who reside or whose domicile is on a reservation. The only exception is where Congress has transferred jurisdiction over family welfare matters to a state and the tribe in that state has not completed the administrative process to reassume exclusive jurisdiction.

(2) Tribal Court Ward. The Department has no authority in cases involving an Indian child who is a ward of a tribal court, except for an emergency removal, as described in section (3) of this rule.

(3) Emergency Removal—Limited Authority. Notwithstanding sections (1) and (2) of this rule, if an Indian child who resides or whose domicile is on any reservation is located off the reservation and removal is necessary to prevent imminent physical damage or harm, the Department has the authority to take physical custody regardless of whether the child is a ward of a tribal court or the tribe has exclusive jurisdiction.

Stat. Auth.: ORS 418.005, 418.627

Stats. Implemented: ORS 418.005, 419B.100, 419B.118

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0030

Tribal Membership and Enrollment

(1) Tribal Determination of Membership or Eligibility for Membership.

(a) The determination of whether the child is a member of a tribe (or eligible for membership), is solely within the jurisdiction of the tribe, except as otherwise provided in tribal or federal law.

(b) The determination of whether a biological parent is a member of a tribe is solely within the jurisdiction of the tribe, except as otherwise provided by tribal or federal law.

(c) When the Indian child is a member or eligible for membership in only one tribe, that tribe must be designated as the Indian child’s tribe.

(d) When the Indian child meets the definition of Indian child through more than one tribe, deference should be given to the tribe in which the Indian child is already a member, unless otherwise agreed to by the tribe or tribes.

(e) When the Indian child meets the definition of Indian child through more than one tribe because the child is a member in more than one tribe, or the child is not a member of but is eligible for membership in more than one tribe, the court must provide an opportunity for the tribes to determine which tribe should be designated as the Indian child’s tribe in any involuntary proceeding.

(f) When the tribes are unable to reach an agreement, the court designates the Indian tribe with which the Indian child has the more significant contacts as the child’s tribe, for purposes of the ICWA. That determination does not constitute a determination for any other purposes.

(2) Department Responsibilities.

(a) When a child may be a member or enrolled or eligible for membership or enrollment in a tribe, the Department must follow all notification

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requirements in OAR 413-115-0050 and notice requirements in OAR 413-115-0120.

(b) The Department must assist the parent or Indian custodian in completing and submitting information to the tribe(s) to determine membership or enrollment in the tribe(s).

(c) When a child may be a member of or enrolled in, or eligible for membership of or enrollment in, more than one tribe, the Department must gather and document information to assist the court in making a determination for purposes of the Act. The information, if available, must include, but is not limited to:

(A) The parents' preference for the membership or enrollment of the child.

(B) The length of past domicile or residence on or near the reservation of each tribe.

(C) Tribal membership or enrollment of the child's custodial parent or Indian custodian.

(D) Interest asserted by each tribe in the child-custody proceeding.

(E) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes.

(F) Self-identification of the child if the child is of sufficient age and capacity to meaningfully self-identify.

(d) When the Department receives tribal confirmation regarding the status of a child's membership or enrollment or eligibility for membership or enrollment, the Department must:

(A) Document in the Department's information system either:

(i) The determination by the tribe of the child's membership or enrollment or eligibility for membership or enrollment; or

(ii) The determination by the tribe declaring the child is ineligible for membership or enrollment.

(B) Submit any and all confirmation from the tribe(s) regarding the child's membership or enrollment status at subsequent court hearings.

(e) The Department must:

(A) Identify and work with all of the tribes of which the Department knows or has reason to know the child may be a member (or eligible for membership); and

(B) Treat the child as an Indian child when there is reason to know the child may be an Indian child unless it is determined by the court that the child does not meet the definition of an Indian child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 5-2017(Temp), f. & cert. ef. 5-12-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0040

Inquiry and Actions to Determine a Child's Tribal Membership or Enrollment Under the ICWA; Notification to the Tribe of Initial Contact

(1) When the Department receives screening information under OAR 413-015-0205, the screener must inquire whether the child is an Indian child. If the screener receives information that the child may be an Indian child, and the tribe(s) is named, the screener must send a copy of the screening report to the tribe(s) within 24 hours after the screening decision is complete.

(2) When a decision is made to open a CPS assessment pursuant to OAR 413-015-0210 or a case for family support services, the CPS worker must inquire into whether the child is an Indian child, and must work with the child's parents or Indian custodian, and if the parents or Indian custodian are not available, any available extended family member, to gather detailed information regarding:

(a) Tribal membership or enrollment;

(b) Whether the child is a ward of a tribal court; or

(c) The child or the child's parents' or Indian custodian's domicile.

(3) If at any time during an open child welfare case the Department receives information that the child is or may be an Indian child under the ICWA, the Department must work with the child's parents or Indian custodian to gather detailed information regarding tribal membership or enrollment.

(4) When information regarding potential tribal membership or enrollment is received under subsection (1), (2) or (3) of this rule and the provisions of the ICWA apply, the Department must:

(a) Within one business day of receiving information regarding tribal membership or enrollment, document the information on a form approved by the Department; and

(b) Submit written notification of initial contact and inquiry regarding the child's membership or enrollment eligibility to the tribe(s) in which the

child is or may be a member or is enrolled or may be eligible for membership or enrollment.

(A) Oregon tribes. Notification of initial contact and inquiry must be sent to the appropriate tribe(s) within one business day of receiving the information regarding tribal membership.

(B) Out-of-state tribes. The search for the appropriate tribal contact(s) must be initiated within two business days of receiving the information regarding tribal membership. Notification of initial contact and inquiry must be sent to the appropriate tribe(s) within five business days of receiving the information regarding tribal membership.

(c) Inquiry submitted under subsection (4)(b) of this rule must include all of the following information, if known:

(A) The name, birthdate and birthplace of the child.

(B) The child's domicile.

(C) Whether the child is a ward of a tribal court.

(D) The name of each Indian tribe in which the child is a member (or may be eligible for membership or enrollment if a biological parent is a member).

(E) All known names (including maiden, married, former or aliases) of the parents, the parents' birthdates and birthplaces, and tribal enrollment numbers.

(5) When additional consultation is needed, the caseworker or Department staff may contact the Tribal Affairs Unit.

(6) The Department must document each action to determine the child's Tribal membership or enrollment status in the Department's information system within five business days of the assessment being complete.

(7) The Department must continue to inquire to obtain a child's status regarding tribal membership or eligibility for membership or enrollment until the documented determination required under OAR 413-115-0030 is completed.

(8) When the Department receives confirmation that the child is a member or enrolled or eligible for membership or enrollment, the case must be managed according to the provisions of the ICWA and OAR 413-115-0030(2).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0050

Notification to the Tribe of Placement or Change in Placement

(1) When the Department knows or has reason to know the child is an Indian child, the Department must ensure that notification is provided to the child's tribe or tribes as soon as possible and within 24 hours of knowing when any of the following actions may occur:

(a) An emergency removal;

(b) An involuntary placement. Notification of an involuntary placement under this rule is separate from notice required under OAR 413-115-0120;

(c) A change in placement; or

(d) A voluntary placement agreement has been requested by the parent or Indian custodian.

(2) Notification of any action in section (1) must include the following information, if known:

(a) The name, birthdate and birthplace of the child.

(b) The name of the child's parents.

(c) Which action under section (1) of this rule is occurring.

(3) Notification pursuant to this rule may be provided in person, telephonically or electronically, and must be documented in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.878

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 5-2017(Temp), f. & cert. ef. 5-12-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0060

Active Efforts

(1) Active efforts must begin when the Department has reason to know the child may be an Indian child, and that there is a possibility the Indian child might be removed from the home of the parents or Indian custodian. The ICWA then applies to any emergency proceeding or child custody proceeding, until it is determined by the court that the child does not meet the definition of Indian child. Active efforts must:

(a) Involve assisting the parent or parents or Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan;

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(b) Be provided in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe whenever possible;

(c) Be conducted in partnership with the Indian child and the Indian child's parents, Indian custodians, extended family members and the tribe whenever possible;

(d) Be tailored to the facts and circumstances of the case; and

(e) Be designed to ameliorate the need for removal.

(2) During a CPS assessment and prior to a determination that the child must be removed from the home of the parents or Indian custodian, the Department must engage in active efforts and offer services of a remedial nature designed to rehabilitate and prevent the breakup of the Indian family. These active efforts must include efforts to:

(a) Counsel and modify the behavior of the parents or Indian custodian.

(b) Ameliorate any imminent physical damage or harm.

(3) The Department must involve the Indian child's extended family members, tribe(s), and tribal organizations at the earliest possible point during the assessment to reduce the potential for cultural bias when evaluating home and family conditions and making decisions affecting Indian children and families.

(4) In order to demonstrate that active efforts have been made, the Department must, at a minimum:

(a) Assure that due consideration has been given to the cultural needs and values of the family and that resources have been diligently sought to provide services to the family.

(b) Collaborate with the parent, parents or Indian custodian, the tribe, and the Indian child, if the child is competent, when formulating the case plan.

(c) Actively assist and engage with the parent, parents or Indian custodian in achieving the case plan objectives and work with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs to prevent the breakup, or support the reunification of the family.

(d) Contact the tribe, potential service providers within the child's tribal community and other community resources to identify placement resources and culturally appropriate services.

(e) Contact and consult with the Indian child's extended family members and the tribe, to determine whether additional support for the Indian child and the Indian child's parents is available from any extended family member.

(f) Tailor the case plan to the facts and circumstances of the case.

(g) Document the active efforts in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.185, 419B.340

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0070

Emergency Removal and Return Upon Demand

(1) During a CPS assessment, the Department may take emergency protective custody of any Indian child, whether or not the child's domicile or residence is on a reservation, and regardless of the jurisdiction held by the child's tribe, if the following criteria are met:

(a) The child is not located on a reservation where the tribe has exclusive jurisdiction over child custody matters;

(b) Removal is necessary to prevent imminent physical damage or harm to the child; and

(c) The Department cannot develop a protective action plan under OAR 413-015-0432 in which the Indian child remains in the home, or an in-home initial safety plan per the requirements of OAR 413-015-0437, meeting the requirements of OAR 413-015-0432 to ensure child safety.

(2) If there is reason to know the child may be an Indian child, and in order to determine if the tribe has exclusive jurisdiction, Department staff must immediately inquire as to the child's residence or domicile, since the child may be a resident of or domiciled on a reservation but is temporarily off the reservation.

(3) When emergency removal is necessary, the Department must consult with the tribe and notify the Tribal Affairs Unit as soon as possible, and in no case more than 24 hours after the emergency removal.

(4) If there is reason to know the child is an Indian child, active efforts must be made to place the child during emergency protective custody in a setting which follows the placement priorities established by the ICWA or the tribe and set forth in OAR 413-115-0090.

(5) If there is reason to know the child is an Indian child, and the child is placed in emergency protective custody or the child cannot be returned to the child's parents upon demand during a protective action plan the Department must comply with the following:

(a) Treat the child as an Indian child.

(b) Complete and document all practicable actions to confirm whether the child is an Indian child under OAR 413-115-0030(2).

(c) Immediately notify the child's tribe pursuant to OAR 413-115-0050, the parents, the Indian custodian and if known, the grandparents, of the removal of the child and document the notification in the Department's information system.

(d) Comply with OAR 413-115-0120.

(e) Continually assess whether the removal and placement continues to be necessary to prevent imminent physical damage or harm to the child.

(6) Emergency protective custody can be terminated by one or more of the following actions:

(a) Initiation of a child-custody proceeding subject to the provisions of the ICWA.

(b) Transfer of the case to the jurisdiction of the appropriate tribe.

(c) Returning the child to the parent or Indian custodian.

(7) If an Indian child is removed pursuant to a protective action plan or emergency removal and cannot be returned to the parent or Indian custodian or the case is not transferred to the jurisdiction of the tribe, under ORS 419B.183 the Department must request that the court hold a hearing within 24 hours — excluding Saturdays, Sundays and judicial holidays — to request temporary custody of the child.

(8) A petition and accompanying documents filed pursuant to section (7) of this rule must contain the following information, if known, in addition to any information required by state law:

(a) The name, age, and last known address of the Indian child.

(b) The name and address of the child's parents and Indian custodians, if any.

(c) The steps taken to provide notice to the child's parents, custodians, and tribe about the court hearing.

(d) If the child's parents and Indian custodians are unknown, a detailed explanation of what efforts have been made to locate and contact them, including contact with the appropriate BIA Regional Director.

(e) The residence and the domicile of the Indian child.

(f) If either the residence or the domicile of the Indian child is believed to be on a reservation or in an Alaska Native village, the name of the tribe affiliated with that reservation or village.

(g) The tribal affiliation of the child and of the parents or Indian custodians.

(h) A specific and detailed account of the circumstances that led the agency responsible for the emergency removal of the child to take that action.

(i) A statement of the threat of imminent physical damage or harm to the child and any evidence that the emergency removal or placement continues to be necessary to prevent imminent physical damage or harm to the child.

(j) A statement of the active efforts that have been taken to assist the parents or Indian custodians so the Indian child may safely be returned to their custody.

(k) If it is believed that a child's domicile or residence is on a reservation where the tribe exercises exclusive jurisdiction over child-custody matters, a statement of efforts that have been made and are being made to contact the tribe and transfer the child to the tribe's jurisdiction.

(9) Where the danger to the Indian child persists and the child's tribe does not have exclusive jurisdiction and will not request transfer of the case to its court, the Department must initiate a child custody proceeding and, in consultation with the child's parents and tribe, if known, explore available placement resources which meet the placement preferences in OAR 413-115-0090, unless such placement has already occurred.

Stat. Auth.: ORS 418.005, 419B.171

Stats. Implemented: ORS 418.005, 418.015, 419B.150, 419B.183

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0080

Documentation of Imminent Harm to the Child Prior to Removal

Except during an emergency removal described in OAR 413-115-0070, prior to removal of the child from a parent or Indian custodian and filing a petition, the Department must document:

(1) The causal relationship between the particular conduct of the parent or Indian custodian or conditions in the home and the serious emotional or physical damage which is likely to result to the child.

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(2) If it is likely that such harm will occur, that active efforts have been made to counsel and modify the behavior of the parent or Indian custodian or the conditions in the home.

(3) Why those active efforts have not been successful.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0090

Placement of Indian Children

(1) The Department must conduct a search for an appropriate placement, which includes, at a minimum:

(a) Contact with the appropriate representative from the child's tribe;

(b) A search for Oregon Indian foster home availability;

(c) Contact with any Indian tribe and Indian organization that may have a viable placement resource; and

(d) Extended family to the sixth degree of consanguinity.

(2) Foster-care placement preferences.

(a) In determining the appropriate placement for an Indian child, the Department must contact the child's tribe to determine if the tribe has established, by resolution, an order of placement preference or has placement resources different from those described in this rule.

(b) If the Indian child's tribe has established by resolution a different order of placement preference than that specified in subsection (c) of this section for Indian children of the tribe, the tribe's placement preferences apply, so long as the placement is the least-restrictive setting appropriate to the particular needs of the Indian child, as provided in subsection (d) of this section.

(c) If the child's tribe has not established by resolution a different order of preference, and the court has not determined on the record that there is good cause to depart from the ICWA prescribed placement preferences, preference must be given, in descending order as listed below, to placement of the child with:

(A) An extended family member of the Indian child;

(B) A foster home that is licensed, certified, approved, or specified by the Indian child's tribe;

(C) An Indian foster home licensed, certified, or approved by an authorized non-Indian licensing authority; or

(D) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the child's needs.

(d) The child must be placed in the least restrictive setting that:

(A) Most approximates a family, taking into consideration sibling attachment;

(B) Allows the Indian child's special needs (if any) to be met; and

(C) Is in reasonable proximity to the Indian child's home, an extended family member, or siblings.

(e) The Department must inform the substitute caregiver that the child is an Indian child.

(3) Adoptive Placements.

(a) In determining the appropriate adoptive placement for an Indian child, the Department must contact the child's tribe to determine if the tribe has established, by resolution, an order of placement preference or has placement resources different from those described in this section for Indian children of the tribe.

(b) If the Indian child's tribe has established by resolution a different order of placement preference than that specified in subsection (c) of this section, the tribe's placement preferences apply for Indian children of the tribe.

(c) If the child's tribe has not established by resolution a different order of preference, and the court has not determined on the record that there is good cause to depart from the ICWA prescribed placement preferences, preference must be given, in descending order as listed below, to adoptive placement of the child with:

(A) An extended family member of the Indian child;

(B) Other members of the Indian child's tribe; or

(C) Other Indian families.

(4) Change of Placement.

(a) When an Indian child is moved from one placement setting to another or if the foster family moves, the placement preferences outlined in this rule must be followed for each subsequent placement, unless the child is returned to the parent or Indian custodian from whose custody the child was originally removed.

(b) The Department must notify the parent, Indian custodian, and the child's tribe in writing prior to a change in placement or before the foster family moves, as required in OAR 413-115-0050.

(c) The Department must inform the substitute caregiver that the child is an Indian child.

(5) Records of Placement.

(a) The Department must maintain a written record of each placement for each Indian child.

(b) The Department must document, in detail, in the Department's information system, the efforts to comply with the order of placement preferences established by the tribe.

(c) When the Department departs from the order of placement preferences established by the tribe, the Department bears the burden of providing to the court, by clear and convincing evidence, that there is good cause to depart from the order of placement preferences established by the tribe.

(d) Upon the request of the Indian child's tribe or the Department of the Interior, the Department must make available the record of every foster care, pre-adoptive, and adoptive placement of an Indian child for which the Department has records.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419.627, 419B.171, 419B.192

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0100

Voluntary Placement Agreements

(1) The Department may enter into a voluntary placement agreement with the consent of a parent or Indian custodian of any Indian child, if:

(a) Pursuant to ORS 418.312 and OAR 413-020-0070, the sole reason for placing the child in a child-caring agency, foster home, group home, or institutional child-care setting is the need to obtain services for the child's emotional, behavioral, or mental disorder or developmental or physical disability;

(b) The child is more than ten days old;

(c) The voluntary consent is executed in writing and recorded before a judge in the appropriate jurisdiction; and

(d) The written consent is accompanied by the court's certification that the terms and consequences of the consent were fully explained in detail on the record and that certification complies with section (2) of this rule.

(2) Court Hearing on Consent. The Department must request a court hearing to obtain consent from the parent or Indian custodian for the voluntary placement agreement. The Department must ensure that the court certifies on the record that the terms and consequences of the consent for the voluntary placement agreement were:

(a) Explained on the record, in detail, in English (or the language of the parent or Indian custodian, if English is not the primary language); and

(b) Fully understood by the parent or Indian custodian.

(3) The signed voluntary placement agreement consent must, at a minimum, contain:

(a) The name and birthdate of the Indian child.

(b) The name of the child's tribe.

(c) The child's and parents' enrollment numbers, if known, or other indication of the child's membership in the tribe.

(d) The name and address, and other identifying information of the consenting parent or Indian custodian.

(e) The name and address of the prospective foster parents, if known.

(f) The name and address of the person, entity or Department, if any, who arranged the placement.

(g) If there were any conditions to the consent, the conditions must be clearly set out.

(4) The Department must place the Indian child into a substitute care setting which follows the placement preferences outlined in OAR 413-115-0090(2), unless the court has determined on the record that good cause exists to not apply those placement preferences. If the Indian child is moved to another placement while in substitute care, the placement preferences in OAR 413-115-0090(2) continue to apply.

(5) Request for Anonymity. A request for anonymity does not relieve the Department from any duty of compliance with the ICWA, including the obligation to verify whether the child is an Indian child, and compliance with OAR 413-115-0090.

(6) Ending a voluntary placement agreement.

(a) The parent or Indian custodian may withdraw consent to the voluntary placement agreement at any time.

(b) To withdraw consent, the parent or Indian custodian must:

(A) Provide written notice to the Department;

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- (B) File a written document with the court; or
- (C) Otherwise testify before the court.

(c) When a parent or Indian custodian withdraws consent to a voluntary foster-care placement, the Department must arrange the return of the Indian child to that parent or Indian custodian as soon as practicable.

(7) For voluntary custody agreements, refer to OAR 413-020-0005 through 413-020-0050.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.015
Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0110

Consent to Termination of Parental Rights and Voluntary Relinquishment of Parental Rights

(1) The Department may accept consent for termination of parental rights or voluntary relinquishment of parental rights from the parent of an Indian child if:

- (a) The Department is pursuing adoption;
- (b) The child is more than ten days old;
- (c) The voluntary consent is executed in writing and recorded before a judge in the appropriate jurisdiction; and

(d) The judge certifies in writing that the terms and consequences of the consent were fully explained in detail on the record and that certification complies with section (2) of this rule.

(2) Court Hearing on Consent. The Department must obtain consent from the parent for the termination of parental rights or voluntary relinquishment of parental rights in court. For the consent to be valid, the court must certify on the record that the terms and consequences of the consent to termination of parental rights or voluntary relinquishment of parental rights were:

- (a) Explained in detail, in English (or the language of the parent, if English is not the primary language); and
 - (b) Fully understood by the parent.
- (3) The signed consent to termination of parental rights or voluntary relinquishment of parental rights must, at a minimum, contain:
- (a) The name and birthdate of the Indian child;
 - (b) The name of the child's tribe;
 - (c) The child's and parents' enrollment numbers, if known, or other indication of the child's membership in the tribe; and
 - (d) The name and address, and other identifying information of the consenting parent.

(4) Request for Anonymity. A parent's request for anonymity does not relieve the Department from any duty of compliance with the ICWA, including the obligation to verify whether the child is an Indian child.

(5) Withdrawal of Consent.

(a) Termination of parental rights. The parent may withdraw consent to the termination of parental rights of an Indian child for any reason at any time prior to the entry of the final order for termination of parental rights, and have the child returned as soon as practicable.

(b) Voluntary relinquishment of parental rights. The parent may withdraw consent to a voluntary relinquishment of parental rights of an Indian child for any reason at any time prior to the entry the decree of adoption, and have the child returned as soon as practicable.

(c) If the parent withdraws consent to the termination of parental rights or voluntary relinquishment of parental rights, and the Department believes the child should not be returned to the custody of the parent because of an imminent threat of physical damage or harm to the child, the Department may initiate a child custody proceeding to petition the court to retain custody of the child.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 419B.498, 419B.500, 419B.521, 419B.529
Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0120

Notice Required Prior to a Child Custody Proceeding or Court Hearing

(1) Notice must be provided for each child custody proceeding where the Department knows or has reason to know the child is an Indian child.

(2) The Department must send notice for a child custody proceeding to:

- (a) The parent or parents;
- (b) The grandparent or grandparents;
- (c) The Indian custodian (if applicable);
- (d) The Indian child's tribe or tribes (or the tribes in which the child is eligible for membership if a biological parent is a member);

(e) Any other party to the case; and

(f) The Portland Regional Director, BIA, only if the identity or location of a potentially interested Indian party to the proceeding cannot be determined, in which case the BIA has fifteen days to locate and notify that party.

(3) Except for an emergency removal made pursuant to OAR 413-115-0070, the Department may not request a child custody proceeding regarding an Indian child until the following time frames have been met:

(a) Not less than ten days after receipt of notice by any the recipients in (2)(a)-(e) of this rule;

(b) Not less than thirty days after receipt of notice by any of the recipients in (2)(a)-(e) of this rule, if an additional twenty days has been requested the parent, Indian custodian, Indian child's tribe or the BIA; or

(c) Not less than fifteen days after receipt of the notice by the appropriate regional BIA director.

(4) Notice for each child custody proceeding must be provided to a tribe even if the tribe has not intervened, or has declined jurisdiction. If a tribe has declined jurisdiction, the tribe maintains the right to participate as an interested party or to intervene at any point in the case.

(5) Service of notice for a child custody proceeding.

(a) The Department must provide notice of a child-custody proceeding by registered or certified airmail, with return receipt requested.

(b) In addition to providing notice of a child-custody proceeding by registered or certified mail, the Department may provide personal service, electronic service, or call the noticed party.

(6) Content of notice for a child custody proceeding. Notice must contain, at a minimum:

(a) The name, birthdate, and birthplace of the child;

(b) The name of each Indian tribe in which the child is a member (or may be eligible for membership or enrollment if a biological parent is a member);

(c) All known names (including maiden, married, former or aliases) of the parents, the parents' birthdates and birthplaces, and tribal enrollment numbers, if known;

(d) If known, the names, birthdates, birthplaces, and tribal enrollment information of other direct lineal ancestors of the child, such as a grandparent.

(e) A copy of the petition, complaint, or other document by which the proceeding was initiated;

(f) If a hearing has been scheduled, information on the date, time, and location of the hearing;

(g) The name of the petitioner and the name and address of the petitioner's attorney, if any;

(h) A statement setting forth the right of any parent, Indian custodian or the Indian child's tribe, if not already a party, to intervene and participate in the proceeding;

(i) A statement that if the parent or Indian custodian is unable to afford counsel, counsel may be appointed by the court to represent them;

(j) A statement of the right of the parent or Indian custodian and the Indian child's tribe to have, upon request, twenty additional days to prepare for the child-custody proceeding;

(k) The location, mailing address, and telephone number of the court;

(l) Information related to all parties to the hearing and individuals notified under this section;

(m) A statement of the right of the parent or Indian custodian or the Indian child's tribe to petition the court to transfer the child-custody proceeding to the Indian child's tribal court pursuant to 25 U.S.C 1911 and 25 C.F.R. §23.115.

(n) The potential legal consequences of the child-custody proceeding on future custodial rights of the parent or Indian custodian; and

(o) A statement that the notified party must keep the information contained in the notice confidential and may only reveal it to individuals who need the information to exercise their rights under the Act.

(7) Copies of notice for a child custody proceeding.

(a) To the BIA. The Department must provide a copy of the notices under this rule to the appropriate regional director of the BIA. The copy must include all the information in section (6) of this rule. A copy of these notices may be provided by personal service, registered or certified mail, with return receipt requested.

(b) To the court. The Department must file with the court a copy of each notice sent pursuant to this rule together with any return receipts or other proofs of service.

(8) Notice required prior to each court hearing.

(a) Notice of any court hearing subsequent to the initiation of a child custody proceeding must be provided to the child's tribe or tribes.

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(b) Notice for a court hearing described in (a) of this section must include the date, time and location of the hearing.

(c) Notice for a court hearing described in (a) of this section may be provided in person, telephonically or electronically.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.875, 419B.878, 419B.923

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 5-2017(Temp), f. & cert. ef. 5-12-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0130

Standards of Evidence and Minimum Qualifications for a Qualified Expert Witness

(1) Clear and Convincing.

(a) Foster-care placement. Except during an emergency proceeding, when requesting court authorization for the placement of an Indian child in foster care, the Department must demonstrate, by clear and convincing evidence, that continued custody of the child with the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The Department's presentation of evidence must include the testimony of at least one QEW, as defined in section (3) of this rule.

(b) Guardianship finalization pursuant to ORS 419B.366. When requesting court appointment of a guardian pursuant to ORS 419B.366, the Department must demonstrate, by clear and convincing evidence, that continued custody of the child with the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The Department's presentation of evidence must include the testimony of at least one QEW, as defined in section (3) of this rule.

(2) Beyond a Reasonable Doubt.

(a) Guardianship finalization pursuant to ORS 419B.365. When requesting court appointment of a guardian pursuant to ORS 419B.365, the Department must demonstrate, by evidence beyond a reasonable doubt, that continued custody of the child with the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The Department's presentation of evidence must include the testimony of at least one QEW, as defined in section (3) of this rule.

(b) Termination of Parental Rights. When requesting judicial termination of parental rights, the Department must prove, beyond a reasonable doubt, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The Department's presentation of evidence must include the testimony of at least one QEW, as defined in section (3) of this rule.

(3) Qualified Expert Witness (QEW).

(a) A QEW must be qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(b) The Department must work with the Indian child's tribe to determine who should be designated to testify as a QEW. If the Indian child's tribe declines or is unable to designate a QEW, the Department will identify a QEW.

(c) Department staff may not serve as a QEW in any child custody proceeding.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.185, 419B.365, 419B.366, 419B.521

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0140

Tribal-State Agreement

These rules may be superseded for a particular tribe by a written, signed agreement between the state and that tribe. Such agreement must be retained by the Tribal Affairs Unit and produced upon request.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-115-0150

Full Faith and Credit

The United States, every state, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records and judicial proceedings of any Indian tribe regarding any Indian child-custody proceeding to the same extent that such entities give full faith and credit to Indian tribes.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.100

Hist.: CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

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 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.

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(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) "ICWA" or "the Act" means the Indian Child Welfare Act of 1978, 25 U.S.C. §§1901-63.

(40) "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.

(41) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(42) "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).

(43) "Legal Assistance Referral" means an attorney-client privileged document used to prepare the termination of parental rights petition and or trial preparation work.

(44) "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.

(45) "Legalization" means the process of giving an adoptive placement legal validity.

(46) "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.

(47) "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.

(48) "OSP" means the Oregon State Police.

(49) "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.

(50) "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:

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(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.

(51) "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.

(52) "Parties" means those participants whose signatures are necessary for the PACA to be implemented and are subject to enforcement of ORS 109.305.

(53) "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.

(54) "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.

(55) "Petition for Adoption" means a petition, filed in circuit court by any person, for leave to adopt another person.

(56) "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.

(57) "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.

(58) "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.

(59) "Post-placement supervision" means the supervision of a child following placement with an adoptive resource.

(60) "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.

(61) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(62) "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.

(63) "Refugee child" has the meaning given that term under ORS 418.925.

(64) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been

filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(65) "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.

(66) "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.

(67) "Secretary of State" means the Secretary of the United States Department of State, the central authority for the United States.

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(68) "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.

(69) "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.

(70) "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.

(71) "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.

(72) "U.S. State Department" means the United States Department of State.

(73) "Violence" means the use of physical force to injure, damage, or abuse.

(74) "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.

(75) "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; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0020

Adoption Placement Selection Options

When a child or sibling group has a permanency plan of adoption, the Department uses one of the three options below to make an adoption placement selection:

(1) Selection by Caseworker. After considering the input from the child's team and following consultation with the supervisor, the caseworker may make the adoption placement selection for a child or sibling group using the process in OAR 413-120-0021 when the requirements of at least one of the following is met:

(a) Pursuant to OAR 413-115-0090(3), if the child being considered for adoption alone or as part of a sibling group is an Indian child, and there is a single potential adoptive resource who:

(A) Has been identified as the placement preference through tribal resolution;

(B) Complies with the placement preference order prescribed by the ICWA and OAR 413-115-0090(3)(c); or

(C) Has been identified as the placement preference by the court through a good cause order as required by the ICWA and OAR 413-115-0090(3)(c).

(b) The child is identified as a refugee child and the adoption placement selection complies with OAR 413-070-0300 to 413-070-0380.

(c) A relative of the child or sibling group is being considered alone as the potential adoptive resource unless subsections (c), (d), or (e) of section (3) of this rule apply. Prior to making a selection, ensure the Department has conducted a diligent search and there is no other identified relative who has expressed an interest in, or who is being assessed as a potential adoptive resource and there is no current caretaker who has expressed an interest in, or who is being assessed, as a potential adoptive resource.

(d) A current caretaker of the child or sibling group is being considered alone as a potential adoptive resource unless subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no relative who has expressed an interest in, or who is being assessed as, a potential adoptive resource, and there is no other current caretaker who has expressed an interest, or who is being assessed, as a potential adoptive resource.

(e) The child is under six years of age with no extraordinary needs and each potential adoptive resource is a general applicant, unless subsection

(d) of section (2) of this rule or subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no relative who has expressed an interest in, or who is being assessed as, a potential adoptive resource, and there is no current caretaker who has expressed an interest, or who is being assessed, as a potential adoptive resource.

(2) Local Adoption Committee and ADS. The local adoption committee recommends an adoptive resource and the ADS makes the adoption placement selection when section (3) of this rule does not apply and at least one of the following applies:

(a) The child is six years of age or older.

(b) The child has extraordinary needs.

(c) A sibling group is being placed together for the purpose of adoption and each potential adoptive resource is a general applicant.

(d) The identified potential adoptive resources include the child's current foster parent, who is not a current caretaker, being considered as a general applicant with other general applicants.

(3) Central Office Adoption Committee and ADS. The central office adoption committee recommends an adoptive resource, and the ADS makes the adoption placement selection when one of the following applies:

(a) The potential adoptive resources include:

(A) More than one relative as defined in OAR 413-120-0000(64)(a)-(c);

(B) A relative as defined in OAR 413-120-0000(64)(a)-(d) and a current caretaker; or

(C) A relative, as defined in OAR 413-120-0000(64)(d) for whom an exception to the order of preference has been granted under OAR 413-120-0760.

(b) The potential adoptive resources include more than one current caretaker being considered for siblings who will be placed together in adoption.

(c) A DHS staff member is a potential adoptive resource, and the requirements of the DHS-060-002, "Conflict of Interest Policy" and the "Conflict of Interest Policy Addendum for CAF Employees" apply.

(d) A non-DHS staff member with a potential conflict of interest with the Department is a potential adoptive resource.

(e) The potential adoptive resource is an individual living outside of the United States.

(4) The caseworker, following consultation with the supervisor, may request that the adoption placement selection be made by an ADS following an adoption committee recommendation based on the complexities or dynamics of a case. The request must be approved by:

(a) The Child Welfare Program Manager or designee for the use of a local adoption committee rather than a caseworker selection; or

(b) The Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for the use of a central office adoption committee rather than a local adoption committee.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07; Administrative correction 9-16-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, 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 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0021

Adoption Placement Selection by Caseworker

(1) Before making an adoption placement selection, the child's caseworker must comply with the provisions of OAR 413-120-0700 to 413-120-0760.

(2) When the caseworker, after considering the input from the child's team and following consultation with the supervisor, has identified the potential adoptive resources to be considered for adoption placement selection, the caseworker must consult with the adoption worker for each of the identified families to:

(a) Provide the adoption worker with written information, redacted to remove identifying information, about the history and needs of each child under consideration for adoption; and

(b) Discuss the ability of the potential adoptive resource to meet the needs of each child under consideration for adoption.

(3) The adoption workers must complete all of the following:

(a) Provide the identified potential adoptive resources with the information described in subsection (2)(a) of this rule.

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(b) Describe the adoption placement selection process to the potential adoptive resources to:

(A) Inform them of the individuals who will be reviewing their adoption home study or other information during the adoption placement selection process; and

(B) Assure all appropriate releases of information described in OAR 413-120-0016(1) and (2) have been obtained.

(c) Confirm with the caseworker for each child who is under consideration that the potential adoptive resource is willing and available to be considered for adoption.

(4) When the caseworker has been informed that the identified potential adoptive resources are available and appropriate to be considered, the caseworker must set a date for the adoption placement selection and notify the adoption worker for each of the identified potential adoptive resources.

(5) At least ten business days before the adoption placement selection, the caseworker must complete all of the following:

(a) Notify the following individuals of the potential adoptive resources to be considered and the date the adoption placement selection will occur:

(A) The CASA;

(B) The child's attorney;

(C) An authorized representative of the child's tribe, if the child is an Indian child; and

(D) A member of the RCWAC, if the child is a refugee child.

(b) Ensure that the individuals identified in subsection (a) of this section are sent copies of the adoption home study and any additional written information released under OAR 413-120-0016 for each potential adoptive resource, unless the individual has notified the caseworker that they do not want a copy of the materials.

(c) Notify the individuals identified in subsection (a) of this section that any input regarding the ability of a potential adoptive resource to meet the current and lifelong needs of the child or sibling group must be received at least two days before the date of the adoption placement selection to assure it will be considered.

(6) When the caseworker has provided the notifications in section (5) of this rule, an adoption selection date has been scheduled by the caseworker or committee, and a child's relative or current caretaker now expresses interest in being considered as a potential adoptive resource, the Child Welfare Program Manager must:

(a) If the newly expressed interest is from a relative, review the diligent efforts to identify a child's relatives required under OAR 413-070-0060 to 413-070-0063;

(b) If the newly expressed interest is from a current caretaker, review the efforts to determine if the current caretaker was given adequate and reasonable time to request consideration as the potential adoptive resource;

(c) Consider the impact of a delay in achieving permanency on the best interests of the child; and

(d) Make a determination whether it is in the best interest of the child for an adoption home study to be conducted with a relative or current caretaker despite the delay in achieving permanency.

(7) The Child Welfare Program Manager in consultation with the Child Permanency Program Manager makes the determination whether to consider a relative or current caretaker under section (6) of this rule.

(8) When a Child Welfare Program Manager informs the caseworker of the determination to consider a relative or current caretaker identified under section (6) of this rule, the caseworker must notify each individual in subsection (5)(a) of this rule and the adoption worker for each identified potential adoptive resource that the adoption selection process has been suspended.

(9) When the adoption selection process has been suspended, the adoption workers must notify each identified potential adoptive resource that the adoption selection process has been suspended.

(10) The timelines in this rule may be changed when the caseworker, the adoption worker for each of the identified potential adoptive resources, and each individual in section (5) of this rule agree on a new timeline.

(11) After considering the input from individuals in section (5) of this rule, the caseworker, following consultation with his or her supervisor — makes the adoption placement selection for a child or sibling group under consideration for adoption when OAR 413-120-0020(1) applies.

(12) On the day that the selection is made, the child's caseworker must notify the adoption workers for each of the identified potential adoptive resources who were considered for the adoption placement selection.

(13) By the end of the next business day following the adoption placement selection, the child's caseworker must send written notification of the adoption placement selection to each of the following individuals:

(a) The CASA;

(b) The child's attorney;

(c) An authorized representative of the child's tribe, if the child is an Indian child; and

(d) A member of the RCWAC, if the child is a refugee child.

(14) By the end of the next business day following the adoption placement selection, written notification on a form approved by the Department must be sent to each identified potential adoptive resource of whether they were selected as the adoptive resource by the following individuals:

(a) A Department adoption worker; or

(b) The child's caseworker when the adoption worker is a private agency employee.

(15) Notifications in sections (12) and (13) of this rule must contain information on the Department's review process as described in OAR 413-120-0060, unless the identified potential adoptive resources were all general applicants.

(16) Within three days of the adoption placement selection, the caseworker must assure that:

(a) The adoption placement selection and the basis for that selection are documented on a Department-approved form; and

(b) The central office Adoption Program is notified of the adoption placement selection.

(17) Any individual who received a copy of an adoption home study or other written documents during the adoption selection process must return the materials to the Department within seven business days of the notice of the adoption placement selection.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285, 419B.192

Hist.: CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, 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 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

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) An authorized representative from the child's tribe, 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.

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(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

(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; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0057

Adoption Placement Selection, Notification, and Documentation

(1) Adoption Placement Selection.

(a) The ADS must make a decision regarding the adoption placement selection no later than the end of the next business day following the scheduled adoption committee.

(b) The ADS may make one of the following adoption placement selection decisions from the identified potential adoptive resources presented at the adoption committee:

(A) Select one adoptive resource.

(B) Select an adoptive resource and identify a second adoptive resource as an alternate in the event that the selected adoptive resource is subsequently found to be unavailable or no longer deemed by the Department to meet the current and lifelong needs of the child under OAR 413-120-0800 to 413-120-0880.

(C) Select none of the potential adoptive resources.

(2) Notification of the Adoption Placement Selection.

(a) The ADS must send written notification to the child's caseworker, the adoption workers, and the committee facilitator of the adoption placement selection, and alternate if one was named, no later than the end of the next business day following the scheduled adoption committee.

(b) By the end of the next business day following the notice sent in subsection (a) of this section, written notification on a form approved by the Department must be sent as follows:

(A) Each potential adoptive resource who was presented at the adoption committee must be notified by the following individuals of whether they were selected:

(i) A Department adoption worker; or

(ii) The child's caseworker when the adoption worker is not a Department employee.

(B) The child's attorney, CASA, an authorized representative from the child's tribe, if the child is an Indian child, a member of the RCWAC, and the private adoption agency representing a potential adoptive resource, as applicable, must be notified of the adoption placement selection by the child's caseworker.

(C) Notices in paragraphs (A) and (B) of this subsection must contain information on the Department's review process as described in OAR 413-120-0060, except when the potential adoptive resources were all general applicants.

(3) The ADS must send written documentation on a form approved by the Department regarding the adoption placement selection, the alternate when one is named, and the basis for those decisions to the central office Adoption Program within two business days following the adoption committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: 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 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0060

Review of the Adoption Placement Selection

(1) A review may not be requested of an adoption placement selection when each potential adoptive resource was a general applicant.

(2) Except as provided in section (1) of this rule:

(a) Each of the following individuals may request a review of the process and the adoption placement selection under OAR 413-120-0021(10) or 413-120-0057(1):

(A) The child.

(B) The child's attorney.

(C) The CASA.

(D) An authorized representative from the child's tribe, if the child is an Indian child.

(E) A member of the RCWAC.

(F) The child's caseworker, with the approval of the caseworker's supervisor and the Child Welfare Program Manager or designee.

(G) A relative or current caretaker who was considered as the adoptive resource but was not selected.

(b) A request for review of the process and decision made in the adoption placement selection must be in writing and received by the Child Permanency Program Manager or designee within seven calendar days of the notification of the adoption placement selection under OAR 413-120-0021(12)-(13) or 413-120-0057(2)(b).

(c) When a request for review has been received, the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee must notify the Director of Child Welfare or designee and must send written notice of the request to the following individuals:

(A) Each of the potential adoptive resources considered by the caseworker or adoption committee and ADS;

(B) The child's caseworker;

(C) The adoption worker for each of the potential adoptive resources considered;

(D) The supervisors of the workers;

(E) The child's attorney;

(F) The child's CASA;

(G) An authorized representative from the child's tribe, if the child is an Indian child;

(H) A member of the RCWAC, if the child is a refugee child; and

(I) The local Child Welfare Program Manager.

(d) The Director of Child Welfare or designee must decide whether to grant a review of the adoption placement selection within 14 calendar days after the notice of the adoption placement selection under OAR 413-120-0021(12)-(13) or 413-120-0057(2)(b). Written notice of the decision whether or not to conduct a review must be sent to the individuals listed in subsection (c) of this section and to the Child Permanency Program Manager. This written notice is not required to be provided within the 14 calendar day timeline for the decision whether to grant a review.

(e) The Director of Child Welfare or designee may, on his or her initiative and without a request for a review, give notice of intent to review the adoption placement selection when the decision to review is made within seven calendar days following the date of the notice of the adoption placement selection in OAR 413-120-0021(12)-(13) or 413-120-0057(2)(b).

(f) The Director of Child Welfare or designee may conduct the review by any of the following methods:

(A) Personally conduct a review of information considered in making the adoption placement selection and may consider additional, relevant information about the child or potential adoptive resource.

(B) Refer the adoption placement selection to a review committee appointed by and at the discretion of the Director of Child Welfare or designee to:

(i) Review the information considered in making the original adoption placement selection;

(ii) Consider additional relevant information about the child or potential adoptive resources; and

(iii) Issue a recommendation that the Director of Child Welfare or designee affirm or modify the original adoption placement selection of the

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caseworker or the ADS or recommend a different adoption placement selection.

(C) Appoint another individual to:

(i) Review the information considered in making the original adoption placement selection;

(ii) Consider additional relevant information about the child or potential adoptive resources; and

(iii) Issue a recommendation that the Director of Child Welfare or designee affirm or modify the original adoption placement selection of the caseworker or the ADS, or recommend a different adoption placement selection.

(g) The Director of Child Welfare or designee must provide written notification of the decision affirming or changing the original adoption placement selection to the individuals identified in subsection (2)(c) of this rule and the Adoption Program Manager.

(3) Notwithstanding sections (1) and (2) of this rule, the Director of Child Welfare may reconsider a decision and require the actions in subsection (2)(f) of this rule to occur when the following conditions exist:

(a) The time to request review of an adoption placement selection under subsection (2)(b) of this rule has expired;

(b) There is no request for review pending; and

(c) The deadline set by statute for a person entitled to seek judicial review of an adoption placement selection entered under this rule has not expired.

(4) The adoption placement selection made by the Director of Child Welfare or designee under this rule is final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 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; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 23-2007(Temp), f. & cert. ef. 12-12-07 thru 6-9-08; CWP 4-2008, f. 5-30-08, cert. ef. 6-1-08; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 21-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0165

Requirements Prior to Proceeding to Legalization of the Adoption

When the supervision period is concluded and the Adoption Services Unit receives a request from the adoptive parent(s) or their legal representative to proceed with finalization of the adoption in the juvenile court, the Adoption Services Unit shall assure that the following requirements have been met or processes have been completed before proceeding with forwarding the matter to the juvenile court for legalization:

(1) The requirements of the ICWA and OAR chapter 413, division 115 have been met.

(2) If applicable, the requirements of the Interstate Compact on Placement of Children have been met (OAR 413-040-0200 through 0330).

(3) The birth parent(s) and petitioners have been advised of the Voluntary Adoption Registry (OAR 413-130-0300 through 0360).

(4) The worker has assessed the child's need for openness in adoption, and if appropriate to the case, has provided information to the adoptive parent(s) and facilitated the development of a Post Adoption Communication Agreement (OAR 413-120-0610 through 0650); and

(5) The child has been referred to the Adoption Assistance Program; and if the child meets the criteria, a written Adoption Assistance Agreement has been completed, (OAR 413-130-0000 through 0110). If the adoptive parent(s) decline to participate in the Adoption Assistance Program, the worker must obtain a statement signed by the adoptive parent(s) which says that they have been fully informed of the availability of the Adoption Assistance Program and waive their rights to these benefits now and in the future.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; SOSCF 48-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 9-2004, f. & cert. ef. 4-1-04; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0175

Court Filing Requirements

When the requirements of OAR 413-120-0165 have been met, the Adoption Services Unit will send the following to the attorney selected by the adoptive family, and the attorney must file with the court:

(1) A written consent to the adoption.

(2) A placement report requesting the juvenile court to enter a decree of adoption.

(3) Indian Child Welfare Act statement, ORS 109.315(1)(h).

(4) Statement regarding Voluntary Adoption Registry Notification, ORS 109.35.

(5) Documentation regarding compliance with the Interstate Compact on Placement of Children, Article IV, ORS 417.200.

(6) Adoption Disclosure Statement, form CF 960.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; CWP 40-2003(Temp), f. & cert. ef. 11-25-03 thru 5-21-04; CWP 9-2004, f. & cert. ef. 4-1-04; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0625

Roles and Responsibilities

(1) Child's caseworker: The child's caseworker represents the custodian of the child and assesses the appropriateness of mediation for cooperative post adoption planning for the children on their caseload. The child's caseworker consults with the supervisor and LAS, and seeks input from other interested persons. The decision to refer a case to mediation is based on the best interest of the child and whether the child's safety and permanency needs will be met with post-adoption communication. The child's caseworker consults with an adoption worker, if assigned, or the identified adoptive parent(s) and the birth parent(s) about willingness to participate in the cooperative adoption mediation process. The child's caseworker initiates the referral to mediation and is the primary contact for the contract mediator.

(2) Adoption worker: The adoption worker connects to the cooperative adoption mediation process, selected adoptive parents (including preliminary current caretaker families) of children who may benefit from post-adoption communication. The adoption worker collaborates with the child's worker to identify benefits of the cooperative adoption mediation process and documents safety concerns to be communicated on the Mediation Referral Form.

(3) LAS:

(a) The LAS ensures that legal assistance mediation or cooperative adoption mediation services are included in the discussions of the plan to free the child for adoption (by relinquishment or termination of parental rights). The LAS determines, in consultation with the child's worker and the legal assistance attorney, whether cooperative adoption mediation planning meets the child's best interest post adoptively. If the referral is appropriate the LAS approves the Referral for Mediation (CF 0437). The LAS confers with the child's caseworker when the caseworker determines that the PACA may not meet the safety concerns of the child. The LAS advises the child's caseworker on additional requirements related to Indian children.

(b) The outcome of the procedures to terminate parental rights shall not be the basis of ending the cooperative adoption mediation process.

(4) Contract Mediator: The contracted mediator for the cooperative adoption mediation process assists mediation participants in clarifying issues and stating expectations. The mediator is a neutral third party who assists the mediation participants in exploring options and empowers the mediation participants to make decisions through the confidential cooperative adoption planning process. The mediator will not make or impose decisions about the final outcome of the PACA.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

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(64)(a)-(c).

(b) Except when (c) of this section applies, a relative as defined in OAR 413-120-0000(64)(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(64)(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(64)(d), the individual is considered a current caretaker for purposes of this section.

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(2) For an Indian child, the caseworker must comply with the ICWA and OAR chapter 413, division 115.

(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; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0750

Recruitment Efforts

(1) The Department must begin recruitment for the child or sibling group in a timely manner that is appropriate to each child's permanency and concurrent permanent plans.

(2) The Department may consider up to three general applicants as adoptive resources for a child or sibling group.

(3) Except as provided in section (4) of this rule, the Department's recruitment efforts may not consider the race, color, or national origin of a potential adoptive resource or a child.

(4) When recruiting potential adoptive resources for an Indian child, the Department must comply with the ICWA and OAR 413-115-0090.

(5) When a child is not fully free for adoption, the legal assistance specialist must:

(a) Determine when recruitment may begin;

(b) Determine whether recruitment may begin for a child with extraordinary needs before the Department initiates the process to free the child for adoption; and

(c) Notify the caseworker to begin recruitment efforts.

(6) As part of the identification of general applicants who will be considered in the adoption placement selection process, the child's caseworker must conduct recruitment activities including, at a minimum, ensuring a Waiting Child Bulletin has been posted, for at least 30 days, unless one or more of the following subsections applies:

(a) An exception to this timeline has been approved by the Assistant Child Permanency Program Manager or designee.

(b) The Department has determined, under OAR 413-070-0514, an individual known to the child or sibling group should be assessed as a potential adoptive resource, based upon all of the following:

(A) The best interest of each child.

(B) The strength of the relationship between each child and the individual.

(C) The likelihood the individual will have a positive adoption home study and meet the requirements of OAR 413-120-0246(1).

(D) The demonstrated knowledge, skills, abilities, and commitment of the individual to raise each child.

(E) The capacity of the individual to meet the current and lifelong safety, attachment, and well-being needs of the child as required by OAR 413-070-0640.

(7) Recruitment activities under section (6) of this rule are not required when:

(a) The Department has planned for the child or sibling group to be adopted by a relative of at least one of the siblings;

(b) The Department has planned for the child or sibling group to be adopted by a current caretaker; or

(c) In the case of an Indian child, alone or as part of a sibling group, the Department has planned for adoption by an identified potential adoptive resource meeting the order of placement preference in the ICWA and OAR 413-115-0090.

(8) The recruitment efforts of the Department for a child or sibling group must be documented in the Department's electronic information system.

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 21-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0760

Identification of a Child's Potential Adoptive Resources

(1) When identifying potential general applicant adoptive resources for a child or sibling group, the caseworker may:

(a) After discussion with his or her supervisor and on a case-by-case basis, consult with a birth parent to identify one to three potential adoptive resources; and

(b) Provide a birth parent with non-identifying information from the adoption home study of a potential adoptive resource who is a general applicant not known to the parent or child.

(2) When more than one relative is interested in being an adoptive resource for a child or sibling group, the Department must consult with the interested relatives to facilitate agreement on the most appropriate potential adoptive resource.

(a) When agreement cannot be reached, the Department considers relatives among both maternal and paternal family members who have expressed an interest, and may choose up to three relatives for adoption home studies.

(b) When an adoption home study has been initiated and the potential adoptive resource is not approved or withdraws, the Child Welfare Program Manager or designee decides whether the Department will initiate adoption home studies with additional relatives based upon:

(A) The best interest of the child or sibling group; and

(B) The impact on timeliness to achieving permanency.

(c) For an Indian child alone or as part of a sibling group, the Department must identify potential adoptive resources and initiate adoption home studies as necessary to comply with the ICWA.

(3) The child's caseworker must comply with the requirements of all of the following subsections:

(a) Make reasonable efforts to identify and place the child or sibling group with an adoptive resource in a timely manner.

(b) Request input about the knowledge, skills, abilities, and commitment a potential adoptive resource needs to best meet the current and lifelong needs of the child from:

(A) Professionals who have worked closely with the child, when applicable; and

(B) The child's attorney, CASA, an authorized representative from the Indian child's tribe, a RCWAC representative, and substitute caregiver, when applicable.

(c) Receive and review adoption home studies in a timely manner.

(d) Unless section (4) of this rule applies, following consultation with his or her supervisor, identify up to three potential adoptive resources following the order of preference in OAR 413-120-0730 to be considered for adoption placement selection who:

(A) Meet the standards of an adoptive home in OAR 413-120-0246;

(B) Have the knowledge, skills, abilities, and commitment to raise each child; and

(C) Have the capacity to meet the current and lifelong safety, attachment, and well-being needs of the child or sibling group under OAR 413-070-0640.

(4) Upon the recommendation of a caseworker and supervisor, and when it is determined in the best interest of the child, the Child Welfare Program Manager may submit a written request to the Child Permanency Program Manager for an exception to subsection (d) of section (3) of this rule to increase the number of potential adoptive resources to be considered for adoption placement who are in the order of preference as described in 413-120-0730(1)(c).

(5) In consultation with the supervisor, the caseworker must determine the appropriate adoption selection process pursuant to OAR 413-120-0020.

(6) The caseworker must consult with the adoption worker for each of the identified potential adoptive resources pursuant to OAR 413-120-0021(2).

(7) The caseworker must document the actions taken under this rule in the Department's electronic information system.

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 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

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413-120-0870

Disruption

(1) After the adoption placement selection has been made pursuant to OAR 413-120-0021 or 413-120-0057, but prior to the physical placement of the child with the family selected as the adoptive resource, when circumstances occur or conditions are made known to the Department that give the child's caseworker reason to believe the selected adoptive resource is no longer appropriate for the child or his or her siblings, the child's caseworker must:

- (a) Consult with his or her supervisor;
- (b) Document the conditions or circumstances of concern; and
- (c) Request approval from the Adoption Program Manager to reconsider the adoption placement selection.

(2) When the caseworker for the child determines that a disruption is likely, the caseworker must consult with each of the following to try to preserve the placement, when it is in the best interest of the child to do so:

- (a) His or her supervisor;
- (b) The adoption worker who is supervising the adoptive placement;
- (c) Members of the child's team identified as individuals who can offer additional information or support, and
- (d) The family, if possible.

(3) When the Department is supervising an adoptive placement of a child in the custody of another public child welfare agency and concerns arise that indicate that the adoptive resource is no longer appropriate for the child or children, the caseworker must ensure contact is made with the responsible entity and coordinate subsequent actions.

(4) When the caseworker and supervisor recommend to the Child Welfare Program Manager that the adoptive resource for a child in the custody of the Department is no longer appropriate for the child or children, the Child Welfare Program Manager, when in agreement, forwards the request for final approval for a disruption to the Adoption Program Manager.

(5) The caseworker must document the disruption in the Department's information system and notify the central office Adoption Program and the central office ICPC unit, if applicable, of the date of the adoption disruption.

(6) After the disruption of an adoptive placement of a child in the custody of the Department, the child's caseworker must consult with his or her supervisor, the child's team, and individuals with significant adoption experience to staff the case in order to:

- (a) Gain a comprehensive understanding of the issues leading to the disruption; and
- (b) Increase the likelihood for the child's success in another adoptive placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 14-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-120-0880

No Delay in Placement

(1) The Department may not delay placement of a child for adoption with an adoptive resource based on any criteria listed in the following subsections:

- (a) Geographic location; or
- (b) Race, color, or national origin of the child or the adoptive resource.

(2) An adoptive resource who believes that the Department violated the prohibition under section (1) of this rule may file a civil rights complaint and request a review under OAR 413-010-0400 to 413-010-0480.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; Renumbered from 413-120-0045; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

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(64)(a)(A), (B) or (C);

(ii) A relative as described in OAR 413-120-0000(64)(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 policies: 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

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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 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; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-200-0260

Definitions

The following definitions apply to OAR chapter 413, division 200.

(1) "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 has been sustained by that review and the review is complete.

(2) "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.

(3) "Applicant" means any individual who applies:

(a) For a Certificate of Approval, Child-Specific Certificate of Approval, Temporary Certificate of Approval, to renew certification, or for a change of status; or

(b) For approval through the Department as a potential adoptive resource.

(4) "Babysitting" means the provision of temporary care for a child or young adult that is:

(a) Ten consecutive hours or less; and

(b) Not overnight care.

(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 used for one or more of the following purposes:

(a) Identifying case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) Determining the level of care payment while in substitute care with a certified family; and

(c) Determining the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(6) "Certificate of Approval" means a document the Department issues to a certified family to approve the operation of a home to provide care for a child or young adult in the care or custody of the Department.

(7) "Certification supervisor" means an employee of the Department, designated as a supervisor, supervising staff responsible for certification, training, and monitoring homes certified by the Department.

(8) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which the individual or individuals reside, to a child or young adult in the care or custody of the Department.

(9) "Certifier" means a Department employee who:

(a) Conducts assessments of applicants and homes;

(b) Determines whether or not to recommend approval of a potential adoptive resource or that a Certificate of Approval be approved or renewed; and

(c) Monitors the compliance of a certified family and home with OAR 413-200-0301 to 413-200-0396.

(10) "Child" means a person under 18 years of age.

(11) "Child care" means regularly scheduled care, supervision, and guidance of a child by an individual other than the parent, guardian, foster parent, or relative caregiver during any time that the parent, guardian, foster parent, or relative caregiver works or attends school.

(12) "Child protective services assessment" (CPS assessment) means an investigation into a report of child abuse pursuant to ORS 419B.020, that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neg-

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lect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.

(13) "Child protective services supervisor" (CPS supervisor) means an employee of the Department trained in child protective services and designated as a supervisor.

(14) "Child protective services worker" (CPS worker) means an employee of the Department who has completed the mandatory Department training for child protective service workers.

(15) "Child-Specific Certificate of Approval" means a document the Department issues to a certified family to approve the operation of a home to provide care for a specific child or young adult in the care or custody of the Department and for whom the Department determines a placement is needed.

(16) "Cohabiting" means the act of two adults, unmarried to each other, living together in an intimate relationship as if married.

(17) "Consulting foster parent or relative caregiver" means an individual who maintains or has held a Certificate of Approval to operate a foster or relative caregiver home, received Department approved training on the role of a "consulting foster parent or relative caregiver", and agrees to serve in this role.

(18) "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.

(19) "Day Care Facility" means each of the following:

(a) A Registered Family Child Care Home, which is the residence of a provider who has a current Family Child Care Registration at that address and who provides care in the family living quarters.

(b) A Certified Family Child Care Home, which is a child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 16 children at any one time.

(c) A Certified Child Care Center, which is certified to care for 13 or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.

(d) A Listed Facility, which is a child care provider that is exempt from Office of Child Care licensing and that receives subsidy payments for child care on behalf of clients of the Department of Human Services.

(20) "Denial" means the refusal of the Department to approve an application for certification and issue or renew a certification.

(21) "Department" means the Department of Human Services, Child Welfare.

(22) "Discipline" means a training process to help a child or young adult develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(23) "Disqualifying condition" means any information or circumstance related to a person or to the home that does not meet one or more of the requirements in OAR 413-200-0301 to 413-200-0396.

(24) "Electronic monitoring" means the use of video monitoring or listening devices to monitor or record the behavior of a child or young adult. "Electronic monitoring" does not include:

(a) Door monitors;

(b) Window alarms;

(c) Motion detectors;

(d) Audio or video baby monitors used for a child five years and under; or

(e) Monitors approved by a medical provider for medical purposes.

(25) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and assure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(26) "Foster parent" means a person 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.

(27) "Home study" means a document containing an analysis of the ability of the applicant to provide safe and appropriate care of a child or young adult.

(28) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. When it is occurring, this type of 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 functioning.

(29) "Inactive Referral Status" means a period of time, not to exceed 12 months, during which neither the Department nor any other agency may place an additional child or young adult with a certified family.

(30) "Initial contact" means the first face-to-face contact between a CPS worker and a family. The "initial contact" includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, other children and adults living in the home; accessing the home environment; and gathering sufficient information on the family conditions and functioning to determine if present danger safety threats or impending danger safety threats exist.

(31) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of the child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(32) "Listed DHS child care program provider" means a child care provider who has been approved by DHS Self-Sufficiency Program to provide child care to DHS clients.

(33) "Member of the household" means any adult or child living in the home, including the applicant and any caregiving employee or volunteer.

(34) "Personal care services plan" means a written plan to provide personal care services for the child or young adult documenting:

(a) The determination that the individual is a qualified provider;

(b) The frequency or intensity of each personal care service to be provided; and

(c) The date personal care services begin.

(35) "Physical restraint" means the act of restricting the voluntary movement of a child or young adult as an emergency measure in order to manage and protect the child, young adult, or others from injury when no alternate actions are sufficient to manage the behavior of the child or young adult. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(36) "Placement support plan" means a documented set of actions or resources that is developed to assist a relative caregiver or foster parent to maintain conditions that provide safety and well-being for a child or young adult in the home.

(37) "Present danger safety threat" means an immediate, significant, and clearly observable family behavior, condition, or circumstance occurring in the present tense, already endangering or threatening to endanger a child. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a child in peril.

(38) "Psychotropic medication" means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated intended effect when prescribed because it may have many different effects.

(39) "Punishment" means the intentional infliction of emotional or physical pain or suffering.

(40) "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.

(41) "Referral" means a report that has been assigned for the purpose of CPS assessment.

(42) "Relative caregiver" means a person defined as a "relative" under OAR 413-070-0000 who operates a home that has been approved by

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the Department to provide care for a related child or young adult placed in the home by the Department.

(43) "Report" means an allegation of child abuse or neglect provided to the Department that the screener evaluates to determine if it constitutes a "report" of child abuse or neglect as defined in ORS 419B.005.

(44) "Respite care" means a formal planned arrangement to relieve a certified family's responsibilities by a person temporarily assuming responsibility for the care and supervision of a child or young adult in the home of the person or certified family. "Respite care" must be less than 14 consecutive days.

(45) "Revocation" means an administrative act by the Department that rescinds an existing Certificate of Approval, Child-Specific Certificate of Approval, or Temporary Certificate of Approval.

(46) "Screener" means a Department employee with training required to provide screening services.

(47) "Surrogate" means an individual who has been appointed to safeguard a child's rights in the special education decision-making process. The individual may be appointed pursuant to applicable Department of Education administrative rules and statutes or by the juvenile court.

(48) "Temporary Certificate of Approval" means a document the Department issues to a certified family to approve the operation of a home to provide care for a specific child or young adult in the care and custody of the Department. The "Temporary Certificate of Approval" is valid for up to 180 days unless an extension is granted under OAR 413-200-0276(3).

(49) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 409.050, 418.005, 418.015, 418.027, 418.285, 418.315, 418.470, 418.625 - 418.648

Hist.: CWP 20-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-200-0306

Eligibility for Certified Families and Adoptive Resources

To qualify as a newly certified family or adoptive resource for a child or young adult in the custody of the Department, an individual must:

(1) Be a United States citizen, a qualified non-citizen, or a relative of the child for whom the individual is seeking to be a relative caregiver or adoptive resource, except when a certified family applies for renewal;

(2) Be at least 21 years of age, unless:

(a) Granted an exception by a Child Welfare program manager or designee, who may approve an applicant between 18 and 20 years of age to become a relative caregiver; or

(b) Otherwise specified in the OARs governing the placement of Indian children, OAR 413-115-0090;

(3) Submit a completed application on a form, and in the manner, prescribed by the Department;

(4) Participate in the applicant assessment processes prescribed by the Department, and provide additional information requested by the Department to support the assessment; and

(5) Be determined by the Department to meet the qualifications and standards required by OAR 413-200-0301 to 413-200-0396

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-215-0000

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 215:

(1) "Academic boarding school" means an organization or a program in an organization that:

(a) Provides educational services and care to children 24 hours a day; and

(b) Does not hold itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.

(2) "Adoption agency" means an organization providing any of the following services:

(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 adoptive placement for the child.

(e) Monitoring a case after placement until final adoption.

(f) When necessary because of disruption before final adoption, assuming custody and providing childcare or other social services for the child pending an alternative placement.

(3) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children in care of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child in care 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 in care, activities or items that are suitable for the child in care based on the developmental stages attained by the child in care with respect to the cognitive, emotional, physical, and behavioral capacities of the child in care.

(4) "Approval" means acceptable to the regulatory authority based on conformity with generally recognized standards that protect public health.

(5) "Approved proctor foster parent" means an individual approved by a foster care agency to provide care to children in a proctor foster home.

(6) "Background check" means a check done in compliance with the Department's criminal records and abuse check rules, OAR 407-007-0200 to 407-007-0370.

(7) "Birth parent" means each person who holds a legally recognized parental relationship to the child, but does not include the adoptive parents in the adoption arranged by the adoption agency.

(8) "Boarding" means care or treatment services provided on a 24 hour per day basis to children.

(9) "Child in care" means a person who is under 21 years of age who is residing in or receiving care or services from a child caring agency or proctor foster home.

(10) "Child-caring agency" is defined in ORS 418.205 and:

(a) Means any private school, private agency, or private organization providing:

(A) Day treatment for children with emotional disturbances;

(B) Adoption placement services;

(C) Residential care including, but not limited to, foster care or residential treatment for children;

(D) Outdoor youth programs; or

(E) Other similar care or services for children.

(b) Includes the following:

(A) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;

(B) An independent residence facility as described in ORS 418.475;

(C) A private residential boarding school; and

(D) A child-caring facility as described in ORS 418.950.

(c) Child-caring agency does not include:

(A) Residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services.

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this paragraph, "respite services" means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purposes of providing a parent in crisis with relief from the demands of ongoing care of the parent's child;

(C) A youth job development organization as defined in ORS 344.415;

(D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645; or

(E) A foster home subject to ORS 418.625 to 418.645.

(11) "Clinical supervisor" means an individual who meets the clinical supervisor qualifications in OAR 309-022-0125.

(12) "Contraband" means items the possession of which is prohibited by the child-caring agency including, but not limited to weapons or drugs.

(13) "Criminal history check" means compliance with the Department's criminal records history rules, OAR 407-007-0200 to 407-007-0370.

(14) "Day treatment" means a comprehensive, interdisciplinary, non-residential, community-based, psychiatric treatment, family treatment, and therapeutic activities integrated with an accredited education program provided to children with emotional disturbances.

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(15) "Day treatment agency" means a child-caring agency that provides psychiatric day treatment services.

(16) "Debrief" means to interview a person (such as a child in care or staff member) usually upon return (as from an expedition) in order to obtain useful information.

(17) "Department" means the Oregon Department of Human Services.

(18) "Discipline" means a training process to help a child in care develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(19) "Disruption" means the interruption of an adoptive placement prior to the finalization of the adoption in a court of law.

(20) "Employee" means an individual holding a paid position with a child-caring agency.

(21) "Facility" means the physical setting, buildings, property, structures, administration, and equipment of a child-caring agency.

(22) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.

(23) "Foster care agency" means a child-caring agency that offers to place children by taking physical custody of and then placing the children in homes certified by the child-caring agency.

(24) "Homeless or runaway youth" means a child in care who has not been emancipated by the juvenile court; lacks a fixed, regular, safe, and stable nighttime residence; and cannot immediately be reunited with his or her family.

(25) "ICWA" or "the Act" means the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901-63.

(26) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(27) "Intercountry adoption" means an adoption in which a child who is a resident and citizen of one country is adopted by a citizen of another country.

(28) "Licensee" means a child-caring agency that holds a license issued by the Department.

(29) "Mass shelter" means a structure that contains one or more open sleeping areas in which, on a daily basis, only emergency services are provided to homeless or runaway youth, such as a meal and a safe place to sleep overnight.

(30) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(31) "Outdoor living setting" means an outdoor field setting in which services are provided to children in care either more than 10 days per month for each month of the year or for longer than 48 hours at a location more than two hours from community-based medical services.

(32) "Outdoor youth program" means a program that provides, in an outdoor living setting, services to children in care who are enrolled in the program because they have behavioral problems, mental health problems, or problems with abuse of alcohol or drugs. "Outdoor youth program" does not include any program, facility, or activity operated by a governmental entity, operated or affiliated with the Oregon Youth Conservation Corps, or licensed by the Department as a child-caring agency under other authority of the Department. It does not include outdoor activities for children in care designed to be primarily recreational.

(33) "Outdoor youth program activity" means an outdoor activity, provided to children in care for the purpose of behavior management or treatment, which requires specially trained staff or special safety precautions to reduce the possibility of an accident or injury. Outdoor youth activities include, but are not limited to, hiking, adventure challenge courses, climbing and rappelling, winter camping, soloing, expediting, orienteering, river and stream swimming, and whitewater activities.

(34) "Over the counter medication" means any medication that does not require a written prescription for purchase or dispensing.

(35) "Placement" means when the child is placed in the physical or legal custody of prospective adoptive parents.

(36) "Proctor foster home" means a foster home certified by a child-caring agency under Oregon Laws 2016, chapter 106, section 6 that is not subject to ORS 418.625 to 418.645.

(37) "Program" means a set of one or more services provided by a child-caring agency that make the child-caring agency subject to the rules in OAR chapter 413, division 215.

(38) "Qualified Mental Health Professional (QMHP)" means an individual who meets the QMHP qualifications in OAR 309-022-0125.

(39) "Re-adoption" means a process in which a child whose adoption was completed in another country is re-adopted in this country.

(40) "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 in care while encouraging the emotional and developmental growth of the child in care, that a substitute care provider shall use when determining whether to allow a child in care to participate in extracurricular, enrichment, cultural, and social activities.

(41) "Residential" means care or treatment services provided on a 24 hour per day basis to children. For the purpose of these rules, "residential care or treatment" does not include services provided in family foster homes or adoptive homes.

(42) "Residential care agency" means a child-caring agency that provides services to children 24 hours a day.

(43) "Service plan" means an individualized plan of services to be provided to each child in care based on his or her identified needs and designed to help him or her reach mutually agreed upon goals. The service plan must address, at a minimum, the child in care's physical and medical needs, behavior management issues, mental health treatment methods, education plans, and any other special needs.

(44) "Shelter" means a facility operated by a child-caring agency that provides services for a limited duration to homeless or runaway youth.

(45) "Sole supervision" means being alone with a child in care or being temporarily the only staff in charge of a child in care or subgroup of children in care.

(46) "Special needs" mean a trait or disability of a child that requires special care or attention of the child or that historically has made placement of a child with similar characteristics or disability difficult.

(47) "Staff" means employees of the child-caring agency who are responsible for providing care, services, or treatment to a child in care.

(48) "Stationary outdoor youth program" means an outdoor youth program which remains in a stationary location that houses children in care.

(49) "Therapeutic boarding school" means an organization or a program in an organization that:

(a) Is primarily a school and not a residential care agency;

(b) Provides educational services and care to children for 24 hours a day; and

(c) Holds itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.

(50) "Transitional living program" means a set of services offered by a child-caring agency that provides supervision and comprehensive services for up to 18 months to assist homeless or runaway youth to make a successful transition to independent and self-sufficient living.

(51) "Wilderness first responder" means a medical training course and certification for outdoor professionals.

Stat. Auth.: ORS 409.050, 418.005, 418.240, OL 2016, ch 106

Stats. Implemented: ORS 418.205 - 418.327, OL 2016, ch 106

Hist.: CWP 12-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; CWP 22-2016, f. & cert. ef. 12-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-215-0081

Application for License, Renewal, or to Add a Program

(1) For purposes of this rule, "applicant" means a child-caring agency that is in the process of applying to the Department for an initial license or license renewal or to add a program to an existing license.

(2) Application required.

(a) A child-caring agency must submit a completed application in each of the following situations:

(A) To obtain an initial license.

(B) To renew a license.

(C) To add a program to an existing license.

(b) An applicant must apply for a license on forms provided by the Department.

(c) A licensee must submit an application for renewal prior to the expiration of the current license. If the Department receives an application for renewal before the license expires, the license remains effective until the Department issues a decision on the application.

(3) Documents to be submitted by a new applicant. The applicant must submit to the Department at the time of application all of the following documents:

(a) An application form that is complete and signed by the board chair and either the executive director or program director.

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(b) A copy of the articles of incorporation, bylaws, amendments to the articles of incorporation and bylaws, and documents evidencing each name change or assumed business name.

(c) A completed "CCA Contact Information" form that includes the current board of directors, including names, term, and office held and contact information for the board of directors, management personnel, other regulatory authorities, and state or governmental agencies or units with whom the child-caring agency contracts to provide care or services to children.

(d) A complete personnel list with job titles.

(e) An organization chart with job titles and staff names.

(f) Documentation that a background check was completed as required in OAR 407-007-0200 to 407-007-0370 on the executive director and program director.

(g) A proposed annual budget adequate to finance the program. The budget must clearly indicate all sources of income and anticipated expenditures, as described in OAR 413-215-0026.

(h) A written program description, including admission requirements, population served, gender and ages served, types of programs and services offered, the cost to clients (if any), the geographical area to be served, and the projected staffing pattern. The program description must identify all exclusions that would make a child in care ineligible to be served by the child-caring agency.

(i) For new, expanding, or changing residential programs only, documentary proof of compliance with ORS 336.575, which requires notification of the superintendent or the district school board of possible effect of additional children in care and services, three months before children in care arrive at the agency's facility.

(j) Current copies of all written policies and procedures required by these rules including:

(A) A written policy on conflict of interest that meets the requirements of OAR 413-215-0036.

(B) Written policies regarding the rights of children and families the child-caring agency would serve upon being licensed that meets the requirements of OAR 413-215-0046.

(C) A grievance procedure for children in care and families that meets the requirements of OAR 413-215-0046.

(D) A written policy on mandatory child abuse reporting and training that meets the requirements of OAR 413-215-0056.

(E) A written policy regarding personnel that meets the requirements of OAR 413-215-0061.

(F) A written privacy policy that meets the requirements of OAR 413-215-0066.

(G) Written policies on discipline, behavior management, and suicide prevention that meet the requirements of OAR 413-215-0076.

(H) A written policy for compliance with Interstate Compact on the Placement of Children (ICPC) (see ORS 417.200 to 417.260), if applicable.

(I) A written policy for compliance with the ICWA and OAR chapter 413, division 115, if applicable.

(k) Floor plans for any proposed facility.

(l) Proof of adequate fire, auto, and liability insurance.

(m) Emergency procedures.

(n) Current inspection report of the Fire Marshal and current sanitation inspection reports, unless the application is for a license as an adoption agency or a foster care agency. For an outdoor youth program, these inspections reports are only required for each base camp component.

(o) For the previous 10 years, a copy of each report by a federal or state authority concerning a criminal charge, charge of child abuse, malpractice complaint, or lawsuit against the child-caring agency, a member of the child-caring agency's board of directors, or one of its employees related to the provision of services, and the basis and disposition of each action, if applicable.

(p) Other documents or information requested by the Department.

(4) Documents to be submitted to renew a license. A licensee must submit to the Department at the time of application for renewal all of the following documents:

(a) An application renewal form that is complete and signed by the board chair and either the executive director or program director.

(b) Current "CCA Contact Information" form as described in subsection (3)(d) of this rule.

(c) A complete personnel list with job titles.

(d) An organization chart with job titles and staff names.

(e) Documentation that a background check was completed as required in OAR 407-007-0200 to 407-007-0370 on the executive director and program director.

(f) Proof of adequate fire, auto, and liability insurance.

(g) Current inspection report of the Fire Marshal and current sanitation inspection reports, unless the re-application is for a license as an adoption agency or a foster care agency. For an outdoor youth program, these inspections reports are only required for each base camp component.

(h) The most recent annual audit or review of the child-caring agency required in OAR 413-215-0026(3).

(i) A tax compliance certificate issued by the Oregon Department of Revenue.

(j) Policies required in subsection (3)(j) of this rule.

(k) Other documents or information requested by the Department.

(5) Documents to be submitted to add a program to an existing license. A child-caring agency must submit documents required in subsections (a), (d), (e), (g), (h), (i), (j), (k), (l), (m), (n), and (p) of section (3) of this rule.

(6) Application fees.

(a) The Department requires no fee to be paid by an applicant for the inspection conducted to determine whether to grant, withhold, suspend, or revoke a license required by these rules.

(b) A child-caring agency may be required to pay for inspections done by other governmental agencies, such as county health departments and the State Fire Marshal, that are necessary to obtain a license from the Department.

(7) Processing the Application. Within 30 days of the receipt of an application and the documents described in section (3), (4), or (5) of this rule, the Department will begin its review to determine whether the applicant is or will be in compliance with applicable rules in OAR chapter 413, division 215 and whether denial is required or appropriate under OAR 413-215-0121. In connection with its evaluations, the Department may examine the records and files of the applicant, inspect and observe the physical premises, and interview children and families served by the program, the staff of the applicant, and persons in the community.

Stat. Auth.: ORS 409.050, 418.005, 418.240, OL 2016, ch 106

Stats. Implemented: ORS 418.205 - 418.327, OL 2016, ch 106

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0020, CWP 29-2008, f. & cert. ef. 10-17-08; CWP 12-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; CWP 22-2016, f. & cert. ef. 12-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-215-0426

Policies and Procedures for Adoption Agencies

An adoption agency must have and follow written policies and procedures for the adoption services it provides including, at a minimum all of the following:

(1) Policies and procedures prescribing safeguards relating to the needs, rights, and responsibilities of the following:

(a) A birth parent who is considering the release of a child for adoption;

(b) A child who becomes available for adoption; and

(c) A family who adopts a child.

(2) Policies and procedures designed to ensure compliance by the adoption agency all applicable federal and state laws, including, but not limited to:

(a) A written policy for compliance with the ICWA and OAR chapter 413, division 115, if applicable.

(b) The Interstate Compact for Placement of Children (ICPC) (see ORS 417.200);

(c) Section 1808 of the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat. 1903 (1996), amending 42 U.S.C. § 671;

(d) The Howard M. Metzzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056 (1994);

(e) The Intercountry Adoption Act of 2000, Pub. L. No. 106-279, 114 Stat. 825 (2000), 42 U.S.C. § § 14901 to 14954.

(f) ORS chapter 109.

(3) Policies and procedures designed to ensure that the decision to place a child in a specific home or to disrupt a placement is not made autonomously by a social services worker.

Stat. Auth.: ORS 409.050, 418.005, 418.240, OL 2016, ch 106

Stats. Implemented: ORS 418.205 - 418.310, OL 2016, ch 106

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08; CWP 12-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; CWP 22-2016, f. & cert. ef. 12-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-215-0431

Records Requirements for Adoptions

In addition to compliance with the records and documentation requirements of OAR 413-215-0071 and 413-215-0456:

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(1) Permanent record in a domestic adoption. An adoption agency must maintain a permanent record on each birth parent who has consented to and has surrendered a child to the adoption agency. Except as authorized by section (2) of this rule, the record must include all of the following documents or information:

(a) The date and place of the birth parent's initial inquiry with the adoption agency and the persons present when the inquiry was made.

(b) The date, place, and purpose of each subsequent contact between the adoption agency and the birth parent.

(c) Evidence that the following adoption agency forms were provided to the birth parent:

(A) Consent for Service;

(B) Receipt of Grievance Procedures;

(C) Clients' Rights and Responsibilities, including the notice required by ORS 109.346 when applicable; and

(D) Service Plan.

(d) Each alternative to adoption discussed with the birth parent.

(e) A description of each discussion relating to fees, expenses, or other consideration or thing of value relating to the adoption.

(f) The date, time, and place of birth of the child, the name and address of the hospital or birthing center if the child was born in one, and all pertinent prenatal information.

(g) The names, dates of birth, physical description of the birth parents at the time of the child's birth, including age, height, weight, and color of eyes, hair and skin.

(h) Personality traits of the child's birth parents, siblings, and members of the child's extended family.

(i) A medical history of the birth parents, siblings, and extended family of the child, including medical, mental, and emotional history, including the history of the use of drugs or alcohol, gynecologic and obstetric history of the birth mother, and a record of inheritable genetic or physical traits or tendencies of the birth parents or their families.

(j) The ethnicity of the child's birth parents and the members of the child's extended family.

(k) Documentation of the efforts of the adoption agency to determine whether the child is an Indian child, whether the ICWA applies, and if it applies, documentation demonstrating compliance with the ICWA.

(l) The religious background of the child's birth parents and the members of the birth parents' extended family.

(m) The educational level and functioning, employment history, criminal history, and social and emotional functioning of the birth parents, siblings, and the members of their extended family.

(n) A notation that identifies the adoptive parents sufficient to cross-reference the file of the adoption agency on the adoptive parents.

(o) A copy of the placement agreement.

(p) Post-adoption communication agreements.

(q) Details about any termination of parental rights.

(r) A copy of the general judgment of adoption.

(s) Copies of any documents signed by the birth parent.

(2) If the adoption agency is unable to include in the permanent record a document or information required by subsections (1)(f) to (1)(m) of this rule, the adoption agency must include in the record a description of its reasonable effort to obtain the document or information.

(3) Preservation and retention of adoption records for adoptions. An adoption agency giving legal consent to the adoption of a child must permanently retain, to the extent allowed by law, the records concerning the child's adoption, as follows:

(a) The record must include all of the following:

(A) Adoptive parent orientation documentation.

(B) Evaluation documentation of both the birth and adoptive parents.

(C) Placement documentation.

(D) Post-placement supervision documentation.

(E) Originals of photographs, letters, and other personal items provided by the child's birth family.

(b) The adoption agency must store the records in fire-retardant, locked files kept in a secure location.

(c) If more than one adoption agency is involved in an adoption, the adoption agency that placed the child must preserve the permanent case record.

Stat. Auth.: ORS 409.050, 418.005, 418.240, OL 2016, ch 106

Stats. Implemented: ORS 109.342, 418.205 - 418.310, OL 2016, ch 106

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08; CWP 12-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; CWP 22-2016, f. & cert. ef. 12-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

413-215-0441

Services for Birth Parents Considering Domestic Adoption

(1) If an adoption agency is serving a birth parent who is considering the adoption of his or her child:

(a) The adoption agency must provide the services described in these rules, OAR 413-215-0401 to 413-215-0481.

(b) If the adoption agency is serving a birth parent who lives in a state other than Oregon, the adoption agency must make the services described in these rules (OAR 413-215-0401 to 413-215-0481) available to the birth parent in the state of residence of the birth parent.

(2) Information.

(a) The adoption agency must make reasonable efforts to provide information described in subsection (2)(c) of this rule to each legal parent.

(b) The adoption agency must make reasonable efforts to provide information described in subsection (2)(c) of this rule to a putative father if:

(A) The putative father resided with the child within 60 days of the court proceeding about the adoption or custody of the child;

(B) The putative father repeatedly contributed or tried to contribute to the support of the child within 12 months of the court proceeding about the adoption or custody of the child; or

(C) There is a notice of initiation of filiation proceedings on file with the Center for Health Statistics of the Department prior to the initiation of either a court proceeding about the adoption or custody of the child, or the placement of the child in the physical custody of a person for the purpose of adoption by them. There is no requirement to provide information under this paragraph if the notice of initiation of filiation proceedings was not on file at the time of placement.

(c) The adoption agency must provide all of the following information to the persons identified in subsections (2)(a) and (2)(b) this section:

(A) Information regarding support and resources needed to parent a child.

(B) Information regarding options within adoption and the consequences of each option, including the possibility of a birth parent continuing contact with the adopted child and the adopting parents after adoption, the variables and options for such continuing contact, the desire of the child for continuing contact, and the availability of mediation to resolve issues involving contact.

(C) Information regarding grief and loss inherent in adoption.

(D) Information regarding the effects and permanence of adoption.

(E) Information regarding availability of or referral to appropriate support services. The availability of these services may not be made contingent upon the birth parent's decision to select adoption as the plan for the child.

(3) The adoption agency must provide guidance if a child's birth parents disagree with each other about the adoption plan.

(4) Identification of birth fathers. If the adoption agency is working with a birth mother, the adoption agency must ensure all of the following:

(a) The adoption agency asks the birth mother for the identity and whereabouts of the birth father.

(b) The adoption agency does not counsel or advise a birth mother to state that the identity or location of the father is unknown.

(c) If the birth mother indicates that the identity or location of the father is unknown, or if the birth mother refuses to identify the birth father, the adoption agency advises her of the potential ramifications of her knowing failure to provide the information.

(d) The adoption agency must contact the Center for Health Statistics of the Department within a reasonable period of time prior to placement to determine whether the child's legal or putative father can be identified.

(e) The adoption file of the adoption agency includes all reported information about the legal or putative father, even if his identity or location is unknown to the mother.

(5) Disclosures prior to placement:

(a) Potential disclosure of parental identity. The adoption agency must tell each birth parent who is contemplating making their child available for adoption that information related to their identities may subsequently be disclosed to the child in accordance with Oregon law.

(b) Voluntary adoption registry. As required by ORS 109.353, the adoption agency must inform each birth parent of the voluntary adoption registry established under ORS 109.450.

(c) Adoption-related counseling for birth parents. As required by ORS 109.346, the adoption agency must provide notice to each birth parent consenting to an adoption regarding his or her right to adoption-related counseling.

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(6) Consent and surrender. The adoption agency may accept the voluntary consent and surrender of a child after taking all of the following actions:

(a) Providing to each birth parent full and accurate information, and the opportunity to discuss the consequences of the documents they are signing.

(b) Discussing with each birth parent the circumstances leading to the decision to choose adoption.

(c) Informing each birth parent of their right to their own legal counsel at their own expense.

(d) Providing each birth parent with written information to assist them in understanding the changes that result from adoption in their parental legal rights, obligations, and responsibilities, including potential ramifications of post-placement establishment of paternity.

(e) After the birth of the child, reassessing the birth mother's ability to understand the consequences of her decision to sign a consent and surrender document. This assessment must include consideration of her emotional state and current influence of medication.

(f) In the case of an Indian child, informing the parents that if no different order of preference has been established by the child's tribe for adoptive placement, the adoption agency must, in the absence of the court's determination that good cause to the contrary exists, give preference to placing the child with a member of the child's extended family, other members of the Indian child's tribe, or other Indian families, pursuant to the ICWA.

(g) Informing the birth parent that the adoption agency cannot honor a request of the birth parent to place the child with a family based solely on preferred race, color, or national origin. However, if the child is an Indian child, the licensed agency must follow the ICWA.

(7) Documents. The adoption agency must provide a copy of all documents signed by the birth parents to the birth parents at the time they sign a consent and surrender document.

Stat. Auth.: ORS 409.050, 418.005, 418.240, OL 2016, ch 106
Stats. Implemented: ORS 109.096, 109.346, 109.353, 418.205 - 418.310, OL 2016, ch 106
Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95; Renumbered from 413-220-0050, CWP 32-2008, f. & cert. ef. 10-17-08; CWP 12-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; CWP 22-2016, f. & cert. ef. 12-1-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17

Rule Caption: Amending screening and CPS rules to clarify expectations for assigning reports and providing notifications.

Adm. Order No.: CWP 10-2017(Temp)

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Rules Amended: 413-015-0210, 413-015-0215, 413-015-0415, 413-015-0470

Subject: The Department of Human Services, Office of Child Welfare Programs, is amending its rules to clarify expectations when assigning reports of abuse and when providing notifications at screening and assessment.

Rules Coordinator: Amie Fender—(503) 945-8986

413-015-0210

Determining Department's Response and Required Time Lines for CPS Information

(1) After the screener completes screening activities required by OAR 413-015-0205, and the screener determines the information received is CPS information, the screener must determine the Department response, either CPS assessment required or close at screening. If a CPS assessment is required, the screener must then determine the time line for the Department response, either within 24 hours or within five calendar days.

(2) CPS assessment required. A CPS assessment is required if one of the following applies:

(a) The screener determines that information received constitutes a report of child abuse or neglect, as defined in ORS 419B.005, and the information indicates:

(A) The alleged perpetrator is a legal parent of the alleged child victim;

(B) The alleged perpetrator resides in the alleged child victim's home;

(C) The alleged perpetrator may have access to the alleged child victim, and the parent or caregiver may not be able or willing to protect the child; or

(D) The alleged child abuse occurred in a day care facility, a 24-hour residential setting licensed by the Office of Developmental Disabilities

(ODDS) or the home of an ODDS or Department certified foster parent or relative caregiver.

(b) The screener determines that information received constitutes a report of child abuse or neglect as defined in ORS 419B.005 or Oregon Laws 2016, chapter 106, section 36, involves a child-caring agency or proctor foster home and the report is the responsibility of the Department as outlined in OAR 413-015-0630.

(c) The screener determines the current report would be the fourth or greater consecutive report closed at screening regarding the same family and there is at least one child in the home who is less than five years of age, unless an exception has been approved by the CPS program manager or their designee.

(d) A tribe or LEA requests assistance from the Department with an investigation of child abuse or neglect, and a CPS supervisor agrees that assistance from the Department is appropriate.

(3) Response Time Lines. If the screener determines that a CPS assessment is required, the screener must:

(a) Determine the CPS assessment response time line. The time line for the Department response refers to the amount of time between when the report is received at screening and when the CPS worker is required to make an initial contact. When determining the response time, the screener must take into account the location of the child, how long the child will be in that location, and access that others have to the child.

(A) Within 24 hours: This response time line is required, unless paragraph (B) of this subsection applies, when the information received constitutes a report of child abuse or neglect as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36.

(B) Within five calendar days: This response time line must only be used when the screener can clearly document how the information indicates the child's safety will not be compromised by not responding within 24 hours and whether an intentional delay to allow for a planned response is less likely to compromise the safety of the child.

(b) Complete a screening report form immediately when a "within 24 hour" response time line is assigned or the same day when a "within five calendar days" response time is assigned, unless a CPS supervisor grants an extension as provided in OAR 413-015-0220.

(c) Refer the CPS assessment to the appropriate county as described in OAR 413-015-0213.

(4) Close at Screening: A report will be closed at screening if one of the following subsections applies:

(a) The screener determines that information received:

(A) Does not constitute a report of child abuse or neglect, as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36, and the screener determines that the information describes behaviors, conditions, or circumstances that pose a risk to a child;

(B) Is third party child abuse or neglect that does not require a CPS assessment because the alleged perpetrator does not have access to the child, and the parent or caregiver is willing and able to protect the child; or

(C) Is a report that there are no children in the home and:

(i) An expectant mother is abusing substances during her pregnancy;

(ii) An expectant mother or a household member has had his or her parental rights to another child terminated; or

(iii) An expectant mother or a household member is known to have conditions or circumstances that would endanger a newborn child.

(D) Is information from a Department caseworker that a child or young adult on an open Department case is identified as a sex trafficking victim and the report does not meet the criteria in OAR 413-015-0210 to assign.

(b) When a report is received, but the screener, after extensive efforts, is unable to obtain sufficient information to locate the child. Name and exact address are not necessary if a location is obtained.

(5) If a report is closed at screening, the screener must:

(a) Document the current information that supports the decision to close the report at screening.

(b) Decide whether other services are appropriate and make service or resource referrals, as necessary. Document what service or resource referrals are made, if any.

(c) Make diligent efforts to contact the reporter if contact information was provided and when the reporter was not informed of the following information prior to completing the screening report form.

(A) Whether contact with the child was made;

(B) Whether the Department determined child abuse occurred; and

(C) Whether services will be provided.

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(d) Complete a screening report form no later than the next working day after the screening determination is made, unless a CPS supervisor grants an extension, as provided in OAR 413-015-0220.

Stat. Auth.: ORS 418.005, OL 2016, ch 106
Stats. Implemented: ORS 418.005, OL 2016, ch 106
Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 17-2016, f. & cert. ef. 9-29-16; CWP 19-2016(Temp), f. & cert. ef. 10-5-16 thru 4-2-17; CWP 4-2017, f. & cert. ef. 4-3-17; CWP 10-2017(Temp), f. & cert. ef. 8-8-17 thru 1-28-18

413-015-0215

Notifications and Reports to Specific Agencies or Entities

(1) Law Enforcement Agency (LEA). The screener must

(a) Cross report to LEA as required by OAR 413-015-0305(1); and

(b) Notify law enforcement when information is received from a Department caseworker that a child or young adult on an open CPS assessment or a child or young adult on an open Department case is identified as a sex trafficking victim by a Department caseworker.

(2) Office of Child Care, Department of Education, Early Learning Division. The screener must notify the Office of Child Care when a report involves a day care facility, as required by ORS 419B.020(1). If the report is closed at screening, a copy of the completed screening report form must be sent to the Compliance Unit of the Office of Child Care after information related to the reporter's identity and other confidential information is removed.

(3) Office of Developmental Disabilities Services (ODDS). The screener must notify the ODDS when a report involves:

(a) A child with intellectual or developmental disabilities in a home certified by the ODDS or the Department;

(b) A child with intellectual or developmental disabilities in a 24 hour residential setting licensed by the ODDS;

(c) A home certified by the ODDS; or

(d) A 24 hour residential setting licensed by the ODDS.

(4) Indian Tribes. If the screener knows or has reason to know that the child is an Indian child, the screener must comply with OAR 413-115-0040(1).

(5) Teacher Standards and Practices Commission (TSPC). The screener must notify the TSPC when a teacher or school administrator, as defined in OAR 413-015-0115, is identified as an alleged perpetrator in a report. A copy of the report must be sent to the TSPC after information related to the reporter's identity and other confidential information is removed.

(6) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The screener must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the screener has reasonable cause to believe:

(a) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the screener comes into contact while the screener is acting in an official capacity, has suffered abuse; or

(b) That any person with whom the screener comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, developmental disability, or physical disability, or any person 65 years of age or older.

Stat. Auth.: ORS 418.005 & 419B.017
Stats. Implemented: ORS 418.005, 419B.015 & 419B.017
Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 5-2016(Temp), f. & cert. ef. 4-11-16 thru 10-7-16; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 17-2016, f. & cert. ef. 9-29-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17; CWP 10-2017(Temp), f. & cert. ef. 8-8-17 thru 1-28-18

413-015-0415

CPS Assessment Activities

The required CPS assessment activities are outlined below. The activities are described in a logical order in these rules, but the order in which they occur is controlled by the specific circumstances in a given case.

(1) Review Records.

(a) The assigned CPS worker must:

(A) Thoroughly review the documentation in the referral;

(B) Thoroughly review the paper and electronic records maintained by the Department for historical information on the family and the child that may be useful in completing the CPS assessment;

(C) Thoroughly review available Self-Sufficiency records; and

(D) Make diligent efforts to contact another state's child welfare agency to obtain records, if any, when the CPS worker has information that the family has lived in another state.

(b) The CPS worker must review the documents to identify information related to:

(A) Present danger safety threats or impending danger safety threats;

(B) History or a pattern of abuse or neglect;

(C) Child and family support systems and protective capacity; and

(D) Worker safety.

(2) Addressing Prior Allegations That Have Not Been Assessed Because the Department was Unable to Locate the Family. The assigned CPS worker must address in the current assessment any allegations not previously assessed because the Department was unable to locate the family as follows:

(a) Discuss the prior unassessed allegations during interviews;

(b) Consider all information about prior unassessed allegations when determining child safety; and

(c) Document the consideration of prior unassessed allegations in interviews, observations, and dispositional findings.

(3) Contact Collateral Sources.

(a) The CPS worker must contact collateral sources who can clarify or supplement the information in the referral and in records already reviewed.

(A) The CPS worker must contact the assigned Self-Sufficiency worker, if any.

(B) The CPS worker may contact other collateral sources including, but not limited to:

(i) Individuals who have regular contact with the child;

(ii) Doctors or others who have evaluated or maintain records on the child;

(iii) People who are in an established personal or professional relationship with the parent or caregiver and who can judge the quality and nature of the parent or caregiver behavior and functioning; and

(iv) People who have records or information about the parent or caregiver as a result of their involvement with, or exposure to, the parent or caregiver.

(b) The CPS worker must gather information from collateral sources throughout the CPS assessment.

(c) The CPS worker must:

(A) Protect the identity of collateral sources to the extent possible.

(B) Consult with the district attorney or the assistant attorney general to obtain a court order for records from a collateral source, if the source is unable or unwilling to share information with the Department.

(4) Consult with CPS Supervisor.

(a) The CPS worker must consult with a CPS supervisor or designee:

(A) When the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department of Human Services or Oregon Youth Authority (OYA);

(B) When a referral involves the home of a Department certified foster parent or relative caregiver;

(C) When a referral involves allegations that child abuse or neglect occurred in a child-caring agency or proctor foster home;

(D) When a CPS worker receives notification from a screener that a closed at screening or new referral was created on an open CPS assessment;

(E) Prior to a decision to place a child in protective custody, or after placement if consultation before placement will delay the safety intervention;

(F) Prior to initiating court action, or after initiating court action if consultation before will delay the safety intervention;

(G) Prior to developing an initial safety plan with a Department certified foster parent or relative caregiver;

(H) When the referral involves a child fatality;

(I) When making a disposition in a complicated or sensitive situation or case; or

(J) When closing an assessment with the disposition of "unable to locate".

(b) Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at additional key points during the assessment, such as:

(A) Before making initial contact with the family; or

(B) When a referral indicates potential danger to the worker.

(5) Contact and Work with Other Entities. The CPS worker may need to work with representatives of other entities to gather and analyze safety-related information, develop a sufficient protective action plan, initial safety plan, or ongoing safety plan, and to complete the CPS assessment.

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(a) The CPS worker may, as appropriate, notify or consult with other Department of Human Services programs or other agencies, including but not limited to the Office of Vocational Rehabilitation Services and Animal Control.

(b) The CPS worker must report to or contact and work with other entities as follows:

(A) Office of Child Care. The CPS worker must notify and coordinate with the Compliance Unit of the Office of Child Care when a report involves a registered day-care home or a licensed day-care center, as required by ORS 419B.020(1).

(B) Oregon Youth Authority (OYA). The CPS worker must notify OYA when the allegation involves an OYA certified foster home or a child in the legal custody of Oregon Youth Authority.

(C) Office of Developmental Disabilities Services (ODDS). The CPS worker must notify and coordinate with an ODDS Community Developmental Disabilities Program service coordinator when a report involves:

(i) A child with intellectual or developmental disabilities in home certified by the ODDS or the Department;

(ii) A child with intellectual or developmental disabilities in a 24 hour residential setting licensed by the ODDS;

(iii) A home certified by the ODDS; or

(iv) A 24-hour residential setting licensed by the ODDS.

(D) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The CPS worker must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the CPS worker has reasonable cause to believe:

(i) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the CPS worker comes into contact while acting in an official capacity, has suffered abuse.

(ii) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older.

(E) Indian Tribes. If the CPS worker knows or has reason to know that the child is an Indian child, the CPS worker must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted unless the screener documented completion of this notification in the referral.

(F) Probation and Parole. The CPS worker must contact probation and parole when the allegation involves a parent or caregiver, or alleged perpetrator who is supervised by probation or parole.

(G) Law Enforcement. If the screener did not cross report, the CPS worker must contact one or more law enforcement agencies (LEA) in accordance with the protocols of the local MDT agreement and in accordance with cross reporting rules, OAR 413-015-0300 to OAR 413-015-0310. When there is a joint response involving a CPS worker and LEA staff, the CPS worker is still responsible for all of the activities necessary to complete a CPS assessment which are summarized in OAR 413-015-0400. The CPS worker must, in consultation with a CPS supervisor, determine whether to coordinate assessment activities with LEA in the following situations:

(i) Presence of danger. When the CPS worker has information that indicates that the child is unsafe right now.

(ii) Family cooperation. When the CPS worker has information that the family may not allow the CPS worker to observe the alleged victim or other children in the home.

(iii) Protective custody. When the CPS worker has information that a child may need to be placed in protective custody for the child's safety.

(iv) Child interview. When the CPS worker and the LEA officer must each interview a child, it is preferable to coordinate the interviews to reduce the number of interactions with the child.

(v) Worker safety. When the CPS worker has information that indicates the family behaviors, conditions, or circumstances could pose a danger to the CPS worker.

(vi) Crime committed. When the CPS worker suspects or receives a report that a crime may have been committed.

(H) Public or Private Schools. The CPS worker may interview a child at school when the worker believes it will be the best environment in which to assure a child's safety when making contact with the child. ORS 419B.045 provides requirements for CPS investigations that are conducted on school premises. The CPS worker must do following:

(i) Notify the school administrator that a CPS assessment must be conducted. If the school administrator is a subject of the CPS assessment, then notification is not required.

(ii) Report to the school office, provide identification, inform school personnel of the CPS assessment, and provide the name of the child to be interviewed.

(iii) Request information from school personnel regarding the disabilities of the child, if any, prior to an interview with the affected child.

(iv) Interview the child out of the presence of other persons, unless the CPS worker believes the presence of a school employee or other person would facilitate the interview. If the CPS worker believes that a school employee does not need to be present, but the school employee insists on being present during the interview, the worker may confer with the CPS supervisor for assistance in handling the situation.

(v) Discuss further actions with the child at the conclusion of the interview.

(vi) Inform school personnel when the interview has been completed.

(vii) Inform school personnel if the child is taken into protective custody.

(viii) Inform school personnel that the CPS worker will notify parents of the interview.

(ix) Contact the CPS supervisor if school officials refuse to allow the assessment to take place on school property.

(I) Multi-Disciplinary Teams (MDTs). Department district managers must develop interagency agreements regarding assessment of child abuse and neglect, as necessary, with local MDTs. Requirements for MDT protocols are set out in ORS 418.747.

(6) Obtain Interpreters and Translation. The CPS worker must obtain the services of a competent interpreter and competent written translation service for families, including hearing-impaired family members, who have limited or no means of communicating in or reading English.

(7) Complete actions required to comply with the ICWA under OAR 413-115-0040 to 413-115-0090.

(8) Determine Refugee Status and Comply with the Refugee Children Act, if applicable. During a CPS assessment, the CPS worker must consider whether the child is a refugee child. Under ORS 418.925, a "refugee child" is a "person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion."

(a) If it appears that a child is a refugee child, the CPS worker must ask about the child or parents' country of origin, length of time the child or parents have been in the United States, reasons why the child or parents came to the United States, and ethnic and cultural information relevant to the child's status as a refugee. The CPS worker does not have to make a legal determination that the child and parent are refugees, but if the child or the parents indicate they are refugees, then the CPS worker must proceed as if they are, until or unless it is known that they are not refugees.

(b) The CPS worker may not take a refugee child into protective custody unless, in addition to the other requirements for taking a child into custody, the CPS worker determines that:

(A) Removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(B) Reasonable efforts to alleviate the harm through remedial or preventive services do not alleviate the harm, have failed, or are not practical in an emergency situation.

(c) Unless it is a voluntary placement, no refugee child may remain in placement more than five days unless there has been a judicial determination, supported by clear and convincing evidence that:

(A) Preventative or remedial services provided by the Department have failed to alleviate the need for removal; and

(B) Return to the home will likely result in psychological or physical damage to the child.

(d) When a refugee child is placed in care, the juvenile court petition must include, in addition to the information required by ORS 419B.809, the following information:

(A) A specific and detailed account of the circumstances that led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;

(B) Specific actions the Department has taken or is taking to alleviate the need for removal;

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(C) Assurance that the Department has complied with placement preferences listed in ORS 418.937 and listed in subsection (e) of this section; and

(D) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected refugee family members and to the Refugee Child Welfare Advisory Committee that the petition has been filed.

(e) The CPS worker must consider the refugee child's culture and tradition when making any placement decision for a refugee child and, unless shown to be inappropriate and inconsistent with the best interests of the child, place the child with the following in order of preference:

(A) Natural parents.

(B) Extended family member.

(C) Members from the same cultural heritage.

(D) Persons with knowledge and appreciation of the child's cultural heritage.

(f) The CPS worker may determine that placement under subsection (e) of this section is inappropriate and inconsistent with the best interests of the child if:

(A) The preferred placement presents a threat to the child's safety;

(B) The extreme medical, physical, or psychological needs of the child cannot be met in the placement; or

(C) There is an informed request from either of the child's biological parents not to use a placement, if the request is consistent with stability, security, and the individual needs of the child.

(g) When a juvenile court petition is filed and a refugee child is placed in care, the CPS worker must staff the case with the Refugee Child Welfare Advisory Committee (RCWAC). The CPS worker must contact the International Case Consultant for the Department to arrange a time for the staffing. In preparation for the staffing, the CPS worker must:

(A) Invite the CPS supervisor to the staffing; and

(B) Be prepared to discuss the reasons for the CPS referral, the information indicating that family members are refugees, and their country of origin.

(9) Take Photographs. The CPS worker must, during the CPS assessment, take photographs and document, as necessary, child abuse or neglect and the observable nature of any present danger safety threat or impending danger safety threat.

(a) As provided in ORS 419B.028, a law enforcement officer or the CPS worker may take photographs for the purpose of documenting the child's condition at the time of the CPS assessment.

(b) As provided in ORS 419B.028, if the CPS worker conducting a CPS assessment observes a child who has suffered suspicious physical injury and the CPS worker is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the CPS worker, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, will immediately photograph or cause to have photographed the suspicious physical injuries. Regardless of whether the child has previously been photographed or assessed during a CPS assessment, the CPS worker will photograph or cause to be photographed any suspicious injuries if the CPS worker is certain or has a reasonable suspicion the suspicious injuries are the result of abuse:

(A) During the assessment of a new allegation of abuse; and

(B) Each time, during the assessment, an injury is observed that was not previously observed by the assigned CPS worker.

(c) When a child is photographed pursuant to subsection (b) of this section:

(A) The person taking the photographs or causing to have the photographs taken must, within 48 hours or by the end of the next regular business day, whichever occurs later:

(i) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional; and

(ii) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in the Department record labeled with the case name, case number, child's name, and date taken.

(B) If a county multidisciplinary team staffing of the case is held, photographs of the injury will be made available to each team member involved in the case staffing at the first meeting regarding the child's case.

(d) The CPS worker must document injuries, hazardous environments, and the observable nature of any present danger safety threat or impending danger safety threat in the assessment narrative by use of photographs, written description, or illustrations.

(e) Photographs of the anal or genital region may be taken only by medical personnel.

(10) Obtain Medical Assessment. The CPS worker must, during the CPS assessment as required in this section, facilitate a medical assessment of the child and obtain the child's medical history when necessary to assure child safety, determine treatment needs, reassure the child and family, or assist in analyzing safety-related information.

(a) When the CPS worker determines that the child is in need of a medical assessment as part of a CPS assessment, the CPS worker must consult with a CPS supervisor as soon as possible, but not at the expense of delaying medical treatment.

(b) If a person conducting an assessment under ORS 419B.020 observes a child who has suffered suspicious physical injury as defined in ORS 419B.023 and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person must, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, ensure that:

(A) A designated medical professional conducts a medical assessment within 48 hours of the observation of the suspicious physical injury, or sooner if dictated by the child's medical needs; or

(B) An available physician, physician assistant, or nurse practitioner conducts a medical assessment if, after reasonable efforts to locate a designated medical professional, a designated medical professional is not available to conduct a medical assessment within 48 hours. The CPS worker is required to document in the Department's electronic information system efforts to locate the designated medical professional when an available physician, physician assistant, or nurse practitioner is used.

(c) The CPS worker must facilitate an assessment by a medical professional if the alleged child abuse or neglect involves injury to the anal or genital region.

(d) When there are indications of severe physical trauma to the child, the CPS worker must make arrangements to immediately transport the child to a medical facility, which may include calling 911. The CPS worker must also make arrangements for medical examination of a child for mild or moderate physical trauma.

(e) To make arrangements for the medical examination of a child, the CPS worker must do the following, unless completing the action would delay medical treatment for the child:

(A) Discuss with the parent or caregiver the need for medical examination or treatment.

(B) Ask the parent or caregiver to take the child to a medical facility for a medical examination or treatment.

(C) Request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Information".

(D) Contact an LEA immediately and seek a juvenile court order to obtain protective custody of the child for the purpose of obtaining a medical examination or treatment when:

(i) The parent or caregiver refuses to obtain needed medical examination or treatment;

(ii) The parent or caregiver may flee with the child; or

(iii) Delaying medical examination or treatment could result in severe harm to the child.

(E) Immediately seek medical care and consultation when the child may have a life-threatening condition, or a deteriorating condition that may become life-threatening.

(F) As soon as possible and not later than 24 hours after learning of the exposure, make arrangements to have the child tested for chemical exposure to harmful substances when there is reason to believe a child has been exposed to dangerous chemicals such as those found in a chemical drug lab.

(f) When a report of suspected medical neglect of an infant with a disability and with life-threatening conditions is referred for CPS assessment, the assigned CPS worker must comply with "Investigation of Suspected Medical Neglect-Infants", OAR 413-030-0600 to 413-030-0650.

(g) When it is medically indicated to subject a child in the custody of the Department to HIV testing, the CPS worker must comply with "HIV Testing of Children in Custody and HIV Confidentiality", OAR 413-040-0400 to 413-040-0450.

(h) As provided in ORS 147.425, a child who is the victim of a person crime and is at least 15 years of age at the time of the abuse may have a personal representative present during a medical examination. If a CPS worker believes that a personal representative would compromise the CPS assessment, a CPS worker may prohibit a personal representative from being present during the medical examination.

(i) When the CPS worker is assessing a CPS allegation of medical neglect, the CPS worker must consult with a health care professional as part of the assessment.

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(11) Obtain Psychological and Psychiatric Evaluations.

(a) The CPS worker must make a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child by a mental health professional to assure child safety, determine treatment needs, or assist in analyzing safety-related information when during the CPS assessment the CPS worker identifies a specific condition or behavior that requires additional professional evaluation. This includes but is not limited to:

(A) Unusual or bizarre forms of punishment;

(B) Mental illness;

(C) Suicidal ideation;

(D) Homicidal ideation; or

(E) Unusual or bizarre child or parental behavior that is indicative of emotional problems.

(b) The CPS worker must obtain consent of the parent or caregiver prior to making a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child, unless the evaluation is court ordered.

(12) Make Efforts to Locate. When a child or young adult in substitute care is missing, the CPS worker must complete required actions as described in OAR 413-080-0053.

(13) Make Monthly Face-to-Face Contact. The CPS worker must make a minimum of monthly face-to-face contact as described in OAR 413-080-0054.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 418.747, 418.785 & 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 6-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 20-2008, f. & cert. ef. 9-2-08; CWP 23-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; CWP 4-2010, f. & cert. ef. 4-2-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 17-2016, f. & cert. ef. 9-29-16; CWP 2-2017(Temp), f. & cert. ef. 2-7-17 thru 8-5-17; CWP 9-2017, f. 8-5-17, cert. ef. 8-6-17; CWP 10-2017(Temp), f. & cert. ef. 8-8-17 thru 1-28-18

413-015-0470

Notifications

(1) Requirements for Providing Notifications. The CPS worker must:

(a) Unless the Department determines that disclosure is not permitted under ORS 419B.035, notify the reporter, if the reporter provided the Department with contact information, whether contact was made, whether the Department determined that child abuse or neglect occurred, and whether services will be provided.

(b) Provide the child's parents, including a non-custodial legal parent, and caregivers verbal notification of all CPS assessment dispositions (unfounded, unable to determine, or founded) and whether the Department will provide services as a result of the CPS assessment. When the child's parent is the perpetrator, the notice under subsection (c) of this section also must be provided. If notification may make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation supporting that conclusion.

(c) Provide perpetrators written notification of founded or substantiated dispositions. This written notification must include information about the founded or substantiated disposition review process as outlined in "Notice and Review of CPS Founded Dispositions", OAR 413-010-0700 to 413-010-0750. If the notification could make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.

(d) Provide the Teacher Standards and Practices Commission (TSPC) notification of the completed CPS assessment by providing TSPC with a copy of the completed CPS assessment when a teacher or school administrator, as defined in OAR 413-015-0115, is identified as an alleged perpetrator in a report. Regardless of the disposition, a copy of the completed CPS assessment must be sent to TSPC after information related to the reporter's identity and other confidential information is removed.

(e) Provide the Office of Developmental Disabilities Services (ODDS) notification of the completed CPS assessment by providing the ODDS with a copy of the completed CPS assessment when an ODDS certified foster parent or an employee of an ODDS licensed 24-hour residential setting is identified as an alleged perpetrator in a report. Regardless of the disposition, a copy of the completed CPS assessment must be sent to ODDS after information related to the reporter's identity and other confidential information is removed.

(f) Provide Oregon Youth Authority (OYA) notification of the completed CPS assessment when an OYA certified foster parent is identified as an alleged perpetrator in a report. Regardless of the disposition, a copy of

the completed CPS assessment must be sent to OYA after information related to the reporter's identity and other confidential information is removed.

(2) Documentation of Notifications. The CPS worker must document the notifications as described in this rule in the Department's electronic information system and the documentation must include:

(a) Who made the notification.

(b) To whom the notification was made.

(c) The date the notification was made.

(d) That the notifications have been attempted or made within the following time lines:

(A) Prior to completing the CPS assessment for a notification provided under subsection (1)(a) of this rule.

(B) Within five business days of supervisory approval of the CPS assessment for a notification provided under subsection (1)(b) through (1)(d) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 8-2009, f. 7-29-09, cert. ef. 8-3-09; CWP 10-2012(Temp), f. & cert. ef. 3-12-12 thru 9-8-12; CWP 5-2012, f. & cert. ef. 9-7-12; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 17-2016, f. & cert. ef. 9-29-16; CWP 10-2017(Temp), f. & cert. ef. 8-8-17 thru 1-28-18

Department of Human Services, Self-Sufficiency Programs Chapter 461

Rule Caption: Changing Rules in the SNAP and ERDC programs
Adm. Order No.: SSP 18-2017(Temp)

Filed with Sec. of State: 7-20-2017

Certified to be Effective: 8-1-17 thru 1-27-18

Notice Publication Date:

Rules Amended: 461-115-0651, 461-135-0400

Subject: OAR 461-115-0651 regarding verification requirements in the SNAP program is being amended to correct the ABAWD verification requirements by referring to the new definition of time limit counties that includes Clackamas County at the present time.

OAR 461-135-0400 about requirements for subsidized child care is being amended to require caretakers to show documentation when applying for Employment Related Day Care that the child is on schedule in receiving the necessary immunizations. If documentation is not received or a medical/non-medical exemption form is not received, the caretaker will be denied child care benefits. These changes are required to meet federal regulations.

The rule text showing changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

461-115-0651

Required Verification and When to Verify; SNAP

(1) The Department must give households at least 10 days to provide required verification.

(2) All of the following information must be verified when an individual initially applies for SNAP benefits:

(a) The identity of the applicant and any authorized representative or alternate payee.

(b) Alien status.

(c) Social Security Number (SSN) or application for an SSN.

(d) Countable income.

(e) Medical expenses, if they are used as a deduction.

(f) An order to pay child support and the amount actually paid.

(g) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility (see OAR 461-001-0000) or the benefit amount.

(h) For an ABAWD (OAR 461-135-0520) who resides in a time limit county (see OAR 461-135-0520):

(A) Work hours.

(B) The number of countable months (see OAR 461-135-0520) used in another state if the individual is applying for food benefits after receiving food benefits in another state.

(3) All of the following information must be verified when an individual reapplies for SNAP benefits:

(a) Countable income.

(b) Previously unreported medical expenses, and recurring medical expenses which have changed by more than \$25.

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(c) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the individual is paying for children that live in a different household group.

(d) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(4) For cases using the Change Reporting System (CRS), each of the following changes reported during the certification period (see OAR 461-001-0000) must be verified:

(a) A change in source of income, or the amount of stable income has changed by more than \$50.

(b) The amount of variable income from any source.

(c) Changes in reported medical expenses by more than \$25, and previously unreported medical expenses.

(d) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the individual is paying for children that live in a different household group.

(e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(5) For cases using the Simplified Reporting System (SRS), each of the following changes reported during the certification period must be verified in accordance with OAR 461-170-0103:

(a) Alien status and SSN or application for an SSN when a new member joins the benefit group (see OAR 461-110-0750).

(b) Countable income.

(c) Medical expenses, if used as a deduction.

(d) An order to pay child support and the amount actually paid, if used as a deduction.

(6) A claimed expense or cost may be used to determine the SNAP benefit only when the individual provides the required or requested verification.

(7) In addition to the verification required by sections (2) to (5) of this rule, the income for an individual must be verified every six months for SRS cases certified for twelve months, except those in which every adult member of the filing group (see OAR 461-110-0370) is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015) and has no earned income (NED).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 411.837
Hist.: AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 18-2017(Temp), f. 7-20-17, cert. ef. 8-1-17 thru 1-27-18

461-135-0400

Specific Requirements; ERDC

(1) The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules.

(2) To be eligible for ERDC, a filing group (see OAR 461-110-0310 and 461-110-0350) must meet the requirements of all of the following subsections:

(a) Except as provided in subsection (c) of this section, every caretaker (see OAR 461-001-0000) in the filing group must receive income from employment. This includes self-employment (see OAR 461-145-0910) and employment through a work study program.

(b) The filing group must include a child (see OAR 461-001-0000) who needs child care.

(c) The filing group must have an allowable child care need as described in OAR 461 160 0040. If there are two adults required to be in the filing group, and one of the adults is unemployed, the unemployed adult is considered available to provide child care, making the filing group ineligible, except in the following situations:

(A) The unemployed adult is physically or mentally unable to provide adequate child care. This must be verified (see OAR 461-125-0830).

(B) The unemployed adult is unavailable to provide child care while participating in the requirements of a case plan (see OAR 461-001-0025) other than requirements associated with post-secondary education.

(C) Confirmation is received from the Office of Child Welfare Programs that supervised contact is required between the child and an unemployed parent (see OAR 461-001-0000) or spouse (see OAR 461-001-0000) who is living in the home with the child.

(d) The filing group must use a child care provider who meets the requirements in OAR 461-165-0160 and 461-165-0180.

(e) The child needing child care must meet the citizenship or alien status requirements of OAR 461-120-0110.

(f) The filing group must certify that they do not exceed the resource limit in OAR 461-160-0015 and must meet the income limits in OAR 461-155-0150.

(3) A filing group not willing to show verification of immunizations, proof that the immunization series has started, or a copy of the medical or non-medical exemption form for the child is not eligible for a child care.

(4) The child care must be necessary to enable the caretaker to remain employed, including self-employed.

(5) A filing group is not eligible for child care when the caretaker or parent in the filing group receives a grant for child care from the Oregon Student Assistance Commission for any month the grant is intended to cover, regardless of when the grant is received.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070
Stats. Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 418.485
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; 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 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 34-2010(Temp), f. & cert. ef. 10-1-10 thru 3-30-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 7-2011(Temp), f. & cert. ef. 2-16-11 thru 8-15-11; SSP 9-2011(Temp), f. & cert. ef. 3-22-11 thru 8-15-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 36-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 18-2017(Temp), f. 7-20-17, cert. ef. 8-1-17 thru 1-27-18

Rule Caption: Amending rule about eligibility of child care providers

Adm. Order No.: SSP 19-2017(Temp)

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-8-17 thru 11-27-17

Notice Publication Date:

Rules Amended: 461-165-0180

Rules Suspended: 461-165-0180(T)

Subject: OAR 461-165-0180 — which was amended by temporary rule effective June 1, 2017 to require approved child care providers to provide care within the state of Oregon — is being further amended to extend the deadline from June 30, 2017 to July 31, 2017 for license-exempt providers who were approved for DHS subsidy payments prior to November 01, 2016 to take the required Introduction to Child Care Health and Safety trainings. This rule is also being amended to allow more time for parents who are still using a license-exempt provider to find a new provider by allowing these providers until September 30, 2017 to take the required training.

The rule text showing changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

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 final fitness determination (see OAR 125-007-0260 and 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see OAR 125-007-0210 and 407-007-0210(8)(a)(J)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of “denied”.

(A) A provider may be “denied” under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-007-0300, the Department finds substantial risk to the health or safety of a child (see OAR 461-001-0000) in the care of the provider, the provider must be “denied” and is ineligible for payment.

(B) A provider who has been “denied” has the right to a hearing under OAR 407-007-0335.

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(b) A finding of “failed”.

(A) 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 paragraph (c)(A) of this section.

(B) While the provider is in “failed” status:

(i) The Department does not pay any other child care provider for child care at the “failed” provider’s site.

(ii) 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.

(c) A finding of “suspended”.

(A) A provider may be “suspended” 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), (o)(I), (o)(L), or (t) or in section (10) of this rule. A provider who has been “suspended” may challenge this status by requesting a contested case hearing subject to the requirements and limitations of OAR 461-025.

(B) While the provider is in “suspended” status:

(i) The provider is ineligible for payment for at least six months.

(ii) The Department does not pay any other child care provider for child care at the “suspended” provider’s site.

(iii) The Department does not pay a child care provider at another site if the “suspended” provider is involved in the child care operation unless the Department determines that the reasons the provider is in “suspended” status are not relevant to the new site.

(C) A provider with a status of “suspended” may be eligible for payments after the six month ineligibility period ends when the provider has been approved following reapplication, including providing the required documents and information to the Department for review.

(d) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each subject individual described in OAR 125-007-0210 and 407-007-0210(8)(a)(J) 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 comply with at least one of the following subsections:

(a) If the provider is not legally exempt (see section (11) of this rule):

(A) Be currently 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 and be in compliance with the applicable rules;

(B) Complete the Department’s background check process;

(C) Complete the Department’s listing process; and

(D) Be approved by the Department.

(b) If the provider is legally exempt and a legally exempt relative (see section (11) of this rule):

(A) Complete the Department’s background check process;

(B) Complete the Department’s listing process; and

(C) Be approved by the Department.

(c) If the provider is legally exempt and not a legally exempt relative for all children in care:

(A) Meet all OCC Regulated Subsidy Provider requirements under OAR 414-180-0005 through 414-180-0100;

(B) Submit to and pass a site visit at the location where care will be provided;

(C) Complete the Department’s background check process;

(D) Complete the Department’s listing process; and

(E) 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 461-110-0310 and 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. These written records must be retained for a minimum of 12 months and provided to the Department upon request.

(f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department’s Direct Pay Unit.

(g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(h) Report to the Department’s Direct Pay Unit within five days of occurrence:

(A) Any arrest or conviction of any subject individual or individual described in section (4) of this rule.

(B) Any involvement of any subject individual or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.

(C) Any change to the provider’s name or address including any location where care is provided.

(D) The addition of any subject individual or individual described in section (4) of this rule.

(E) Any reason the provider no longer meets the requirements under this rule.

(i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(j) Supervise each child in care at all times.

(k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (11) of this rule).

(L) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.

(m) Inform a parent of the need to obtain immunizations for a child and have a completed, up-to-date Oregon shot record called the “Certification of Immunization Status” (CIS) form on file for each child in care.

(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 con-

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sidered 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. Any gate or barrier may not pose a risk or hazard to any child in care.

(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) 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.

(s) Place infants to sleep on their backs.

(t) 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).

(u) Develop and communicate expulsion and suspension policies to parents and caretakers.

(v) Provide care at a location within the state of Oregon.

(8) Legally exempt providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training as provided in the following subsections:

(a) Legally exempt providers with a list date prior to November 1, 2016, must complete the "Introduction to Child Care Health and Safety" training by July 31, 2017. Providers who have continued to actively provide care and receive payment for Department subsidy families may be granted an extension to September 30, 2017 to complete the training.

(b) Legally exempt providers with a list date of November 1, 2016 or later must complete the "Introduction to Child Care Health and Safety" prior to Department approval.

(9) Legally exempt providers 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.

(c) "Legally exempt" means the child care provider is exempt from licensing with the OCC because the provider is not subject to the licensing requirements under OAR 414-205-0000 to 414-205-0170, 414-350-000 to 414-350-0405, and 414-300-0000 to 414-300-0415.

(d) "Legally exempt relative" means a legally exempt provider who is a relative to all children in care including a great-grandparent, grandparent, aunt, uncle, or sibling not living in the home of any child in care.

(12) Legally exempt providers that are not a legally exempt relative to all children in care must meet all of the requirements in this section before approval by the Department, unless otherwise noted:

(a) Have an up-to-date, in-person infant and child CPR and first aid certification or have a currently valid waiver of this requirement from the Child Care Resource and Referral program.

(b) Complete the Recognizing and Reporting Child Abuse and Neglect (RRCAN) web-based training.

(c) Complete six hours of ongoing education in each two-year listing period as provided in this subsection. All trainings must be accepted by the Oregon Center for Career Development (OCCD) and be part of the OCCD's 10 Core Knowledge Categories recognized by Oregon Registry Online to count toward the six hours.

(A) Two of the six hours must fall under the "Human Growth and Development" category; and

(B) Two of the six hours must cover "Understanding & Guiding Behavior".

(13) Child care centers or programs that are legally exempt from certification or registration with the OCC, are located in a commercial or institutional facility, and receive payment from the Department on behalf of a family receiving a child care subsidy, may not exceed the following staff to children in care ratios:

(a) Six weeks through 23 months of age, the minimum number of staff to children is one to four. The maximum number of children in a group is eight.

(b) 24 months through 35 months of age, the minimum number of staff to children is one to five. The maximum number of children in a group is 10.

(c) 36 months of age to attending kindergarten, minimum number of staff to children is one to 10. The maximum number of children in a group is 20.

(d) Attending kindergarten and older, the minimum number of staff to children is one to 15. The maximum number of children in a group is 30.

(e) In a mixed-age group of children, the number of staff and group size shall be determined by the age of the youngest child in the group.

Stat. Auth.: ORS 181.537, 329A.500, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 329A.500, 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,

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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; SSP 27-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 11-18-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 29-2016, f. & cert. ef. 8-1-16; SSP 37-2016(Temp), f. 9-30-16, cert. ef. 10-1-16 thru 3-29-17; SSP 41-2016(Temp), f. & cert. ef. 11-1-16 thru 4-29-17; SSP 40-2016, f. & cert. ef. 11-1-16; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 12-2017(Temp), f. & cert. ef. 6-1-17 thru 11-27-17; SSP 19-2017(Temp), f. & cert. ef. 8-8-17 thru 11-27-17

Rule Caption: Treatment of shelter-in-kind income in APD medical programs

Adm. Order No.: SSP 20-2017

Filed with Sec. of State: 8-11-2017

Certified to be Effective: 9-1-17

Notice Publication Date: 7-1-2017

Rules Amended: 461-145-0470, 461-155-0020, 461-155-0250, 461-155-0660

Rules Repealed: 461-155-0300, 461-145-0470(T), 461-155-0020(T), 461-155-0250(T), 461-155-0660(T)

Subject: OAR 461-145-0470 about shelter-in-kind income is being amended to exclude unearned shelter-in-kind in the OSIP, OSIPM, and QMB programs. OAR 461-155-0020 about pro-rated standards-adjusted number in household is being amended to remove OSIP, OSIPM, and QMB programs, clarify that the rule now only applies in the TANF program, and clarify proration for foster children in the household. OAR 461-155-0250 about OSIPM income and payment standards is being amended to remove the OSIPM items of need chart, and the adjusted number in household labels and the pro-rated standards from the adjusted income standards chart (section (3)). OAR 461-155-0300 about shelter-in-kind standards is being repealed. OAR 461-155-0660 about special need, accommodation allowance is being amended to remove references to the shelter and food standards in 461-155-0250 (which are removed) and refer to the actual dollar amounts instead.

These rule changes make permanent temporary rule changes that were effective April 1, 2017 and implement the federally-approved state plan amendment that had an effective date of April 1, 2017 and will support client eligibility.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

461-145-0470

Shelter-in-Kind Income

(1) Except as provided in section (2) of this rule:

(a) In the ERDC program, shelter-in-kind (see OAR 461-001-0000) payments are excluded, except earned shelter-in-kind is not excluded in the ERDC program.

(b) In the REF, REFM, and TANF programs, except for child support (see OAR 461-145-0080 and 461-145-0280), shelter-in-kind payments are excluded.

(c) In the SNAP program, shelter-in-kind housing and utility payments are excluded (see OAR 461-145-0130 about exclusion of earned in-kind income), except an expenditure by a business entity for shelter costs (see OAR 461-001-0000) of a principal (see OAR 461-145-0088) is counted as income.

(d) In the OSIP, OSIPM, and QMB programs:

(A) Unearned shelter-in-kind is excluded.

(B) Earned shelter-in-kind income is treated as follows:

(i) If shelter is provided for services related to the employer's trade or business and acceptance of the shelter is a condition of employment, the shelter-in-kind income is treated in accordance with paragraph (A) of this subsection.

(ii) Except as provided in subparagraph (i) of this paragraph, the fair market value (see OAR 461-001-0000) of the shelter is counted as earned income.

(2) A payment for which there is a legal obligation to pay to a member of the financial group (see OAR 461-110-0530) that is made to a third

party for shelter expenses of a member of the financial group is counted as unearned income.

Stat. Auth.: ORS ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS ORS 329A.500, 409.010, 411.060, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.042, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 11-2017(Temp), f. 3-28-17, cert. ef. 4-1-17 thru 9-27-17; SSP 20-2017, f. 8-11-17, cert. ef. 9-1-17

461-155-0020

Prorated Standards; Adjusted Number in Household; TANF

In the TANF program:

(1) Prorated standards are used only in the no-adult tables.

(2) The no-adult tables are used when there are no adults in the TANF benefit group (see OAR 461-110-0750).

(3) Prorated standards are based on the number of people in the benefit group (see OAR 461-110-0750), compared to the adjusted number in the household group (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the benefit group:

(a) Unborns.

(b) Individuals receiving long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030).

(c) Children who receive foster care payments for more than 30 days.

(d) Children receiving adoption assistance.

(e) Live-in attendants who live with the filing group (see OAR 461-110-0310 and 461-110-0330) solely to provide necessary medical or house-keeping services and are paid to provide these services.

(f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at fair market value (see OAR 461-001-0000) for housing and if:

(A) The filing group lives independently from the landlord or tenant;

(B) The filing group has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and

(C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for fair market value compensation.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1998, f. & cert. ef. 10-1-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 21-2015, f. & cert. ef. 7-1-15; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 11-2017(Temp), f. 3-28-17, cert. ef. 4-1-17 thru 9-27-17; SSP 20-2017, f. 8-11-17, cert. ef. 9-1-17

461-155-0250

Income and Payment Standard; OSIPM

(1) An individual who is assumed eligible per OAR 461-135-0010 is presumed to meet the income limits for the OSIPM program.

(2) An individual in a nonstandard living arrangement (see OAR 461-001-0000) meeting the requirements of OAR 461-135-0750, who is not assumed eligible and does not meet the income standards set out in section (4) of this rule, must have countable (see OAR 461-001-0000) income that is equal to or less than 300 percent of the full SSI standard for a single individual (except OSIPM-EPD) or have established a qualifying trust as specified in OAR 461-145-0540(10)(c).

(3) An individual, other than one identified in section (1), (2), or (5) of this rule, must have adjusted income below the standard in this section. The Department determines the adjusted number in the household under OAR 461-155-0020. [Table not included. See ED. NOTE.]

(4) In the OSIPM (except OSIPM-EPD) program, an individual in a nursing facility or an ICF-MR is allowed the following amounts for clothing and personal incidentals:

(a) For an individual who receives a VA pension based on unreimbursed medical expenses (UME), \$90 is allowed.

(b) For all other individuals, \$60.18 is allowed.

(c) For an individual identified in subsection (b) of this section with countable income (including any SSI) that is less than \$60.18, the payment

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standard is equal to the difference between the individual's countable income (including any SSI) and \$60.18. For the purposes of this subsection, countable income includes income that would otherwise be countable for an individual who is assumed eligible under OAR 461-135-0010.

(5) In the OSIPM-EPD program, the adjusted earned income limit is 250 percent of the federal poverty level for a family of one.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; Suspended by SSP 3-2007(Temp), f. & cert. ef. 3-9-07 thru 6-30-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; Suspended by SSP 5-2007(Temp), f. 3-30-07, cert. ef. 4-1-07 thru 6-30-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 2-2009(Temp), f. 2-27-09, cert. ef. 3-1-09 thru 8-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 5-2012(Temp), f. & cert. ef. 2-1-12 thru 7-30-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 17-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 44-2016, f. 12-7-16, cert. ef. 1-1-17; SSP 11-2017(Temp), f. 3-28-17, cert. ef. 4-1-17 thru 9-27-17; SSP 20-2017, f. 8-11-17, cert. ef. 9-1-17

461-155-0660

Special Need; Accommodation Allowance

(1) An OSIP or OSIPM program client living in a nursing facility is not eligible for an accommodation allowance. An OSIP or OSIPM program client living in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for an accommodation allowance unless he or she is receiving, or is eligible to receive after a temporary absence, home and community-based care (see OAR 461-001-0030) in-home services. An OSIP or OSIPM program client receiving SSI or having an adjusted income less than the OSIPM program income standard (except a client in a nursing facility) or eligible to receive or receiving home and community-based care in-home services is allowed an accommodation allowance if the client is 18 years of age or older and meets the criteria in section (2) or (3) of this rule.

(2) Temporary absence of client from home.

(a) A temporary accommodation allowance may be authorized, when permitted under section (1) of this rule, if a client meets the following criteria:

(A) The client leaves his or her home or rental property and enters an adult foster care facility, assisted living facility, group care home, hospital, nursing facility, residential care facility, specialized living facility, or state psychiatric institution;

(B) The client cannot afford to keep the home without the allowance;

(C) The client will be able to return home within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN; and

(D) The home will accommodate the service plan of the client when the client returns.

(b) The allowance may be authorized for six months. If, after six months, the client continues to meet the criteria in subsection (a) of this section, an extension may be approved in writing by a supervisor.

(c) The accommodation allowance equals the total of the client's housing cost, including taxes and insurance, plus the limited standard utility allowance for the SNAP program provided in OAR 461-160-0420.

(3) Additional cost for accommodation. A client meeting the criteria in section (1) of this rule may receive an accommodation allowance if the client's shelter cost exceeds \$451 for a one-person need group (see OAR 461-110-0630) or \$559 for a two-person need group, and the requirements of one of the following subsections are met:

(a) The client has a documented increase in rent associated with access by an individual with a disability; or

(b) The client has been assessed to need a live-in provider, has accepted the services of a live-in provider, and requires an additional bedroom for the live-in provider.

(4) The accommodation allowance is determined as follows:

(a) For a client who receives an accommodation allowance based on increased costs associated with access by an individual with a disability, only the additional increase in cost for the accommodation is allowed.

(b) For a client who receives an accommodation allowance based on the need for an additional bedroom for a live-in provider, the amount of the accommodation allowance is the limited standard utility allowance for the SNAP program under OAR 461-160-0420 plus:

(A) One-third of the monthly rental cost; or

(B) One-third of the monthly payment on the property agreement (including mortgage, trust deed, or land sale contract). The property agreement is the agreement existing at the time the client is approved for the accommodation allowance. The accommodation allowance for the housing portion ends if the debt is refinanced, unless the refinancing was done only to reduce the original property agreement's interest rate or total monthly payment amount and the owner realized no direct or indirect payment of the home's equity value from the refinancing.

(i) If the refinancing requirement under this paragraph is met, the amount of the accommodation allowance is one-third of the refinanced property agreement amount plus the limited standard utility allowance under OAR 461-160-0420.

(ii) If the refinancing requirement under this paragraph is not met and the housing portion of the accommodation allowance ends, the client remains eligible only for the limited standard utility allowance portion under OAR 461-160-0420.

(5) Special requirements.

(a) A client who rents and qualifies for an allowance under section (3) of this rule must take the steps necessary to obtain subsidized housing under any federal or state housing program. A client who fails, at any time, to take the steps necessary to obtain subsidized housing reasonably available is ineligible for the allowance. A client, who has been denied or revoked from participation in any rent subsidy program based on the client's own actions is ineligible for benefits under this rule.

(b) A client who rents housing and refuses subsidized housing will no longer be eligible for an accommodation allowance, except that if the housing that is offered is not suitable, related to accommodations, and the client continues to have increased costs related to accommodations in the client's current living situation, the accommodation allowance may continue until such time as appropriate subsidized housing is found.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 11-2017(Temp), f. 3-28-17, cert. ef. 4-1-17 thru 9-27-17; SSP 20-2017, f. 8-11-17, cert. ef. 9-1-17

Rule Caption: Amending rules relating to requirements for self-sufficiency clients and providers

Adm. Order No.: SSP 21-2017

Filed with Sec. of State: 8-11-2017

Certified to be Effective: 9-1-17

Notice Publication Date: 7-1-2017

Rules Amended: 461-145-0540, 461-165-0160, 461-170-0011, 461-170-0101

Rules Repealed: 461-145-0540(T), 461-165-0160(T), 461-170-0011(T), 461-170-0101(T)

Subject: OAR 461-145-0540 relating to the treatment of trusts is being amended to make permanent the temporary rule amendment adopted on March 13, 2017 that reinstated the treatment of revocable trusts in the ERDC, REF, REFM, and TANF programs in effect prior to 2016 to align the ERDC and TANF programs with the SNAP program, and aligned the REF and REFM programs with the TANF program. The amendment counts trust payments as unearned income in these four programs.

OAR 461-165-0160 about direct payments to child care providers is being amended to make permanent the temporary rule amendment adopted on March 24, 2017 that allows licensed providers to receive reimbursement for care provided prior to their approval date so long

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as the client was eligible for child care services. Licensed providers have complete background checks through their licensing process.

OAR 461-170-0011 regarding the changes a client in the SNAP program must report is being amended to include any time limit county as an area in Oregon whose residents must report if their work hours drop below 20 hours a week. This rule is also being amended to add change in pregnancy status as a condition that must be reported for the Refugee Medical (REFM) program. OAR 461-170-0101 regarding when a SNAP household may use the simplified reporting system is being amended to any time limit county as an area in Oregon whose residents may have a less than 6-month certification period and use simplified reporting. Oregon is required by federal law to implement SNAP time limits in certain counties as the economy improves. The rule changes in the SNAP program make permanent temporary amendments adopted March 10, 2017 that initially affected clients in Clackamas County.

Rules Coordinator: Robert Trachtenberg — (503) 947-5290

461-145-0540

Trusts

(1) This section applies to all trust funds (see OAR 461-001-0000) in the REF, REFM, SNAP, and TANF programs. It also applies in the OSIP, OSIPM, and QMB-DW programs for trust funds established before October 1, 1993:

(a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group (see OAR 461-110-0530) for items covered by program benefits. In the OSIP, OSIPM, and QMB-DW programs, the amount of the trust that is considered legally available is the maximum amount that could be distributed to the beneficiary under the terms of the trust, regardless of whether the trustee exercises his or her authority to actually make a distribution.

(b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.

(c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.

(2) In the ERDC program, all trust funds are excluded.

(3) In the OSIP, OSIPM, and QMB-DW programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) to (11) of this rule.

(4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(a) All trust funds are excluded as a resource.

(b) A payment made from the trust to or for the benefit of the client is counted as unearned income.

(5) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:

(a) The client.

(b) The client's spouse.

(c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.

(d) Any other person, including a court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

(6) If the trust contains resources or income of another person, only the share attributable to the client is considered available.

(7) Except as provided in section (10) of this rule, the following factors are ignored when determining how to treat a trust:

(a) The purpose for which the trust was established.

(b) Whether or not the trustees have or exercise any discretion under the trust.

(c) Any restrictions on when or if distributions may be made from the trust.

(d) Any restrictions on the use of distributions from the trust.

(8) If the trust is revocable, it is treated as follows:

(a) In the OSIP, OSIPM, and QMB-DW programs:

(A) The total value of the trust is considered a resource available to the client.

(B) A payment made from the trust to or for the benefit of the client is excluded as income.

(b) In the ERDC, REF, REFM, SNAP, and TANF programs:

(A) The total value of the trust is considered a resource available to the client.

(B) A payment made from the trust to or for the benefit of the client is considered unearned income.

(c) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.

(9) If the trust is irrevocable, it is treated as follows:

(a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.

(b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.

(c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.

(d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.

(10) Notwithstanding the provisions in sections (1), (3), and (5) to (9) of this rule, the following trusts are not considered in determining eligibility (see OAR 461-001-0000) for OSIPM and QMB-DW:

(a) A trust containing the assets of a client determined to have a disability that meets the SSI criteria that was created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:

(A) The client's parent (see OAR 461-001-0000).

(B) The client's grandparent.

(C) The client's legal guardian or conservator.

(D) A court.

(b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:

(A) Personal-needs allowance.

(B) Community spouse monthly maintenance needs allowance.

(C) Medicare and other private medical insurance premiums.

(D) Other incurred medical.

(c) A trust established on or after April 1, 1995 for the benefit of the client whose income is above 300 percent of the full SSI standard and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. The trust contains all of the client's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:

(A) Personal needs allowance and applicable room and board standard.

(B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:

(i) Trustee fees.

(ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income.

(iii) Conservatorship and guardianship fees and costs.

(C) Community spouse and family monthly maintenance needs allowance.

(D) Medicare and other private medical insurance premiums.

(E) Other incurred medical costs as allowed under OAR 461-160-0030 and 461-160-0055.

(F) Contributions to reserves or payments for child support, alimony, and income taxes.

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(G) Monthly contributions to reserves or payments for the purchase of an irrevocable burial plan with a maximum value of \$5,000.

(H) Contributions to a reserve or payments for home maintenance if the client meets the criteria of OAR 461-155-0660 or OAR 461-160-0630.

(I) Patient liability not to exceed the cost of home and community-based care (see OAR 461-001-0030) or nursing facility services.

(11) This section of the rule applies to a trust signed on or after July 1, 2006.

(a) Notwithstanding the provisions of sections (1), (3) and (5) to (9) of this rule, a trust that meets the requirements of subsection (b) of this section is not considered in determining eligibility for OSIPM and QMB-DW, except that if the client is age 65 or older when the trust is funded or a transfer is made to the trust, the transfer may constitute a disqualifying transfer of assets under OAR 461-140-0210 and following.

(b) This section of the rule applies to a trust that meets all of the following conditions:

(A) The trust is established and managed by a non-profit association.

(B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

(C) The trust is established by the client, client's parent, grandparent, or legal guardian or a court for clients who have disabilities.

(D) Upon the death of the beneficiary or termination of the trust, the trust pays to the state an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid. The amount paid to the state may be reduced by administrative costs directly related to administering the sub-trust account of the beneficiary.

(E) The trust contains the resources or income of a client who has a disability that meets the SSI criteria.

(12) In the OSIP, OSIPM, and QMB-DW programs, the provisions of this rule may be waived for an irrevocable trust if the Department determines that denial of benefits would create an undue hardship on the client if, among other things:

(a) The absence of the services requested may result in a life-threatening situation.

(b) The client was a victim of fraud or misrepresentation.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 18-2002(Temp), f. & cert. ef. 11-19-02 thru 5-18-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 42-2016(Temp), f. & cert. ef. 11-4-16 thru 5-2-17; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 7-2017(Temp), f. & cert. ef. 3-13-17 thru 9-8-17; SSP 21-2017, f. 8-11-17, cert. ef. 9-1-17

461-165-0160

Direct Provider Payments; General Information

(1) The Department makes payments on behalf of eligible clients to the providers they select to care for their children. The payments are made directly to the provider. To be eligible for payment, a provider must:

(a) Charge Department clients at a rate no higher than the rate charged other customers;

(b) Provide the Department his or her social security number (SSN) or IRS identification number; and

(c) Meet the requirements of OAR 461-165-0180.

(2) Payments to a client's provider are subject to each of the following limitations:

(a) A payment is made only for child care already provided.

(b) Payment is made for the amount charged to the client but may not exceed the rate authorized in OAR 461-155-0150.

(c) No payment will be authorized unless the client has designated a primary provider.

(d) No payment will be made for less than one dollar.

(e) Except as provided otherwise in subsection (f) of this section, a payment is made only for child care provided on or after the date the des-

ignated provider has met the requirements to be listed and paid through the Department.

(f) A designated child care provider who the Department approves to be listed and paid through the Department may receive payment for child care provided prior to obtaining Department approval if the provider met the other Department requirements and was licensed under OAR 414-205-0000 to 414-205-0170, 414-350-0000 to 414-350-0405, or 414-300-0000 to 414-300-0415.

(3) In the ERDC and TANF programs, the Department may issue a payment to an eligible provider during a month for which child care is being provided to meet an unexpected need of the provider related to the care of a covered child. The payment may be made if, without the payment, continued care by the same provider would be jeopardized and the client could not immediately obtain child care from another provider.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.122, 412.049

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.122, 412.049

Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 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 11-1999, f. & cert. ef. 10-1-99; AFS 22-2000(Temp), f. 9-27-00, cert. ef. 9-27-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 9-2017(Temp), f. & cert. ef. 3-24-17 thru 9-19-17; SSP 21-2017, f. 8-11-17, cert. ef. 9-1-17

461-170-0011

Changes That Must Be Reported

(1) A change in employment status is considered to occur as follows:

(a) For a new job, the change occurs the first day of the new job.

(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(a) For earned income, the change occurs upon the receipt by the individual of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the individual receives the new or changed payment.

(3) An individual must report, orally or in writing, the following changes:

(a) In the ERDC program, an individual must report the following changes within 10 days of occurrence:

(A) A change in child care provider.

(B) A change in employment status.

(C) A change in mailing address or residence.

(D) A change in membership of the filing group (see OAR 461-110-0350).

(E) A member of the filing group is discharged from the U.S. military and returning from active duty in a military war zone.

(F) A change in income above the ERDC income limit as defined in OAR 461-155-0150(5)(b) that is expected to continue.

(b) In the SNAP program:

(A) An ABAWD residing in one of the time limit counties (see OAR 461-135-0520), who is employed and assigned to CRS or SRS, must report a change in work hours when work hours are below 20 hours per week. This change must be reported within 10 days of occurrence.

(B) An individual assigned to CRS must report any of the following changes within 10 days of occurrence:

(i) A change in earned income of more than \$100.

(ii) A change in unearned income of more than \$50.

(iii) A change in source of income.

(iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.

(v) A change in residence and the shelter costs in the new residence.

(vi) A change in the legal obligation to pay child support.

(vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.

(viii) Acquisition or change in ownership of a non-excluded vehicle.

(C) An individual assigned to SRS must report when the monthly income of the filing group exceeds the SNAP countable (see OAR 461-001-0000) income limit by the tenth day of the month following the month of occurrence.

(D) An individual assigned to TBA is not required to report any changes.

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(c) For Employment Payments (see OAR 461-135-1270) and JPI (see OAR 461-135-1260), an individual must follow the same reporting requirements as a SNAP client assigned to CRS, SRS, or TBA reporting systems (see OAR 461-170-0010).

(d) In the GA, OSIP, OSIPM, and QMB programs, an individual must report all changes that may affect eligibility (see OAR 461-001-0000) within 10 days of occurrence, including any of the following changes:

- (A) A change in employment status.
- (B) A change in health care coverage.
- (C) A change in membership of the household group (see OAR 461-110-0210).

(D) A change in marital status.

(E) A change in residence.

(F) Except for QMB-BAS, QMB-SMB, and QMB-SMF, a change in resources.

(G) A change in source or amount of income.

(e) In the REF, SFPSS, and TANF programs, an individual assigned to CRS must report any of the following changes within 10 days of occurrence:

(A) Acquisition or change in ownership of a non-excluded vehicle.

(B) A change in earned income more than \$100.

(C) Employment separation.

(D) A change in membership of the household group (see OAR 461-110-0210).

(E) A change in marital status or other changes in membership of the filing group.

(F) A change in mailing address or residence.

(G) A change in pregnancy status of any member of the filing group.

(H) A change in source of income.

(I) A change in unearned income more than \$50.

(J) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(K) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(f) In the REFM program, an individual must report the following changes within 10 days of occurrence:

(A) A change in membership of the household group (see OAR 461-110-0210).

(B) A change in residence.

(C) A change in pregnancy status of any member of the filing group. Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 411.825, 411.837, 412.014, 412.049, 413.085, 414.685, 414.826
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 6-2017(Temp), f. & cert. ef. 3-10-17 thru 9-5-17; SSP 21-2017, f. 8-11-17, cert. ef. 9-1-17

461-170-0101

Simplified Reporting System (SRS); SNAP

In the SNAP program:

(1) OAR 461-170-0101 to 461-170-0104 establish and explain the Simplified Reporting System (SRS).

(2) Except for an ABAWD (see OAR 461-135-0520) who resides in one of the time limit counties (see OAR 461-135-0520) and who is certified for a four-month period, a filing group (see OAR 461-110-0310 and 461-110-0370) certified to receive SNAP program benefits for less than six months may not participate in SRS.

(3) A filing group with a member working under a JOBS Plus agreement may not participate in SRS.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 412.049

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 1-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 6-2017(Temp), f. & cert. ef. 3-10-17 thru 9-5-17; SSP 21-2017, f. 8-11-17, cert. ef. 9-1-17

Department of Justice

Chapter 137

Rule Caption: Discontinue disbursement of Support Payments to Private Collection Agencies (2017 SB 765)

Adm. Order No.: DOJ 5-2017(Temp)

Filed with Sec. of State: 7-24-2017

Certified to be Effective: 7-24-17 thru 1-19-18

Notice Publication Date:

Rules Suspended: 137-055-6025

Subject: OAR 137-055-6025 is repealed to comply with changes made by SB 765 (2017). SB 765 amended ORS 25.020 to remove statutory requirements for the Department of Justice to disburse child support payments to private collection agencies, which is now prohibited by 45 CFR 302.38.

Rules Coordinator: Carol Riches—(503) 378-5987

137-055-6025

Distribution of Support Payments to Private Collection Agencies

(1) For purposes of this rule, the following definitions apply:

(a) "Collection agency" means a collection agency as defined by ORS 697.005;

(b) "Enforcement action" means any action taken by a collection agency to ensure payment of support by an obligor, including but not limited to contact for the purposes of discussing payments by the collection agency in person or through mail, e-mail or telephone with the obligor, members of the obligor's household or the obligor's employer. "Enforcement action" does not mean investigative and locate services provided by a collection agency.

(c) "Legally entitled to" means support payments which the Division of Child Support (DCS) is required to disburse to the obligee pursuant to OAR 137-055-6010, but does not include support payments that DCS is required to disburse to the child attending school pursuant to ORS 107.108 and OAR 137-055-5110.

(2) When the Oregon Child Support Program (CSP) is notified by a collection agency or an obligee that the obligee has entered into an agreement with a collection agency, the administrator will send to the obligee an authorization form developed pursuant to section (7) of this rule.

(3) Before DCS may adjust the payment records and begin forwarding support payments to the collection agency pursuant to section (4) of this rule, the obligee must submit a signed and notarized authorization form to the CSP with the following information:

(a) The child support case number;

(b) The obligee's and obligor's full names;

(c) The names of the children on the child support case for whom the obligee is entitled to receive support; and

(d) The name and address of the collection agency to which payments should be sent.

(4) Upon receipt of a completed authorization form DCS will:

(a) Adjust the child support case record for disbursement of support payments to the collection agency. If support payments are currently being disbursed to a different collection agency, DCS will adjust the child support case record for disbursement of support payments to the collection agency for which the obligee has most recently provided authorization;

(b) Send the notice developed pursuant to subsection (7)(b) of this rule to the other parties;

(c) Credit the obligor's account for the full amount of each support payment received by DCS; and

(d) Disburse support payments received, to which the obligee is legally entitled, to the collection agency.

(5)(a) DCS may stop disbursing support payments to a collection agency and reinstate disbursements to the obligee if:

(A) The obligee notifies the CSP that the agreement with the collection agency has been terminated;

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(B) The obligee requests that the CSP stop disbursing support payments to the collection agency;

(C) The administrator is made aware that the collection agency is not in compliance with the provisions of section (8) of this rule; or

(D) The Department of Consumer and Business Services (DCBS) notifies the Department of Justice that the collection agency is in violation of its rules.

(b) DCS will stop disbursing child support payments to the collection agency only after the child support case record has been adjusted following the date that notification from the obligee was received or the date the administrator is otherwise made aware that the collection agency is not in compliance with section (8) of this rule or rules adopted by DCBS. DCS will, at no time, be responsible for returning support payments to the obligee that were disbursed to the collection agency prior to the child support case record having been adjusted following the date that notification from the obligee was received.

(6) The administrator may use information disclosed by the collection agency to provide support enforcement services under ORS 25.080.

(7) The CSP will develop:

(a) An authorization form to be sent to an obligee when the obligee or the collection agency notifies CSP that the obligee has entered into an agreement with a collection agency. The form will include a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be eligible for support enforcement services from the CSP without paying the interest or fee that is typically charged by a collection agency; and

(b) A form to be sent to the other parties to the case when DCS has been given authorization by the obligee to disburse support payments to a collection agency.

(8) A collection agency to which the obligee has provided authorization for DCS to disburse support payments:

(a) May only provide investigative and locate services to the obligee unless written authorization is received from the administrator as provided in section (9) of this rule;

(b) May disclose relevant information from services provided under subsection (a) of this section to the administrator for purposes of providing support enforcement services under ORS 25.080;

(c) May not charge interest or a fee for services exceeding 29 percent of each support payment received by the collection agency to which the obligee is legally entitled unless the collection agency, if allowed by the terms of the agreement between the collection agency and the obligee, hires an attorney to perform legal services on behalf of the obligee;

(d) Will include in the agreement with the obligee a notice that provides information on the fees, penalties, termination and duration of the agreement; and

(e) Will report in writing to DCS the full amount of any payment collected as a result of an enforcement action taken within ten days of disbursing the payment to the obligee.

(9) Upon request, the administrator may provide written authorization to the collection agency to initiate enforcement action to collect the support award. The authorization may:

(a) Authorize a specific enforcement action only; or

(b) Authorize any enforcement action until further notice from the administrator.

(10) A power of attorney given to a collection agency by an obligee does not change the rights and responsibilities of the parties or a collection agency as described in ORS 25.020 or this rule.

(11) The administrator will not disclose any information from a child support record to a collection agency except as permitted in OAR 137-055-1140.

Stat. Auth.: ORS 25.020; 180.345

Stats. Implemented: ORS 25.020

Hist.: AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6025; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6025; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 1-2007, f. & cert. ef. 1-2-07; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; Suspended by DOJ 5-2017(Temp), f. & cert. ef. 7-24-17 thru 1-19-18

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Updates denial revocation standards and processes for criminal justice certifications; adds suspension and verbal mitigation.

Adm. Order No.: DPSST 14-2017

Filed with Sec. of State: 7-28-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 3-1-2017

Rules Amended: 259-008-0005, 259-008-0010, 259-008-0011, 259-008-0070, 259-008-0080

Subject: OAR 259-008-0070 provides the Board on Public Safety Standards and Training's approved standards and requirements for the denial, suspension or revocation of certification for criminal justice public safety professionals.

The changes to the denial, suspension and revocation standards in OAR 259-008-0070 include modified definitions of discharge for cause and categories of discretionary misconduct, elimination of crimes lists, addition of emergency suspension, option for verbal statements accepted as mitigation, a complaint review process and an additional option of suspension of certifications instead of revocation. A detailed rule change explanation document is available from the DPSST rules coordinator.

The changes to OARs 259-008-0010, 259-008-0011 and 259-008-0080 amended citations in each of the rules pertaining to sections referenced in OAR 259-008-0070.

The change to OAR 259-008-0005 deleted the definition for "Suspension".

Rules Coordinator: Jennifer Howald—(503) 378-2432

259-008-0005

Definitions

(1) "Academy Training Division" means the division of the Department which coordinates and facilitates criminal justice training courses to include the development, evaluation, and validation of curriculum and training.

(2) "Assistant Department Head" means a public safety officer employed in the first position subordinate to a Department Head who is primarily responsible for supervision of middle managers and supervisors.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Casual employment" means employment that is occasional, irregular, or incidental for which the employee does not receive seniority rights or fringe benefits.

(5) "Certified Reserve Officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181A.410.

(6) "Commissioned" means being authorized to perform various acts or duties of a police officer, certified reserve officer or reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(7) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including, but not limited to, vocational or technical education programs or lower division collegiate programs.

(8) "Corrections Officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles;

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers as described in paragraph (a) of this subsection; or

(c) Is any full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.520.

(9) "Department" and "DPSST" means the Department of Public Safety Standards and Training.

(10) "Department Head" means the chief of police, sheriff, or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit or agency.

(11) "Director" means the Director of the Department of Public Safety Standards and Training.

(12) "Educational Credits" are credits earned for studies satisfactorily completed at an accredited post-secondary education institution recognized under OAR 259-008-0045.

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(13) "Emergency Medical Dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(14) "First-Level Supervisor" means a public safety officer employed in a position between the operational level and the middle manager, who is primarily responsible for the direct supervision of subordinates. A first level supervisor position does not include a position with limited or acting supervisory responsibilities.

(15) "Full-time employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for more than 80 hours per month for a period of more than 90 consecutive calendar days. For purposes of this rule, any employment that meets the definition of seasonal, casual, or temporary employment is not considered full-time employment as a public safety professional.

(16) "High School" is a school accredited as a high school by the Oregon Department of Education, a school accredited as a high school by the recognized regional accrediting body, or a school accredited as a high school by the state university of the state in which the high school is located.

(17) "Instructor" means an individual who has completed the requisite training and certification requirements prescribed by statute, rule, and policy and has been certified by the Department. The Department will only certify instructors who instruct mandated courses.

(18) "Law Enforcement Officers" means police, corrections, parole and probation officers and regulatory specialists as described in the Public Safety Standards and Training Act.

(19) "Law Enforcement Unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal governments as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance, or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control, or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision, and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to regulatory specialists; or

(e) A humane investigation agency as defined in ORS 181A.340.

(20) "Leave" means an authorized absence granted to a public safety professional by their employing public or private safety agency.

(21) "Limited Duration, Administrative Position" means a non-elected, certifiable public safety position where the primary duties relate to the administration, operation, and accountability of a public safety agency, including, but not limited to, the responsibility for command assignments and the supervision of subordinate managers.

(a) Primary duties are regular or recurring supervisory or managerial duties that are performed in a continuous manner and are the foundation of a limited duration, administrative position.

(b) Non-supervisory or non-managerial public safety duties, such as patrol, criminal investigations, or enforcement actions are not primary duties of a limited duration, administrative position.

(22) "Middle Manager" means a public safety officer working in a position that is between a first-level supervisor and a department head, who is primarily responsible for management and command duties. A middle manager position does not include a position with limited or acting middle management duties.

(23) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for 80 hours or less per month for a period of more than 90 consecutive calendar days.

(24) "Parole and Probation Officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(c) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181A.520.

(25) "Police Officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;

(c) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;

(d) A humane special agent commissioned under ORS 181A.340;

(e) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181A.540; or

(f) Any full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.490.

(26) "Public or private safety agency" means:

(a) A law enforcement unit; or

(b) A unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, police, ambulance or emergency medical services.

(27) "Public Safety Personnel" and "Public Safety Officer" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, reserve officers, telecommunicators and regulatory specialists.

(28) "Public Safety Professional" includes public safety personnel, public safety officers, and instructors.

(29) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.

(30) "Regulatory Specialist" means a full-time employee of the Oregon Liquor Control Commission (OLCC) who is authorized to act as an agent of the OLCC in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing Chapter 471, ORS 474.005 to 474.095 and 474.115, OLCC rules and any other statutes the OLCC considers related to alcoholic liquor or marijuana.

(31) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181A.665, to a law enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

ADMINISTRATIVE RULES

(32) "Reserve Officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor, or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(33) "Seasonal Employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year, with defined starting and ending dates based on a seasonally determined need.

(34) "Staff" means those employees occupying full-time, part-time, or temporary positions with the Department.

(35) "Standards and Certification" means the division of the Department which implements and regulates compliance with Board-established, statewide standards for public safety professionals. Standards and Certification oversees the issuance, maintenance, denial, suspension or revocation of public safety certifications.

(36) "Telecommunicator" means:

(a) A person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105; or

(b) A full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.520.

(37) "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.

(38) "The Act" refers to the Public Safety Standards and Training Act (ORS 181A.355 to 181A.265).

(39) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0010, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 3-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-2000, f. & cert. ef. 9-29-00; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 6-2012, f. & cert. ef. 3-27-12; DPSST 24-2012, f. & cert. ef. 10-26-12; DPSST 31-2012, f. & cert. ef. 12-27-12; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15; DPSST 18-2015, f. 12-22-15, cert. ef. 1-1-16; DPSST 4-2016, f. 3-22-16, cert. ef. 4-1-16; DPSST 14-2017, f. 7-28-17, cert. ef. 8-1-17

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer or Utilization as a Reserve Officer

(1) Citizenship.

(a) A person may not be employed as a corrections officer for more than one year unless the person is a citizen of the United States.

(b) A person may not be employed as a police officer, parole and probation officer or a regulatory specialist for more than 18 months unless the person is a citizen of the United States.

(c) The citizenship requirement found in (b) does not apply to a person employed as a regulatory specialist on March 16, 2012, who continues full-time employment as a regulatory specialist without a lapse.

(2) Age. No law enforcement unit in this state may employ or utilize any person under the age of 21 years as a police officer, corrections officer, parole and probation officer, regulatory specialist or reserve officer.

(3) Fingerprints. Within 90 days of the date of employment in a certifiable position, each law enforcement officer must be fingerprinted on a standard applicant fingerprint card.

(a) The hiring agency is responsible for fingerprinting and must forward one card to the Oregon State Police Identification Services Section for processing and the assignment of an identification number.

(b) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department must comply with the most current requirements.

(c) Applications for certification will not be processed until an applicant's fingerprints have cleared Oregon State Police Identification Services.

(4) Criminal Records. No law enforcement officer may have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(5) Notification of Arrest or Criminal Citation to Appear. A law enforcement officer who is arrested, or receives a criminal citation to appear or its equivalent, for any offense punishable as a crime must notify the Department within five business days. Notification must be in writing and include the date of the arrest or citation, the location of the arrest or citation, the reason for the arrest or citation and the arresting or citing agency.

(6) Moral Fitness (Professional Fitness). All law enforcement officers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory grounds for denying or revoking certification as described in OAR 259-008-0070(2); or

(b) Discretionary grounds for denying, suspending or revoking certification as described in OAR 259-008-0070(4).

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by an accredited, degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Academic Proficiency Standard. Before beginning basic training or beginning the career officer development course, each applicant must provide evidence to DPSST that the applicant possesses the academic tools necessary to successfully complete basic training.

(A) The hiring agency is responsible for ensuring a law enforcement proficiency test or validated written test designed to evaluate predictors of job-related skills and behaviors has been administered. The hiring agency must verify the completion of the test and report the date of completion to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic training.

(B) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by the Department under the provisions of OAR 259-008-0045 are exempt from this testing requirement.

(C) Individuals who have successfully completed training resulting in the award of certification in the discipline they are applying for training are exempt from this testing requirement. Individuals must submit proof of training and certification.

(8) Physical Standards.

(a) Prior to admittance into a basic training course, as described in OAR 259-008-0025, all law enforcement officers or applicants must demonstrate the physical abilities to perform the critical and essential tasks of a law enforcement officer.

(A) The critical and essential tasks for law enforcement officers have been determined by the following:

(i) The 2015 DPSST Job Task Analysis for Police Officers;

(ii) The 2015 DPSST Job Task Analysis for Parole & Probation Officers;

(iii) The 2016 DPSST Job Task Analysis for Corrections Officers; and

(iv) The 2013 Job Task Analysis for Liquor Enforcement Inspectors.

(b) The following minimum physical standards are required for all law enforcement officers:

(A) Visual Acuity.

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(i) Monocular vision must be at least 20/30 (Snellen) corrected in each eye and not worse than 20/100 (Snellen) uncorrected in either eye.

(ii) Binocular vision must be at least 20/20 (Snellen) corrected.

(iii) Officers or applicants whose uncorrected vision is worse than 20/100 must wear soft contact lenses to meet the corrected vision requirement.

(B) Color Vision.

(i) Law enforcement officers or applicants must be able to distinguish red, green, blue, and yellow, as determined by the HRR Test, 4th Edition.

(ii) Red or green deficiencies may be acceptable, providing the officer or applicant can read at least nine of the first 13 plates of the Ishihara Test.

(iii) Officers or applicants who fail to meet the color vision standard may meet the standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer as approved by the examining licensed physician or surgeon.

(C) Depth Perception. Random Stereo Test equal to 60 seconds of arc or better.

(D) Peripheral Vision. Visual Field Performance must be 140 degrees in the horizontal meridian combined.

(E) Hearing.

(i) Law enforcement officers or applicants must have no average hearing loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db.

(ii) Law enforcement officers or applicants who fail to meet the hearing standard must be examined by a licensed audiologist or otorhinolaryngologist to determine if an amplification device will allow them to meet the hearing standard.

(iii) An amplification device may be used to meet the hearing standard, if a licensed audiologist or otorhinolaryngologist determines an amplification device will allow the officer or applicant to meet the hearing standard.

(F) Cardiovascular.

(i) Resting blood pressure must be less than or equal to 160 mmHg systolic and 100 mmHg diastolic.

(ii) Law enforcement officers or applicants who fail to meet the cardiovascular standards must be examined by a general practitioner to address the issue.

(iii) Law enforcement officers or applicants who have a history of organic cardiovascular disease will necessitate further medical evaluation.

(G) Pulmonary Capacity. Officers and applicants with obstructive or restrictive spirometry (FVC or FEV1 less than 80% or FVC/FEV1 ratio of less than 70%) require further evaluation.

(H) Medications. The side effects of any prescribed medication must not interfere with the law enforcement officer's or applicant's ability to perform the critical and essential tasks of the job.

(I) Medical Recommendations.

(i) It is recommended that officers or applicants with a history of seizures or diabetes be evaluated following American College of Occupational and Environmental Medicine's Guidance for the Medical Evaluation of Law Enforcement Officers, to include post-employment monitoring.

(ii) It is recommended that officers or applicants with a history of hypertension (resting blood pressure exceeding 160 mmHg systolic and 100 mmHg diastolic (160/100) have post-employment medical monitoring.

(9) Medical Examinations. To ensure that law enforcement officers and applicants meet the minimum physical standards listed in section (8) of this rule, all officers and applicants must be examined by a licensed physician or surgeon.

(a) The licensed physician or surgeon performing the medical examination must be provided with a current DPSST Medical Examination Report (Form F-2) for completion at the time of the examination.

(b) The medical examination must conform to applicable standards of the Americans with Disabilities Act (ADA) Title 42 USC 1210.

(c) The medical examination must be completed within 180 days prior to the start of employment as a law enforcement officer.

(d) Upon completion of the medical examination, the examining licensed physician or surgeon must sign the final page of the Form F-2 (Form F-2A) attesting that the officer or applicant has met or has not met the minimum physical standards listed in section (8) of this rule.

(e) The Form F-2A must be submitted to the Department no later than 90 days after the start of employment.

(f) Law enforcement officers and applicants will not be admitted into a basic course until the Department receives a Form F-2A attesting that the

minimum physical standards have been met or a physical standard waiver has been granted, as described in section (10) of this rule.

(g) DPSST may require that a law enforcement officer or applicant take a subsequent examination by a licensed physician or surgeon of the Department's choice at the expense of the officer, the applicant or the hiring agency.

(h) Certified individuals who are hired into a discipline they are not certified for are required to successfully complete a new physical examination.

(i) A law enforcement officer whose certification has lapsed will be required to complete a new medical examination prior to re-applying for certification.

(j) Individuals employed in a limited duration, administrative position, as described in OAR 259-008-0078, are exempt from the medical examination requirement.

(k) Regulatory Specialists employed by OLCC prior to July 1, 2015 who have previously completed OLCC basic training are exempt from completion of the physical examination.

(10) Physical Standard Waivers.

(a) An individual or department head may request a waiver of any physical standard in section (8) of this rule by:

(A) Submitting a request to the Department in writing; and

(B) Providing documentation or pertinent testimony that supports the physical standard waiver request.

(C) If further clarification is needed, the Department may require additional documentation or testimony from the individual or department head requesting the physical standard waiver.

(D) The requesting individual may be required to demonstrate the ability to perform the critical and essential job tasks.

(E) If the Department finds that the physical standard waiver request would not prohibit the requesting individual's ability to successfully complete training and the performance of the critical and essential tasks, the waiver will be granted.

(F) Any expense associated with providing physical standard waiver documentation or testimony will be the responsibility of the requesting individual or the requesting agency.

(G) If an individual requests and is granted a medical waiver, but does not obtain employment within one year from the date the waiver is granted, the waiver will be void.

(H) If the Department denies a request for a waiver of any physical standard in section (8) of this rule, the Department will issue Notice and proceed as provided in section (10)(b) of this rule.

(b) Contested Case Hearing Process for Denial of Physical Standard Waivers.

(A) Initiation of Proceedings: A contested case notice will be prepared when the Department denies a physical standard waiver after determining that factual data meeting the statutory and administrative rule requirements justifies the denial.

(B) Contested Case Notice: The contested case notice will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(C) Response Time: A party who has been served with a "Contested Case Notice of Intent to Deny a Waiver" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(D) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver pursuant to OAR 137-003-0672.

(E) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(F) Proposed and Final Orders: In cases where a hearing is requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

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

Stat. Auth.: ORS 181A.410, 183.341

Stats. Implemented: 181A.410, 183.341

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1987, f. & ef. 10-26-87; Renumbered from 259-010-0015, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 4-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 9-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 3-2001, f. & cert. ef. 8-22-01; BPSST 12-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-2002; BPSST 20-2002, f. & cert. ef. 11-21-02; DPSST 3-2003, f. & cert. ef. 1-22-03; DPSST 6-2003, f. & cert. ef. 4-11-03; DPSST 8-2003, f. & cert. ef. 4-18-03; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST

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3-2006, f. & cert. ef. 2-28-06; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 13-2007(Temp), f. & cert. ef. 11-1-07 thru 4-18-08; DPSST 1-2008(Temp), f. & cert. ef. 1-15-08 thru 4-18-08; DPSST 4-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 10-2009, f. & cert. ef. 9-21-09; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11; DPSST 18-2012, f. & cert. ef. 8-27-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 18-2013, f. & cert. ef. 7-23-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 13-2014, f. & cert. ef. 6-24-14; DPSST 32-2014, f. 12-29-14, cert. ef. 1-1-15; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15; DPSST 18-2015, f. 12-22-15, cert. ef. 1-1-16; DPSST 4-2016, f. 3-22-16, cert. ef. 4-1-16; DPSST 11-2016, f. 7-25-16, cert. ef. 7-29-16; DPSST 7-2017, f. 3-22-17, cert. ef. 4-1-17; DPSST 14-2017, f. 7-28-17, cert. ef. 8-1-17

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

(1) Fingerprints. Within 90 days of the date of employment in a certifiable position, each telecommunicator and emergency medical dispatcher must be fingerprinted on a standard applicant fingerprint card.

(a) If the hiring agency is a public agency, it is responsible for fingerprinting and forwarding one fingerprint card to the Oregon State Police Identification Services Section for processing and the assignment of an identification number.

(b) If the hiring agency is a private agency, it is responsible for fingerprinting and forwarding one fingerprint card to the Department along with the appropriate fee.

(c) Applications for certification will not be processed until an applicant's fingerprints have cleared Oregon State Police Identification Services.

(d) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department will comply with the most current requirements.

(2) Criminal Records. No telecommunicator or emergency medical dispatcher will have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(3) Notification of Arrest or Criminal Citation to Appear. A telecommunicator or emergency medical dispatcher who is arrested, or receives a criminal citation to appear or its equivalent, for any offense punishable as a crime must notify the Department within five business days. Notification must be in writing and include the date of the arrest or citation, the location of the arrest or citation, the reason for the arrest or citation and the arresting or citing agency.

(4) Moral Fitness (Professional Fitness). All telecommunicators and emergency medical dispatchers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory grounds for denying or revoking certification as described in OAR 259-008-0070(2); or

(b) Discretionary grounds for denying, suspending or revoking certification as described in OAR 259-008-0070(4).

(5) Education:

(a) Applicants for the position of a telecommunicator or emergency medical dispatcher will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by a degree-granting college or university accredited by a recognized national or regional accrediting body, or recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(6) Academic Proficiency Standard. Before beginning basic telecommunicator or Emergency Medical Dispatcher (EMD) training or challenging basic telecommunicator training, each applicant must provide evidence to DPSST that the applicant possesses the academic tools necessary to successfully complete basic telecommunicator or EMD training.

(a) The hiring agency is responsible for ensuring a telecommunicator/EMD proficiency test or validated written test designed to evaluate predictors of job-related skills and behavior has been administered. The hiring agency must verify the completion of the test and report the date of completion to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic telecommunicator or EMD training.

(b) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by DPSST under the provisions of OAR 259-008-0045 are exempt from this testing requirement.

(c) Individuals who have successfully completed training resulting in the award of certification in the discipline they are applying for training are exempt from this testing requirement. Individuals must submit proof of training and certification.

(7) Physical Standards.

(a) Prior to admittance into a basic training course, as described in OAR 259-008-0025, all telecommunicators, emergency medical dispatchers and applicants must demonstrate the physical abilities to perform the critical and essential tasks of a telecommunicator or emergency medical dispatcher.

(A) The critical and essential tasks for telecommunicators have been determined by the 2015 DPSST Job Task Analysis for Telecommunicators.

(B) The critical and essential tasks for emergency medical dispatchers have been determined by the 1995 National Highway Traffic Safety Administration Emergency Medical Dispatcher (EMD) National Standards Curriculum.

(b) The following minimum physical standards are required for all telecommunicators and emergency medical dispatchers.

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

(B) Color Vision.

(i) Telecommunicators, emergency medical dispatchers and applicants must be able to distinguish red, green, blue, and yellow as determined by the HRR Test, 4th Edition.

(ii) Red or green deficiencies may be acceptable, providing the telecommunicator, emergency medical dispatcher or applicant can read at least nine of the first 13 plates of the Ishihara Test.

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

(C) Hearing.

(i) Telecommunicators, emergency medical dispatchers or applicants must meet National Emergency Number Association (NENA) hearing standard NENA-STA-007.2-2014 (June 14, 2014).

(ii) Telecommunicators, emergency medical dispatchers or applicants who fail to meet the hearing standard must be examined by a licensed audiologist or otorhinolaryngologist to determine if an amplification device will allow them to meet the hearing standard.

(iii) An amplification device may be used to meet the hearing standard, if a licensed audiologist or otorhinolaryngologist determines an amplification device will allow the telecommunicator, emergency medical dispatcher or applicant to meet the hearing standard.

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

(8) Medical Examinations. To ensure that telecommunicators, emergency medical dispatchers, and applicants meet the minimum physical standards listed in section (7) of this rule, telecommunicators, emergency medical dispatchers, and applicants must be examined by a licensed health professional.

(a) The licensed health professional performing the medical examination must be provided with a current DPSST Medical Examination Report (Form F-2T) for completion at the time of the examination.

(b) The medical examination must conform to applicable standards of the Americans with Disabilities Act (ADA) Title 42 USC 1210.

(c) The medical examination must be completed within 180 days prior to the start of employment as a telecommunicator or emergency medical dispatcher.

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(d) Upon completion of the medical examination, the examining licensed health professional must sign the final page of the Form F-2T (Form F-2TA) attesting that the telecommunicator, emergency medical dispatcher or applicant has met or has not met the minimum physical standards listed in section (7) of this rule.

(e) The Form F-2TA must be submitted to the Department no later than 90 days after the start of employment.

(f) Telecommunicators, emergency medical dispatchers or applicants will not be admitted into a basic course until the Department receives a Form F-2TA attesting that the minimum physical standards have been met or a physical standard waiver has been granted, as described in section (9) of this rule.

(g) The Department may require that a telecommunicator or emergency medical dispatcher take a subsequent examination by a licensed health professional of the Department's choice at the expense of the applicant or the hiring agency.

(h) Certified individuals who are hired into a discipline for which they are not certified are required to successfully complete a new physical examination.

(i) A telecommunicator or emergency medical dispatcher whose certification has lapsed will be required to complete a new medical examination prior to re-applying for certification.

(j) Individuals employed in a limited duration, administrative position, as described in OAR 259-008-0078, are exempt from the medical examination requirement.

(9) Physical Standard Waivers.

(a) An individual or department head may request a waiver of any physical standard in section (7) of this rule by:

(A) Submitting a request to the Department in writing; and

(B) Providing documentation or pertinent testimony that supports the physical standard waiver request.

(C) If further clarification is needed, the Department may require additional documentation or testimony from the individual or department head requesting the physical standard waiver.

(D) The requesting individual may be required to demonstrate the ability to perform the critical and essential job tasks.

(E) If the Department finds that the physical standard waiver request would not prohibit the requesting individual's ability to successfully complete training and the performance of the critical and essential tasks, the waiver will be granted.

(F) Any expense associated with providing physical standard waiver documentation or testimony will be the responsibility of the requesting individual or the requesting agency.

(G) If an individual requests and is granted a physical standard waiver, but does not obtain employment within one year from the date the waiver is granted, the waiver will be void.

(H) If the Department denies a request for a waiver of any physical standard in section (7) of this rule, the Department will issue Notice and proceed as provided in section (9)(b) of this rule.

(b) Contested Case Hearing Process for Denial of Physical Standard Waivers.

(A) Initiation of Proceedings: A contested case notice will be prepared when the Department denies a physical standard waiver after determining that factual data meeting the statutory and administrative rule requirements justifies the denial.

(B) Contested Case Notice: All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(C) Response Time: A party who has been served with a "Contested Case Notice of Intent to Deny a Waiver" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(D) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver pursuant to OAR 137-003-0672.

(E) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(F) Proposed and Final Orders: In cases where a hearing was requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

Stat. Auth.: ORS 181A.410, 183.341

Stats. Implemented: ORS 181A.410, 183.341

Hist.: BPSST 1-2002, f. & cert. ef. 2-6-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 5-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-

15-08, cert. ef. 1-1-09; DPSST 6-2009, f. & cert. ef. 7-13-09; DPSST 9-2010(Temp), f. & cert. ef. 10-15-10 thru 4-12-11; DPSST 13-2010, f. & cert. ef. 12-23-10; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11; DPSST 5-2012, f. & cert. ef. 3-26-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 18-2013, f. & cert. ef. 7-23-13; DPSST 13-2014, f. & cert. ef. 6-24-14; DPSST 32-2014, f. 12-29-14, cert. ef. 1-1-15; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 10-2015, f. 6-23-15, cert. ef. 7-1-15; DPSST 6-2016, f. 3-22-16, cert. ef. 4-1-16; DPSST 11-2016, f. 7-25-16, cert. ef. 7-29-16; DPSST 7-2017, f. 3-22-17, cert. ef. 4-1-17; DPSST 14-2017, f. 7-28-17, cert. ef. 8-1-17

259-008-0070

Denial/Suspension/Revocation

(1) It is the responsibility of the Board to set the minimum standards, and of the Department to uphold them, to ensure the highest levels of professionalism and discipline. These standards shall be upheld at all times unless the Board determines that neither the safety of the public nor respect of the profession is compromised.

(2) Mandatory Grounds for Denying or Revoking Certifications of a Public Safety Professional.

(a) The Department must deny or revoke the certifications of any public safety professional after written Notice, and a hearing if requested, based upon a finding that:

(A) The public safety professional has been discharged for cause from employment as a public safety professional;

(i) For the purposes of this rule, "discharged for cause" means an employer initiated termination of employment as a public safety professional for conduct that falls within any of the following categories and that occurred while acting under the color of office:

(I) Deliberately obtaining false confessions;

(II) Initiating false arrests;

(III) Creation and use of falsified evidence, including false testimony;

(IV) Intimidation: Includes wrongfully compelling an individual to abstain from doing, or to do, any act which the individual has a legal right to do or abstain from doing;

(V) Brutality: Includes the use of any force exceeding that reasonably necessary to accomplish a lawful enforcement purpose;

(VI) Corruption: Includes the abuse of a public safety professional's authority for personal gain, to gain advantage for a public or private safety agency or to attempt or succeed in depriving another person or persons of their legal rights; or

(VII) Sexual abuse.

(ii) If, after service by the Department of a Notice of Intent to Deny or Revoke Certifications (NOI), the public safety professional provides notice to the Department within the time stated in the NOI that the discharge has not become final, then the Department may stay further action, pending a final determination.

(B) The public safety professional has a conviction for an offense designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(C) The public safety professional has a conviction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug, except the Board, in consultation with a Policy Committee, may deny certification under section (4) of this rule for a criminal disposition for possession of less than one ounce of marijuana that occurred prior to July 1, 2015 and prior to public safety certification;

(D) The offense for which the public safety professional's conviction required registration as a sex offender; or

(E) The offense for which the public safety professional's conviction involves any elements of domestic violence as defined in ORS 135.230 or the offense involves elements of abuse as defined in ORS 107.705 against a child who is under 18 years of age and is a natural child, adopted child, stepchild, a child under the guardianship of, or a child who regularly resides or formerly resided in the same household as the public safety professional.

(b) The Department must take action on any conduct that has been determined to be a mandatory disqualifier regardless of when the conduct occurred unless the Department, or the Board, has previously reviewed the conduct and determined the conduct not to be disqualifying under a previous set of standards.

(c) Denial or revocation for mandatory grounds will be subject to the contested case procedure in section (7) of this rule.

(d) Any application for training or certification submitted by an individual whose certifications have been denied or revoked for mandatory grounds as defined in subsection (2)(a) of this rule will be denied pursuant to section (7) of this rule.

(3) Emergency Suspension: If, upon a review pursuant to subsection (4)(f) of this rule, the Policy Committee and Board find that there is a seri-

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ous danger to public health and safety, the Department may issue an Emergency Suspension Order, pursuant to OAR 137-003-0560, immediately suspending a public safety professional's certifications.

(a) An Emergency Suspension Order will be served on the public safety professional, by the Department, following the contested case notice process outlined in section (7) of this rule.

(b) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the certification of a public safety professional.

(c) A public safety professional, whose certifications have been suspended by an Emergency Suspension Order, is prohibited from performing the duties of a public safety professional beginning on the date the Emergency Suspension Order is served on the public safety professional.

(d) The emergency suspension will remain in effect until the issuance of a Final Order to revoke certifications or receipt of evidence provided to the Department that the affected public safety professional no longer poses a serious danger to public health and safety.

(4) Discretionary Grounds for Denying, Suspending or Revoking Certifications of a Public Safety Professional.

(a) The Board, through a Policy Committee, may deny, suspend or revoke the certifications of any public safety professional after written Notice, and a hearing if requested, based upon a finding that the public safety professional engaged in misconduct. For the purposes of this rule, misconduct is defined as:

(A) Conduct that resulted in a criminal disposition for any offense other than convictions constituting mandatory grounds as defined in subsection (2)(a) of this rule. For the purpose of this section, a criminal disposition includes a conviction, violation, adjudication, an entered plea of guilty or no contest, or a finding of guilty except for insanity or its equivalent, for any offense punishable as a crime in this state or any other jurisdiction.

(B) Conduct that includes any of the elements identified in subsection (4)(f) of this rule;

(C) Conduct that fails to meet the applicable standards as described in OAR Chapter 259 Division 012, or any of the administrative rules promulgated under ORS 181A.410;

(D) Falsification of any information on any documents submitted to the Board or the Department; or

(E) A police officer's failure to attend at least one session with a mental health professional within six months after the police officer was involved in using deadly physical force, as required by ORS 181A.790.

(b) Standards and Certification will initiate a professional standards case upon receipt or discovery of information that would lead an objectively reasonable person to conclude that the public safety professional has violated Board established employment, training, or certification standards for Oregon public safety professionals. For the purpose of this rule, receipt of information may include, but is not limited to:

(A) Notification of an arrest, a criminal citation to appear or its equivalent, a conviction, or any other criminal disposition, of a certified public safety professional or a public safety professional who is employed in a certifiable position but is not yet certified;

(B) Notification of a non-voluntary separation of employment from a certifiable position; or

(C) Any complaint submitted to the Department alleging that a public safety professional has potentially engaged in misconduct as defined in subsection (4)(a) of this rule.

(c) All complaints will be reviewed by Standards and Certification to determine if the allegations, if founded, may violate the statutory and administrative rule requirements for employment and certification of a public safety professional. Complaints determined to fall outside of DPSST's jurisdiction will be administratively closed.

(A) Standards and Certification will work with the public safety professional's employing agency upon receipt of a complaint containing allegations that a public safety professional has engaged in conduct that, if proven, may violate the statutory and administrative rule requirements for employment and certification of a public safety professional to determine if there is a reasonable basis to proceed with a professional standards case. Standards and Certification will defer any further investigation, discipline or remedy to the employing agency when a complaint is received against a public safety professional who is currently employed. The employing agency will be required to respond to Standards and Certification that the allegations made in the complaint have been reviewed and handled in an appropriate manner as dictated by the employing agency.

(B) Complaints made against a certified public safety professional who is not currently employed in a certifiable position; complaints made

against an employed public safety professional whose employing agency is non-responsive to Standards and Certification's requests for further review; or complaints made against an elected official serving as a public safety professional that may fall within the Department's statutory and administrative rule requirements for denial, suspension or revocation may be presented to a Policy Committee for disposition, up to and including initiating a Standards and Certification investigation.

(d) The following are guidelines for Standards and Certification to administratively close a professional standards case involving a criminal disposition for any offense other than convictions constituting mandatory grounds as defined in subsection (2)(a) of this rule:

(A) Standards and Certification will administratively close any case involving a criminal disposition that occurred prior to January 1, 2001.

(B) Standards and Certification will administratively close any case based on a criminal disposition that was reviewed by Standards and Certification or the Board under the standards in place prior to August 1, 2017 and determined to not meet the statutory and administrative rule requirements for denial, suspension or revocation under previous administrative rules.

(C) Standards and Certification will administratively close any deferred adjudications in which the only charge is for ORS 813.010 (Driving Under the Influence of Intoxicants) upon confirmation of dismissal.

(D) Nothing in this rule precludes a Policy committee and the Board from considering previous criminal dispositions as an aggravating factor in a separate disciplinary investigation.

(e) Review of a Professional Standards Case by Standards and Certification:

(A) When Standards and Certification receives factual information from any source, Standards and Certification will review the information to determine if the conduct may meet statutory and administrative rule requirements for denial, suspension or revocation by initiating a professional standards case.

(B) Standards and Certification may recommend administrative closure of a professional standards case to the Policy Committee if Standards and Certification determines that the conduct being reviewed does not meet the statutory and administrative rule requirements for denial, suspension or revocation or the conduct being reviewed involves a criminal disposition that meets all of the following criteria:

(i) The criminal disposition occurred seven years or more prior to the date the public safety professional began employment as a public safety professional;

(ii) The criminal disposition represents the only criminal disposition in the public safety professional's history;

(iii) The conduct involved did not include dishonesty or deceit;

(iv) The public safety professional has completed any court-ordered form of supervision; and

(v) The public safety professional does not have any unpaid restitution, court fines or fees resulting from the criminal disposition.

(C) If Standards and Certification determines that the conduct being reviewed may meet the statutory and administrative rule requirements for denial, suspension or revocation, but is not supported by adequate factual information, Standards and Certification may request further information from the employer pursuant to ORS 181A.670 or conduct its own investigation of the matter.

(D) If Standards and Certification determines that a public safety professional may have engaged in misconduct listed in subsection (4)(a) of this rule, the case may be presented to the Board, through a Policy Committee.

(E) When Standards and Certification presents a professional standards case to the Board, through a Policy Committee, a notification will be sent to the affected public safety professional by Standards and Certification. The notification will include the deadlines for the affected public safety professional to present to the Board, through a Policy Committee, evidence of factors that may support mitigation. A public safety professional may present mitigation evidence by one or both of the following:

(i) Submitting documents or written statements as supporting evidence for mitigation of the conduct under review to Standards and Certification for Policy Committee and Board consideration.

(ii) Arranging with Standards and Certification to attend the Policy Committee and present a verbal statement. Verbal statements are limited to a maximum of five minutes and must be presented, in person, by the affected public safety professional, or the representative of their choice.

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(F) In professional standards cases where there has been an arbitrator's opinion related to the public safety professional's employment, Standards and Certification will proceed as follows:

(i) If the arbitrator's opinion finds that underlying facts supported the allegations of misconduct, Standards and Certification will proceed as identified in subsections (4)(e) and (f) of this rule.

(ii) If the arbitrator has ordered employment reinstatement after a non-voluntary separation of employment without a finding related to whether the misconduct occurred, Standards and Certification will proceed as identified in subsections (4)(e) and (f) of this rule.

(iii) If the arbitrator's opinion finds that underlying facts did not support the allegations of misconduct, Standards and Certification will recommend administrative closure of the professional standards case, unless Standards and Certification receives or discovers additional information that would lead an objectively reasonable person to conclude that the public safety professional has violated Board established employment, training, or certification standards for Oregon public safety professionals.

(f) Review of a Professional Standards Case by the Board in Consultation with a Policy Committee.

(A) In order to determine whether or not the conduct engaged in by a public safety professional demonstrates a lack of moral fitness, the Board, in consultation with a Policy Committee, will review the misconduct for the following elements:

(i) Dishonesty: Includes conduct that is knowingly dishonest and includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth;

(ii) Disregard for the Rights of Others: Includes conduct that knowingly violates the constitutional or civil rights of others;

(iii) Misuse of Authority: Includes the use or attempt to use one's position to obtain a benefit, avoid a detriment, or harm another while acting under the color of office; or

(iv) Gross Misconduct: Includes behavior that deliberately or recklessly disregards the law, threatens persons or property or the efficient operations of any agency.

(B) In making a decision to authorize initiation of proceedings under section (7) of this rule, the Policy Committees and the Board must consider, at a minimum, the following mitigating and aggravating circumstances:

(i) Whether the conduct occurred before, during or after the public safety professional's employment in public safety;

(ii) Whether the public safety professional engaged in the same conduct more than once and over what period of time;

(iii) Whether the conduct occurred while the public safety professional was acting in the official capacity of a public safety professional;

(iv) Whether the public safety professional has been reviewed by a Policy Committee or Board for prior conduct;

(v) Whether the conduct involved any elements of domestic violence as defined in ORS 135.230 or child abuse as defined in ORS 419B.005 where the child involved is under 18 years of age and is a natural child, adopted child, stepchild, a child under the guardianship of or a child dwelling in the same household as the public safety professional;

(vi) Whether the public safety professional self-reported the conduct;

(vii) Whether the conduct resulted in a criminal disposition and if so:

(I) The classification of the crime or violation for which the public safety professional was convicted, adjudicated, plead guilty or no contest to, or was found guilty except or insanity or its equivalent;

(II) The date of the criminal disposition;

(III) The age of the public safety professional at the time of the offense that resulted in the criminal disposition;

(IV) Whether the public safety professional was sentenced to prison, jail time or probation;

(V) Whether restitution was ordered and all court ordered obligations have been met;

(VI) Whether the public safety professional has more than one criminal disposition; and

(viii) Documents and statements provided for mitigation by the public safety professional when provided in accordance with paragraph (4)(e)(E) of this rule.

(C) Employment and Certification Ineligibility Period:

(i) When the Board, in consultation with a Policy Committee, determines that the discretionary misconduct being reviewed includes one or more of the elements defined in paragraph (4)(f)(A) of this rule and that the misconduct rises to the level of warrant denial, suspension or revocation of a public safety professional's certifications, the Board, in consultation with a Policy Committee, will determine how long the public safety professional will be ineligible for public safety certifications and employment in a

certifiable public safety professional position based on the totality of the professional standards case which includes review of the misconduct and factors supporting aggravation or mitigation pursuant to paragraphs (4)(f)(A) and (B) of this rule.

(ii) The minimum and maximum periods of ineligibility are identified for each element as follows:

(I) Dishonesty: Ineligibility period: 10 years to lifetime;

(II) Disregard for the Rights of Others: Ineligibility period: three to 15 years;

(III) Misuse of Authority: Ineligibility period: three to 10 years;

(IV) Gross Misconduct: Ineligibility period: three to 10 years;

(iii) An individual whose certifications have been denied, suspended or revoked is prohibited from performing the duties of a certifiable public safety professional.

(iv) The minimum period of ineligibility will be included in any Final Order of the Department.

(v) The ineligibility period will cease when the applicable timeframe stated in the Final Order has been satisfied.

(vi) If the Board determines that the public safety professional is ineligible because of a criminal disposition, the first day of the ineligibility period is the date that the judgment of criminal disposition was entered.

(vii) If the Board determines that the public safety professional is ineligible due to a non-voluntary separation from employment as a public safety professional, the first day of the ineligibility period is the date of the separation from a certifiable position as reported to Standards and Certification pursuant to OAR 259-008-0020.

(g) The Board's decision to deny, suspend or revoke certifications will be subject to the contested case procedure described in section (7) of this rule.

(h) Denial of Certifications. If the Board, in consultation with a Policy Committee, reviews an individual's application and determines that the individual is ineligible for public safety certifications the individual's certification will be denied for the ineligibility period established by the Board. Denial of certification based on an application may be combined with the suspension or revocation of all public safety professional certifications.

(i) Suspension of Certifications. If the Board, in consultation with a Policy Committee, determines that the public safety professional is ineligible for public safety certifications and employment in a certifiable public safety professional position for a period of time between three to five years, the public safety professional's certifications will be suspended for the ineligibility period established by the Board.

(j) Revocation of Certifications. If the Board, in consultation with a Policy Committee, determines that the public safety professional is ineligible for public safety certifications and employment in a certifiable public safety professional position for a period of time greater than five years, the public safety professional's certifications will be revoked and the public safety professional will be ineligible for certification for the ineligibility period established by the Board.

(k) Eligibility for Certifications after Satisfying an Ineligibility Period:

(A) An individual whose certifications were denied, suspended or revoked is prohibited from performing the duties of a certifiable public safety professional until the ineligibility period stated in the Final Order has been satisfied.

(B) In order to be eligible for the award of certifications after satisfying an ineligibility period, the public safety professional must meet all of the minimum requirements for employment, training and certification as described in OAR Chapter 259 Division 008.

(C) Any application for training or certification submitted by an individual whose ineligibility period has not been satisfied or whose certifications have been denied or revoked for misconduct that the Board, in consultation with a Policy Committee, determined to include the element of dishonesty and determined to have a lifetime ineligibility period, will be denied pursuant to section (7) of this rule.

(5) Scope of Suspension or Revocation. Whenever the Department suspends or revokes the certifications of any public safety professional under the provisions of OAR 259-008-0070, the suspension or revocation will encompass all public safety certifications, subject to these administrative rules, the Department has issued to that person.

(6) A public safety professional may request the Department accept the surrender of the individual's public safety certifications.

(a) In considering whether to accept the request to surrender public safety certifications, Standards and Certification may request further information from the employer pursuant to ORS 181A.670 or conduct its own

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investigation to determine if any minimum standards for certification have been violated and proceed pursuant to this rule.

(b) If an administrative proceeding has commenced pursuant to subsection (7) of this rule, the Department may, in its discretion, withdraw its Contested Case Notice of Intent and accept the individual's surrender of the public safety certifications.

(c) The public safety professional will remain certified until the Department accepts the surrender.

(d) Once the surrender has been accepted by the Department, the individual may no longer perform the duties of a certifiable public safety professional.

(7) Initiation of Proceedings: Upon determination to proceed with denial, suspension or revocation, a Contested Case Notice will be prepared and served on the public safety professional by the Department.

(a) Contested Case Notice:

(A) All Contested Case Notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedures adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a Policy Committee, the Contested Case Notice will be served on the public safety professional prior to Board review. If the Board disapproves the Policy Committee's recommendation, the Department will withdraw the Contested Case Notice.

(b) Response Time:

(A) A party who has been served with an Emergency Suspension Order has 90 days from the date of mailing or personal service of the Order in which to file a written request for a hearing with the Department.

(B) A party who has been served with a Contested Case Notice of Intent to Deny Certification has 60 days from the date of mailing or personal service of the Notice in which to file a written request for a hearing with the Department.

(C) A party who has been served with a Contested Case Notice of Intent to Revoke Certification has 20 days from the date of mailing or personal service of the Notice in which to file a written request for hearing with the Department.

(D) A party who has been served with a Contested Case Notice of Intent to Suspend Certification has 20 days from the date of mailing or personal service of the Notice in which to file a written request for a hearing with the Department.

(c) Default Orders:

(A) If a timely request for a hearing is not received, the Contested Case Notice will become a Final Order denying, suspending or revoking certification pursuant to OAR 137-003-0672.

(B) If a timely request for a hearing is not received in cases heard by a Policy Committee, the Contested Case Notice will become a Final Order denying, suspending or revoking certification pursuant to OAR 137-003-0672, pending Board affirmation.

(d) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(e) Proposed and Final Orders:

(A) In cases in which a hearing is requested, Proposed Orders, Exceptions, and Final Orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedures adopted under OAR 259-005-0015.

(B) Department-proposed amendments to a Proposed Order issued by an Administrative Law Judge in a case that was originally reviewed by a Policy Committee and the Board must be considered by the Policy Committee and their recommendation approved by the Board before a Final Order can be issued.

(C) The administrative law judge presiding at a contested case hearing may not adjust the ineligibility period determined by the Board under section (4)(f) of this rule.

(f) The Department may enter a Final Order permanently revoking the certifications of a public safety professional upon the individual's withdrawal of a request for hearing and written agreement to accept the Department's permanent revocation of all public safety certifications. If the public safety professional's certifications are revoked pursuant to this subsection, the individual is permanently ineligible for certification as a public safety professional. The Department will deny any application that the individual submits for certification as a public safety professional.

(g) Appeal Procedure. A public safety professional, aggrieved by the findings and an Order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final Order of the Department.

Stat. Auth.: ORS 181A.410 & 183.341

Stats. Implemented: ORS 181A.410, 181A.630, 181A.640, 181A.650 & 183.341

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 7-2003, f. & cert. ef. 4-11-03; DPSST 7-2004, f. & cert. ef. 4-23-04; DPSST 10-2006, f. & cert. ef. 7-6-06; DPSST 16-2008, f. & cert. ef. 10-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 11-2011, f. & cert. ef. 7-1-11; DPSST 11-2012, f. & cert. ef. 4-24-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 22-2012, f. & cert. ef. 10-23-12; DPSST 26-2012(Temp), f. & cert. ef. 12-14-12 thru 6-12-13; DPSST 3-2013, f. & cert. ef. 1-22-13; DPSST 21-2013, f. & cert. ef. 9-23-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 4-2014, f. & cert. ef. 1-28-14; DPSST 7-2014(Temp), f. & cert. ef. 2-27-14 thru 8-1-14; DPSST 16-2014, f. & cert. ef. 6-24-14; DPSST 20-2014, f. & cert. ef. 7-30-14; DPSST 21-2014(Temp), f. & cert. ef. 7-31-14 thru 1-27-15; DPSST 30-2014, f. & cert. ef. 10-22-14; DPSST 14-2017, f. 7-28-17, cert. ef. 8-1-17

259-008-0080

Certification of Instructors

(1) Standards and Certification will certify instructors deemed qualified to teach all mandated training courses.

(2) Minimum Standards for Instructor Certification:

(a) Fingerprints.

(A) Prior to the date of employment, instructors and applicants must be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and must forward a card to the Oregon State Police Identification Services Section for processing and assignment of an identification number.

(B) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section the Department must comply with the most current requirements.

(b) Criminal Records. No instructor or applicant may have been convicted:

(A) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(B) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(C) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(c) Notification of Arrest or Criminal Citation to Appear. An instructor who is arrested, or receives a criminal citation to appear or its equivalent, for any offense punishable as a crime must notify the Department within five business days. Notification must be in writing and include the date of the arrest or citation, the location of the arrest or citation, the reason for the arrest or citation and the arresting or citing agency.

(d) Moral Fitness (Professional Fitness). All instructors and applicants must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(A) Mandatory grounds for denying or revoking certification as described in OAR 259-008-0070(2); or

(B) Discretionary grounds for denying, suspending or revoking certification as described in OAR 259-008-0070(4).

(e) Training Requirements.

(A) Notwithstanding section (3), all instructors and applicants must complete a Department-approved Basic Instructor Development Course or equivalent Department-approved training. The course must include instruction on the theory and application of adult learning principles and presentation skills.

(i) For the purposes of this rule, adult learning principles must include problem-based, practical, collaborative training that builds on the students' life experience and knowledge.

(ii) For the purposes of this rule, presentation skills must include the appropriate knowledge and preparation of materials and training that engage the student through a variety of methods to develop critical thinking, while acquiring job-specific knowledge and skills.

(B) Instructors whose certification has lapsed may be required to satisfactorily complete a Department-approved Basic Instructor Development Course or equivalent Department-approved training to qualify for re-certification.

(f) Professional experience. Notwithstanding section (3), instructors and applicants must have:

(A) Three years' experience in a certifiable public safety position; or

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(B) Non-certified, professional or educational experience that allows them to possess the requisite knowledge, skills and abilities to instruct mandated courses.

(g) It is the continuing responsibility of the agency utilizing certified instructors to ensure that instructors are assigned only topics which they are qualified to teach and the instruction is evaluated on a regular basis.

(h) All applicants for initial certification must submit an Instructor Certification Application (DPSST Form F-9) with any required documentation to Standards and Certification.

(3) The requirements in sections (2)(e) and (2)(f) may be waived if a Training Supervisor or Training Manager responsible for mandated training delivery can attest to the instructor or applicant's knowledge and skills to instruct mandated courses.

(4) Instructor certification is not required for instructors who instruct non-mandated courses.

(5) Review of instructor certification will be the responsibility of Standards and Certification. Reviews may be initiated upon the request of a department head, staff, or other reliable source.

[ED. NOTE: Form referenced is available from the agency.]

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410 & 181A.590

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0060, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 17-2013, f. & cert. ef. 7-23-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14; DPSST 18-2014, f. & cert. ef. 7-23-14; DPSST 16-2015, f. & cert. ef. 7-23-15; DPSST 11-2016, f. 7-25-16, cert. ef. 7-29-16; DPSST 7-2017, f. 3-22-17, cert. ef. 4-1-17; DPSST 14-2017, f. 7-28-17, cert. ef. 8-1-17

Department of Revenue Chapter 150

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 26-2017

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17

Notice Publication Date:

Rules Amended: 150-314-0406

Subject: 150-314-0406 Property Factor; Averaging Property Value: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0406

Property Factor; Averaging Property Value

(1) As a general rule the average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and ending of the tax period. However, the Department may require or allow averaging by monthly values if such method of averaging is required to properly reflect the average value of the taxpayer's property for the tax period. Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

Example: The monthly value of the taxpayer's property was as follows: [Example not included. See ED. NOTE.]

(2) Averaging with respect to rented property is achieved automatically by the method of determining the net annual rental rate of such property as set forth in OAR 150-314-0400.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.655

Hist.: 12-70; 8-73; Renumbered from 150-314.655(3), REV 35-2016, f. 8-12-16, cert. ef. 9-1-16; REV 26-2017, f. & cert. ef. 7-21-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 27-2017

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17

Notice Publication Date:

Rules Amended: 150-315-0090

Subject: 150-315-0090 Dependent Care Facility Credit: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-315-0090

Dependent Care Facility Credit

(1) General Information. As used in this rule, references to the Internal Revenue Code mean the code as in effect on the date specified in ORS 316.012.

(a) A credit is available to employers that acquire, construct, reconstruct, renovate or otherwise improve real property for use as a dependent care facility. If real property is acquired by lease for use as a dependent care facility, only the costs paid or incurred for leasehold improvements qualify for the dependent care facility tax credit.

(b) An employer may have more than one facility.

(c) More than one employer may join in acquiring, constructing, reconstructing, renovating or otherwise improving real property to be used as a dependent care facility.

(d) The employer may operate the facility or may contract with others to operate it.

(e) The credit is first available in tax years beginning on or after January 1, 1988 for facilities placed into operation on or after January 1, 1988 and prior to January 1, 2002.

(f) The credit shall be spread equally over a period of ten tax years beginning with the tax year the facility is first placed into operation.

(g) Any tax credit otherwise allowable which is not used by the taxpayer in a tax year may be carried forward and offset against the taxpayer's tax liability for up to five tax years.

(A) If a taxpayer fails to meet the credit qualifications for a tax year, the current year's credit is lost, and may not be carried forward to any other tax year. Only a credit which is allowable, but unused due to insufficient tax liability, may be carried forward.

Example: Employer A constructs a dependent care facility, receives certification from Children's Services Division to operate the facility, and provides dependent care assistance in the facility as defined in Internal Revenue Code Section 129. All of these events occur in tax year 1988. The total available credit is \$100,000, which may be claimed at a rate of \$10,000 per year, beginning with tax year 1988 and ending with tax year 1997. In tax years 1988, 1989 and 1990, the taxpayer meets the qualifications and claims a tax credit of \$10,000 for each of these years. In tax year 1991, the taxpayer fails to receive certification from Children's Services Division, thus the \$10,000 tax credit for 1991 is not allowable. The 1991 credit may not be carried forward to any other tax year: it is lost forever. However, any unused credit from tax years 1988, 1989 or 1990 is carried forward and used in 1991 if sufficient tax liability exists.

(B) If a credit carried forward from a prior year and a current year's credit are available, the taxpayer shall use the credit from the prior year first and then the current year's credit.

(C) If a credit carried forward from a prior year and a current year's credit are available, the two credits may be combined and taken up to the amount of tax liability for the year.

(h) If the employer is a shareholder of an S corporation established to own and/or operate the facility, each shareholder's share of the cost of the facility is subject to the limitations as provided under ORS 315.208. Each shareholder's share of the cost is determined by applying the shareholder's percentage of ownership interest to the facilities total cost.

(i) If the employer is a partnership or S corporation, the tax credit shall be attributable to the partnership or S corporation. The current tax year's credit shall be allocated to the current tax year's partners or shareholders based on the partners' or shareholders' percentages of ownership interest.

(j) If the employer is a partner in a partnership established to own and/or operate the facility, each partner's share of the cost of the facility is subject to the limitations as provided under ORS 315.208. The cost of purchasing a partnership interest by a new employer-partner shall qualify for the credit to the extent the cost is attributable to the dependent care facility. The purchase must be made in a tax year beginning on or after January 1, 1988 and must be purchased prior to January 1, 2002 for the partner to qualify for the credit.

(k) Depreciation deductions attributable to a dependent care facility must be reduced by the annual credit amount each year that the credit is available. If the annual credit amount exceeds the depreciation deduction allowable, such excess must be carried over to reduce the depreciation deduction in subsequent tax years.

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(2) Qualifications. To qualify for this credit, the following requirements must be met:

- (a) The dependent care facility must be located in Oregon.
- (b) The dependent care facility must be able to accommodate six or more children.

(c) The operator of the facility must hold a certificate of approval (either permanent or temporary) issued by the Children's Services Division, Department of Human Resources, on the last day of each tax year in which the credit is claimed. Upon request by the department, a copy of the certificate of approval shall be provided for any tax year in which the credit is claimed.

(d) The employer must have a dependent care assistance plan as provided under IRC Section 129 and by the last day of each tax year for which the credit is claimed, the employer must either make payment for, or provide for, services defined as dependent care assistance in Internal Revenue Code Section 129.

(e) The facility must be in use as a dependent care facility on the last day of the tax year for which the credit is claimed. If the facility is in use up to the end of the normal operating year of the employer, or for the entire period in which seasonal employees are normally employed, this qualification will be met. This is true even though the employer's normal operating year, or period in which seasonal employees are employed, ends before the last day of their tax year. (Seasonal employees include but are not limited to agricultural, construction and cannery.)

Example 1: Employer A is a calendar-year taxpayer. The business is normally shut down for the last week of each year to allow employees time off during the holiday season. A dependent care facility was placed in service in April, 1988. Except for the last week, the facility was used for the rest of the 1988 business year. This facility would qualify for the credit because it was in use up to the end of the normal operating year for this business.

Example 2: Assume the same facts as in Example 1, except Employer A decides to shut down the dependent care facility at the end of October, 1988. In this case, the facility wouldn't qualify for the credit because it wasn't in use up to the end of the normal operating year.

Example 3: Employer B is a farmer and a calendar-year taxpayer. Employer B hires seasonal employees during the harvest period. A dependent care facility was placed in service in July, 1988 to provide care for the dependents of these employees. It was in operation through the end of the 1988 harvest period, at which time the facility was closed. The facility wasn't used again until it was reopened to care for the dependents of seasonal employees during the 1989 harvest period. This facility would qualify for the credit in 1988 because it was in use for the entire period in 1988 in which the seasonal employees were employed.

(f) The dependent care facility shall first provide dependent care services for dependents of employees. However, dependent care services may also be provided to dependents of nonemployees when the facility is not fully used by employee's dependents. If the facility is operating at full capacity and dependents of nonemployees are receiving services and an employee requests dependent care services at the employer's facility, dependent care services must be provided by the employer to the employee. The employee shall be given priority for the first available vacancy. The employer may in addition provide such services by providing assistance to the employee in finding other dependent care arrangements.

(g) The individuals receiving the dependent care must meet the requirements under IRC 21(b)(1).

(3) Computation of the Credit.

(a) The credit is equal to the lesser of:

- (A) 50% of cost, or
- (B) \$2,500 times the number of full-time equivalent employees (FTEs), or
- (C) \$100,000.

(b) For the purpose of computing the credit limitation under 3(a)(B) above, the number of FTEs used is the number on any date selected by the taxpayer during the two-year period ending on the date the tax year ends in which the credit is first claimed. Only those employees working in proximity to the facility are included in computing this limitation. All employees working within two miles of a facility are deemed to be in proximity to a facility. For employees working beyond two miles, the determination whether they are in proximity to a facility will be made on a case-by-case basis, i.e., all facts and circumstances will be considered.

(c) A single limitation under 3(a)(C) above, applies to all facilities located in proximity to a job site. All facilities located more than two miles from a job site are deemed not to be in proximity to a job site. For all facilities located within two miles of a job site, a single credit limitation applies unless the facts and circumstances indicate they are not in proximity to a job site.

(d) Where more than one employer shares a facility, each employer's share is subject to the limitations listed in (3)(a) above.

Example: Employers A, B, C and D have offices and manufacturing facilities in the same business park. In 1988, they join in constructing a dependent care facility costing \$575,000 within the park. Each employer's contributed cost in the facility and the

computation of each employer's credit are as follows: [Example not included. See ED. NOTE.]

(e) The adjusted basis of the dependent care facility must be adjusted each year by the amount of depreciation allowable using depreciation methods recognized by the Department of Revenue. The depreciation deduction is the depreciation allowable minus the amount of credit claimed.

Example: [Example not included. See ED. NOTE.]

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

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 315.208

Hist.: RD 5-1988, f. 5-25-88, cert. ef. 6-1-88; RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 7-1993, f. 12-30-93, cert. ef. 12-31-93, Renum. from 150-316.132; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; Renum. from 150-315.208, REV 45-2016, f. 8-12-16, cert. ef. 9-1-16; REV 27-2017, f. & cert. ef. 7-21-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 28-2017

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17

Notice Publication Date:

Rules Amended: 150-316-0125

Subject: 150-316-0125 Credit for the Gain on the Sale of a Residence Taxed by Another State: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0125

Credit for the Gain on the Sale of a Residence Taxed by Another State

A credit will be allowed if the gain on the sale of a taxpayer's personal residence is taxed by both Oregon and another state or country. The credit is the lesser of:

(1) Mutually taxed gain:

Total income on — x — Other state's tax

Other state's return — after credits, or

(2) 8 percent of the gain taxed by the other state.

Mutually taxed gain is the total gain reduced by any allowable deductions or exclusions (i.e., capital gains deduction, differences in allowable depreciation due to business use of home, etc.).

Total income on other state's return is the other state's taxable income before subtractions for itemized deductions (or standard deduction) and exemptions.

To claim the credit, the taxpayer must send a copy of the other state or country's return and proof of payment.

A taxpayer may not claim both this credit and a credit under ORS 316.082 or 316.131 for taxes paid on the same gain.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.109

Hist.: 12-31-79; TC 19-1979, f. 12-20-79, cert. ef. 12-31-79; RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; REV 8-2001, f. & cert. ef. 12-31-01; Renum. from 150-316.109, REV 62-2016, f. 8-15-16, cert. ef. 9-1-16; REV 28-2017, f. & cert. ef. 7-21-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 29-2017

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17

Notice Publication Date:

Rules Amended: 150-316-0155

Subject: 150-316-0155 Nonresident Partners: Guaranteed Payments: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0155

Nonresident Partners: Guaranteed Payments

(1) Guaranteed payments paid to nonresident partners of a partnership that has business activity in the state of Oregon are treated as a distributive share of partnership income for Oregon tax purposes. In order to determine

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the income attributable to Oregon sources, each nonresident partner's entire distributive share, including the guaranteed payments, is then subject to the allocation and apportionment provisions of ORS 314.605 to 314.675.

Example 1: Frank is a 25 percent partner in the law firm DC & H, Associates, a calendar year partnership. DC & H's main office is in Washington, but it also has a branch office in Oregon. Frank lives in Seattle and works in the Washington branch of the firm.

For tax year 1992, Frank received \$100,000 in guaranteed payments from the partnership. Frank's 25 percent share of partnership profits after the deduction of guaranteed payments was \$50,000. DC & H calculated an Oregon apportionment percentage of 20 percent. Frank's 1992 Oregon source income attributable to the law firm is calculated as follows:

(2) The inclusion of guaranteed payments into a nonresident partner's share of apportionable income is irrespective of that partner's percentage interest in the profit or loss of the partnership.

Example 2: Assume the same facts as in Example 1, except that Frank does not share in the profits or loss of the partnership. Frank's 1992 Oregon source income attributable to the law firm is calculated as follows:

Frank's 1992 Oregon source income — \$ 20,000

(3) See ORS 314.610 and the Administrative Rules thereunder for a definition of Oregon business activity.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.124

Hist.: RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; Renumbered from 150-316.124(2), REV 62-2016, f. 8-15-16, cert. ef. 9-1-16; REV 29-2017, f. & cert. ef. 7-21-17

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Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 30-2017

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17

Notice Publication Date:

Rules Amended: 150-316-0509

Subject: 150-316-0509 U.S. Government Obligations: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.)

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0509

U.S. Government Obligations

(1) Interest and dividend income on obligations of the federal government which are exempt from state income taxation but not from federal income taxation shall be subtracted from federal taxable income in arriving at Oregon taxable income.

(2) Amounts that may not be subtracted include:

(a) Timely payments of interest by the insurer of obligations backed by the U.S. government;

(b) Interest received on federal tax refunds.

Example: Paul and Margaret filed a joint income tax return and received a federal tax refund from the U.S. Treasury Department for \$1,200. This amount included \$1,000 tax and \$200 interest. The \$200 interest amount does not qualify for the subtraction for interest or dividend income on U.S. government obligations as provided under ORS 316.680(1)(a).

(c) Interest received on obligations of territories and possessions of the United States. Interest on these obligations is not taxable for federal or state purposes and is not included in federal adjusted gross income so no subtraction is made on the Oregon return. Interest on the following obligations is not subtracted under ORS 316.680(1)(c):

(A) Territory of Guam

(B) Commonwealth of Puerto Rico

(C) Territory of Puerto Rico

(D) Territory of Samoa

(E) Territory of Virgin Islands

(d) Income received from repurchase agreements. These are agreements in which a seller other than the United States sells securities (which can be federal obligations), and agrees to repurchase the same or similar securities at a price that includes interest for the period of the sale. The seller, in this case, is the true owner; and, the buyer merely receives interest under a contract with the seller. It is not interest paid by the United States, but it is income (or the equivalent to interest) paid by the seller at the time of repurchase.

(3) For interest received from organizations that invest in U.S. government securities refer to OAR 150-316-0507.

(4) If expenses connected with U.S. government obligations are claimed as an itemized deduction, an adjustment is required. These expenses include interest on indebtedness incurred to carry the bonds or notes and

expenses incurred in the production of income from the bonds or notes. Oregon doesn't allow a deduction for these expenses, since the income from the bonds or notes is exempt from Oregon tax. The subtraction allowable under ORS 316.680(1)(a) shall be reduced by the amount of the expenses deducted in arriving at federal taxable income.

Example: Charles reported \$500 interest income from Series EE Bonds. He borrowed \$6,000 to purchase the bonds. During the year he paid \$200 interest on the amount he borrowed. He claimed the \$200 interest expense as an itemized deduction. His allowable subtraction under ORS 316.680(1)(a) of \$300 is computed as follows: [Formula not included. See ED, NOTE.]

(5) Below is a list of obligations that may or may not qualify for the subtraction permitted under ORS 316.680(1)(a). [List not included. See ED, NOTE.]

[ED, NOTE: Formulas & Lists referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.680

Hist.: RD 10-1986, f. & cert. ef. 12-31-86; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; Renumbered from 150-316.680(1)(a), REV 64-2016, f. 8-15-16, cert. ef. 9-1-16; REV 30-2017, f. & cert. ef. 7-21-17

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Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 31-2017

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17

Notice Publication Date:

Rules Amended: 150-316-0515

Subject: 150-316-0515 Modification of Federal Taxable Income: Adding Federal Estate Tax Attributable to Income in Respect of a Decedent Not Taxable by Oregon: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0515

Modification of Federal Taxable Income: Adding Federal Estate Tax Attributable to Income in Respect of a Decedent Not Taxable by Oregon

The deduction allowed in the computation of federal taxable income for federal estate tax attributable to income in respect of a decedent must be added to federal taxable income to the extent that the deduction is allocable to income not taxable by Oregon. The federal estate tax deduction allowed in arriving at federal taxable income is computed in accordance with section 691(c) of the Internal Revenue Code and section 1.691(c)-1 of the Treasury Regulations. The amount thus computed must be allocated to the income in respect of a decedent not taxable by Oregon. The following formula will be used in determining the amount to be added to federal taxable income on the Oregon return:

A — Income in respect of a decedent included in federal taxable income

B — Income in respect of a decedent not taxable by Oregon

C — Federal estate tax deducted on the federal return Formula:

(B x C) = Amount added to federal taxable

A income on the Oregon return

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the office of the Secretary of State or Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.680

Hist.: 11-73, Renumbered from 150-316.067(2)(g); 12-31-80, Renumbered from 150-316.067(2)(c); 12-31-83; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; Renumbered from 150-316.680(2)(c), REV 64-2016, f. 8-15-16, cert. ef. 9-1-16; REV 31-2017, f. & cert. ef. 7-21-17

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Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 32-2017

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17

Notice Publication Date:

Rules Amended: 150-317-0460

Subject: 150-317-0460 Limitation on Oregon Net Loss Deduction: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-

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published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-317-0460

Limitation on Oregon Net Loss Deduction

(1) The Oregon net loss which is deductible in any year is the Oregon net loss of a prior year reduced by taxable income, if any, in the intervening tax year or years between the year of loss and the succeeding tax year in which the Oregon net loss deduction is claimed. Net losses occurring in tax years beginning prior to January 1, 1987, can be carried forward five tax years. Net losses occurring in tax years beginning on or after January 1, 1987, can be carried forward fifteen tax years. See the limitation on “apportioned” taxpayers in ORS 314.675. In computing the taxable income which will reduce the Oregon net loss which is carried forward, any refund of an expense used in computing the Oregon net loss which is excluded from gross income shall be added to and included in the taxable income of an intervening tax year.

(2) If a consolidated Oregon return is filed in tax years beginning on or after January 1, 1986, the separate return limitation year (SRLY) rules as defined in Treasury Regulation §1.1502-1, shall be followed. Oregon net losses incurred in tax years beginning prior to January 1, 1986, shall be considered losses from a separate return limitation year. Therefore, the Oregon net losses from those years can be deducted in tax years beginning on or after January 1, 1986, only to the extent the same corporation that incurred the loss has Oregon net income on a separate basis. This limitation does not apply to a corporation that qualifies as a common parent. The provisions of this paragraph are demonstrated by the following examples: [Example not included. See ED. NOTE.]

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

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and 183.355(6).]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.476

Hist.: 1-69, Renumbered from 150-317.297(4); 12-31-83; RD 10-1986, f. & cert. ef. 12-31-86; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; Renumbered from 150-317.476(4), REV 68-2016, f. 8-15-16, cert. ef. 9-1-16; REV 32-2017, f. & cert. ef. 7-21-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives’ database, including tables within the examples.

Adm. Order No.: REV 33-2017

Filed with Sec. of State: 7-21-2017

Certified to be Effective: 7-21-17

Notice Publication Date:

Rules Amended: 150-321-0210

Subject: 150-321-0210 Forestland Classification: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-321-0210

Forestland Classification

The forestland classification for western Oregon is as follows:

Land Class — Site Class

FA — I+, I, I-

FB — II, II+

FC — II-, III+

FD — III

FE — III-, IV+

FF — IV, IV-

FG — V

FX — Below site V

Site class is based on Bulletin #201 tables dated 1930 and James King 50 year index tables dated 1966, topographical features, vegetation and soil types.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and 183.355(6).]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.257

Hist.: RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; Renumbered from 150-321.353(1), REV 5-2004, f. 7-30-04, cert. ef. 7-31-04; Renumbered from 150-321.257(3), REV 70-2016, f. 8-15-16, cert. ef. 9-1-16; REV 33-2017, f. & cert. ef. 7-21-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives’ database, including tables within the examples.

Adm. Order No.: REV 34-2017

Filed with Sec. of State: 7-24-2017

Certified to be Effective: 7-24-17

Notice Publication Date:

Rules Amended: 150-118-0050

Subject: 150-118-0050 Apportionment of Tax: This rule was last adopted 08/10/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-118-0050

Apportionment of Tax

This rule applies to estates of decedents who die before January 1, 2012.

(1) Where property is left in two or more states by a decedent, the maximum state tax credit allowed against the federal estate tax is apportioned. The numerator of the apportionment formula is the value for federal estate tax purposes of the property within the jurisdiction of this state notwithstanding that some of such property for Oregon inheritance tax purposes may be exempt, deductible, appraised at different values or considered in computing a credit. The denominator of the apportionment formula is the value of the gross estate for federal estate tax purposes.

(2) The executor shall, upon demand, file a copy of the federal estate tax return and such other information deemed necessary by the Department in the computation of the additional tax. In case of failure to file such returns as these rules provide, the Department shall compute the tax upon the basis of the best information available.

(3) If the amount of federal estate tax is increased or decreased subsequently, the pick-up tax imposed upon such estate shall be changed accordingly. In such case it is the duty of the executor to notify the Department of the changes.

(4) Example of apportionment of federal credit where decedent leaves property in three states that impose death taxes:

Value of Oregon property included in federal gross estate — \$500,000
Value of property in State B included in federal gross estate — 100,000
Value of property in State C included in federal gross estate — 100,000
Value of federal gross estate — \$700,000
Credit allowable against the federal estate tax for state death taxes — \$3,600
Federal credit apportioned to Oregon — \$500,000
 $700,000 \times \$3,600 = \$2,570$

Oregon tax — \$2,570

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 118.010

Hist.: 9-71; 12-19-75, Renumbered; 1-1-77, 12-31-77, Renumbered; TC 19-1979, f. 12-20-79, cert. ef. 12-31-79; TC 8-1980, f. 11-28-80, cert. ef. 12-31-80; RD 4-1997, f. 9-12-97 cert. ef. 12-31-97, Renumbered from 150-118.100(2); REV 6-2012, f. 7-20-12, cert. ef. 8-1-12; REV 8-2013, f. & cert. ef. 12-26-13; Renumbered from 150-118.010(3), REV 9-2016, f. 8-10-16, cert. ef. 9-1-16; REV 34-2017, f. & cert. ef. 7-24-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives’ database, including tables within the examples.

Adm. Order No.: REV 35-2017

Filed with Sec. of State: 7-24-2017

Certified to be Effective: 7-24-17

Notice Publication Date:

Rules Amended: 150-308-0310

Subject: 150-308-0310 Real Market Value and Property Classification as Part of Assessment Roll: This rule was last adopted 08/13/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-308-0310

Real Market Value and Property Classification as Part of Assessment Roll

(1) In addition to the assessed value of property, the assessment roll must show:

(a) The real market value (RMV) of the land, excluding all buildings, structures, and improvements thereon;

(b) The RMV of all buildings, structures, and improvements; and

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(c) The total RMV for each parcel of real property not required to be assessed as a unit.

(d) For properties subject to ORS Chapter 100, for example, condominiums and time shares that are required to be assessed as a unit, the assessment roll must show the RMV as well as the assessed value of each unit.

(2) The assessment roll must include the property classification code number for each parcel of real property in the county, except for those properties assessed by the department under ORS 308.505 to 308.605. The assessor must classify and assign a property classification code number to each parcel as provided in section (8) of this rule.

(3) The assessor must maintain the proper classification on each parcel of property.

(4) A county must separately identify and adjust land and improvement values for each property class for each market area to bring real property to RMV. These adjustments to value must be developed from market studies or by any other method approved by the department as provided under ORS 309.200.

(5) The class code numbers that this rule establishes must be used for computing the real property class ratios required by ORS 309.200.

(6) An assessor must obtain written approval from the Department of Revenue before deviating from the basic property classes defined in section (8) of this rule.

(7)(a) All classification must be based upon highest and best use of the property. The term "highest and best use" is defined in OARs 150-308-0205(A) and 150-308-0205(D). The class associated with the property may or may not be its current use.

(b) Unique properties can be classified under the "miscellaneous" category in section (8). The "miscellaneous" category can also be used for property requiring a separate trend.

(c) The property classification system must not be used to categorize market data that is more accurately described by other characteristics, such as the quality class of the improvements, market areas, or neighborhoods.

(d) The property class for mixed-use or transitional properties will be assigned based upon the use that contributes the most to the real market value on the current assessment date.

(A) A mixed-use property is one in which different parts of the property are used differently, such as a commercial use on one part, and a residential use on another part.

(B) A transitional use property is one in which the real market value on the current assessment date, at its current highest and best use, is being influenced in the market by an anticipated change in future use, such as residential property that is likely to sell for a commercial use in the future, but is not in commercial use on the assessment date.

(8) DEFINITIONS FOR PROPERTY CLASSIFICATION SYSTEM.
[Classification not included. See ED. NOTE.]

(9) Starting with the 2006-07 tax year, each assessor must prepare an annual plan that outlines how the county will comply with the provisions of this rule no later than the January 1, 2009 assessment date. The plan must be submitted as part of the sales ratio study and accompanying appraisal plan submitted under ORS 309.200 and 309.203. The plan must address how the county complies with, or intends to comply with the provisions of this rule for the initial tax year and all subsequent tax years up to the 2009-2010 tax year.

[ED. NOTE: Classification referenced is available from the agency.]

Stat. Auth.: ORS 305.100, 308.215

Stats. Implemented: ORS 308.215

Hist.: 3-70; 9-71; 11-73; 1-1-77; TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; TC 17-1979, f. 12-20-79, cert. ef. 12-31-79; RD 9-1984, f. 12-5-84, cert. ef. 12-31-84; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 6-1993, f. 12-30-93, cert. ef. 12-31-93, Renumbered from 150-308.215(1); RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; RD 1-1995, f. 12-29-95, cert. ef. 12-31-95; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 2-2005, f. 6-27-05, cert. ef. 6-30-05; REV 4-2006, f. & cert. ef. 7-31-06; Renumbered from 150-308.215(1)-(A), REV 57-2016, f. 8-13-16, cert. ef. 9-1-16; REV 35-2017, f. & cert. ef. 7-24-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 36-2017

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 8-1-17

Notice Publication Date:

Rules Amended: 150-314-0078

Subject: 150-314-0078 Modified Factors for Carriers of Freight or Passengers: Special Rules - Airlines: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing

this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0078

Modified Factors for Carriers of Freight or Passengers: Special Rules — Airlines

(1) In General. Where an airline has income from sources both within and without this state, the amount of business income from sources within this state is determined pursuant to ORS 314.610 to 314.665 except as modified by this rule.

(2) Apportionment of Business Income. Business income is apportioned to this state by use of the formula provided in ORS 314.650 as it applies to the tax year involved. For tax years beginning on or after July 1, 2005, ORS 314.650 provides for apportionment using only the sales factor.

(a) General Definitions. The following definitions are applicable to the terms used in the apportionment factor descriptions.

(A) "Value" of owned real and tangible personal property means its original cost. (ORS 314.655 and OAR 150-314-0398)

(B) "Cost of aircraft by type" means the average original cost or value of aircraft by type which are ready for flight.

(C) "Original cost" means the initial federal tax basis of the property plus the value of capital improvements to such property, except that, for this purpose, it is assumed that Safe Harbor Leases are not true leases and do not affect the original initial federal tax basis of the property.

(D) "Average value" of property means the amount determined by averaging the values at the beginning and ending of the income year, but the department may require the averaging of monthly values during the income year if such averaging is necessary to reflect properly the average value of the airline's property. (ORS 314.655 and OAR 150-314-0406)

(E) The "value" of rented real and tangible personal property means the product of eight (8) times the net annual rental rate. (ORS 314.655 and OAR 150-314-0400)

(F) "Net annual rental rate" means the annual rental rate paid by the taxpayer.

(G) "Property used during the income year" includes property which is available for use in the taxpayer's trade or business during the income year.

(H) "Aircraft ready for flight" means aircraft owned or acquired through rental or lease (but not interchange) which are in the possession of the taxpayer and are available for service on the taxpayer routes.

(I) "Revenue service" means the use of aircraft ready for flight for the production of revenue.

(J) "Transportation sales" means sales from transporting passengers, freight and mail as well as liquor sales, pet crate rentals, etc.

(K) "Departures" means for purposes of these regulations all takeoffs, whether they be regularly scheduled or charter flights, that occur during revenue service.

(b) Property Factor

(A) Property valuation. Owned aircraft shall be valued at its original cost and rented aircraft shall be valued at eight (8) times the net annual rental rate in accordance with ORS 314.655 and OAR 150-314-0400. The use of the taxpayer's owned or rented aircraft in an interchange program with another air carrier does not constitute a rental of such aircraft by the airline to the other participating airline. Such aircraft are accounted for in the property factor of the owner. Parts and other expendables, including parts for use in contract overhaul work, are valued at cost.

(B) The denominator and numerator of the property factor. The denominator of the property factor is the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year. The numerator of the property factor is the average value of the tangible personal property owned or rented and used in this state during the income year. In determining the numerator of the property factor, all property except aircraft ready for flight are included in the numerator of the property factor in accordance with ORS 314.655 and OAR 150-314-0396. Aircraft ready for flight are included in the numerator of the property factor in the ratio calculated as follows: Departures of aircraft from locations in this state weighted as to the cost and value of aircraft by type compared to total departures similarly weighted.

(c) Payroll Factor. The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the income year. (ORS 314.660 and OAR 150-314-0415) The numerator of the payroll factor is the total amount paid in this state during the income year by the taxpayer for compensation. With respect to non-flight personnel, compen-

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sation paid to such employees is included in the numerator as provided in ORS 314.660 and OAR 150-314-0417. With respect to flight personnel (the air crew aboard an aircraft assisting in the operations of the aircraft or the welfare of passengers while in the air), compensation paid to such employees is included in the ratio that departures of aircraft from locations in this state, weighted as to the cost and value of aircraft by type, compared to total departures similarly weighted, multiplied by the total flight personnel compensation.

(d) Sales (Transportation Sales) Factor. The transportation sales derived from transactions and activities in the regular course of the trade or business of the taxpayer and miscellaneous sales of merchandise, etc., are included in the denominator of the sales factor. (ORS 314.665 and OAR 150-314-0425) Passive income items such as interest, rental income, dividends, etc., are not included in either the numerator or the denominator nor are the proceeds or net gains or losses from the sale of aircraft included. The numerator of the sales factor is the total sales of the taxpayer in this state during the income year. The total sales of the taxpayer in this state during the income year is the result of the following calculation: The ratio of departures of aircraft in this state weighted as to the cost and value of aircraft by type, as compared to total departure similarly weighted, multiplied by the total transportation revenue. The product of this calculation is to be added to any nonflight sales directly attributable to this state.

(3) Records. The taxpayer must maintain the records necessary to arrive at departures by type of aircraft as used in these rules. Such records are to be subject to review by the state of Oregon or their agents.

Example 1: Assume the following facts for an airline for the 2004 tax year:

1. It has ten 747's ready for flight and in revenue service at an average per unit cost of \$40,000,000 for nine (9) of the aircraft. It rents the remaining 747 from another airline for \$9,000,000 per year. At eight times rents, the latter is valued at \$72,000,000 for apportionment purposes. Total 747 valuation is, therefore, \$432,000,000 for property factor denominator purposes.
2. It has twenty 727's ready for flight and in revenue service at an average per unit cost of \$20,000,000. Total 727 valuation is, therefore, \$400,000,000 for property factor denominator purposes.
3. It has nonflight tangible property (n.t.p.) valued at original cost of \$200,000,000.
4. It has the following annual payroll: — flight personnel — \$60,000,000
— nonflight personnel — 40,000,000
Total — \$100,000,000
5. From its operations, it has total sales of \$50,000,000, business net income of \$1,000,000 and no nonbusiness income.
6. It has the following within Oregon:
 - a. 10% of its 747 flight departures (\$43,200,000);
 - b. 20% of its 727 flight departures (\$80,000,000);
 - c. 5% of its nonflight tangible property (n.t.p.) (\$10,000,000); and
 - d. 15% of its nonflight personnel payroll (6,000,000).

Oregon has a corporate tax rate of 6.6%. The airline's tax liability to Oregon would be determined as follows: [Formulas not included. See ED. NOTE.]

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

Stat. Auth.: ORS 305.100, 305.280

Stats. Implemented: ORS 314.280

Hist.: 1/65; 12/70; 12/19/75; 12/31/82; 12/31/83; Renumbered from 150-314.280-(I), 12/31/87; RD 4-1997, f. 12-12-97, cert. ef. 12-31-97; REV 10-2007, f. 12-28-07, cert. ef. 1-1-08; Renumbered from 150-314.280-(I), REV 33-2016, f. 8-12-16, cert. ef. 9-1-16; REV 36-2017, f. & cert. ef. 8-1-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 37-2017

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 8-1-17

Notice Publication Date:

Rules Amended: 150-314-0115

Subject: 150-314-0115 Interest on Deferred Oregon Tax Liability with Respect to Installment Obligations: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0115

Interest on Deferred Oregon Tax Liability with Respect to Installment Obligations

(1) Corporations with income from business activity taxable both within and without this state shall compute interest on deferred Oregon tax liability with respect to installment obligations using the relevant apportionment and allocation provisions of ORS Chapter 314.

(2) Interest on deferred Oregon tax liability with respect to business income from installment obligations shall be computed using the Oregon apportionment factor for the year of the installment sale.

(3) Interest on deferred Oregon tax liability with respect to nonbusiness income from installment obligations shall be computed using the allocation provisions that apply to the income from the installment sale.

Example 1: C Corp is a toy manufacturer doing business in Oregon and Washington. In 1990, C Corp sells a factory in Washington. The sales price is \$11,000,000, the basis for Oregon tax purposes is \$5,500,000 and the gross profit percentage is 50 percent. Under the terms of the sale, C Corp receives \$1,000,000 in 1990 and a note for \$10,000,000 (including \$5,000,000 of unrecognized gain) to be paid in five equal annual installments. C Corp's Oregon apportionment percentage for its 1990 calendar year return is 25 percent. The interest rules under IRC 453A and ORS 314.302 apply because the face amount of installment obligations remaining unpaid at the end of 1990 is greater than \$5,000,000. The interest to report as tax on the 1990 Oregon return is computed as follows: [Examples not included. See ED. NOTE.]

Example 2: Assume the same facts as Example 1. In addition, during 1991, C Corp receives a payment of \$2,000,000 on the 1990 installment obligation. This leaves an unpaid balance of \$8,000,000 at the end of 1991, including unrecognized gain of \$4,000,000. C Corp's Oregon apportionment percentage for 1991 is 34 percent. The interest to report as tax on C Corp's 1991 Oregon return is computed as follows: [Examples not included. See ED. NOTE.]

Example 3: Assume the same facts as in Examples 1 and 2, except that the property sold by C Corp in 1990 is nonbusiness property located in Washington. No interest on deferred Oregon tax liability shall be reported to Oregon in either 1990 or 1991.

Example 4: Assume the same facts as in Example 3, except that the nonbusiness property sold is located in Oregon. The amount of interest to report as tax on the 1990 and 1991 Oregon tax returns is calculated as follows: [Examples not included. See ED. NOTE.]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.302

Hist.: RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; Renumbered from 150-314.302, REV 32-2016, f. 8-12-16, cert. ef. 9-1-16; REV 37-2017, f. & cert. ef. 8-1-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 38-2017

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 8-1-17

Notice Publication Date:

Rules Amended: 150-314-0317

Subject: 150-314-0317 Estimated Tax: Consolidated Return Underpayments: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0317

Estimated Tax: Consolidated Return Underpayments

(1) If a consolidated state return is filed, any underpayment shall be computed on a consolidated basis. In computing the underpayment on a consolidated basis, the tax and facts shown on the returns for the preceding year shall be aggregated regardless of whether consolidated or separate returns were filed.

Example 1: Corporation A and B file a consolidated state return in 1995. They filed separate returns in 1994 and for 1995 made separate estimated tax payments. [Example not included. See ED. NOTE.]

(2) If separate returns are filed and estimated tax is paid on a consolidated basis, then the payments and prior year's tax may be divided between the various corporation's liabilities in any manner designated by the Oregon taxpayers.

Example 2: In 1995, Corporations A and B are required to file separate state returns. They had filed consolidated in 1994 and made consolidated estimated tax payments for 1995. [Example not included. See ED. NOTE.]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.525

Hist.: RD 12-1985, f. 12-26-85, cert. ef. 12-31-85; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; Renumbered from 150-314.525(1)-(B), REV 30-2016, f. 8-12-16, cert. ef. 9-1-16; REV 38-2017, f. & cert. ef. 8-1-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 39-2017

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 8-1-17

Notice Publication Date:

Rules Amended: 150-315-0144

Subject: 150-315-0144 Pollution Control Facilities: Computation of Credit: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version

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of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-315-0144

Pollution Control Facilities: Computation of Credit

(1) Definitions. For purposes of ORS 315.304 and this rule:

(a) “Certified cost” means that portion of total costs that the Environment Quality Commission (EQC) determines is allocable to a pollution control facility.

(b) “Facility” refers to one or more facilities certified under one certificate, with one serial number and with the same allowable percentages used in determining the certified costs and the maximum allowable credit.

(c) “Applicable percentage” means the percentage indicated on the certification issued by the EQC for that facility.

(d) “Useful life” is the remaining years of expected useful life at the time the facility is certified, but not more than 10 years.

(e) “Tax liability” is the amount of tax that is due after any offsets or other tax credits are taken, such as those permitted under ORS 316.082, 316.087, 316.102, 315.104, 315.354, and 315.324.

(2) The credit is equal to the lesser of:

(a) The applicable percentage multiplied by the certified cost and divided by the useful life of the property; or

(b) The taxpayer’s tax liability after other credits.

(3) If additional costs are incurred after a pollution control certificate is issued and a revised certificate including those additional costs is issued, the credit for the additional costs may not be claimed prior to the year in which the revised certificate is issued. The credit for those additional costs must be spread equally over the remaining years on the original certificate.

(4) A pollution control facility’s useful life is determined as of the date it is certified and may not be changed unless additional certified costs have been incurred. If a facility becomes obsolete and is abandoned before the end of its expected useful life, no remaining unused credit is allowable. If the life of a pollution control facility is extended by repair, which is not eligible for additional tax credit, the taxpayer continues to claim the original credit over the original useful life. If an error in the actual amount spent prior to certification by the EQC is later discovered and the EQC issues a revised certificate, the taxpayer must amortize the correct certified cost over the original useful life, and amend returns for those years for which credits have been claimed that are still open. Any cost incurred and certified after the original certification may be amortized over the new remaining useful life to the extent that the total life of the facility over which credits are claimed does not exceed ten years. The additional credit may be claimed beginning in the year in which certification for the additional cost was obtained.

(5) If a pollution control facility’s certification is revoked by the EQC pursuant to ORS 468.185(1)(b), the allowable credit for the tax year must be prorated. The amount for the portion of the tax year before the certification is revoked is allowed. If no appeal is made, the certificate is considered revoked on the date the revocation is issued.

Example 1: A calendar year taxpayer has a pollution control facility certified January 1, 1996. The credit otherwise allowable for 2000 is \$500. On June 30, 2000, the facility’s certification was revoked by the EQC. The credit allowable for 2000 is computed as follows:

Credit allowable for full tax year — \$500
Portion of tax year certified (6/12) — x — .50
Allowable credit for 2000 — \$250

(6) When a certification is reinstated by the EQC under ORS 468.185(5) because the facility has been brought into compliance with the EQC’s guidelines, the certificate is reinstated for the remaining period of certification, less the period of revocation. The period of revocation is from the date the revocation is issued to the date of reinstatement. The credit for the period of revocation is lost.

Example 2: Assume the same facts as in Example 1, except that the facility’s certification was reinstated September 30, 2000. The credit allowable for 2000 is computed as follows:

Credit allowable for full tax year — \$500
Portion of tax year certified (9/12) — x — .75
Allowable credit for 2000 — \$375
Amount of credit lost — \$125

(7) If a pollution control facility’s certificate is revoked by the EQC pursuant to ORS 468.185(1)(a), because the certification was obtained by fraud or misrepresentation, all tax relief allowed in prior years is forfeited. The credit forfeited will be added to any other excise or income tax due from the taxpayer who had claimed the credit, for the tax year in which the certification is revoked.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 315.304

Hist.: 1-77; 12-31-77; 12-31-81; 12-31-83; 12-31-84; 12-31-87; 12-31-88; 12-31-89, Renumbered from 150-316.097(2); 12-31-93; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 8-2001, f. & cert. ef. 12-31-01; REV 11-2004, f. 12-29-04, cert. ef. 12-31-04; Renumbered from 150-315.304(2), REV 44-2016, f. 8-12-16, cert. ef. 9-1-16; REV 39-2017, f. & cert. ef. 8-1-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives’ database, including tables within the examples.

Adm. Order No.: REV 40-2017

Filed with Sec. of State: 8-2-2017

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Notice Publication Date:

Rules Amended: 150-314-0120

Subject: 150-314-0120 Reduction of Tax Attributes after Discharge of Debt: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0120

Reduction of Tax Attributes after Discharge of Debt

(1) A taxpayer who has excluded income from the discharge of indebtedness for federal tax purposes under IRC 108 shall also exclude the income for Oregon purposes. Separate rules apply depending on whether the discharge is related to insolvency or qualified farm indebtedness, or to bankruptcy. The taxpayer shall reduce Oregon tax attributes independently of the reduction made at the federal level.

Example 1: Henry realized income from the discharge of debt in the amount of \$100,000. Henry may elect to exclude the income to the extent he is insolvent as defined under IRC 108. Henry determines that of the \$100,000 of income, he may exclude \$90,000 due to insolvency. The remaining \$10,000 is included in Henry’s federal adjusted gross income. Henry is required to reduce certain tax attributes to the extent he has excluded the debt discharge from income. The election to exclude the income under IRC 108 is also effective for Oregon tax purposes. Assume Henry has the following tax attributes: [Attributes not included. See ED. NOTE.]

(2)(a) If an insolvent taxpayer or a taxpayer with discharged qualified farm indebtedness elects under IRC 108(b)(5) to reduce the basis of depreciable property first, the election is also effective for Oregon tax purposes.

Example 2: Tom realized income from the discharge of debt equal to \$40,000. The entire amount may be excluded from his income due to insolvency. For federal purposes, Tom has a net operating loss of \$5,000 and a rental property with a basis in the land of \$50,000 and a basis in the building of \$30,000. Tom elects to reduce the basis of his depreciable assets first under IRC 108(b)(5). For federal purposes, Tom absorbs the excluded income by reducing federal tax attributes as follows: [Attributes not included. See ED. NOTE.]

For Oregon purposes, Tom has a net operating loss of \$5,000, a basis in the land of \$50,000 and basis in the building of \$36,000. Tom absorbs the excluded income by making the following reductions in Oregon tax attributes: [Attributes not included. See ED. NOTE.]

(b) A bankrupt taxpayer cannot elect to reduce the basis of depreciable property first for Oregon tax purposes. Bankrupt taxpayers are required to reduce Oregon tax attributes in the following order:

(A) Net operating loss for the current taxable year and any net operating loss carryover to such taxable year.

(B) Capital loss for the current year and any capital loss carryforwards.

(C) Basis of property.

(3) Taxpayers required to apportion income. The amount of debt discharged and excluded from the federal taxable income of a multi-state taxpayer subject to the apportionment provisions of ORS Chapter 314 is also excluded from Oregon taxable income. Oregon tax attributes of a multi-state taxpayer shall be reduced until all of the excluded income is absorbed. Oregon tax attributes are reduced in the following manner:

(a) Oregon net losses and net loss carryforward amounts are reduced first. Excluded income is absorbed proportionally, using the Oregon apportionment percentage for the year of debt forgiveness.

(b) Oregon capital losses and capital loss carryforward amounts are reduced next. Again, excluded income is absorbed proportionally, using the Oregon apportionment percentage for the year of debt forgiveness.

(c) Any excluded income that remains unabsorbed is used to reduce the taxpayer’s basis of property. Unlike net losses and capital losses, reductions in basis absorb excluded income dollar-for-dollar, since basis of property is not subject to apportionment.

Example 3: XYZ Corporation is bankrupt and under the supervision of the bankruptcy court. The corporation realized income from discharge of debt in the amount of \$10,000,000. XYZ elects to exclude the income for federal purposes under the provisions of IRC 108. XYZ’s Oregon apportionment percentage is 10% in the year of debt discharge. Assume XYZ has the following tax attributes: [Attributes not included. See ED. NOTE.]

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[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]
[ED. NOTE: Attributes & Examples referenced are available from the agency.]
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 314.306
Hist.: RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; Renumbered from 150-314.306, REV 32-2016, f. 8-12-16, cert. ef. 9-1-16; REV 40-2017, f. & cert. ef. 8-2-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 41-2017

Filed with Sec. of State: 8-2-2017

Certified to be Effective: 8-2-17

Notice Publication Date:

Rules Amended: 150-314-0353

Subject: 150-314-0353 Apportionment for Long-Term Construction Contracts: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0353

Apportionment for Long-Term Construction Contracts

This rule adopts the model regulation recommended by the Multistate Tax Commission to promote uniform treatment of this item by the states. This rule is adopted to further the purposes of ORS 305.655, Article I, section 2 and 314.605 to 314.670. If a taxpayer elects to use the percentage of completion method of accounting, or the completed contract method of accounting for long-term contracts, and has income from sources both within and without this state, the amount of business income derived from sources within this state, including income from such long-term contracts, is determined pursuant to this rule. In such cases, the first step is to determine what portion of the taxpayer's income constitutes "business income" and "nonbusiness income" under ORS 314.610 and the rules thereunder. Nonbusiness income is directly allocated to specific states pursuant to the provisions of ORS 314.625 to 314.645. The business income of the taxpayer is divided between or among the states in which the business is conducted pursuant to the property, payroll, and sales apportionment factors set forth in this rule. The sum of (1) the items of nonbusiness income directly allocated to this state, plus (2) the amount of business income attributable to this state, constitutes the taxpayer's entire net income that is subject to tax. For definitions, rules and examples for determining business and non-business income, see ORS 314.610 and the rules thereunder.

(1) Apportionment of Business Income.

(a) In General. Business income is apportioned to this state by use of the formula provided in ORS 314.650 as it applies to the tax year involved.

(b) Percentage of Completion Method. Under this method of accounting for long-term contracts, the amount to be included each year as business income from each contract is the amount by which the gross contract price that has been completed during the taxable year exceeds all expenditures made during the taxable year in connection with the contract. In so doing, account must be taken of the material and supplies on hand at the beginning and end of the taxable year for use in each such contract.

Example 1: A taxpayer using the percentage of completion method of accounting for long-term contracts, entered into a long-term contract to build a structure for \$9,000,000. The contract allowed three years for completion and, as of the end of the second taxable year, the taxpayer's books of account, kept on the accrual method, disclosed the following: [Table not included. See ED. NOTE.]

In computing the above expenditures, consideration was given to material and supplies on hand at the beginning and end of each taxable year.

It was estimated that the contract was 30 percent completed at the end of the first taxable year and 80 percent completed at the end of the second taxable year. The amount to be included as business income for the first taxable year is \$300,000 (30 percent of \$9,000,000 equals \$2,700,000 less expenditures of \$2,400,000). The amount to be included as business income for the second taxable year is \$400,000 (50 percent of \$9,000,000 equals \$4,500,000 less expenditures of \$4,100,000).

(c) Completed Contract Method. Under this method of accounting, business income derived from long-term contracts is reported for the taxable year in which the contract is finally completed and accepted. Therefore, a special computation is required to compute the amount of business income attributable to this state from each completed contract (see section (2) below). Thus, all receipts and expenditures applicable to such contracts, whether completed or not as of the end of the taxable year, are excluded from business income derived from other sources. For example, income from short-term contracts, interest, rents, royalties, etc., is apportioned by the regular three-factor formula of property, payroll, and sales.

(d) Property Factor. In general, the numerator and denominator of the property factor is determined as set forth in ORS 314.655 and the rules thereunder. However, the following special rules are also applicable:

(A) The average value of the taxpayer's costs (including materials and labor) of construction in progress, to the extent such costs exceed progress billings (accrued or received depending on whether the taxpayer is on the accrual or cash basis for keeping its accounts) is included in the denominator of the property factor. The value of any such construction costs attributable to construction projects in this state are included in the numerator of the property factor.

Example 2: The taxpayer commenced a long-term construction project in this state as of the beginning of a given year. By the end of its second taxable year, its equity in the costs of production to be reflected in the numerator and denominator of its property factor for such year is computed as follows: [Table not included. See ED. NOTE.]

Example 3: Same facts as in Example 2, except that progress billings exceeded construction costs. No value for the taxpayer's equity in the construction project is shown in the property factor.

(B) Rent paid for the use of equipment directly attributable to a particular construction project is included in the property factor at eight times the net annual rental rate, even though such rental expense may be included in the cost of construction.

(C) The property factor is computed in the same manner regardless of which method of accounting for long-term contracts the taxpayer has elected and is computed for each taxable year, even though under the completed contract method of accounting, business income is computed separately (see section (2) below).

(e) Payroll Factor. In general the numerator and denominator of the payroll factor is determined as set forth in ORS 314.660 and the rules thereunder. However, the following special rules are also applicable:

(A) Compensation paid employees that is attributable to a particular construction project is included in the payroll factor, even though it is included in the cost of construction.

(B) Compensation paid to employees engaged in performing services at a construction site are attributed to the state in which the services are performed. Compensation paid all other employees is governed by ORS 314.660(2).

Example 4: A taxpayer engaged in a long-term contract in state X assigns several key employees to that state to supervise the project. The taxpayer, for unemployment tax purposes, reports these employees to state Y where the main office is maintained and where the employees reside. For payroll factor purposes, such compensation is assigned to the numerator of state X.

(C) The payroll factor is computed in the same manner regardless of which method of accounting for long-term contracts the taxpayer has elected and is computed for each taxable year, even though under the completed contract method of accounting, business income is computed separately (see section (2) below).

(f) Sales Factor. In general, the numerator and denominator of the sales factor is determined as set forth in ORS 314.665 and the rules thereunder. However, the following special rules are also applicable:

(A) Gross receipts derived from the performance of a contract are attributable to this state if the construction project is located in this state. If the construction project is located partly within and partly without this state, the gross receipts attributable to this state are based upon the ratio that construction costs for the project in this state bear to the total of such construction costs for the entire project during the taxable year. Any other method, such as engineering cost estimates, may be used if it provides a reasonable apportionment.

Example 5: A construction project was undertaken in this state by a calendar-year taxpayer that had elected one of the methods of accounting for long-term contracts. The following gross receipts (progress billings) were derived from the contract during the three taxable years the contract was in progress. [Table not included. See ED. NOTE.]

Example 6: A taxpayer contracts to build a dam on a river at a point that lies half within this state and half within state X. During the taxpayer's first taxable year, construction costs in this state were \$2,000,000. Total construction costs for the project during the taxable year were \$3,000,000. Gross receipts (progress billings) for the year were \$2,400,000. Accordingly, gross receipts of \$1,600,000 ($\$2,000,000 + \$3,000,000 = 66.23\% \times \$2,400,000$) are included in the numerator of the sales factor.

(B) If the percentage of completion method is used, the sales factor includes only that portion of the gross contract price that corresponds to the percentage of the entire contract completed during the taxable year.

Example 7: A taxpayer that elected the percentage of completion method of accounting entered into a long-term construction contract. At the end of its current taxable year (the first since starting the project) it estimated that the project was 30 percent completed. The bid price for the project was \$9,000,000 and it had received \$2,500,000 from progress billings as of the end of its current taxable year. The amount of gross receipts to be included in the sales factor for the current taxable year is \$2,700,000 (30 percent of \$9,000,000), regardless of whether the taxpayer uses the accrual method or the cash method for accounting for receipts and disbursements.

(C) If the completed contract method of accounting is used, the sales factor includes the portion of the gross receipts (progress billings) received

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or accrued, whichever is applicable, during the taxable year attributable to each contract.

Example 8: A taxpayer that entered into a long-term construction contract elected the completed contract method of accounting. By the end of its current taxable year (the second since starting the project) it had billed and accrued on its books a total of \$5,000,000. Of that amount, \$2,000,000 accrued in the first year the contract was undertaken, and \$3,000,000 accrued in the current year. The amount of gross receipts to be included in the sales factor for the current taxable year is \$3,000,000.

Example 9: Same facts as in Example 8 except that the taxpayer keeps its books on the cash basis and, as of the end of its current taxable year, had received only \$2,500,000 of the \$3,000,000 billed during the current year. The amount of gross receipts to be included in the sales factor for the current taxable year is \$2,500,000.

(D) The sales factor, except as noted above in paragraphs (B) and (C), is computed in the same manner regardless of which method of accounting for long-term contracts the taxpayer has elected and is computed for each taxable year, even though under the completed contract method of accounting, business income is computed separately.

(g) Apportionment Percentage. The apportionment percentage provided in ORS 314.650 is applied to business income to establish the amount apportioned to Oregon.

(2) Completed Contract Method—Special Computation. The completed contract method of accounting requires that the reporting of income (or loss) be deferred until the year the construction project is completed and accepted. Accordingly, a separate computation is made for each such contract completed during the taxable year regardless of whether the project is located within or without this state in order to determine the amount of income attributable to sources within this state. The amount of income apportioned to this state from each contract completed during the taxable year, plus other business income (such as interest income, rents, royalties, income from short-term contracts, etc.) apportioned to this state by the regular three factor formula, plus all nonbusiness income allocated to this state, is the measure of tax for the taxable year. The amount of income (or loss) from each contract derived from sources within this state using the completed contract method of accounting is computed as follows:

(a) In the taxable year the contract is completed, the income (or loss) therefrom is determined.

(b) The income (or loss) determined in (a) is apportioned to this state by the following method:

(A) A fraction is determined for each year the contract was in progress. The numerator is the amount of construction costs paid or accrued each year the contract was in progress, and the denominator is the total of all such construction costs for the project.

(B) Each percentage determined in (A) is multiplied by the apportionment formula percentage for that particular year as determined in section (1)(g) of this rule.

(C) The products determined at (B) for each year the contract was in progress are totaled. The amount of total income (or loss) from the contract determined in (a) is multiplied by the total percentage. The resulting income (or loss) is the amount of business income from such contract derived from sources within this state.

Example 10: A taxpayer using the completed contract method of accounting for long-term contracts is engaged in three long-term contracts: Contract L in this state, Contract M in state X, and Contract N in state Y. In addition, it has other business income (less expenses) during the taxable year 1986 from interest, rents, and short-term contracts amounting to \$500,000, and nonbusiness income allocable to this state of \$8,000. During 1986, it completed Contract M in state X at a profit of \$900,000. Contracts L in this state and N in state Y were not completed during the taxable year. The apportionment percentages of the taxpayer as determined in subsection (g) of this rule and the percentages of contract costs as determined in subsection (b) above for each year Contract M in state X was in progress are as follows: [Table not included. See ED. NOTE.]

Example 11: Same facts as in Example 10 except that Contract L was started in 1986 in this state, the first year the taxpayer was subject to tax in this state. Contract L in this state and Contract N in state Y are incomplete in 1986. The corporation's net income subject to tax in this state for 1986 is computed as follows: [Table not included. See ED. NOTE.]

Example 12: Same facts as in Example 10 except that the figures relate to Contract L in this state, and 1986 is the first year the corporation was taxable in another state (see ORS 314.615 and 314.620 and the rules thereunder). Contracts M and N in states X and Y were started in 1986 and are incomplete. The corporation's net income subject to tax in this state for 1986 is computed as follows: [Table not included. See ED. NOTE.]

(3) Computation for Year of Withdrawal, Dissolution or Cessation of Business – Completed Contract Method. Use of the completed contract method of accounting for long-term contracts requires that income derived from sources within this state from incomplete contracts in progress outside this state on the date of withdrawal, dissolution, or cessation of business in this state be included in the measure of tax for the taxable year during which the corporation withdraws, dissolves or ceases doing business in this state. The amount of income (or loss) from each such contract to be apportioned to this state by the apportionment method set forth in section (2)(b) of this rule must be determined as if the percentage of completion method of accounting were used for all such contracts on the date of withdrawal,

dissolution, or cessation of business. The amount of business income (or loss) for each such contract is the amount by which that portion of the gross contract price of each such contract that corresponds to the percentage of the entire contract that has been completed as the date of withdrawal, dissolution, or cessation of business exceeds all expenditures made in connection with each such contract. In so doing, account must be taken of the material and supplies on hand at the beginning and end of the income year for use in each such contract.

Example 13: A construction contractor qualified to do business in this state elected the completed contract method of accounting for long-term contracts. It was engaged in two long-term contracts. Contract L was started in Oregon in 1981 and completed at a profit of \$900,000 on December 16, 1983. The taxpayer withdrew on December 31, 1983. Contract M was started in state X in 1982 and was incomplete on December 31, 1983. The apportionment percentages of the taxpayer as determined in section (1) of this rule, and percentages of construction costs as determined in section (2)(b) of this rule for each year during which Contract M in state X was in progress are as follows: [Table not included. See ED. NOTE.]

The corporation had other business income (net of expenses) of \$500,000 during 1982 and \$300,000 during 1983. The gross contract price of Contract M (state X) was \$1,000,000, and it was estimated to be 35% completed on December 31, 1983. Total expenditures to date for Contract M (state X) were \$300,000 for the period ended December 31, 1983. The measure of tax for the taxable year ended 12/31/83 is computed as follows: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.615

Hist.: f. 12-6-82, ef. 12-31-82, Renumbered from OAR 150-314.670-(D) to OAR 150-314.615-(F), 12-31-85; RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; REV 1-2001, f. 7-31-01, cert. ef. 8-1-01; REV 4-2003, f. & cert. ef. 12-31-03; Renumbered from 150-314.615-(F), REV 30-2016, f. 8-12-16, cert. ef. 9-1-16; REV 41-2017, f. & cert. ef. 8-2-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 42-2017

Filed with Sec. of State: 8-2-2017

Certified to be Effective: 8-2-17

Notice Publication Date:

Rules Amended: 150-314-0355

Subject: 150-314-0355 Special Rules: Installment Sales: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0355

Special Rules: Installment Sales

(1) Income from installment sales is reported at least in part in a year other than the year in which the sale took place. Apportionment of installment sale income on the basis of the factors in the years other than the year of sale would result in such income being apportioned by activities which had no connection with the earning of the income.

(2) This rule applies to taxpayers who use the installment method of reporting income from the sale of property and whose Oregon apportionment percentage for the year of the sale is different than that for any year in which proceeds from that sale are received by the taxpayer. A taxpayer shall apportion the income from the installment sale using the Oregon apportionment percentage of the year of sale.

Example: X is doing business in States A, B and C. During Year 1, the taxpayer sold a plant in State A and realized a \$500,000 gain on the sale. The taxpayer elected to report the sale under the installment basis since two equal payments (\$250,000 each) are to be received in years 2 and 3. The taxpayer's apportionment factors were as follows:

Year — Apportionment Factor
1 — 11%
2 — 1%
3 — 32%

State A would realize a taxable gain of \$55,000 (\$500,000 x 11%) if the sale was not reported under the installment method. Since the apportionment factors have changed to 1 percent and 32 percent in years 2 and 3 respectively, a taxable gain of \$2,500 is reported to State A in year 2 and \$80,000 in year 3.

Use of the year of sale factor results in \$27,500 gain being reported to State A in years 2 and 3 (total: \$55,000).

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.615

Hist.: 12-5-84; 12-31-84; Renumbered from 150-314.670-(E), 12-31-85; Renumbered from 150-314.615-(G), REV 30-2016, f. 8-12-16, cert. ef. 9-1-16; REV 42-2017, f. & cert. ef. 8-2-17

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Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 43-2017

Filed with Sec. of State: 8-2-2017

Certified to be Effective: 8-2-17

Notice Publication Date:

Rules Amended: 150-314-0460

Subject: 150-314-0460 Apportionment of Net Loss: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0460

Apportionment of Net Loss

(1) When a corporation or consolidated group of corporations is taxable both within and without this state, their Oregon net loss must be computed using the apportionment provisions in ORS 314.280, or 314.610 through 314.667.

(2) If a corporation filed a combined return (prior to 1986) or a separate (not consolidated) return in the year of the loss, and files a consolidated return in the year to which the loss is carried, the net loss deduction may be limited. The allowable net loss deduction cannot exceed the Oregon net income attributed to the corporation with the net loss carryover. For the purpose of determining the net loss deduction allowable, the consolidated Oregon net income must be attributed to the corporation based on its share of the Oregon apportionment percentage. The following example demonstrates the application of this section: [Example not included. See ED NOTE].

(3) If a corporation was included in a consolidated return in the year of the net loss and now files a separate return, or is included in a different consolidated return in the year to which the net loss is carried, the consolidated Oregon net loss must be apportioned to the corporations included in the net loss return for purposes of determining the allowable net loss carryover. The consolidated Oregon net loss must be apportioned to the corporations with taxable activities in Oregon, based upon their Oregon apportionment percentages. The net losses computed can be carried forward and deducted in subsequent years' returns (subject to the carryover limitations specified in OAR 150-317-0460). The following example demonstrates the application of this section: [Example not included. See ED NOTE].

(4) Net losses that are attributed to corporations which continue to be included in the same consolidated Oregon return can be deducted fully against the Oregon consolidated net income. [Example not included. See ED NOTE].

(5) Paragraphs (2), (3) and (4) of this rule apply to Oregon net losses carried forward and deducted in tax years beginning on or after January 1, 1986.

(6) The net loss carryover to a consolidated return when the loss is from a separate return of a prior year in which the taxpayer should have filed a combined or consolidated return must be recalculated as if the taxpayer had filed a combined or consolidated return.

Example: Corporation A reported a loss in 1999 on a separate return. Corporation A should have filed a consolidated return with Corporation B in 1999. A 1999 consolidated return would have resulted in net income. The net loss carryover for Corporation A from 1999 is zero.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.675

Hist.: 1-65; RD 10-1986, f. & cert. ef. 12-31-86; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; REV 5-2000, f. & cert. ef. 8-3-00; Renumbered from 150-314.675, REV 34-2016, f. 8-12-16, cert. ef. 9-1-16; REV 43-2017, f. & cert. ef. 8-2-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 44-2017

Filed with Sec. of State: 8-2-2017

Certified to be Effective: 8-2-17

Notice Publication Date:

Rules Amended: 150-316-0005

Subject: 150-316-0005 Oregon Net Operating Losses - Treatment Before 1985: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the

full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0005

Oregon Net Operating Losses — Treatment Before 1985

(1) Applicability of this Rule.

(a) The provisions set forth in this rule shall apply to the computation of net operating losses occurring in loss years beginning before January 1, 1985; net operating loss deductions allowed in tax years beginning before January 1, 1985, from losses that originated in loss years beginning before January 1, 1985; and net operating loss carrybacks and carryovers applied in tax years beginning before January 1, 1985, that originated in loss years beginning before January 1, 1985.

(b) For the computation and application of Oregon net operating losses; net operating loss deductions with regard to loss years and net operating loss carrybacks and net operating loss carryovers originating after December 31, 1984, see OAR 150-316-0035.

(2) Negative Oregon Taxable Income Defined. For purposes of this rule, negative Oregon taxable income means federal taxable income as defined in the laws of the United States, with the modifications, additions and subtractions provided in ORS Chapter 316, which is less than zero.

(3) The Computation of a Net Operating Loss for Loss Years Beginning before January 1, 1985.

(a) For purposes of this rule, "loss years" means those tax years in which a net operating loss occurs. The computation of a net operating loss for Oregon purposes begins with negative Oregon taxable income. Internal Revenue Code Section 172 is generally applied to items of income, deduction and modification on the Oregon return in both the year of the loss and in the year or years to which the loss deduction is carried.

(b) There are five items that may reduce negative Oregon taxable income. These are: net operating loss deduction from other years; exemption deductions, if applicable; the nonbusiness deductions less nonbusiness income modification required by IRC Section 172; Oregon capital gains deduction; and the net Oregon capital loss deduction. The amount of negative Oregon taxable income remaining after the above items have been taken into account, shall be considered the amount of the taxpayer's Oregon net operating loss deduction.

Example: Sandy and Joe filed federal and Oregon tax returns for 1984. On their federal return they reported wages of \$12,000, a business loss of \$40,000 (a part of which was attributable to depreciation), a gain on the sale of stock of \$400 (net of \$600 capital gains deduction), interest income of \$800, and a taxable pension from the U.S. Government of \$2,000. They paid no federal or state taxes in 1984 and reported total itemized deductions of \$6,800. These deductions were considered non-business.

On their Oregon return Sandy and Joe also reported \$500 municipal bond interest from California that was exempt from federal income tax, they were allowed to deduct \$1,000 more depreciation for Oregon purposes than for federal purposes, and, they were allowed to deduct the entire pension income on their Oregon return as a U.S. Public Retirement subtraction. Their allowable Oregon net operating loss is computed as follows: [Computation not included. See ED. NOTE.]

(4) Oregon Net Operating Losses-Reduction Due to the Net Oregon Capital Loss Deduction. Oregon net operating losses shall be reduced by the amount of net Oregon capital loss deduction claimed on the Oregon return. The net capital loss deduction is generally the same as the amount deducted on the federal return. However, there are modifications that are required under Oregon law which cause the capital loss deduction to be different for Oregon purposes. These modifications must be taken into account in determining the amount of capital loss deduction that is part of negative Oregon taxable income. This difference may be due to depreciation differences upon the sale of a capital asset.

Example: Gary sells a capital asset to Helen for \$10,000. The federal adjusted basis is \$9,000 and the Oregon adjusted basis is \$12,000. For federal purposes Gary has a gain of \$1,000. However, Gary has a capital loss for Oregon purposes of \$2,000 (\$10,000 - \$12,000). For purposes of this example, assume the loss is a short-term capital loss. Gary's negative Oregon taxable income is reduced by \$2,000, the amount of the capital loss deduction for Oregon purposes.

(5) Oregon Net Operating Losses-Reduction Due to Nonbusiness Deductions in Excess of Nonbusiness Income. In order to compute an Oregon net operating loss, the taxpayer's negative Oregon taxable income is reduced by the amount of excess nonbusiness deductions over nonbusiness income. Oregon modifications, additions, and subtractions used in computing negative Oregon taxable income may reduce the allowable Oregon net operating loss. Use the following list to help determine which of the more common Oregon modifications, additions or subtractions are considered business or nonbusiness. The list is not complete. It is intended to be a guide. [List not included. See ED. NOTE.]

(6) Part-year residents and Nonresidents.

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(a) Tax years beginning before January 1, 1983. The base for computing an Oregon net operating loss for a part-year resident or a nonresident shall be negative Oregon taxable income. To compute an Oregon net operating loss, negative Oregon taxable income shall be modified as provided in (3) above by those modifications which relate to items of Oregon income or deduction only.

(b) Tax years beginning after December 31, 1982 and before January 1, 1984. A part-year resident or nonresident shall be allowed an Oregon net operating loss deduction only if the taxpayer had negative Oregon taxable income as defined in (2) of this rule, in the year of the loss.

(c) Tax years beginning after December 31, 1983 and before January 1, 1985. In computing an Oregon net operating loss, for part-year residents, negative Oregon taxable income shall be modified as provided in (3) above by those modifications which relate to items of Oregon income or deduction only. Nonresidents shall calculate their Oregon net operating loss as provided in (6)(a) above.

(7) Non-Oregon Source Net Operating Losses. If a non-Oregon source net operating loss arises while the taxpayer is a nonresident, the resulting net operating loss deduction shall not be allowed when computing Oregon taxable income.

(8) Oregon Source Net Operating Losses.

(a) Taxpayers shall be allowed a deduction for Oregon source net operating losses as determined in section (3) of this rule. Taxpayers may also carryover the Oregon net operating loss deduction in a manner consistent with IRC Section 172.

(b) Generally, if a taxpayer carries a net operating loss deduction back for federal purposes, the taxpayer shall carry the Oregon net operating loss back for Oregon purposes also. The same principle applies to net operating loss carryovers and carryforwards.

(c) An exception to this rule arises if the taxpayer is not required to file an Oregon return for all the years to which the federal net operating loss deduction is applied. In this case, the following rule applies: In the case of a net operating loss carryback, if the taxpayer was not required to file an Oregon return for the third year prior to the Oregon net operating loss, the Oregon net operating loss deduction shall be carried over to the year succeeding the carried back year. If the taxpayer was not required to file an Oregon tax return in that year, the Oregon net operating loss deduction shall be carried over to that year in which the loss may be first applied. The total number of years to which a net operating loss deduction may be carried back or forward shall be the same for Oregon and federal net operating losses. The number of years allowed is determined by IRC Section 172(b).

Example: Jane computed her allowable Oregon source net operating loss deduction for tax year 1984. For federal purposes, she carried back her federal net operating loss deduction back to tax year 1981. Since she carried her loss back for federal purposes, she shall carry her loss back for Oregon purposes to her 1981 Oregon tax return. If she was not required to file an Oregon tax return for 1981, she may carry her Oregon net operating loss deduction to her 1982 Oregon tax return.

(9) Filing Status.

(a) Oregon net operating losses may be split among spouses. Taxpayers who change their filing status, for example, generally need to identify their separate items of income, deductions, Oregon modifications, etc., to compute their separate Oregon net operating loss deduction.

(b) Items of income are split between the spouses in a manner consistent with Treasury Regulation Section 1.172.7. Modifications to federal adjusted gross income (AGI), as required under Chapter 316, are allocated between the spouses. Each spouse is entitled to those modifications that belong only to him or her. For those modifications which are not clearly attributable to any one spouse, multiply the dollar amount by the following percentage:

$$\text{Percentage} = \frac{\text{Spouse's share of federal AGI}}{\text{Total federal AGI}}$$

(c) Other deductions, such as itemized deductions, are treated in the same manner as modifications described in the preceding paragraph. Those deductions that specifically belong to a spouse are used in computing that spouse's separate itemized deductions. All other itemized deductions shall be allocated each spouse based on the percentage described above. State taxes are to be allocated in a manner consistent with Revenue Rulings 80-6 and 80-7.

(10) For Oregon's exemption deduction and/or credit, each spouse may claim his or her own personal exemption. Each spouse may also claim dependents based on provision of support or a spousal agreement.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]

[ED. NOTE: Tables & Lists referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.007

Hist.: RD 12-1984, f. 12-5-84, cert. ef. 12-31-84; RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 4-1986(Temp), f. & cert. ef. 7-29-86; RD 7-1986, f. & cert. ef. 12-31-86; RD 7-1989,

f. 12-18-89, cert. ef. 12-31-89; Renumbered from 150-316.007, REV 60-2016, f. 8-15-16, cert. ef. 9-1-16; REV 44-2017, f. & cert. ef. 8-2-17

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Adm. Order No.: REV 45-2017

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Notice Publication Date:

Rules Amended: 150-316-0070

Subject: 150-316-0070 Oregon Child Care Credit: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0070

Oregon Child Care Credit

(1) For tax years beginning on or after December 31, 1988, the credit allowed under ORS 316.078 shall be based on a percentage of the qualifying employment related expenses allowed by Section 21 of the Internal Revenue Code. The percentage is determined by federal taxable income, as shown in the table under ORS 316.078. When calculating the Oregon child care credit, taxpayers must use the same employment related expenses used for calculating the federal credit, subject to the same limitations and eligibility requirements outlined in the IRC Section 21. However, it is not necessary to claim the federal child care credit in order to claim the credit for Oregon. Any credit allowable under ORS 316.078 that is not used may be carried forward for up to five years.

Example 1: Bill and Martha are married and file a joint return. They have federal taxable income of \$12,000 in 1989. Using IRC Section 21 guidelines, they determine they have \$1,500 qualifying employment related expenses. Using the table in ORS 316.078, Bill and Martha compute an allowable Oregon child care credit in the amount of \$120 (8 percent of \$1,500). Bill and Martha have a 1989 tax liability of \$105. Since their Oregon child care credit exceeds their tax liability, they may carry-forward the \$15 excess to 1990. They must use the carryforward credit by tax year 1994.

(2) For tax years beginning after December 31, 1986, and before January 1, 1989, the Oregon credit is equal to 40 percent of the "allowable federal credit." The allowable federal credit is the credit computed under Section 21 of the Internal Revenue Code, not the amount actually used to reduce the federal tax liability. The allowable federal credit may be greater than the amount actually claimed on the federal return.

(3) For tax years beginning after December 31, 1984, and before January 1, 1987, the Oregon credit is limited to 40 percent of the "allowed federal credit." The allowed federal credit is the amount actually claimed on the federal return which reduces the federal tax liability (but not below zero). The allowed federal credit may be less than the allowable federal credit. "Federal tax liability" has the same meaning as under Section 26 of the Internal Revenue Code.

(4) For tax years beginning after December 31, 1984 and before January 1, 1987, if the taxpayer would be allowed to claim a credit under ORS 316.078 and 316.087, the taxpayer may choose whichever of the amounts allowable pursuant to these statutes is to be applied against the Oregon tax liability.

Example 2: Joan and Jerry are married and file a joint income tax return. They have a federal tax liability (before any federal credits) of \$200 for their 1985 tax year. In addition, they compute that they are allowed a federal credit for the elderly of \$175 and a federal child care credit of \$250. Joan and Jerry would figure the maximum credit allowable of \$80 to apply against their Oregon tax liability as follows. [Example not included. See ED. NOTE.]

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]

[ED. NOTE: Examples and Tables referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.078

Hist.: Repealed by TC 8-1980, f. 11-28-80, cert. ef. 12-31-80; RD 10-1986, f. & cert. ef. 12-31-86; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; Renumbered from 150-316.078, REV 60-2016, f. 8-15-16, cert. ef. 9-1-16; REV 45-2017, f. & cert. ef. 8-2-17

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ADMINISTRATIVE RULES

Notice Publication Date:

Rules Amended: 150-316-0135

Subject: 150-316-0135 Proration of Income and Deductions for Nonresidents and Part-Year Residents: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0135

Proration of Income and Deductions for Nonresidents and Part-Year Residents

(1) For tax years beginning on or after January 1, 1983, the numerator of the fraction is the taxpayer's federal adjusted gross income from Oregon sources, with the Oregon modifications to that income, which relate to adjusted gross income.

(2) The denominator of the fraction is the taxpayer's federal adjusted gross income, from all sources, with the Oregon modifications to that income, which relate to adjusted gross income.

(3) For the fiduciary returns of estates and trusts, the numerator of the fraction is the federal taxable income of the fiduciary from Oregon sources, with the Oregon modifications to that income. The denominator of the fraction is the federal taxable income of the fiduciary, from all sources, with Oregon modifications to that income.

(4) Use the following list to help determine which Oregon modifications relate to adjusted gross income. [List not included. See ED. NOTE.]

(5) Under no circumstances may the percentage exceed 100 percent.

(6) If the taxpayer has positive modified Oregon income and negative or zero modified federal adjusted gross income, the allowable percentage is 100 percent. If the taxpayer's modified federal adjusted gross income from Oregon sources and modified federal adjusted gross income are both losses, the allowable percentage will be computed as follows:

(a) If the Oregon loss is smaller than the federal loss, 100 percent.

(b) If the Oregon loss is greater than the federal loss, divide the federal loss by the Oregon loss.

Example 1: A taxpayer has modified federal adjusted gross income from Oregon sources of (\$100) and modified federal adjusted gross income of (\$1,000). Since the Oregon loss is less than the federal loss, the percentage is 100 percent.

Example 2: A taxpayer has federal adjusted gross income from Oregon sources of (\$1,000) and federal adjusted gross income of (\$100). The percentage is 10 percent.

(7) If the taxpayer has negative or zero modified Oregon income and positive modified federal adjusted gross income, the allowable percentage is zero.

(8) Nonresident taxpayers shall prorate the following deductions and modifications not relating to adjusted gross income using the fraction provided in this rule:

(a) The greater of:

(A) Net Oregon itemized; or

(B) The standard deduction.

(b) Federal tax liability.

(c) Additional federal tax paid from a prior year.

(d) Gambling losses (itemized).

(e) Federal income tax refunds from amended or audited returns.

(9) Nonresident taxpayers shall not prorate the following deductions and modifications not relating to adjusted gross income.

(a) Art object donation deduction; and

(b) Fiduciary adjustment.

(10) Under no circumstances may the percentage used in computing the allowable portion of the deductions exceed 100 percent.

(11) For part-year residents Oregon source income is:

(a) For the portion of the year the taxpayer is a resident see OAR 150-316-0060.

(b) For the portion of the year the taxpayer is a nonresident see ORS 316.127 and the rules pertaining thereto.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.117

Hist.: 12-70; 11-73; 12-19-75; 12-31-78; 12-31-83; 12-31-84; 12-31-85; 12-31-86; Renumbered from 150-316.117; 12-31-87; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; Renumbered from 150-316.117-(A), REV 62-2016, f. 8-15-16, cert. ef. 9-1-16; REV 46-2017, f. & cert. ef. 8-2-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 47-2017

Filed with Sec. of State: 8-2-2017

Certified to be Effective: 8-2-17

Notice Publication Date:

Rules Amended: 150-316-0195

Subject: 150-316-0195 Alimony Deduction - for Part-Year and Nonresidents: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0195

Alimony Deduction — for Part-Year and Nonresidents

A nonresident's alimony deduction must be prorated for the portion of the year that they are a nonresident of Oregon if they have income from other than Oregon sources. The alimony paid while a nonresident is to be prorated based on the ratio of their Oregon source income while a nonresident to their total income while a nonresident without deduction for alimony. Alimony paid is deductible in full once residency is established.

Example: Douglas lives in Washington. From January 1 to May 1 he earns \$28,000 in Washington wages and pays \$12,000 in alimony. From May 1 to June 1 he earns \$7,000 in Oregon wages and pays \$3,000 in alimony.

On June 1 Douglas moves to Oregon and establishes residency. Between June 1 and November 1 he earns \$50,000 in Oregon wages and pays \$15,000 in alimony.

In November, Douglas goes back to work for his former Washington-based employer but continues to live in Oregon. From November 1 through December 31 he earns \$24,000 in Washington wages and pays \$6,000 in alimony.

Summary: During the time he was a nonresident, and without regard to his alimony deductions, Douglas earned \$7,000 in Oregon source income and \$35,000 in total income.

Douglas made \$15,000 in alimony payments while a nonresident and \$21,000 in alimony payments after establishing Oregon residency.

Douglas' Oregon alimony deduction is \$24,000, consisting of \$3,000 for the nonresident period and \$21,000 for the resident period. The \$3,000 is computed as follows: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.130

Hist.: RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; Repealed by RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; Renumbered from 150-316.130(2)(c)-(A), REV 61-2016, f. 8-15-16, cert. ef. 9-1-16; REV 47-2017, f. & cert. ef. 8-2-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 48-2017

Filed with Sec. of State: 8-2-2017

Certified to be Effective: 8-2-17

Notice Publication Date:

Rules Amended: 150-316-0332

Subject: 150-316-0332 Withholding: Payment Due Dates: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0332

Withholding: Payment Due Dates

(1) Oregon withholding tax payment due dates are determined by corresponding federal due dates as outlined in the following rules:

Rule 1 — If the federal tax due is less than \$1,000 at the end of any calendar quarter the Oregon tax due must be paid by the end of the month following the end of the quarter.

Rule 2 — If the federal tax liability is \$50,000 or less in the lookback period, the Oregon tax due must be paid by the 15th of the month following, unless the employer meets the conditions under Rule 1 or Rule 4.

Rule 3 — If the federal tax liability is more than \$50,000 in the lookback period, the Oregon tax due must be paid on the following semi-weekly schedule, unless the employer meets the conditions under Rule 1 or Rule 4:

If the payday is on Wednesday, Thursday or Friday, the Oregon tax must be paid by the following Wednesday.

If the payday is on Saturday, Sunday, Monday or Tuesday, the Oregon tax must be paid by the following Friday.

Rule 4 — If the federal tax due is \$100,000 or more at the end of any pay period, the Oregon tax must be paid by the close of the next banking day.

NOTE: If at any time an employer becomes subject to Rule 4, they immediately become a semi-weekly payer for the remainder of the calendar year and for the following calendar year, except for payments due within one banking day.

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(2) Lookback period is the twelve-month period ended the preceding June 30 for nonagricultural employers. For agricultural employers the lookback period is the calendar year preceding the calendar year just ended.

(3) A legal holiday that falls between the end of the pay period and the payment due date extends the due date by one banking day.

(4) A banking day is any day that is not a Saturday, Sunday or a legal holiday. A legal holiday is a holiday in the District of Columbia.

(5) Federal tax is the sum of the federal withholding plus FICA plus Medicare taxes.

(6) ORS 316.197 establishes payment due dates only and does not incorporate the federal "safe harbor" rule for deposit shortfalls. If the full amount of the state tax withheld is not paid when the federal deposit is due the unpaid balance is delinquent.

(7) Payment due date examples:

(a) MONTHLY DEPOSITS: For employers whose total federal liability during the lookback period did not exceed \$50,000. Lookback period is defined for 1998 as July 1, 1996 to June 30, 1997 (January 1, 1996 to December 31, 1996 for agricultural employers). [Table not included. See ED. NOTE.]

NOTE: If the federal tax liability for a payroll period exceeds \$100,000, the federal and Oregon deposits are due the next banking day. Once an employer reaches \$100,000 in federal tax during a payroll period, they are no longer considered to be a monthly depositor. For the rest of the calendar year and all of the following calendar years, all deposits are due semi-weekly, or within one banking day, if the federal tax is over \$100,000.

(b) SEMI-WEEKLY DEPOSITS: For employers whose total federal liability during the lookback period exceeds \$50,000. Lookback period is defined for 1998 as July 1, 1996 to June 30, 1997 (January 1, 1996 to December 31, 1996 for agricultural employers). [Table not included. See ED. NOTE.]

NOTE: If any federal tax liability for a payroll period exceeds \$100,000, the federal and Oregon deposits are due the next banking day.

*An extra day is allowed due to a holiday during the period following the payroll date.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.197

Hist.: 10-5-83, 12-31-83; 12-31-84, Renumbered from 150-316.197(2); RD 4-1991, f. 12-30-91, cert. ef. 12-31-91; RD 5-1993, f. 12-30-93, cert. ef. 12-31-93; REV 6-1998, f. 11-13-98 cert. ef. 12-31-98; Renumbered from 150-316.197(1)(a)-(B), REV 63-2016, f. 8-15-16, cert. ef. 9-1-16; REV 48-2017, f. & cert. ef. 8-2-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 49-2017

Filed with Sec. of State: 8-2-2017

Certified to be Effective: 8-2-17

Notice Publication Date:

Rules Amended: 150-316-0415

Subject: 150-316-0415 Accumulation Distribution Credit for Oregon Taxes Paid by Trust During Income Accumulation Years: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0415

Accumulation Distribution Credit for Oregon Taxes Paid by Trust During Income Accumulation Years

(1) The accumulation distribution credit is determined by calculating the amount of tax that would have been paid by the trust if the distribution had been made in the year the income was earned, and then subtracting that amount from the tax that the trust actually paid in that year. The total available credit is distributed to the beneficiaries pro rata.

(2) Trusts, whose Oregon taxable income in the year of income accumulation included capital gains that were not part of its distributable net income (DNI), must determine the amount of Oregon tax paid on ordinary income to arrive at the maximum Oregon tax credit available to the beneficiary. For purposes of this computation, the percentage of Oregon taxable income representing capital gains not included in DNI must be determined.

Example 1: This example is a continuation of the first example in OAR 150-316-0575. A review of the facts in that example would be helpful. Based on the facts in the example in OAR 150-316-0575, the maximum credit available to the beneficiary for the Oregon tax paid by the trust is calculated as follows: [Example not included. See ED. NOTE.]

(3) The credit allowable to the beneficiary cannot reduce the beneficiary's tax below that which would have otherwise been due, without regard to the addition of the accumulation distribution.

Example 2: The beneficiary's total 1993 tax is \$150. The total tax calculated without inclusion of the accumulation distribution in taxable income is \$100. Although the maximum calculated credit is \$71, the beneficiary can only claim a credit of \$50 (the difference between \$150 and \$100).

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.298

Hist.: RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; RD 6-1996, f. 12-23-96, cert. ef. 12-31-96; Renumbered from 150-316.298, REV 65-2016, f. 8-15-16, cert. ef. 9-1-16; REV 49-2017, f. & cert. ef. 8-2-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 50-2017

Filed with Sec. of State: 8-2-2017

Certified to be Effective: 8-2-17

Notice Publication Date:

Rules Amended: 150-316-0425

Subject: 150-316-0425 Oregon Multiple Funeral Trust Tax Return: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0425

Oregon Multiple Funeral Trust Tax Return

(1) General Rule. A trust established as a "funeral trust" and filing a fiduciary return under federal law as a grantor trust may join in filing an Oregon multiple funeral trust tax return.

(2) Election. The election provided in this rule is made each tax year. It is deemed to be made by the trustee of the funeral trust as of the date the multiple trust tax return is filed. The trustee of an individual funeral trust may elect not to join in filing an Oregon multiple funeral trust tax return by filing a separate Oregon fiduciary tax return under the trust name used for federal filing purposes.

(3) Filing Requirements:

(a) The Oregon multiple funeral trust return shall be made and filed on Oregon Form 41 (Oregon Fiduciary Income Tax Return) by the authorized fiduciary. If two or more fiduciaries are acting jointly, the return may be made by any one of them. If an Oregon multiple funeral trust tax return is not filed, the trustee of each individual funeral trust must file an Oregon fiduciary return for such trust under the usual filing requirements of ORS 316.362.

(b) The Form 41 (Oregon Fiduciary Income Tax Return) filed for the Oregon multiple funeral trust shall include the trustee's name in the name of the trust.

Example:

Name of trust: Serene Acres Funeral Home Trusts.

Name of fiduciary (trustee): Serene Acres Funeral Home

(c) The Form 41 for the Oregon multiple funeral trust tax return shall include a statement on the face of the return to the effect that under the terms of the trust instruments, the trusts included in the multiple filing are grantor trusts and all income is taxable to the grantors under the Internal Revenue Code.

(d) The Oregon multiple funeral trust tax return will not require a Federal Identification Number. The Department of Revenue will assign a Business Identification Number (BIN) to the multiple return. The BIN will be made available to the fiduciary of the multiple funeral trust return on request for identification purposes.

(e) In addition to the Form 41 required to be filed by the multiple funeral trust, a schedule shall be attached to the return. The schedule shall report the following information for each trust included in the multiple funeral trust tax return: The name, address and social security number of the grantor, the name and address of the trustee, the name and address of the funeral home, the trust federal identification number, the trust taxable year, the beneficiary's social security number, and the amount and description of income earned by the trust during the taxable year.

(4) Due Date: The Oregon multiple funeral trust tax return is due the 15th day of the fourth month after the close of the tax year.

(5) Estimated Payments: Under ORS 316.559, trusts are not required to make estimated payments.

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(6) Effective Date: The provisions of this rule shall apply to qualifying grantor funeral trusts that join in filing Oregon multiple funeral trust tax returns for tax years beginning on or after January 1, 1994.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 316.362
Hist.: RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; Renumbered from 150-316.362(1)(c), REV 65-2016, f. 8-15-16, cert. ef. 9-1-16; REV 50-2017, f. & cert. ef. 8-2-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 51-2017

Filed with Sec. of State: 8-3-2017

Certified to be Effective: 8-3-17

Notice Publication Date:

Rules Amended: 150-316-0505

Subject: 150-316-0505 Oregon Lottery Winnings and Losses: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0505

Oregon Lottery Winnings and Losses

(1) For purposes of this rule:

(a) "Oregon lottery losses" means the amount of wagering losses defined in Internal Revenue Code Section 165(d) that is attributable to the Oregon State Lottery which was includable in federal taxable income.

(b) "Oregon lottery" means all games administered by the Oregon State Lottery Commission including those games jointly administered by Oregon and other states.

(c) "Other wagering earnings" means the amount of wagering earnings that is included in Oregon taxable income.

(2)(a) For purposes of Ch. 316, Oregon lottery winnings referred to in Ch. are not included in Oregon taxable income, if:

(A) The ticket was purchased before January 1, 1998; or

(B) The ticket was purchased on or after January 1, 1998 and the winnings from that ticket minus the purchase price are \$600 or less.

(b) Oregon lottery losses and other wagering losses are allowable for Oregon purposes to the extent that total wagering losses do not exceed total wagering earnings included in Oregon taxable income.

Example: Angela is receiving lottery prize payments of \$20,000 per year for the next 15 years from a Powerball ticket purchased before 1998. She also has winnings from three Oregon lottery tickets she bought after 1997. Those three tickets paid \$300, \$400 and \$750, respectively. During the current year, Angela won \$800 in other gambling winnings. She spent \$1,000 on Oregon lottery tickets and had \$1,300 in other gambling losses. Angela determines her net Oregon adjustment to be a subtraction of \$19,950, as follows: [Table not included. See ED. NOTE.]
[ED. NOTE: Tables referenced are available from the agency.]

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and 183.355(6).]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.680

Hist.: RD 12-1985, f. 12-26-85, cert. ef. 12-31-85; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; REV 7-1998, f. 11-13-98, cert. ef. 12-31-98; Renumbered from 150-316.680-(A), REV 64-2016, f. 8-15-16, cert. ef. 9-1-16; REV 51-2017, f. & cert. ef. 8-3-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 52-2017

Filed with Sec. of State: 8-3-2017

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Notice Publication Date:

Rules Amended: 150-316-0511

Subject: 150-316-0511 Addition for Original Issue Discount (OID): This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0511

Addition for Original Issue Discount (OID)

(1) The "original issue discount" (OID), as defined in section 1273 of the Internal Revenue Code, is considered as paid in lieu of interest on state and municipal obligations of other states, and is taxable for Oregon purposes.

(2) Holders of state and municipal bonds of other states (foreign states) shall include in income the sum of the daily portion of original issue discount determined for each day during the taxable year the bond is held. The original issue discount (OID) shall be prorated over the life of the bond using the federal rules for taxable securities under Section 1272 of the Internal Revenue Code and corresponding regulations.

Example: On July 1, 1987, Jack purchased a California municipal bond for \$800. The bond matures in two years and has a stated redemption price of \$1,000. The bond contains \$200 of original issue discount (stated redemption price of \$1,000 less issue price of \$800). Because the bond does not provide for periodic payments of interest, a six-month accrual period ending December 31 and June 30 of each calendar year is used to determine the semiannual yield factor of 5.74 percent (\$800 compounded semiannually for two years at 5.74 percent is \$1,000). The amount of the original issue discount included in income for the period ending December 31, 1987, is the issue price (\$800), multiplied by the semiannual yield factor of 5.74 percent, or \$45.90. The adjusted issue price (basis) at the beginning of the second accrual period is equal to the issue price plus the portion of original issue discount included in the first accrual period (\$845.90 = \$800 + \$45.90). The includable original issue discount and basis is determined for each subsequent period in the same manner. [Table not included. See ED. NOTE.]

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

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.680

Hist.: RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; Renumbered from 150-316.680(2)(a), REV 64-2016, f. 8-15-16, cert. ef. 9-1-16; REV 52-2017, f. & cert. ef. 8-3-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 53-2017

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Notice Publication Date:

Rules Amended: 150-316-0525

Subject: 150-316-0525 U.S. Government Interest in Retirement Accounts: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0525

U.S. Government Interest in Retirement Accounts

(1) Interest or dividends on U.S. obligations under ORS 316.680(1)(a) included in distributions from self-employed plans or individual retirement accounts as described under sections 401 to 408 of the Internal Revenue Code shall be subtracted from federal taxable income to determine Oregon taxable income.

(2) Annuities: The amount of the subtraction shall be determined by applying a "state exempt-interest ratio" to distributions received as annuity payments to the extent the payments are included in federal adjusted gross income for the taxable year. The "state exempt-interest ratio" is the year-to-date balance of qualifying interest or dividends under ORS 316.680(1)(a) included in the account balance prior to the current year distribution divided by the account balance prior to the current year distribution. The year-to-date balance of qualifying interest or dividends is equal to the cumulative total of those earnings less any prior year's subtraction. The formula is as follows:

$$\frac{a-b}{c} \times d = \text{Oregon exempt portion of distribution for current year}$$

a = total exempt earnings on account date.

b = total exempt part of prior year's distributions.

c = total account balance prior to the current year distribution.

d = current year distribution.

The ratio shall be applied on the later of the annuity starting date or the date on which the taxpayer established residency. The annuity starting date shall be the date determined under Treas. Reg. Section 1.72-4(b).

Example 1: Sylvester Taxpayer set up an individual retirement account (IRA) which invested solely in U.S. Government securities throughout the life of the IRA. Sylvester contributed \$2,000 per year for a period of 35 years to the IRA. At retirement his account balance is \$542,041, of which \$472,041 consists of interest and \$70,000 the original contributions. His life expectancy is 20 years and the annual payout will be \$63,668 paid at the end of each year. The rate of earnings equals 10 per-

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cent and for simplicity, the investments continue to earn at the rate of 10 percent. Since the IRA continued to invest solely in U.S. Government securities after Sylvester retired, the numerator of the ratio for the first year's distribution would include all prior year's earnings plus the earnings for that year. The earnings for the first year of retirement equals \$54,204. Therefore, the numerator in the ratio equals 526,245 (472,041 + 54,204). The account balance at the end of the first year equals \$532,577 (Note: this is after the current year's distribution). We add back the current year's distribution to obtain the balance of the account just prior to the current year's distribution (the denominator in the formula). [Table not included. See ED. NOTE.]

Table 1 [Table not included. See ED. NOTE.]

Example 2: Assume the facts in Example 1, except the IRA which Sylvester set up ceased investing in U.S. Government securities the year in which Sylvester retired. Therefore, the balance of exempt interest earnings is equal to 472,041 for computing the first year's subtraction (the numerator of the ratio). It would not include the first year's earnings as in Example 1 since those earnings are not earnings on U.S. Government securities. For simplicity we will assume the investment is earning at the same rate (10 percent each year). Therefore, the account balance is the same as in Example 1. Sylvester's tax-exempt interest for his first year of retirement is \$50,405, computed as follows: [Table not included. See ED. NOTE.]

(3) Lump-sum distributions: For lump-sum distributions from individual retirement accounts and self-employed retirement plans, the subtraction shall be equal to the total qualifying interest under ORS 316.680(1)(a) included in the account balance at the time of distribution.

Table 2 [Table not included. See ED. NOTE.]

Example 3: Assume the same facts as in Example 2, except that Sylvester elected to receive the \$542,041 balance of his account as a lump-sum distribution. The subtraction for the taxable year is \$472,041, the amount of U.S. government interest in the account.

(4) Change of status from nonresident to resident: Nonresidents who become residents sometime after the annuity starting date shall use the same formula for computation of the ratio as if they were residents at the annuity starting date. For purposes of the formula shown in subsection (2)(a), "a" will equal the year-to-date balance of qualifying interest or dividends which is equal to the cumulative total of those earnings less any prior years deemed or actual subtraction.

Example 4: Assume the same facts in Example 2, except Sylvester became a resident in the second year of distribution. Sylvester's subtraction would equal \$45,823 in that year. Note: This is the same amount of subtraction Sylvester received in the second year of distribution as computed in Example 2. Sylvester's subtraction would equal \$41,657 in the third year of distribution (same as if he were a resident at the annuity starting date).

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]
[ED. NOTE: Formulas & Tables referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.681

Hist.: RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; Renumbered from 150-316.681, REV 64-2016, f. 8-15-16, cert. ef. 9-1-16; REV 53-2017, f. & cert. ef. 8-3-17

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Notice Publication Date:

Rules Amended: 150-316-0575

Subject: 150-316-0575 Amount Specially Taxed Under Federal Law to Be Included in Computation of State Taxable Income: Accumulation Distributions: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0575

Amount Specially Taxed Under Federal Law to Be Included in Computation of State Taxable Income: Accumulation Distributions

(1) Oregon law contains no alternate method of calculating tax in the manner provided by the Internal Revenue Code for the federal tax treatment of accumulation distributions. Therefore, income from an accumulation distribution must be added to Oregon taxable income.

(2) Distribution of a trust's income accumulation must be included in the income of the Oregon resident beneficiary for the taxable year that such income is distributed by the trust. The distributions are included in Oregon income in the same manner and to the same extent that the trust's income accumulations are includable in the taxable income of the beneficiary under federal law. The change in the Oregon fiduciary adjustment will also be distributed to the beneficiary.

Example 1: In 1987, the ABC trust had \$27,596 of gross income. Of this amount, \$15,496 was included in distributable net income (DNI). The other \$12,100 was capital gain income, which was not included in DNI. The trust made a distribution of

\$9,460 to the beneficiary, leaving \$6,036 in undistributed net income (UNI). After the \$9,460 distribution deduction and the \$100 exemption, the trust's federal taxable income was \$18,036 (\$12,000 capital gain plus \$6,036 UNI).

On the Oregon return, the total fiduciary adjustment was (\$10,862), of which the beneficiary's share was (\$6,626), leaving (\$4,236) as the fiduciary's share. The fiduciary's Oregon taxable income was \$13,800 (\$18,036 minus \$4,236), and the Oregon tax was \$1,102.

In 1993, the trust distributed more DNI to the beneficiary than the current year's DNI amount, resulting in a distribution of the 1987 accumulated income. The addition to Oregon income is the taxable accumulation distribution as defined in the Internal Revenue Code, Sections 665-668. The beneficiary is also allowed an additional fiduciary adjustment amount, based on the additional 1987 DNI distributed in 1993. This additional amount is calculated as follows: [Formula not included. See ED. NOTE.]

(3) See OAR 150-316-0410 for the limitations imposed on the portion of the fiduciary subtraction allowed to the beneficiaries.

(4) The change in fiduciary adjustment will be distributed to the beneficiaries in the same allocable portions as the income was distributed, according to the provisions in the trust instrument.

Example 2: If there's only one beneficiary, they will receive the entire \$2,064 subtraction calculated in the previous example. If there are two beneficiaries who each get one-half of the income, they will each get one-half of the additional fiduciary adjustment.

(5) Income accumulation distributions of a trust must be included in the income of a nonresident beneficiary for the taxable year that distribution is actually made by the trust. The distributions are included in the adjusted gross income of a nonresident in accordance with the provisions of ORS 316.127. The nonresident will also be allowed the change in fiduciary adjustment to the extent this change is applicable to Oregon source income.

(6) A copy of the Schedule J of federal Form 1041, "Allocation of Accumulation Distribution," shall be attached to the Oregon fiduciary return for the taxable year of distribution, and a copy of federal Form 4970, "Tax on Accumulation Distribution of Trust," shall be attached to the Oregon return of the beneficiary.

(7) For information about calculating the accumulation distribution credit for Oregon taxes paid by a trust during income accumulation years, see OAR 150-316-0415.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]
[ED. NOTE: Formulas referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.737

Hist.: RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; Renumbered from 150-316.737, REV 66-2016, f. 8-15-16, cert. ef. 9-1-16; REV 54-2017, f. & cert. ef. 8-3-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 55-2017

Filed with Sec. of State: 8-3-2017

Certified to be Effective: 8-3-17

Notice Publication Date:

Rules Amended: 150-317-0600

Subject: 150-317-0600 Limitations on Deduction of Group Losses: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-317-0600

Limitations on Deduction of Group Losses

(1) Oregon has adopted the provisions of IRC Section 1503(f) that apply to corporations filing consolidated returns and limit the use of group losses to offset income of a subsidiary paying dividends on preferred stock.

(2) The new limitations apply in tax years ending after November 17, 1989.

(3) Only the income or losses of those corporations included in the Oregon consolidated return will be included in the computation of the "group losses" and "separately computed taxable income."

(4) Oregon modifications that apply should be made prior to computing "group losses," and "separately computed taxable income."

(5) The following examples demonstrate the application of the limitation for Oregon:

Example 1: An affiliated group filing a consolidated federal return consists of Corporation P (the parent corporation) and Corporations R and S (subsidiaries of P). All three corporations are unitary and the consolidated Oregon apportionment percentage is 50 percent. Corporation S issues IRC Section 1504(a)(4) preferred stock. In 1991, Corporation P has federal income of \$900 and an Oregon addition modification of \$100. Corporation R has a federal loss of \$1,500 with no Oregon modifica-

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tions. Corporation S has federal "separately computed taxable income" of \$1,000, no Oregon modifications, and pays a dividend of \$900 on the preferred stock. For both federal and Oregon purposes, R's loss is a group loss. It can be offset against P's Oregon net income of \$1,000 leaving a balance of \$500. The \$500 balance of R's loss can be offset against S's net income to the extent it was not distributed to preferred stockholders (\$100). The remaining \$400 cannot be deducted in 1991. Therefore, the Oregon consolidated taxable income of the group is computed as follows: [Example not included. See ED. NOTE.]

Example 2: Assume the same facts as in Example 1, except that corporations R and S are unitary but P is not. Without corporation P in the consolidated Oregon return, the Oregon apportionment percentage increases to 75 percent. In this case, R's loss cannot be offset against P's income since they are not unitary. Corporation R's loss can only be offset against S's net income to the extent it was not distributed to preferred stockholders (\$100). Therefore, \$1,400 of the loss cannot be deducted in 1991 and the Oregon consolidated taxable income of the group would be computed as follows: [Example not included. See ED. NOTE.]

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.713

Hist.: RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; Renumbered from 150-317.713, REV 69-2016, f. 8-15-16, cert. ef. 9-1-16; REV 55-2017, f. & cert. ef. 8-3-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 56-2017

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-8-17

Notice Publication Date:

Rules Amended: 150-316-0535

Subject: 150-316-0535 Federal Tax Deduction: Accrual Method of Accounting Required; Deductions Allowable to Cash Basis Taxpayers; Refunds to Be Included: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0535

Federal Tax Deduction: Accrual Method of Accounting Required; Deductions Allowable to Cash Basis Taxpayers; Refunds to Be Included

(1) Regardless of the method of accounting used by the taxpayer to report income to the federal government and to the State of Oregon, the federal income tax deduction for tax years beginning on or after January 1, 1969, shall be computed under the accrual method of accounting. Under ORS 316.685, an individual's federal income tax for the year must first be computed. The amount of federal income tax for that year will be the taxpayer's deduction on the Oregon income tax return for the same year. Time of actual payment will not be significant.

(2) For tax years beginning January, 1979, or later, any additional federal tax for a prior year shall be deducted when the tax is paid or when the adjustment is finally determined, whichever is later.

Example 1: Cash basis taxpayers' computation of federal income taxes on their 1979 federal tax return was \$550. Their federal withholding for 1979 was \$600. The amount of taxes deductible on their 1979 Oregon return is \$550. In 1980 their federal tax liability as computed on their federal return was \$780. Their withholding for the year 1980 was \$650. Their federal tax deduction for 1980 is \$780.

Example 2: Assume the same situation as in Example (1) except that, in 1979, federal tax deficiencies amounting to \$170 for 1976 and \$180 for 1978 were paid. The total tax deduction for 1979 is:

1976 tax — \$170
1978 tax — 180
1979 tax — 550
Total 1979 deduction — \$900

(3) If a person receives a refund of federal income taxes previously deducted on an Oregon return, the amount received shall be added to income in the year in which the refund was received. However, a taxpayer should add only those refunds for which a prior tax benefit has been received.

Example: John and Mary compute their joint 1984 federal income tax to be \$1,200. They had \$1,700 withheld from wages and received a federal refund of \$500. The Internal Revenue Service audited the return, resulting in a refund of \$150 in 1986. They are required to add \$150 to their 1986 Oregon taxable income.

(4) Federal Tax Deduction:

(a) For tax years beginning on or after January 1, 1987, the federal tax deduction on each return is limited to the lesser of:

(A) The amount of federal tax accrued attributable to the current year;

or

(B) \$3,000 (\$1,500 if married filing separately).

(b) Refunds of federal tax for a prior year for which a previous tax benefit was received are included as income in the year received. The amount of the addition on the Oregon return is the amount of tax benefit received. Tax benefit is the amount of federal tax deducted in a prior year for which you received a refund in a later year.

Example 1: Dan and Karen have a 1987 federal tax liability of \$4,000. They are limited to a \$3,000 federal tax subtraction on their 1987 Oregon return. In 1989, their 1987 return is audited by IRS and they receive a \$1,200 refund. Tax benefit received is calculated as follows:

1987 federal tax subtracted on the 1987 Oregon return — \$3,000
Correct 1987 Oregon return — 2,800
Tax benefit received — \$ 200
Dan and Karen must show \$200 as an addition on their 1989 Oregon return.

(c) Additional tax for a prior year. The deduction for additional federal income taxes paid or determined for tax years beginning on or after January 1, 1987, is the lesser of:

(A) The amount of federal tax accrued attributable to the current year plus any deficiencies paid or determined for prior years during the current year; or

(B) \$3,000 (\$1,500 if married filing separately).

Example 2: Randy's 1989 federal tax liability is \$2,100. During 1989, his 1987 federal return is audited by the IRS. After the audit, he owes \$1,500 additional federal tax. He pays that amount in 1989. On his 1989 Oregon return, Randy may subtract a total of \$3,000 federal tax. Of this, \$2,100 is his 1989 federal tax liability. He may subtract \$900 of the \$1,500 of federal tax paid for 1987 on his 1989 Oregon return.

Lesser of:
1. Additional tax paid — \$1,500
2. Maximum 1989 federal tax subtraction — \$3,000
Less: 1989 federal tax liability — 2,100
3. Maximum subtraction of prior year's federal tax — \$900

(d) If additional federal income taxes are paid or determined in tax years beginning on or after January 1, 1987, for tax years beginning on or before December 31, 1986, the deduction for the additional tax is the lesser of:

(A) The difference between the federal tax deducted on the original return and \$7,000 (\$3,500 if married filing separately); or

(B) The actual amount of additional federal income taxes paid or determined.

Example 3: Ralph and Louise have a 1989 federal tax liability of \$4,500. Also in 1989, they amend their 1986 federal return and pay additional federal tax of \$2,700. Their federal tax deducted on their original 1986 return was \$5,200. Their federal tax subtraction for the 1989 federal tax is limited to \$3,000 but because the additional federal tax paid is for a tax year beginning before December 31, 1986, the additional tax paid is not subject to the \$3,000 limit. Their subtraction for the additional 1986 federal tax paid is the lesser of:

1. Additional tax paid during 1989 — \$2,700
or
2. Maximum 1986 federal tax subtraction — \$7,000 less: 1986 federal tax liability actually deducted — 5,200
3. Maximum subtraction on prior year's federal tax deducted on the 1989 return — \$1,800

Ralph and Louise would subtract \$1,800 of prior year's federal tax.

(5) If husband and wife change from separate returns to joint returns after the original return is filed, the federal tax subtraction to be claimed on the amended return shall be the amount of combined federal tax liability shown on the original returns subject to the dollar limitation in effect for the taxable year. Any additional tax due or refund from the amended federal return shall be reported on the Oregon return in the year paid or received.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.685

Hist.: 1-69; 12-70; 11-73; 9-74; 12-19-75; 11-19-76; 12-31-77; 12-31-78, Renumbered from 150-316.072; 12-31-79, Renumbered from 150-316.072(1); 12-31-83; RD 12-1984, f. 12-5-84, cert. ef. 12-31-84; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; Renumbered from 150-316.685(1), REV 64-2016, f. 8-15-16, cert. ef. 9-1-16; REV 56-2017, f. & cert. ef. 8-8-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 57-2017

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Certified to be Effective: 8-8-17

Notice Publication Date:

Rules Amended: 150-316-0557

Subject: 150-316-0557 Modification of Federal Taxable Income: Oregon Income Tax Claimed as an Itemized Deduction: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

ADMINISTRATIVE RULES

150-316-0557

Modification of Federal Taxable Income: Oregon Income Tax Claimed as an Itemized Deduction

Beginning in tax year 1991, if the taxpayer itemizes deductions for Oregon, the itemized deductions will be subject to the same phase-out requirement as required for federal income tax purposes under IRC Section 68. Oregon law allows federal itemized deductions, after the phase-out, reduced by any Oregon income tax that has been itemized for federal income tax purposes. To determine the amount of phased-out Oregon income tax that must be removed from total itemized deductions, taxpayers will use the following formula: [Formula not included. See ED. NOTE.]

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]
[ED. NOTE: Formulas referenced are available from the agency.]
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 316.695
Hist.: RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; Renumbered from 150-316.695(1)(c)-(A), REV 64-2016, f. 8-15-16, cert. ef. 9-1-16; REV 57-2017, f. & cert. ef. 8-8-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 58-2017

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Certified to be Effective: 8-8-17

Notice Publication Date:

Rules Amended: 150-316-0565

Subject: 150-316-0565 Basis of Depreciable Assets Moved into Oregon: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-316-0565

Basis of Depreciable Assets Moved into Oregon

(1) For purposes of this rule taxpayer means an individual, S corporation, or partnership.

(2) Taxpayers not subject to the apportionment provision of ORS 314.280 or 314.605 to 314.675.

(a) For Assets First Brought into Oregon's Taxing Jurisdiction in Tax Years Beginning After 1982 and Prior to Tax Years Beginning January 1, 1985.

(A) If a taxpayer first brings a depreciable asset into Oregon's taxing jurisdiction in tax years beginning after December 31, 1982 and prior to tax years beginning January 1, 1985, the asset shall be treated as if it is being converted from personal use to business use. The asset's Oregon basis shall be the lower of the federal unadjusted basis or fair market value. However, in no instance shall the asset's Oregon basis be greater than the lower of:

(i) The federal unadjusted basis less Oregon depreciation previously allowed for Oregon tax purposes; or

(ii) The fair market value less Oregon depreciation previously allowed for Oregon tax purposes.

(B) The federal unadjusted basis of an asset is its original basis prior to any adjustments (including, but not limited to, reductions for investment tax credits, depreciation, depletion, amortization, or amounts properly expensed under IRC Section 179). The asset's fair market value and its expected useful life shall be determined as of the time the asset was brought into Oregon's taxing jurisdiction. The taxpayer shall depreciate the asset using a method consistent with federal tax law as of December 31, 1980.

Example 1: A nonresident taxpayer has a business in California. The taxpayer has a light truck that is used only for business purposes. The truck was purchased on June 1, 1981 at a cost of \$10,000. The truck was depreciated in California over a life of three years. The taxpayer moved to Oregon on September 1, 1983. The fair market value of the truck was \$6,000 on this date. The expected useful life of the truck on September 1, 1983 was four years. The taxpayer elected to depreciate the truck using the straight-line method for Oregon purposes over four years. The amount of depreciation the taxpayer can claim in 1983 for Oregon purposes is \$500 ($412 \times 1/4 \times 6,000$).

Example 2: Assume the same facts as in Example 1 above. The taxpayer sold the asset for \$11,000 on January 1, 1985. The taxpayer shall recognize a total Oregon gain of \$7,000. The type and amount of gain the taxpayer shall recognize for Oregon purposes is computed as follows: [Formula not included. See ED. NOTE.]

(b) For Assets First Brought into Oregon's Taxing Jurisdiction in Tax Years Beginning After 1984. Assets first brought into Oregon's taxing jurisdiction in tax years beginning after December 31, 1984, shall be allowed to use the Accelerated Cost Recovery System (ACRS) method of depreciation as defined and allowed in IRC Section 168 for Oregon purposes, if such

assets were first placed in service in tax years beginning after December 31, 1984 pursuant to the conditions set forth in OAR 150-316-0567. The basis of all assets first brought into Oregon's taxing jurisdiction beginning after December 31, 1984, shall be computed as if the asset is being converted from personal use to business use. The asset's Oregon basis shall be the lower of the federal unadjusted basis or fair market value. However, in no instance shall the asset's Oregon basis be greater than the lower of:

(A) The federal unadjusted basis less Oregon depreciation previously allowed for Oregon tax purposes; or

(B) The fair market value less Oregon depreciation previously allowed for Oregon tax purposes. The allowable depreciation method for Oregon purposes shall be determined as of the time the asset was first placed in service as defined in OAR 150-316-0567.

Example 3: Mike is a California resident. He has owned a beanery business in Yreka since 1984. Mike purchased an office building for \$100,000 and placed it in service on April 1, 1984. For federal purposes, the building qualifies as 18-year real property and is being depreciated using the applicable percentages allowed under ACRS. On January 1, 1988, Mike purchased his only other asset, a light truck, for \$10,000. For federal purposes, the truck qualifies as a 5-year property and is being depreciated using the applicable percentages allowed under MACRS. On January 1, 1990, Mike moved to Ashland, Oregon and continued his California business in Yreka. Since Mike has moved into Oregon's taxing jurisdiction, Mike must determine his Oregon adjusted basis in the building and the truck in order to depreciate the assets for Oregon. The Oregon adjusted basis is computed as follows: [Formula not included. See ED. NOTE.]

The Oregon basis for depreciation of the building is the lesser of the net basis of \$100,000 or fair market value of \$115,000. The basis for Oregon depreciation is \$100,000. Since Oregon did not adopt ACRS for assets first placed in service in tax years beginning before January 1, 1985, Mike must use an allowable depreciation method available for such assets using the federal laws in effect as of December 31, 1980. Mike elects for Oregon purposes to depreciate the building using the straight-line method over a useful life of 14 years.

Truck: The Oregon basis for depreciation of the truck is the lesser of the net basis of \$10,000 or fair market value of \$6,000. The basis for Oregon depreciation is \$6,000. Since Oregon adopted ACRS for assets first placed in service in tax years beginning after December 31, 1984, and subsequently MACRS for assets placed in service in tax years beginning after December 31, 1986, Mike will use MACRS for his Oregon and federal depreciation deduction.

(3) For taxpayers subject to the apportionment provisions of ORS 314.280 or 314.605 to 314.675. The basis for depreciation on a previously acquired asset shall be computed as if the taxpayer had always been subject to Oregon tax. The original unadjusted basis shall be reduced by the depreciation allowable in previous years, using a method acceptable for Oregon tax purposes in the year the asset is placed in service. The remaining basis of the asset shall be depreciated over the remainder of its original useful life, using the same allowable method.

Example 4: Alpha, Ltd. is a partnership that started operation in Washington. On January 1, 1984, the partnership purchased a building in Seattle for \$100,000. For federal purposes, the partnership is depreciating the building under ACRS as 15-year property. The partnership expanded and began doing business in Oregon on July 1, 1986. In 1984 Oregon did not allow the ACRS depreciation method. For Oregon purposes, the partnership elected to depreciate the building under the straight-line method over a 20-year life. Since the partnership is subject to the apportionment rules, the basis of the building for Oregon will be as if the building was depreciated for Oregon tax purposes using the straight-line method from the date of purchase.

Cost — \$100,000
1984 Straight-line depreciation — (5,000)
1985 Straight-line depreciation — (5,000)
1986 depreciation through July 1 — (2,500) — (12,500)
Oregon basis as of July 1, 1986 — \$ 87,500

For purposes of determining Oregon taxable income, the partnership will depreciate the building using an Oregon basis of \$87,500 and the straight-line method over the remaining life. For purposes of determining federal taxable income, the partnership will continue to depreciate the building under ACRS.

(4) Bringing assets into Oregon's taxing jurisdiction. A taxpayer may bring assets into Oregon's taxing jurisdiction in several different manners. First, a nonresident may become an Oregon resident and physically bring business assets into Oregon. Second, a nonresident taxpayer may become an Oregon resident and leave the assets in the other state. Third, a nonresident may open a business operation in Oregon and transfer business assets from a different state to the Oregon business.

(5) Applicable dates. Section (2) of this rule applies to tax years beginning after December 31, 1982.

(6) Five year provision. If for any period of five consecutive calendar years beginning on or after January 1, 1985, the Oregon and federal depreciation methods are identical, the Oregon basis for depreciation may be the same as the federal basis at the option of the taxpayer. This election applies only to assets first brought into Oregon's taxing jurisdiction upon the expiration of the five-year period.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and 183.355(6).]
[ED. NOTE: Formulas referenced are available from the agency.]

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 316.707
Hist.: 12-20-83, 12-31-83(Temp); RD 2-1984, f. & cert. ef. 2-21-84, Renumbered from 150-316.707; RD 10-1986, f. & cert. ef. 12-31-86; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94;

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Renumbered from 150-316.707(1)-(A), REV 64-2016, f. 8-15-16, cert. ef. 9-1-16; REV 58-2017, f. & cert. ef. 8-8-17

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Notice Publication Date:

Rules Amended: 150-317-0310

Subject: 150-317-0310 Bad Debt Reserve of Financial Institutions Not Qualifying as Large Banks that Have Differences in Reserve for Federal and Oregon Tax Purposes: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-317-0310

Bad Debt Reserve of Financial Institutions Not Qualifying as Large Banks that Have Differences in Reserve for Federal and Oregon Tax Purposes

(1) For tax years beginning on or after January 1, 1987, Oregon has adopted the federal provisions for treatment of bad debts of financial institutions provided in Sections 585(a) and 585(b) of the Internal Revenue Code (IRC). These provisions apply to financial institutions not considered large banks, as defined in IRC 585(c)(2).

(2) For Oregon tax purposes, the allowable addition to the reserve for bad debts shall be computed using the method provided in IRC 585(b), starting with the ending balance in the bad debt reserve calculated for Oregon tax purposes for the 1986 tax year.

(a) For 1987 tax years, the federal law provides that the addition to reserve for bad debts shall be the greater of the amounts computed using the percentage method in IRC 585(b)(2) or the experience method in IRC 585(b)(3), as revised in 1986.

(b) For tax years beginning on or after January 1, 1988, federal law provides that the addition to reserve for bad debts shall be no greater than the amount computed using the experience method in IRC 585(b)(2).

(c) An Oregon addition modification shall be made if the federal addition exceeds the Oregon addition to the reserve for bad debts for the tax year. An Oregon subtraction modification shall be made if the Oregon addition exceeds the federal addition to the reserve for bad debts for the tax year.

Example: Small Bank, Inc., must calculate its 1991 addition to its reserve for bad debts based on the following information:

Base Year—1987

Federal reserve balance, 12/31/87—\$600

Oregon reserve balance, 12/31/87—\$400

Bad debts charged against Oregon and federal reserves during 1991—\$500

Federal reserve balance, 12/31/91—\$300

Oregon reserve balance, 12/31/91—\$200

Total bad debts, after recoveries, sustained in current and 5 preceding years—\$2,500

Outstanding loans, 12/31/87—\$150,000

Outstanding loans, 12/31/91—\$180,000

Sum of loans outstanding at end of current and 5 preceding years—\$960,000

Using the experience method, the addition to the reserves for bad debts for 1991 is computed as follows:

The addition to reserve for bad debts is the amount necessary to increase the balance of the reserve (at the close of the current year) to the greater of: [Table not included.

See ED. NOTE.]

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.259

Hist.: RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; Renumbered from 150-317.259-(A), REV 68-2016, f. 8-15-16, cert. ef. 9-1-16; REV 59-

2017, f. & cert. ef. 8-8-17

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Adm. Order No.: REV 60-2017

Filed with Sec. of State: 8-8-2017

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Notice Publication Date:

Rules Amended: 150-317-0370

Subject: 150-317-0370 Bad Debt Reserve of Financial Institutions that Have Changed From Reserve Method to Specific Charge-off Method: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-317-0370

Bad Debt Reserve of Financial Institutions that Have Changed From Reserve Method to Specific Charge-off Method

(1) For tax years beginning on or after January 1, 1987, Oregon has adopted the federal provisions for treatment of bad debts of financial institutions provided in Section 585(c) of the Internal Revenue Code (IRC). Financial institutions considered large banks, defined in IRC 585(c)(2), must recapture the balance in their reserve for bad debts over a four-year period unless they elect the federal "cut-off" method.

(a) The recapture provisions of IRC 585(c)(3) shall be applied to the ending reserve balance calculated for Oregon tax purposes for the 1986 tax year.

(b) For each of the four recapture years, an Oregon addition modification shall be made if the Oregon reserve recaptured exceeds the federal reserve recaptured. An Oregon subtraction modification shall be made if the federal reserve recaptured exceeds the Oregon reserve recaptured.

Example: Lending Corp., a calendar year filer, has a bad debt reserve of \$5,000,000 for federal and \$3,000,000 for Oregon tax purposes on December 31, 1986. Lending Corp. qualifies as a large bank. It elects to recapture 10 percent of the bad debt reserve as income on its 1987 federal return. An Oregon subtraction modification of \$200,000 is calculated as follows: [Table not included. See ED. NOTE.]

(c) Financially troubled banks don't have to recapture existing bad debt reserves as long as their nonperforming loans exceed seventy-five percent of the average of their equity capital for the year.

(2) Oregon also adopted the cut-off method provided under IRC 585(c)(4) for tax years beginning on or after January 1, 1987. If the financial institution elects the cut-off method, the ending balance of the reserve for bad debts for the 1986 tax year shall not be recaptured. Instead, bad debts in tax years after 1986 shall be charged to the reserve rather than deducted from income. When the entire reserve has been depleted, bad debts shall be deducted as they occur.

(a) The provisions in IRC 585(c)(4) shall be applied to the ending reserve balance calculated for Oregon tax purposes for the 1986 tax year.

(b) The ending balance of the reserve for bad debts as of December 31, 1986, may be greater for federal purposes than it is for Oregon. If so, the Oregon reserve will be depleted before the federal reserve. An Oregon subtraction modification shall be made when the Oregon deduction for bad debts exceeds the federal deduction for the tax year.

Example: Large Bank, Inc., elected the cut-off method of treating its reserve for bad debts, starting in 1987. The reserve balance on January 1, 1991, was \$100,000 for federal purposes and \$50,000 for Oregon purposes. During 1991, \$150,000 of bad debts were written off. An Oregon subtraction modification of \$50,000 is calculated as follows: [Table not included. See ED. NOTE.]

(c) The ending balance of the reserve for bad debts as of December 31, 1986, may be greater for Oregon purposes than it is for federal. If so, the federal reserve will be depleted before the Oregon reserve. An Oregon addition modification shall be made when the federal deduction for bad debts exceeds the Oregon deduction for the tax year.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and 183.355(6).]

[Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.310

Hist.: RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; Renumbered from 150-317.310(2), REV 68-2016, f. 8-15-16, cert. ef. 9-1-16; REV 60-

2017, f. & cert. ef. 8-8-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 61-2017

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-8-17

Notice Publication Date:

Rules Amended: 150-317-0660

Subject: 150-317-0660 Computation of Taxable Income; Excess Loss Accounts: This rule was last adopted 08/15/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the

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full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-317-0660

Computation of Taxable Income; Excess Loss Accounts

An Oregon subtraction is allowed for the amount of excess loss account included in federal taxable income under the provisions of Treasury Regulation subsection 1.1502-19 if:

- (1) The losses did not offset unitary income in the year incurred; or
- (2) The excess losses were attributable to losses incurred in tax years beginning prior to January 1, 1986.

Example 1: Corporation P purchased 100 percent of the stock of Corporation S for \$1,000 on January 1, 1986. P and S were not unitary and S had negative earning and profits (E&P) of \$1,000 in the tax year ending December 31, 1986. They filed a consolidated federal and separate Oregon returns in 1986. P and S were unitary and filed consolidated federal and Oregon returns in 1987. During 1987, S realized another negative E&P of \$1,000. P sold S to an unrelated buyer for \$1,000 on January 1, 1988. [Table not included. See ED. NOTE.]

Example 2: Same facts as Example (1), except that all events took place two years earlier. The 1986 Oregon return would show a subtraction of \$2,000,000 because both losses, even the 1985 loss which did offset unitary income, were incurred in tax years beginning before January 1, 1986.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.720

Hist.: RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; Renumbered from 150-317.720, REV 69-2016, f. 8-15-16, cert. ef. 9-1-16; REV 61-2017, f. & cert. ef. 8-8-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 62-2017

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-8-17

Notice Publication Date:

Rules Amended: 150-457-0450

Subject: 150-457-0450 Distribution of Remaining Tax Increment Funds: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-457-0450

Distribution of Remaining Tax Increment Funds

(1) For purposes of this rule "taxing district" includes only those districts that have ad valorem taxes divided with an urban renewal agency pursuant to ORS 457.440.

(2) An urban renewal agency must give the notice required by ORS 457.450(2) to each county assessor that had calculated division of tax amounts for the agency. As soon as practicable, each assessor that is notified will:

(a) Discontinue calculating division of tax and urban renewal special levy amounts under ORS 457.440 and 457.435 for the plan area; and

(b) Notify the county treasurer in writing to discontinue any future distributions to the agency for this plan from any division of tax or urban renewal special levy.

(3) When unexpended moneys in the agency special fund for a plan must be turned over to the county treasurer under ORS 457.450(3), the agency must apportion the moneys between each county that had calculated division of tax amounts for the agency in proportion to the amount received from each county for the plan in the last fiscal year before the notice required by 457.450(2). The agency must turn over each amount that was apportioned to a county to that county's treasurer.

(4) After the county treasurer is notified by the assessor under section (2) of this rule about a plan or the county treasurer receives money from an urban renewal agency under ORS 457.450(3) regarding a plan, the treasurer must:

(a) Discontinue any future distributions to the agency for that plan from the division of tax and any special levy;

(b) Prepare a schedule to allocate for each taxing district that levied within that plan area on the last tax roll any unexpended moneys returned by the agency under ORS 457.450(3) plus any future moneys that otherwise would be distributed for that plan. Allocation percentages must be in pro-

portion to the amounts calculated to be raised from division of tax from each taxing district for that plan on the last tax roll;

(c) Distribute to the taxing districts based on the schedule prepared under subsection (4)(b) of this rule any money that otherwise would be distributed for that urban renewal plan, or that has been returned by the agency for the plan under ORS 457.450(3); and

(d) If a special levy for that plan was combined with special levies for other plans of the same agency and tax had been imposed through one special levy rate, allocate and distribute special levy collections for that plan as follows:

(A) Prepare a schedule to allocate the combined special levy collections for the plans that continue to receive distributions and the plan that will no longer receive distributions. Using the last tax roll on which that plan's special levy was combined with other special levies of the agency, determine the allocation percentage for that plan by dividing that plan's portion of the combined special levy amount by the total special levy amount for the agency. Apply this allocation percentage to allocate an amount for that plan from collections of special levy amounts for any years that the combined special levy included an amount for that plan.

(B) Distribute the special levy amount allocated for that plan to the taxing districts instead of to the urban renewal agency based on the schedule prepared under subsection (4)(b) of this rule. Distribute the remainder of the special levy moneys to the urban renewal agency.

Example 1: Preparation of Schedule under Subsection (4)(b) of this Rule: On September 20, 2006, the assessor notifies the county treasurer under section (2) of this rule to discontinue distributions for the "Example Plan." The treasurer prepares an allocation schedule based on information supplied by the assessor from the 2005-06 roll, which is the last fiscal year for which tax money was turned over to the urban renewal agency for the plan, as follows: [Tables not included. See ED. NOTE.]

Note that the Urban Renewal Special Levy was imposed in the code area, but taxes derived from an urban renewal special levy are never divided. Therefore, the special levy is not part of the special distribution schedule. This example assumes all of the other ad valorem taxes in this code area are divided between the district that imposed them and the urban renewal plan area. Some urban renewal plans may not have all tax levies divided. Any tax levy not divided should be treated like the urban renewal special levy.

Example 2: Distribution of Moneys under Subsection (4)(c) of this Rule:

The county treasurer received \$25,000 that otherwise would be distributed to the agency for the plan area from current year and delinquent taxes. Instead, the treasurer will distribute these taxes as follows using the percentages from Example 1: [Tables not included. See ED. NOTE.]

Example 3: Preparation of Special Levy Schedule under Subsection (4)(d), Paragraph (A) of this Rule: This assumes the agency has two plans with special levies, the "Example Plan," which is being discontinued, and the "Continuing Plan," which will still be using tax increment financing. The last fiscal year the agency requested a special levy for the Example Plan was 2005-06. Both plans have imposed special levies since 2002-03, and the county combined the special levy rate each year. [Tables not included. See ED. NOTE.]

(5) Nothing in this rule is intended to prevent the county from using a different allocation procedure if it results in the same distribution to the taxing districts.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 457.450

Hist.: REV 6-2001, f. & cert. ef. 12-31-01; REV 9-2006, f. 12-27-06, cert. ef. 1-1-07; Renumbered from 150-457.450, REV 39-2016, f. 8-12-16, cert. ef. 9-1-16; REV 62-2017, f. & cert. ef. 8-8-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 63-2017

Filed with Sec. of State: 8-11-2017

Certified to be Effective: 8-11-17

Notice Publication Date:

Rules Amended: 150-222-0110

Subject: 150-222-0110 Calculating Phase-in City Tax Rates: This rule was last adopted 08/10/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-222-0110

Calculating Phase-in City Tax Rates

(1) Only the tax rate of the city will be affected by this rule.

(2) This calculation shall be done for each category of levy of the city when the assessor is notified by the city that an annexed area is to have its rate phased-in over a number of years under the authority of ORS 222.111. The assessor shall use these steps to calculate the city tax rate(s):

(a) Step 1: Establish the annexed area(s) as a separate code area(s).

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(b) Step 2: Determine the current year rate computation value of the city without the annexed area(s) for which tax rates are being phased in.

(c) Step 3: Determine the current year rate computation value of the annexed area(s) for which tax rates are being phased-in.

(A) If the city certifies only a rate, determine the maximum billing rate. Any tax offset rate is subtracted from the certified rate based on the value of the nonphased-in areas of the city. Multiply the phase-in ratio percentage by the billing rate for each phase-in area established as a separate code area. The result of this calculation will be the city billing rate for that phase-in area.

(B) If the city only certifies a rate, it is not necessary to complete the rest of the steps. The remaining steps only apply in the case where the city has certified a levy in dollars and cents.

(d) Step 4: Multiply the current year taxable assessed value of the annexed area(s) for which tax rates are being phased-in, by the ratio that the tax rate of the annexed area will be to the maximum rate within the area(s) of the city which will pay the maximum tax rate of the city.

(e) Step 5: Add the result(s) of Step 4 of this rule to the value determined in Step 2.

(f) Step 6: Divide the net category of levy for the city by the value calculated in Step 5 and truncate the rate as provided in OAR 150-310-0050. This is the maximum tax rate of the city.

(g) Step 7: Multiply the result of Step 6 by the ratio the rate in the annexed area will be and round to 7 decimal places. The result is the maximum rate of the city for the category of levy in the annexed area for the fiscal year.

(h) Step 8: Multiply the result of Step 7, the rate in the annexed area, by the current year rate computation value of the annexed area. This is the amount to be raised for this category of levy of the city, before any compression due to the limits of Section 11b, Article XI of the Oregon Constitution, in the annexed area.

(i) Step 9: Multiply the result of Step 6 (the maximum city rate) by the current year rate computation value of the city without annexed area(s) which will have a ratio of the city tax rate (the value determined in Step 2). This is the amount of tax to be raised for this category of levy of the city, before any compression due to the limits of Section 11b, Article XI of the Oregon Constitution, in the city portion which is paying the maximum rate.

(j) Step 10: Verify the result by adding the results of Step 8 and 9. This amount should equal the city's category of levy, except for any loss due to the truncation of tax rates.

(3) Example: [Example and Table not included. See ED. NOTE.]

[ED. NOTE: Table & Example referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 222.111

Hist.: RD 3-1991, f. 12-30-91, cert. ef. 12-31-91; REV 13-1999, f. 12-30-99, cert. ef. 12-31-99; Renumbered from 150-222.111(3), REV 15-2016, f. 8-10-16, cert. ef. 9-1-16; REV 63-2017, f. & cert. ef. 8-11-17

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

Rule Caption: Establishment of Full Legal Name by Individual

Adm. Order No.: DMV 11-2017

Filed with Sec. of State: 7-24-2017

Certified to be Effective: 7-24-17

Notice Publication Date: 6-1-2017

Rules Amended: 735-010-0130

Subject: DMV amended OAR 735-010-0130 to include in rule the special characters that can be used in establishing a full legal name within DMV's system and that will appear on DMV documents such as driver licenses, driver permits, identification cards, vehicle titles and vehicle registrations. DMV also amended this rule to clearly state that if a full legal name has been established, that name will appear on title and registration documents even if it varies slightly from how a person completes documents submitted to DMV. If no full legal name has been established the name used on the application for title and registration will appear on title and registration documents. The rule does require that an individual must use the individual's full legal name when doing business with DMV.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-010-0130

Establishment and Use of Full Legal Name by an Individual

All of the following apply to establishment and use of a full legal name by an individual:

(1) When first applying for an Oregon driver license, driver permit or identification card, an applicant establishes the applicant's full legal name by presenting one or more documents proving:

(a) Identity and date of birth, as required under OAR 735-062-0020; or

(b) Proof of current legal name, as required under OAR 735-062-0014.

(2) When completing an application for vehicle title or registration purposes, the applicant must provide the applicant's full legal name. If there is a discrepancy between the applicant's name, as it appears on the application, and the full legal name established by the applicant, as described in section (1) of this rule, DMV will use the applicant's full legal name when issuing title or registration documents. If the applicant has not established a full legal name, as described in section (1) of this rule, DMV will use the name as it appears on the application when issuing title or registration documents.

(3) An individual must use the same name in conducting all business with DMV. The individual must also provide the DMV-assigned customer number shown on the driver license, driver permit or identification card, if known.

(4) An individual's full legal name does not include a title or honorific such as, but not limited to, Mr., Mrs., Reverend or Doctor.

(5) DMV will maintain an individual's full legal name in its records using letters of the Roman alphabet, hyphens, apostrophes and spaces. A suffix to the name may contain Roman numerals or ordinal numbers.

Stat. Auth.: ORS 184.616, 184.619, 802.010

Stats. Implemented: ORS 801.562, 803.015, 803.050, 803.140, 803.220, 803.370, 807.050, 807.110, 807.400, 807.420, 807.560, 809.135, 821.080

Hist.: DMV 6-1999, f. & cert. ef. 12-17-99; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 23-2008(Temp), f. 9-11-08, cert. ef. 9-15-08 thru 3-13-09; DMV 27-2008, f. 12-15-08, cert. ef. 1-1-09; DMV 11-2017, f. & cert. ef. 7-24-17

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Rule Caption: Requires vehicle dealers to maintain proof of insurance with DMV and adds a related violation

Adm. Order No.: DMV 12-2017

Filed with Sec. of State: 7-24-2017

Certified to be Effective: 7-24-17

Notice Publication Date: 6-1-2017

Rules Adopted: 735-150-0031

Rules Amended: 735-150-0110, 735-150-0140

Subject: ORS 822.033 requires an applicant for a vehicle dealer certificate to submit a certificate of insurance to DMV (as proof of insurance) upon initial application and at each subsequent certificate renewal. Dealer certificates are valid for three years. The certificate of insurance shows the effective date and expiration date of the required dealer insurance policy in effect at the time of submission. Vehicle dealer liability insurance policies typically expire in one year or less. But there is nothing in statute or DMV rule to require a dealer to maintain proof of valid insurance for the duration of the dealer's certificate. Consequently, DMV adopted OAR 735-150-0031 to require vehicle dealers to maintain proof of a current, valid insurance policy in their official business records for the duration of their dealer certificate.

The amendment of OAR 735-150-0110 adds a new violation — failure to maintain proof of dealer liability insurance — to the list of dealer offenses subject to sanctions and penalties. The amendment of OAR 735-150-0140 specifies the schedule of sanction both for the offense of failure to maintain proof of dealer liability insurance and to possible offenses of ORS 822.045 that are not otherwise included in rule.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-150-0031

Proof of Dealer Liability Insurance

(1) A dealer must maintain the insurance coverage required by ORS 822.033 during the period that insurance is required under ORS 822.020 or 822.040.

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(2) Unless exempt under ORS 822.033, a dealer must maintain proof of a current, valid insurance policy that provides the insurance coverage required by ORS 822.033.

(3) Upon request by DMV, a dealer must provide to DMV proof of insurance required by subsection (1).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035

Stats. Implemented: ORS 822.033, 822.035

Hist.: DMV 12-2017, f. & cert. ef. 7-24-17

735-150-0110

Dealer Offenses Subject to Civil Penalty or Sanction

In addition to any other penalties provided by law, a dealer will be subject to the civil penalties or sanctions in OAR 735-150-0120 to 0140 if the dealer:

(1) Allows or assists a person who is not an employee of the dealer to imply or represent an affiliation with the vehicle dealership in order to engage in any activity pursuant to ORS 822.005.

(2) Fails to submit all taxes or fees due this state or another jurisdiction in connection with the sale or transfer of a vehicle.

(3) Signs a name or allows any other person to sign a name of the owner, security interest holder, or lessor on a certificate of title, salvage title or any motor vehicle document used by DMV in the transfer of title without first obtaining a properly signed Power of Attorney. This section does not apply to a dealer who as an owner, security interest holder or lessor signs their own name on a certificate of title, salvage title or any motor vehicle document used by DMV in the transfer of title.

(4) Purchases, sells, disposes of or has in the dealer's possession, any vehicle that the dealer knows or with reasonable diligence should have known has been stolen or appropriated without the consent of the owner.

(5) Fails to comply with state or federal laws, rules or regulations pertaining to the construction or safety of motor homes, trailers or campers.

(6) Buys, sells, receives, disposes of, conceals or has in the dealer's possession any vehicle or component from which an identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle.

(7) Violates any provision of state or federal law, rule or regulation concerning odometer tampering, repair, readings or notices.

(8) Prints or produces or causes to be printed or produced any certificate of title or certificate of registration without authority, or holds or uses any such certificate or assignment knowing that it has been printed or purchased without authority.

(9) Commits any offense specified in ORS 822.045.

(10) Acts as a vehicle dealer anytime between the day DMV receives notice of cancellation of bond or insurance and the day the vehicle dealer presents proof to DMV of another bond or certificate of insurance.

(11) Issues a temporary registration permit to a person not domiciled in Oregon or who is otherwise not subject to or eligible for Oregon registration.

(12) Fails to notify DMV on a form or in a format approved by DMV within seven (7) calendar days of receipt of a vehicle in inventory, that a vehicle has been transferred to the dealer.

(13) Fails to immediately remove registration plates from vehicles registered in other jurisdictions that are in the dealer's inventory. The dealer may retain the plates until the vehicle is sold.

(14) Fails to destroy registration plates removed from vehicles registered in other jurisdictions at the time of sale if the vehicle is to be titled in Oregon or in a jurisdiction other than that in which the vehicle was previously registered. If the vehicle will be re-registered in the former jurisdiction, the plates may be placed back on the vehicle following the sale.

(15) Completes or allows an employee to complete a DMV Vehicle Identification Number (VIN) Inspection form without physically inspecting the vehicle for its vehicle identification number.

(16) Sells a vehicle of a type not authorized by the dealer's certificate.

(17) Fails to comply with any provision of ORS 822.060 through 822.065 concerning consignment sales.

(18) Fails to comply with any provision of ORS 822.040(4) or OAR 735-150-0033 concerning the display of a vehicle at a location other than the dealer's place of business for the purpose of advertising.

(19) Provides brokerage services and fails:

(a) To provide the written disclosure described in ORS 822.047(2);

(b) To provide the written statement described in ORS 822.047(3); or

(c) To comply with the requirements for broker fees described in ORS 822.047(4).

(20) Knowingly makes a false statement of material fact in:

(a) An application for a dealer certificate, a dealer certificate renewal or attachments thereof;

(b) An application to Correct Dealer/Rebuilder Vehicle Dealer Certificate (DMV Form 735-371);

(c) Any investigation by DMV or law enforcement; or

(d) Any DMV document.

(21) Commits a felony by violating ORS 822.605.

(22) Fails to maintain records described in OAR 735-150-0050(5) or fails to make those records available to DMV, law enforcement personnel or investigators of the Oregon Department of Justice upon their request.

(23) Fails to comply with the requirements of the Oregon Vehicle Code with reference to notices or reports of the transfer of vehicles or campers.

(24) Allows or permits the unlawful use of any certificate or registration plate.

(25) Falsely certifies under ORS 822.033 that the dealer is exempt from filing a certificate of insurance as required by ORS 822.020 or 822.040.

(26) Fails to maintain the insurance coverage described in OAR 735-150-0031(1).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.370, 803.600, 803.625, 821.060, 821.080, 822.035

Stats. Implemented: ORS 822.005 - 822.080

Hist.: MV 3-1980, f. 2-15-80, ef. 4-1-80; Suspended by MV 5-1980(Temp), f. & ef. 4-2-80; MV 4-1981, f. 4-1-81, ef. 4-10-81; MV 7-1982, f. & ef. 3-3-82; MV 7-1987, f. & ef. 7-13-87; MV 1-1988, f. & cert. ef. 1-5-88; Administrative Renumbering 3-1988, Renumbered from 735-071-0003; MV 39-1989, f. & cert. ef. 10-3-89; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 18-2002, f. & cert. ef. 9-20-02; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06; DMV 31-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 13-2015, f. 12-17-15, cert. ef. 1-1-16; DMV 14-2015, f. 12-17-15, cert. ef. 1-1-16; DMV 9-2017, f. & cert. ef. 5-25-17; DMV 12-2017, f. & cert. ef. 7-24-17

735-150-0140

Schedule of Civil Penalties for Certified Dealers

(1) Failure to comply with any provision of OAR 735-150-0030(1) through (3), concerning dealer location regulations:

(a) For the first violation: warning;

(b) For the second violation: \$250;

(c) For the third violation: \$500;

(d) For the fourth and subsequent violation(s): \$1,000.

(2) Failure to comply with the provisions of OAR 735-150-0030(4) concerning dealer location regulations:

(a) For the first violation: \$500;

(b) For the second and subsequent violation(s): \$1,000.

(3) Failure to comply with OAR 735-150-0040(5), (6) or (7), concerning delivery of the registration plates, stickers or temporary registration to the purchaser of a vehicle:

(a) For the first violation: warning;

(b) For the second violation: \$250;

(c) For the third violation: \$500;

(d) For the fourth and subsequent violation(s): \$1,000.

(4) Failure to comply with any provision of OAR 735-150-0050, concerning submission of DMV documents and fees on behalf of a purchaser:

(a) For the first violation: warning;

(b) For the second violation: \$250;

(c) For the third violation: \$500;

(d) For the fourth and subsequent violation(s): \$1,000.

(5) Failure to comply with any provision of OAR 735-150-0060, concerning issuance of temporary registration permits:

(a) For the first violation: warning;

(b) For the second violation: \$50;

(c) For the third violation: \$100;

(d) For the fourth and subsequent violation(s): \$250.

(6) Failure to comply with any provision of OAR 735-150-0070, concerning trip permits issued by dealers:

(a) For the first violation: warning;

(b) For the second violation: \$50;

(c) For the third violation: \$100;

(d) For the fourth and subsequent violation(s): \$250.

(7) Failure to comply with any provision of OAR 735-150-0080, concerning requirements for issuing light vehicle or recreational vehicle trip permits:

(a) For the first violation: warning;

(b) For the second violation: \$50;

(c) For the third violation: \$100;

(d) For the fourth and subsequent violation(s): \$250.

(8) Failure to comply with OAR 735-150-0110(1), prohibiting a dealer from allowing a person not employed by the dealership to engage in dealer activity:

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- (a) For the first violation: \$250;
(b) For the second violation: \$500;
(c) For the third and subsequent violation(s): \$1,000.
(9) Failure to comply with OAR 735-150-0110(2), concerning failing to submit all taxes and fees:
(a) For the first violation: \$250;
(b) For the second violation: \$500;
(c) For the third and subsequent violation(s): \$1,000.
(10) Failure to comply with OAR 735-150-0110(3), concerning a dealer who signs the name or allows any other person to sign the name of an owner, security interest holder or lessor on title or transfer documents without a Power of Attorney:
(a) For the first violation: \$500;
(b) For the second and subsequent violation(s): \$1,000.
(11) Failure to comply with OAR 735-150-0110(4), concerning dealing in stolen vehicles: \$1,000 for the first and subsequent violation(s).
(12) Failure to comply with OAR 735-150-0110(6), concerning altered vehicle identification numbers: \$1,000 for the first and subsequent violation(s).
(13) Failure to comply with OAR 735-150-0110(7), concerning odometers, except violations of ORS 815.410, 815.420 and 815.430:
(a) For the first violation: warning;
(b) For the second violation: \$250;
(c) For the third violation: \$500;
(d) For the fourth and subsequent violation(s): \$1,000.
(14) Violation of ORS 815.410, 815.420 and 815.430, concerning odometer tampering and notices: \$1,000 for the first and subsequent violation(s).
(15) Failure to comply with OAR 735-150-0110(8), concerning fraudulent title or registration documents: \$1,000 for the first and subsequent violation(s).
(16) Failure to comply with OAR 735-150-0110(10), concerning acting as a vehicle dealer any time between the day DMV receives notice of cancellation of bond or insurance and the day the vehicle dealer presents proof to DMV of another bond or certificate of insurance:
(a) For the first violation: warning;
(b) For the second violation: \$250;
(c) For the third violation: \$500;
(d) For the fourth and subsequent violation(s): \$1,000.
(17) Violation of ORS 822.045(1)(d), (e), (j) or (k) or OAR 735-150-0039: \$1,000 for the first and subsequent violation(s).
(18) Failure to comply with OAR 735-150-0110(11), concerning issuance of temporary registration permits to persons not eligible:
(a) For the first violation: warning;
(b) For the second violation: \$250;
(c) For the third violation: \$500;
(d) For the fourth and subsequent violation(s): \$1,000.
(19) Failure to comply with OAR 735-150-0110(12), concerning failure to notify DMV of a vehicle transferred to the dealer:
(a) For the first violation: warning;
(b) For the second violation: \$50;
(c) For the third violation: \$100;
(d) For the fourth violation: \$250;
(e) For the fifth and subsequent violation(s): \$500.
(20) Failure to comply with OAR 735-150-0110(13), concerning failure to remove foreign registration plates:
(a) For the first violation: warning;
(b) For the second violation: \$50;
(c) For the third violation: \$100;
(d) For the fourth and subsequent violation(s): \$250.
(21) Failure to comply with OAR 735-150-0110(14), concerning failure to destroy foreign registration plates:
(a) For the first violation: warning;
(b) For the second violation: \$50;
(c) For the third violation: \$100;
(d) For the fourth and subsequent violation(s): \$250.
(22) Failure to comply with OAR 735-150-0110(15), concerning the physical inspection of vehicle identification numbers:
(a) For the first violation: warning;
(b) For the second violation: \$250;
(c) For the third violation: \$500;
(d) For the fourth and subsequent violation(s): \$1,000.
(23) Failure to comply with OAR 735-150-0110(16), concerning the sale of vehicles of a type not authorized by the dealer certificate:
(a) For the first violation: warning;
(b) For the second violation: \$250;
(c) For the third violation: \$500;
(d) For the fourth and subsequent violation(s): \$1,000.
(24) Failure to comply with ORS 822.060(1)(a), (b), (c), (e), (h) or (i), concerning consignment sales:
(a) For the first violation: warning;
(b) For the second violation: \$250;
(c) For the third violation: \$500;
(d) For the fourth and subsequent violation(s): \$1,000.
(25) Violations of ORS 822.060(1)(d), (f) or (g) or 822.065, concerning consignment sales:
(a) For the first violation: \$500;
(b) For the second and subsequent violation(s): \$1,000.
(26) Failure to comply with OAR 735-150-0110(20) concerning making a false statement of material fact:
(a) For the first violation: \$500;
(b) For the second and subsequent violation(s): \$1,000.
(27) Any violation of the Oregon Vehicle Code or OAR chapter 735 not otherwise classified in this rule:
(a) For the first violation: warning;
(b) For the second violation: \$250;
(c) For the third violation: \$500;
(d) For the fourth and subsequent violation(s): \$1,000.
(28) Violations of OAR 735-150-0035 concerning dealer records:
(a) For the first violation: warning;
(b) For the second violation: \$500;
(c) For the third and subsequent violation(s): \$1,000.
(29) Violations of OAR 735-150-0045 and, ORS 822.082 through 822.084 concerning special rules and statutory provisions for RV dealers:
(a) For a certified dealer or person acting as a show organizer that conducts a show without a license:
(A) For the first violation: \$250;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.
(b) For failing to display a show license at a show:
(A) For the first violation: \$250;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.
(c) For a certified dealer or person acting as a show organizer that fails to include a dealer in a show license application:
(A) For the first violation: \$250;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.
(d) For selling a new RV without maintaining a service facility:
(A) For the first violation: \$250;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.
(e) For selling a new RV while maintaining a service facility that is not primarily engaged in the service and repair of RVs:
(A) For the first violation: \$250;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.
(f) For failing to prominently display the location of the dealer's service facility at a sales facility or RV show:
(A) For the first violation: Warning;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.
(g) For subcontracting a service facility rather than directing the service operation:
(A) For the first violation: \$250;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.
(h) For a certified dealer or person acting as a show organizer that conducts a show beyond the scope of the show license. For example, for additional days or hours:
(A) For the first violation: \$250;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.
(i) For submitting an application that contains a false statement or omission of material fact:
(A) For the first violation: \$250;
(B) For the second violation: \$500;
(C) For the third and subsequent violation(s): \$1,000.

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(j) Except as otherwise provided in OAR 735-150-0140, the following apply for any violation of OAR 735-150-0045 and ORS 822.082 to 822.084:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1,000.

(30) Violation of OAR 735-150-0055 concerning vehicle dealer document processing fees:

- (a) For the first violation: \$250;
- (b) For the second violation: \$500;
- (c) For the third and subsequent violation(s): \$1,000.

(31) Violation of OAR 735-150-0037 concerning records; satisfying prior interest; providing clear title:

- (a) For the first violation: Warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(32) Violation of OAR 735-150-0110(24), concerning the unlawful use of any certificate or registration plate:

- (a) For the first violation: \$100;
- (b) For the second violation: \$500;
- (c) For the third violation: \$750;
- (d) For the fourth and subsequent violation(s): \$1,000.

(33) Failure to comply with any provision of ORS 822.047 or OAR 735-150-0110(19), concerning the requirements for providing brokerage services:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(34) Violations of OAR 735-150-0033 and, ORS 822.040(4) concerning the display of a vehicle at a location other than the dealers place of business for the purpose of advertising:

- (a) For the first violation: Warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(35) Except as otherwise provided in this rule, failure to comply with any provision of ORS 822.045:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(36) Failure to maintain the insurance coverage described in OAR 735-150-0031 (1):

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(37) Violation of OAR 735-150-0110(21) and ORS 822.605 concerning false swearing relating to regulation of a vehicle dealer business: \$1,000 for the first and subsequent violation(s).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.009, 822.035
Stats. Implemented: ORS 822.009, 822.035, 822.045
Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 12-1998(Temp), f. & cert. ef. 9-14-98; DMV 12-1998(Temp), f. & cert. ef. 9-14-98 thru 3-12-99; DMV 2-1999, f. & cert. ef. 2-19-99; DMV 8-2000, f. & cert. ef. 8-10-00; DMV 10-2001, f. & cert. ef. 6-14-01; DMV 22-2001(Temp), f. & cert. ef. 10-17-01 thru 4-14-02; DMV 26-2001 f. 12-14-01, cert. ef. 1-1-02; DMV 18-2002, f. & cert. ef. 9-20-02; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06; DMV 3-2014, f. & cert. ef. 5-19-14; DMV 9-2015, f. 11-17-15, cert. ef. 1-1-16; DMV 12-2017, f. & cert. ef. 7-24-17

Department of Transportation, Motor Carrier Transportation Division Chapter 740

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

Adm. Order No.: MCTD 4-2017

Filed with Sec. of State: 7-25-2017

Certified to be Effective: 7-25-17

Notice Publication Date: 6-1-2017

Rules Amended: 740-100-0010, 740-100-0065, 740-100-0070, 740-100-0080, 740-100-0085, 740-100-0090, 740-110-0010

Subject: This rulemaking covers the annual adoption of federal motor carrier safety and hazardous materials transportation regulations, and the adoption of international standards related to driver, vehicle and hazardous materials out-of-service violations. The changes are necessary to ensure Oregon's motor carrier safety, hazardous materials and driver, vehicle and hazardous materials out-of-service requirements are current with national and international standards.

Rules Coordinator: Lauri Kunze—(503) 986-3171

740-100-0010

Adoption of Federal Safety Regulations

(1) Except as provided in section (4) of this rule, the rules and regulations adopted by the United States Department of Transportation contained in Title 49, Code of Federal Regulations (CFR), Parts 40 (Procedures For Transportation Workplace Drug and Alcohol Testing Programs), 380 (Special Training Requirements), 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards Requirements and Penalties), 385 (Safety Fitness Procedures), 387 (Minimum Levels of Financial Responsibility for Motor Carriers), 390 (Federal Motor Carrier Safety Regulations: General), 391 (Qualification of Drivers), 392 (Driving of Motor Vehicles), 393 (Parts and Accessories Necessary for Safe Operation), 395 (Hours of Service of Drivers), 396 (Inspection, Repair and Maintenance), 398 (Transportation of Migrant Workers), 399 (Employee Safety and Health Standards) and all amendments thereto in effect April 1, 2017, are adopted and prescribed by the Department of Transportation (ODOT) to be observed by carriers conducting operations in interstate commerce, subject to ORS Chapter 823 and 825.

(2) The provisions of section (1) of this rule as adopted are prescribed by the Department to be observed by carriers conducting operations in intrastate commerce, subject to ORS Chapter 823 and 825, except:

(a) Relating to Part 385:

(A) The provisions of Part 385.1(b), 385.13(b), 385.13(c), 385.13(d)(3), 385.301 through 385.337 and Appendix A to Part 385 do not apply to a motor carrier operating exclusively in intrastate commerce.

(B) With reference to Part 385.13(a), 385.19(c) and 385.19(d), current intrastate safety rating information is available from ODOT only by telephone at (503) 378-6963.

(C) With reference to Part 385.15 and 385.17, requests for administrative review of an intrastate safety rating or requests for a change to a proposed or final intrastate safety rating based on corrective actions must be submitted in writing to the ODOT Motor Carrier Transportation Division, 3930 Fairview Industrial Drive SE, Salem OR 97302.

(D) With reference to Appendix B of Part 385, a final intrastate safety rating will be determined by the Department and the motor carrier to whom the rating applies will be notified in writing of its intrastate safety rating.

(E) In addition to the violations described in the List of Acute and Critical Violations in Appendix B of Part 385, the Department will include the following violations in a determination of an intrastate or an interstate safety rating:

(i) Financial responsibility requirements in OAR 740-040-0010 (critical) and 740-040-0020 (acute); and

(ii) Intrastate drivers hours-of-service requirements found in OAR 740-100-0010(2)(i) (critical).

(b) The provisions of Part 387 will apply to intrastate motor carriers only when transporting hazardous materials, hazardous substances or hazardous wastes.

(c) With reference to Part 390.21, external identification requirements do not apply to vehicles operated exclusively in intrastate private carriage provided that neither the gross vehicle weight, the gross vehicle weight rating, the gross combination weight or the gross combination weight rating exceeds 26,000 pounds, except those vehicles transporting hazardous materials of a type or quantity requiring placarding or passenger vehicles designed or used to transport more than 15 passengers including the driver.

(d) The rules in Part 391.11(b)(1) regarding the minimum age for a commercial motor vehicle operator do not apply to a driver engaged in intrastate commerce. A driver engaged in intrastate commerce must be at least 18 years old.

(e) The rules in Part 391 (except Part 391.11(b)(2), English Speaking Driver, Part 391.11(b)(5), Valid Operator's License and Part 391.15, Disqualification of Drivers) do not apply to a driver who is employed by a private carrier engaged in intrastate commerce and:

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(A) Does not drive a motor vehicle with a gross vehicle weight, gross vehicle weight rating, gross combination weight or gross combination weight rating of 26,001 pounds or more; and

(B) Does not transport hazardous materials of a type or quantity requiring the vehicle to be marked or placarded in accordance with Title 49, CFR, Part 177.823; or

(C) Does not operate a passenger vehicle designed or used to transport 16 or more passengers, including the driver.

(f) Notwithstanding Parts 391.41 to 391.49 (Subpart E — Physical Qualifications and Examinations) the Department may issue a waiver of physical disqualification to a commercial vehicle driver who has met the conditions established by the Driver and Motor Vehicle Services Division.

(g) With reference to Part 395.1(e)(1), motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to exceed 12 hours driving following ten consecutive hours off-duty;

(h) With reference to Part 395.1(g), motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

(i) With reference to Part 395.1(e)(2) and Part 395.3, a motor carrier conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

(C) Drive for any period following 70 hours on-duty in any seven consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week, however, any period of seven consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours; or

(D) Drive for any period following 80 hours on-duty in any eight consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week, however, any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

(j) The provisions of subsections (g) through (i) of this section are not applicable to the transportation of hazardous materials of a type or quantity requiring placarding. A motor carrier transporting hazardous materials of a type or quantity requiring placarding must comply with Part 395.

(3) The intracity operation exemption adopted by the US Department of Transportation found in Part 391.62 is not adopted and prescribed.

(4) Wherever reference is made in Title 49 of the CFR as adopted by this rule to a federal entity, including but not limited to “Federal Highway Administrator,” “Regional Director,” “Special Agent of the Federal Highway Administration” or the “Federal Motor Carrier Safety Administration,” it will be construed to mean the Oregon Department of Transportation or a person authorized by the Oregon Department of Transportation to act on its behalf.

(5) Copies of the federal regulations referred to in this rule are available from ODOT Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, www.fmcsa.dot.gov.

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

Stats. Implemented: ORS 825.210, 825.250, 825.252

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 4-1979, f. & ef. 9-21-79 (Order No. 79-641); PUC 5-1979, f. & ef. 9-21-79 (Order No. 79-635); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Part 2, f. & ef. 6-30-80 (Order No. 80-475); PUC 7-1980, f. & ef. 11-6-80 (Order No. 80-845); Renumbered from 860-035-0010; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 12-1982(Temp), f. 12-20-82, ef. 1-1-83 (Order No. 82-872); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 2-1983, f. & ef. 3-1-83 (Order No. 83-117); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 19-1984, f. & ef. 9-10-84 (Order No. 84-713); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 17-1986 (Temp), f. & ef. 12-3-86; (Order No. 86-1239); PUC 2-1987 (Temp), f. & ef. 2-25-87 (Order No. 87-248); PUC 4-1987, f. & ef. 6-9-87 (Order No. 87-509); PUC 16-1987(Temp), f. & ef. 12-11-87 (Order No. 87-1244); PUC 4-1988(Temp), f. & ef. 2-12-88 (Order No. 88-161); PUC 6-1988(Temp), f. & ef. 3-9-88 (Order No. 88-818); PUC 14-1988, f. & ef. 7-22-88 (Order No. 88-245); PUC 7-1989, f. & ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & ef. 1-11-91 (and corrected 1-31-91) (Order No. 91-20); PUC 6-1992, f. & ef. 2-26-92 (Order No. 92-292); PUC 13-1992(Temp), f. & ef. 9-4-92 (Order No. 92-1303); PUC 10-1993, f. & ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & ef. 7-13-95 (Order No. 95-562); Renumbered from 860-065-0010; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 5-1996, f. & ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCT 2-1997, f. & ef. 5-9-97; MCT 6-1997, f.

& cert. ef. 8-26-97; MCT 10-1997, f. & cert. ef. 12-22-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 2-1998, f. & cert. ef. 8-20-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 5-2005(Temp), f. 9-16-05, cert. ef. 10-1-05 thru 3-29-06; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 3-2011, f. & cert. ef. 10-26-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 5-2012, f. & cert. ef. 5-18-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 1-2016, f. & cert. ef. 7-27-16; MCTD 4-2017, f. & cert. ef. 7-25-17

740-100-0065

North American Standard Administrative Out-of-Service Criteria

The North American Standard Administrative Out-of-Service Criteria, as recognized by USDOT, in effect April 1, 2017, is adopted and incorporated into this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as “Out-of-Service” must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported, or escorted to a safe location only at the direction of an official authority.

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

Stats. Implemented: ORS 825.210 & 825.252

Hist.: MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 5-2012, f. & cert. ef. 5-18-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15; MCTD 1-2016, f. & cert. ef. 7-27-16; MCTD 4-2017, f. & cert. ef. 7-25-17

740-100-0070

North American Standard Vehicle Out-of-Service Criteria

The North American Standard Vehicle Out-of-Service Criteria, as recognized by USDOT, in effect April 1, 2017, is adopted by and incorporated into this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to one or more of the following:

(1) Out-of-Service Condition: When any motor vehicle by reason of its mechanical condition or loading, is determined to be so unsafe as to likely cause an accident or breakdown or when such conditions would likely contribute to loss of control of the vehicle by the driver, said vehicle must be placed out-of-service. No motor carrier shall permit or require nor shall any person operate any motor vehicle declared and marked “out-of-service” until all required repairs of violations which resulted in the out-of-service condition have been completed. If, at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported or escorted only at the direction of an official authority.

(2) Other: Violations other than out-of-service conditions detected during the inspection process will not preclude the completion of the current trip or dispatch. However, such violations must be corrected or repaired prior to redispach.

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

Stats. Implemented: ORS 825.250 & 825.252

Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-372); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0030; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15; MCTD 1-2016, f. & cert. ef. 7-27-16; MCTD 4-2017, f. & cert. ef. 7-25-17

740-100-0080

North American Standard Hazardous Material Out-of-Service Criteria

The North American Standard Hazardous Materials Out-of-Service Criteria, as recognized by USDOT, in effect April 1, 2017, is adopted and incorporated into this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as “Out-of-Service” must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the pub-

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lic to relocate the vehicle, it will be towed, transported or escorted to a safe location only at the direction of an official authority.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 825.250, 825.258 & 825.260

Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-377); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0035; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15; MCTD 1-2016, f. & cert. ef. 7-27-16; MCTD 4-2017, f. & cert. ef. 7-25-17

740-100-0085

North American Standard Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials

The North American Standard Out-of-Service Criteria Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials, as recognized by USDOT, in effect April 1, 2017, is adopted and incorporated in this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported or escorted to a safe location only at the direction of an official authority.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 825.250, 825.258 & 825.260

Hist.: MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15; MCTD 1-2016, f. & cert. ef. 7-27-16; MCTD 4-2017, f. & cert. ef. 7-25-17

740-100-0090

North American Standard Driver Out-of-Service Criteria

(1) Except for any content that conflicts with requirements of section (2) of this rule, the North American Standard Driver Out-of-Service Criteria, as recognized by USDOT in effect April 1, 2017, is adopted and incorporated by reference. Inspection violations identified in the Out-of-Service Criteria may be subject to one or both of the following:

(a) Out-of-Service Violation: Drivers with violations under this category must not operate a commercial motor vehicle for a specified period of time or for some violations until a required condition is met.

(b) Other: Violations other than out-of-service violations require no immediate action by the driver or motor carrier. The carrier must certify in accordance with the terms contained on the inspection document and return it to the Department of Transportation within 15 days.

(2) Drivers found to be disqualified in this state or any other jurisdiction, as specified in 49 CFR 391.15 will be placed Out-of-Service until requalification is established.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 825.250 & 825.252

Hist.: PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0040; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 6-2013, f. & cert. ef. 8-26-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15; MCTD 1-2016, f. & cert. ef. 7-27-16; MCTD 4-2017, f. & cert. ef. 7-25-17

740-110-0010

Adoption of United States Department of Transportation Hazardous Materials Regulations

(1) Any person subject to ORS Chapter 825 who transports a hazardous material and any person subject to 823.061 who causes to be transported a hazardous material must comply with the rules and regulations governing the transportation of hazardous materials as prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, Part 397 and such portions of Parts 107-178 and 180 as are applicable and amendments thereto, in effect on April 1, 2017.

(2) Copies of the federal regulations referred to in this rule are available from ODOT, Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, www.fmcsa.dot.gov.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 825.258
Stats. Implemented: ORS 823.061, 825.258

Hist.: Refiled in PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 98, f. 1-18-61, ef. 1-12-61 (Order No. 37620); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 132, f. 3-29-65, ef. 4-1-65 (Order No. 41035); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 150, f. 11-7-68, ef. 12-1-68 (Order No. 45141); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); PUC 5-1980, f. & ef. 10-13-80 (Order No. 80-758); Renumbered from 860-036-0055; PUC 1-1981, f. & ef. 2-9-81; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 6-1982, f. & ef. 5-6-82 (Order No. 82-336); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 1-1984, f. & ef. 2-9-84 (Order No. 84-076); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 7-1986(Temp), f. & ef. 7-25-86 (Order No. 86-736); PUC 13-1986, f. & ef. 10-30-86 (Order No. 86-1106); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 1-1996, f. 2-16-96, cert. ef. 4-1-96; Renumbered from 860-066-0055; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 1-2016, f. & cert. ef. 7-27-16; MCTD 4-2017, f. & cert. ef. 7-25-17

Department of Veterans' Affairs Chapter 274

Rule Caption: Department of Veterans' Affairs distribution of appropriated funds to veterans' organizations and counties.

Adm. Order No.: DVA 1-2017(Temp)

Filed with Sec. of State: 7-20-2017

Certified to be Effective: 7-21-17 thru 1-12-18

Notice Publication Date:

Rules Adopted: 274-030-0541

Rules Amended: 274-030-0500, 274-030-0505, 274-030-0515, 274-030-0520, 274-030-0525, 274-030-0535, 274-030-0545, 274-030-0550, 274-030-0560, 274-030-0565, 274-030-0570, 274-030-0630
Rules Suspended: 274-030-0506, 274-030-0510, 274-030-0530, 274-030-0555, 274-030-0575, 274-030-0600, 274-030-0602, 274-030-0610, 274-030-0615, 274-030-0620, 274-030-0621, 274-030-0640

Subject: These temporary rules adopt a new rule, amend rules and suspend certain rules in OAR Chapter 274, Division 30. Division 30 contains procedures veterans' organizations and counties must follow when applying for funds allocated to the Oregon Department of Veterans' Affairs for the purpose of distributing these funds to veterans' organizations and counties that conduct a program, acting under power of attorney for veterans in connection with claims for benefits, to assist veterans in prosecutions of their claims and to resolve problems arising out of previous military service.
Rules Coordinator: Laurie Skillman—(503) 373-2016

274-030-0500

Definitions for Division 30

(1) "Accredited" means an individual officially recognized and authorized by the United States Department of Veterans Affairs (USDVA) to assist in the preparation, presentation, and prosecution of a claim for USDVA benefits.

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(2) "Advisory Committee" means the Advisory Committee to the Director defined in ORS 406.210.

(3) "Capital Assets" means tangible and intangible property as defined as "capital assets" in the State of Oregon Accounting Manual, Number 10.50.00 PR, as amended, that have initial estimated useful lives beyond a single year and have an initial cost of at least \$5,000 and does not include items below \$5,000. Examples of capital assets include land, land improvements, buildings and building improvements, motor vehicles, equipment and machinery, works of art and historical treasures, and infrastructure items such as state highways and airports.

(4) "Capital outlay" means expenditures for capital assets.

(5) "County" means a county that carries on a program of veterans' rehabilitation work described in ORS 406.320 and that contracts for or employs a part-time or full-time veteran service officer.

(6) "County Veteran Service Officer" means a person appointed by a county under ORS 408.410 who is contracted or employed as a part-time or full-time agent or employee of a county to carry on a program of veterans' rehabilitation work.

(7) "Department" means the Department of Veterans' Affairs as defined in ORS 406.005.

(8) "Director" means the Director of Veterans' Affairs as defined in ORS 406.410.

(9) "Funds" means monies that have been appropriated to the Department for distribution to veterans' organizations and counties under ORS 406.310 and 406.454.

(10) "Funds Available" shall mean the funds remaining, after any distributions have been made to veterans' organization and counties, from those funds appropriated to the Department for distribution to veterans' organizations and counties under ORS 406.310 and 406.454.

(11) "Qualified Veterans Organization" means a veterans' organization qualified to apply for funds under ORS 406.310 and 406.320 that has carried on a program of veterans' rehabilitation work by employing a part-time or full-time paid veteran service officer in Oregon for not less than two years immediately preceding an application for funds under ORS 406.410.

(12) "Rehabilitation Program" means conducting a program, in acting under power of attorney for veterans in connection with claims for benefits, in assisting veterans in prosecutions of their claims and in solution of problems arising out of previous military service as provided in ORS 406.310.

(13) "Supplant funds" means to use funds appropriated to the Department and distributed to a county under ORS 406.310 and ORS 406.454 to replace county funds that were previously appropriated by the county for county veteran service officers and rehabilitation programs.

(14) "Veterans' Organization" means an organization recognized by the United States Department of Veterans Affairs (USDVA), Office of General Counsel, to assist claimants for USDVA benefits in the preparation, presentation, and prosecution of their claims.

(13) "Veteran Service Officer" means a part-time or full-time paid accredited employee of an accredited state or national veterans' organization, who is employed to represent veterans before rating boards of the United States Department of Veterans Affairs.

Stat. Auth.: ORS 406 & 408.410

Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.450 - 462

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 2-2008, f. & cert. ef. 2-4-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0505

Application for Funds by a Veterans' Organization

A veterans' organization applying for funds under ORS 406.310 must submit a written application to the Department, on an approved form, on or before August 15 of the application year. The application shall include the organization's eligibility for funds under ORS 406.320, a description of its rehabilitation program, and a copy of the approved budget for its program for the next fiscal year.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.310 - 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0506

Late Applications

Any application filed after August 15 for participation in Department of Veterans' Affairs funds for the current fiscal year will be granted by the Director, with advice from the Advisory Committee, only if sufficient funds are available. This rule applies to original applications only.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.210, 406.215, 406.310 - 406.340

Hist.: DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0510

Subsequent Application

Each organization which has received benefits during the preceding fiscal year and which desires to apply for benefits during the forthcoming year shall submit a request to the Director in writing before August 15th and shall attach to the application a copy of its approved budget for the forthcoming year.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.310 - 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0515

Distribution of Funds to a Veterans' Organizations

(1) The Department shall review the applications and qualifications of each veterans' organization that applied for funds and distribute the funds appropriated to qualified veterans' organizations based on the number of veterans served by the organization, the number of organizations applying for funds, and the amount of the organization's financial contribution to its veterans' rehabilitation program.

(2) After reviewing the quarterly reports required under OAR 274-030-0520, the Department shall distribute funds to veterans' organizations on a quarterly basis, based on the Department's fiscal year that begins on July 1 and ends June 30.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.210, 406.215, 406.310 - 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0520

Quarterly Reports and Audits from Veterans' Organizations

(1) Veterans' organizations that receive funds from the Department shall submit quarterly reports of the activities of their accredited veteran service officers and program expenses on an approved form. The Department shall review and approve the quarterly reports, and authorize disbursement.

(2) The Director may audit and examine the activities and expenditures of veterans' organizations before approving reimbursements.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.450 - 406.462

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0525

Fiscal Division of Funds for Veterans' Organizations

The Department shall not disburse more than one-half of the funds available for disbursement to veterans' organizations under ORS 406.310 during the first 12 months of the Department's fiscal biennium.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.310 & 406.330

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0530

Distribution of Funds

Distribution of funds available for this purpose will be made by reimbursing quarterly the participating organizations. Such distribution will be based on approved budgeted expenditures.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.310 & 406.330

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0535

Limitation on Distribution of Funds to Veterans' Organizations

The Department shall not allocate funds to a veterans' organization in an amount that is more than 50 percent of the organization's approved budget. However, if the national headquarters of a state veterans' organization bears the major portion of the expenses of the veteran service officer, the state veterans' organization may submit as its own expense that portion of the annual member dues that are sent to its national headquarters as payment for a portion of the expenses of its veteran service officer. For purposes of this rule, a "veteran service officer" may be referred to by a veterans' organization as a "State Service Officer" or a "National Service Officer."

Stat. Auth.: ORS 406

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Stats. Implemented: ORS 406.030, 406.210 - 406.217, 406.310, 406.450 - 406.462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0541

Application of Rules

The rules under OAR 274-030-050 and 274-030-0541 through 274-030-630 apply to all funds allocated to the Department and distributed to the counties under ORS 406.310 (Director authorized to aid veterans organizations) and under ORS 406.454 (Distribution formula; rules; use of funds).

Stat. Auth.: ORS 406.005, 406.330, 406.454, 406.456
Stats. Implemented: ORS 406.310, 406.320, 406.440, 406.450, 406.452, 406.454, 406.456, 406.460, 406.462
Hist.: DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0545

County Application for Funds

(1) A county applying for funds under ORS 406.310 and ORS 406.454 must submit written application to the Department, on an approved form, on or before August 15 of the application year. The application shall include budget reports, revenue and expense reports, and a copy of the approved budget for its program for the next fiscal year.

(2) A county may not apply for or use funds for capital outlay.

(3) A county may not apply for or use funds to supplant county funds that were previously appropriated by the county for county veteran service officers and rehabilitation programs.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.215, 406.310
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0550

Late Applications

The Director may approve a distribution of funds to a county that files an application under OAR 274-030-0550 after August 15 only if sufficient funds are available.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.450, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0555

County Programs

The governing body of counties which have qualified for funds shall submit quarterly reports of expenses of their County Veterans' Service Officer Programs, and county Service Officers shall submit quarterly reports of their activities on forms provided by the Director before benefits shall be authorized.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.310, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0560

Quarterly Reports and Audits

(1) A county must submit quarterly reports and supporting documentation described in subsection (2) of this rule no later than the last working day of the month following the end of a fiscal quarter.

(2) The Department will distribute funds to a county on a quarterly reimbursement basis only after the Department has reviewed and approved both of the following reports and supporting documentation submitted by the county:

(a) Quarterly expense reports of the county's veteran services program; and

(b) Quarterly county veteran service officer activity reports.

(3) The Director may audit and examine the activities and expenditures of a county before approving the disbursement of funds.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0565

Fiscal Division of Funds

The Department shall not disburse more than one-half of the total funds available for distribution to a county under ORS 406.310 and 406.454 during the first 12 months of the Department's fiscal biennium.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0570

Formula for the Distribution of Funds to Counties under ORS 406.310 and 406.454

(1) The formula in subsection (2) of this rule for the distribution of funds described in ORS 406.310 and 406.454 to the counties is based on the consideration of the following factors:

(a) A base amount will be provided for each county;

(b) The number of veterans residing in each county;

(c) The existing veterans' service resources available in each county;

(d) The rehabilitation of the greatest number of Oregon veterans; and
(e) The elimination, as much as possible, of any duplication of effort and inefficient expenditure of funds.

(2) The Department will review applications from all qualified counties and distribute funds allocated to the Department under ORS 406.310 and ORS 406.454 for counties based on the following formula:

(a) Base funds. The Department will distribute 55% of all funds available to qualified counties as a base amount. After subtracting the base funds distributed to the counties that share services of a county veteran service officer as described under section (3) of this rule, the remaining base funds will be distributed equally among the remaining counties that do not share a county veteran service officer.

(b) Veteran population funds. The Department will distribute 45% of all funds available to qualified counties based on the total veterans population in Oregon divided by the number of veterans residing in a county.

(3) As an allocation of the base funds available described under subsection (2)(a) of this rule, if two or more counties share the expenses of an accredited county veteran service officer who provides veteran services to these counties for at least 1,000 hours per year, the Director shall determine a base amount of funds for each of these counties and distribute that amount, after considering the following factors:

(a) Number of veterans served;

(b) Geographical accessibility to veterans served; and

(c) Number of county veteran service officers needed.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.330, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0575

Payments and Adjustments

(1) Benefits shall be paid quarterly at the rate of reimbursement as described in OAR 274-030-0565, Fiscal Division of Funds; however, no more than 75 percent of the approved authorized funds shall be paid during the first three quarters of any fiscal year.

(2) After the required reports for the fourth quarter of the fiscal year have been filed with the Director, the total expenditures for the year by each county shall be calculated and applied against its authorized annual benefits, whereupon adjustment shall be made to allow the county to be reimbursed to its full entitlement for the year; however, benefits shall not exceed the maximum amount set forth for that county for the year.

(3) All rates of payments and adjustments shall be made upon advice from the Advisory Committee.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.450, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0600

Expansion and Enhancement Appropriations Program

(1) This program's objective is to provide designated funds which are to be utilized to expand and enhance the services provided by county veterans' service programs.

(2) The Department has the responsibility to establish, revise, or add to this program's rules.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 406.340, 406.450 - 406.462, 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 - 406.462, 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

ADMINISTRATIVE RULES

274-030-0602

County Responsibilities

(1) In order to receive expansion and enhancement funds, the governing body of qualified counties shall submit the following forms as prescribed by the Department:

(a) An annual application to receive funds.

(A) The application will include a copy of the county's plan to use the expansion and enhancement funds. Counties must have an approved plan in order to receive expansion and enhancement funds.

(B) Financial reports, including revenue and expense and budget reports may also be required.

(b) Quarterly Expense Reports of the County Service Officer Program, including any required attachments.

(c) Quarterly Activity Reports of the County Service Officer Program, including any required attachments.

(2) Counties shall not use expansion and enhancement funds for capital outlay.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 406.462 & 408.410

Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462 & 408.410

Hist.: DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0610

Formula For and the Disbursement of Funds

(1) The Department, after consultation with the Advisory Committee, shall determine the maximum amount of funds payable to each county.

(2) Payment amounts will be calculated using a formula based on, but not limited to, the following:

(a) A base amount;

(b) The number of veterans residing in each county;

(c) The existing veterans' service resources available in each county;

(d) The rehabilitation of the greatest number of Oregon veterans; and

(e) The elimination, as much as possible, of any duplication of effort and inefficient expenditure of funds.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410

Stats. Implemented: ORS 406.030, 406.050, 406.215, 406.450 - 462, 408.410

Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0615

Fiscal Division of Funds

Of the funds available for the biennium for disbursement to counties, not more than one-half shall be disbursed during the first fiscal year of the biennium.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410

Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410

Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0620

Quarterly Reports and Audits

(1) Quarterly disbursements to counties shall be approved for payment only after the County Service Officer's activities report, the county report of expenditures, and all supporting documentation have been received by the Veterans Services Division on forms prescribed by the Department.

(2) Completed reports must be received by the Department by the last working day of the month following the end of each fiscal quarter.

(3) The Department may audit and examine the activities and expenditures of counties in connection with their programs of service to veterans before approving reimbursements. Results, including any findings, will be provided to the director approximately 90 days after the start of an audit.

(4) Audits may require refunds of prior disbursements if expansion or enhancement activities cannot be verified.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 406.462, 408.410

Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410

Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0621

Payments and Adjustments

Payments shall be made quarterly at the rate of disbursement as established in OAR 274-030-0610, Formula For and the Disbursement of Funds.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410

Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410

Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0630

Withholding Funds

(1) The Department may withhold funds from a county based on one or more of the following:

(a) A county failed to submit required quarterly reports to the Department in a timely manner as required under OAR 274-030-0620;

(b) A county submitted one or more required quarterly reports to the Department containing inaccurate or unverifiable information;

(c) A county used funds distributed by the Department for capital outlay, as defined in OAR 274-030-0500, which is prohibited under OAR 274-030-0545;

(d) A county supplanted funds previously appropriated by the county for county veteran service officers and rehabilitation programs with funds distributed by the Department to a county under ORS 406.310 and ORS 406.454.

(2) The Department may release funds to a county that were withheld under section (1)(a) of this rule when a county submits all required quarterly reports to the Department that were not submitted in a timely manner.

(3) The Department may release funds to a county that were withheld under section (1)(b) of this rule when a county submits all amended quarterly reports to the Department containing corrected, accurate and verifiable information.

(4) The Department may release funds to a county that were withheld under section (1)(c) of this rule when a county submits an amended and corrected report that demonstrates that funds used for capital outlay were county funds and not funds distributed to the county by the Department.

(4) The Department may release funds to a county that were withheld under section (1)(d) of this rule when a county amends and corrects the expense reports that showed the county supplanted funds. The amended and corrected report must demonstrate that funds distributed to the county by the Department were not used to supplant county funds.

(5) At the conclusion of the Department's biennium, the Department may disburse withheld funds equally to all remaining counties as determined by the Director.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 406.340, 406.450 - 406.462 & 408.410

Stats. Implemented: ORS 406.030, 406.050, 406.450 - 406.462 & 408.410

Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 6-2013(Temp), f. & cert. ef. 7-24-13 thru 1-20-14; Administrative correction, 2-24-14; DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

274-030-0640

Waiver of Rules

Subject to the limitations of the law, and at its sole discretion, the Department may waive all or part of these administrative rules.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 406.462, 408.410

Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410

Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; Suspended by DVA 1-2017(Temp), f. 7-20-17, cert. ef. 7-21-17 thru 1-12-18

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

Rule Caption: Implement cost controls for Oregon Promise program, as provided by SB 1032 (2017).

Adm. Order No.: OSAC 1-2017(Temp)

Filed with Sec. of State: 8-11-2017

Certified to be Effective: 8-11-17 thru 2-6-18

Notice Publication Date:

Rules Amended: 575-039-0080

Subject: Revising and amending administrative rules for the Oregon Promise grant program, in order to comply with provisions of Senate Bill 1032, passed by the Oregon Legislative Assembly on July 7, 2017, and signed by the Governor on August 8, 2017. SB 1032 requires the Higher Education Coordinating Commission to determine, by rule, how it will limit eligibility for the grant based upon an applicant's family contribution so that the Commission is able to operate the Oregon Promise program with available moneys.

Rules Coordinator: Kelly Dickinson—(503) 947-2379

ADMINISTRATIVE RULES

575-039-0080

Prioritization of Grant Recipients

(1) The Commission may prescribe the priority by which grants are awarded, which allows for preference to be given to persons enrolled in school districts or high schools that meet specified criteria as determined by the Commission.

(2) Prior to the start of the fall term of each academic year, the Commission shall determine whether there are sufficient moneys to award a grant to each person who meets the eligibility criteria described in OAR 575-039-0020. On the basis of this determination, the Commission may limit eligibility to receive a grant to a person whose family contribution, is at or below the level the Commission determines is necessary to allow the Commission to operate the Oregon Promise program with available moneys. In setting a limitation on eligibility and setting eligibility limits, the Commission shall consider:

(a) The amount of funds allocated to the Oregon Promise program for the biennium;

(b) The estimated costs of awarding eligible students in prior-year cohorts who have not yet exceeded the program's 90-credit limit;

(c) The estimated costs of awarding new eligible applicants during each academic year, assuming a liability of up to 90 credits, which may extend beyond two years;

(d) The anticipated tuition changes at the Oregon Community Colleges; and

(e) The sustainability of the program to accommodate current and future cohorts within the biennium.

(3) The Commission may reduce or eliminate any limitation on eligibility previously imposed by the Commission under (2) of this subsection.

(4) For purposes of this section, "family contribution" is the same as a student's Expected Family Contribution.

Stat. Auth.: ORS 341

Stats. Implemented: ORS 341

Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16; OSAC 1-2017(Temp), f. & cert. ef. 8-11-17 thru 2-6-18

**Landscape Contractors Board
Chapter 808**

Rule Caption: Clarifies that all sales are final, adopts DAS Policy #107-001-030 for public records request charges.

Adm. Order No.: LCB 4-2017

Filed with Sec. of State: 7-27-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 808-001-0020

Subject: Clarifies that all sales are final, adopts DAS Policy #107-001-030 for public records request charges.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-001-0020

Charges for Documents; Refunds

The Landscape Contractors Board adopts the most current version of the Department of Administrative Services Statewide Policy Number 107-001-030 regarding public records requests fees and charges, including the standardized fee schedule and public interest threshold for fee waiver or reduction.

(1) All requests for copies of public records pertaining to the State Landscape Contractors Board and available at the Board's office shall be in writing and may be delivered in person, by mail, by fax or by email. The request must include:

(a) The name and address of the person requesting the public record;

(b) The telephone number or other contact information for the person requesting the public record;

(c) A sufficiently detailed description of the record(s) requested to allow the agency to search for and identify responsive records;

(d) Date of request; and

(e) Signature of the person requesting the public record. If delivered by email, just the written name of the person requesting the public record.

(2) Charges to the general public and to state agencies shall be payable in cash, check, money order, or any credit card accepted by the board office. Billing to such state agencies must be authorized by the Administrator. Checks or money orders shall be made payable to the Landscape Contractors Board.

(3) The Board accepts credit card payment submitted in person or by mail, e-mail or fax. Any credit card that is rejected by the bank and request-

ed to be confiscated will be retained and returned to the bank. All payments by credit card that are rejected must be paid in full by a check or money order within ten days from notification of rejection.

(4) Charges for copies, documents, and services shall be as follows:

(a) \$0.07 cents per black and white copy on letter or legal size paper and \$0.14 cents per copy on 11 X 17 size paper.

(b) The cost of records transmitted by fax is \$.75 for the first page and \$.60 for each additional page, limited to a 20-page maximum, not including the cover page.

(c) The cost of records transmitted by email is \$5 per email.

(d) Upon request, copies of public records may be provided electronically if the document(s) are stored in the agency's computer system. Disks will be provided at a cost of \$1.75 per CD and \$2.50 per DVD and may contain as much information as the CD or DVD will hold. A flat fee of \$5.00 will be assessed if the total processing time of the associated public records request is less than the 30-minute threshold as per subsection (k) of this rule. Due to the threat of computer viruses, the agency will not permit requestors to provide disks for electronic reproduction of computer records.

(e) Actual cost for delivery of records such as postage and courier fees.

(f) Actual attorney fees charged to the agency for the cost of time spent by an attorney in reviewing the public records, redacting materials from the public records or segregating the public records into exempt and nonexempt records.

(g) The agency may require pre-payment of estimated fees before taking further action on a request.

(h) \$20 for each certification that an entity has or has not been licensed with the Landscape Contractors Board.

(i) \$20 for certified copies of documents.

(j) \$100 for listing of individual landscape construction professional contractors and/or landscape contracting businesses on CD or provided electronically through e-mail. Requests for searching or formatting the data will be billed as per subsection (k) of this rule. The Administrator may waive this charge for other public agencies.

(k) Labor charges that include researching, locating, compiling, editing or otherwise processing information and records:

(A) No charge for the first 30 minutes of labor time;

(B) Clerical time. Beginning with the 31st minute, the charge per total request is \$25 per hour or \$6.25 per quarter-hour. A prorated fee is not available for less than a quarter-hour;

(C) Managerial time. Beginning with the 31st minute, the charge per total request is \$40 per hour or \$10 per quarter-hour. A prorated fee is not available for less than a quarter-hour;

(D) Professional time. Beginning with the 31st minute, the charge per total request is \$75 per hour or \$18.75 per quarter-hour. A prorated fee is not available for less than a quarter-hour;

(E) DOJ, special attorney and other applicable legal fee time. The actual hourly rate charged for public records request-related services.

(L) For both machine copies and documents, an additional amount set at the discretion of the Administrator for time required for search, handling, and copying as stated in subsection (k) of this rule.

(m) \$20 for duplicate recording of Board meetings.

(n) \$20 for duplicate recordings of a three hour agency hearing or arbitration and \$10 for each additional 90 minute or fraction thereof of the hearing or arbitration.

(o) Plant CD: The cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.

(p) Landscape Construction book by David Sauter is the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.

(q) Owner/Managing Employee Study Guide & Manual the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.

(5) All sales of items in subsection (4) of this rule are final.

(6) Refunds: All requests for refunds must be in writing.

(a) Application fees are non-refundable.

(b) Except as set forth in subsections (c) & (d) of this section, initial license and renewal fees are non-refundable and nontransferable.

(c) Landscape construction professional license fees. When an applicant for a landscape construction professional license withdraws their application or renewal or fails to complete the application or renewal process the agency may retain a-processing fee of \$20 from any paid license fee.

ADMINISTRATIVE RULES

(d) Landscape contracting business license fees. When an applicant for a landscape contracting business license withdraws their application or renewal or fails to complete the application or renewal process, the agency may retain a processing fee of \$50 from any paid license fee.

(7) If the agency receives payment of any fees or penalty by check and the check is returned to the agency by the bank, the payer of the fees may be assessed a charge of \$25 in addition to the required payment of the fees or penalty.

(8) The agency shall not refund fees or civil penalties overpaid by an amount of \$20 or less unless requested by the payer in writing within three years after the date payment is received by the agency, as provided by ORS 293.445.

Stat. Auth.: ORS 183, 293.445, 671 & 2007 OL Ch. 541

Stats. Implemented: ORS 183, 192.430, 293.445 & 671

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1988(Temp), f. 3-17-88, cert. ef. 4-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 4-2004(Temp), f. & cert. ef. 6-11-04 thru 12-6-04; LCB 5-2004, f. & cert. ef. 10-4-04; 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 4-2008(Temp), f. & cert. ef. 4-23-08 thru 9-22-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08; LCB 3-2011, f. & cert. ef. 5-25-11; LCB 4-2014(Temp), f. 3-31-14, cert. ef. 4-1-14 thru 9-27-14; LCB 8-2014, f. 9-25-14, cert. ef. 10-1-14; LCB 4-2017, f. 7-27-17, cert. ef. 8-1-17

Rule Caption: Defines irrigation repair and negligent work

Adm. Order No.: LCB 5-2017

Filed with Sec. of State: 7-27-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 5-1-2017

Rules Adopted: 808-002-0685

Rules Amended: 808-002-0480

Subject: Defines irrigation repair and negligent work

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

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)(e), to “repair” irrigation systems includes, but is not limited to:

(A) Replacing any irrigation water line;

(B) Replacing, cutting, patching, fixing, refurbishing, altering, or renovating any parts of an existing irrigation system, including, but not limited to irrigation pipe or pipe fittings, valves, control wires, sprinkler heads, emitters, nozzles, controllers or other elements of an irrigation system.

(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; LCB 5-2017, f. 7-27-17, cert. ef. 8-1-17

808-002-0685

Negligent

“Negligent” as used in ORS 671.690(2)(c), 671.695(1)(a) and (3)(a) means failure to exercise the care of a reasonably prudent person in like circumstances.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.695 & 671.520

Hist.: LCB 5-2017, f. 7-27-17, cert. ef. 8-1-17

Rule Caption: Allows additional claim items through the mediation process or on-site meeting, whichever is latest.

Adm. Order No.: LCB 6-2017(Temp)

Filed with Sec. of State: 7-27-2017

Certified to be Effective: 8-1-17 thru 1-27-18

Notice Publication Date:

Rules Adopted: 808-004-0360

Subject: Allows additional claim items through the mediation process or on-site meeting, whichever is latest.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-004-0360

Addition of Claim Items

Effective January 1, 2017, if the agency conducts mediation or holds an on-site meeting, the claimant may add new claim items up to and through the mediation process or initial on-site meeting, whichever is latest. Agency staff will determine the completion date of the mediation process. New items added to a timely filed claim under this rule are considered timely filed.

Stat. Auth.: ORS 670.310, 671.760

Stats. Implemented: ORS 671.700, 671.703

Hist.: LCB 6-2017(Temp), f. 7-27-17, cert. ef. 8-1-17 thru 1-27-18

Oregon Board of Accountancy

Chapter 801

Rule Caption: Update rules on complaint process and disciplinary authority.

Adm. Order No.: BOA 2-2017

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-8-17

Notice Publication Date: 7-1-2017

Rules Amended: 801-001-0040, 801-030-0020

Subject: Clarifies investigatory process and disciplinary authority of the Board.

Rules Coordinator: Kimberly Fast—(503) 378-2268

801-001-0040

Procedure for Complaints

Pursuant to ORS 673.185, the Board is authorized to investigate complaints alleging violations of ORS 673.010 through 673.455 and OAR chapter 801. The following procedures govern complaints received by the Board:

(1) The Board may investigate complaints that describe activities that are subject to the jurisdiction of the Board and that provide information in support of the complaint.

ADMINISTRATIVE RULES

Oregon Business Development Department Chapter 123

(2) Anonymous, unsigned complaints, or complaints submitted without a Board-provided complaint form may not be investigated.

(3) The Board may also investigate other information of which the Board has knowledge, such as media stories and information provided by law enforcement or other regulatory agencies, which indicates that a violation of the statutes or rules enforced by the Board may have occurred.

(4) Any person submitting a complaint may be asked to support the complaint by personal appearance before the Board.

(5) The Board may employ private investigators or contract investigators to provide assistance in determining the facts of any case being investigated.

(6) A licensee who is the subject of a complaint may meet with the Complaints Committee to discuss the complaint.

(7) In accordance with ORS 673.415 the Board may obtain a copy of the signature block, including the name, address and signature of the tax preparer, for any tax return or report permitted or required to be filed with the Oregon Department of Revenue, if the Board has reasonable grounds to believe that a licensee who prepared such tax return or report may have violated any provision of ORS 673.010 to 673.455 or rules promulgated by the Board.

(8) If the Board determines that the available evidence is insufficient to indicate that a violation may have occurred, the Board shall dismiss the complaint.

(9) If the Board determines that the available evidence is sufficient to indicate that a violation may have occurred, the Board shall make a preliminary finding of a violation(s) and offer the subject of the complaint a contested case hearing.

(10) A person under investigation and the Board's Executive Director may negotiate a proposed Stipulated Final Order to conclude a matter.

(11) A negotiated settlement as described in paragraph (10) shall not be binding on either party until approved by the Board and signed by the Chairperson of the Board or the Executive Director.

Stat. Auth.: ORS 670.310 & 673.410

Stats. Implemented: ORS 673.170 & 673.185

Hist.: IAB 9, f. 6-24-60; IAB 24, f. 9-15-72, ef. 10-1-72; IAB 5-1978, f. & ef. 5-16-78; IAB 3-1982, f. & ef. 4-20-82; AB 4-1994, f. & cert. ef. 9-27-94; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; Renumbered from 801-010-0190 by BOA 1-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 2-2017, f. & cert. ef. 8-8-17

801-030-0020

Other Responsibilities and Practices

Professional misconduct.

(1) A licensee shall not commit any act or engage in any conduct that reflects adversely on the licensee's fitness to practice public accountancy.

(2) Professional misconduct may be established by reference to acts or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others or for the laws of the state and the Nation. The acts or conduct in question must be rationally connected to the person's fitness to practice public accountancy.

(3) A licensee shall not act in a way that would cause the licensee to be disciplined for violation of laws or rules on ethics by a federal or state agency or by any jurisdiction for the practice of public accountancy.

(4) Professional Misconduct may be established by violation of a disciplinary order by a federal or state agency or by any jurisdiction for the practice of public accountancy.

(5) A licensee shall not engage in acts of gross negligence including, but not limited to:

(a) Failure to disclose a known material fact which is not disclosed in the financial statements, but disclosure of which is necessary to make the financial statements complete or not misleading, or

(b) Failure to report any known material misstatement which appears in the financial statements.

Stat. Auth.: ORS 670.310 & 673.410

Stats. Implemented: ORS 673.160, 673.410 & 673.445

Hist.: AB 1-1978, f. & ef. 1-11-78; IAB 1-1981, f. 1-6-81, ef. 6-1-81; IAB 3-1981, f. & ef. 1-6-81; IAB 2-1984, f. & ef. 5-21-84; IAB 3-1986, f. & ef. 11-17-86; AB 3-1989, f. & cert. ef. 10-3-89; AB 6-1993(Temp), f. 11-2-93, cert. ef. 11-4-93; AB 1-1994, f. & cert. ef. 1-21-94; AB 3-1994, f. & cert. ef. 8-10-94; AB 4-1994, f. & cert. ef. 9-27-94; AB 3-1996, f. & cert. ef. 9-25-96; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 1-1999, f. & cert. ef. 1-20-99; BOA 5-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 5-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 5-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 6-2003, f. 12-23-03, cert. ef. 1-1-04; BOA 4-2005, f. & cert. ef. 8-12-05; BOA 9-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 3-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 3-2007, f. 12-27-07, cert. ef. 1-1-08; BOA 3-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 5-2009, f. 12-15-09, cert. ef. 1-1-10; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2017, f. & cert. ef. 1-4-17; BOA 2-2017, f. & cert. ef. 8-8-17

Rule Caption: These rule amendments relate to the Seismic Rehabilitation Grants Program.

Adm. Order No.: OBDD 2-2017

Filed with Sec. of State: 8-8-2017

Certified to be Effective: 8-8-17

Notice Publication Date: 7-1-2017

Rules Amended: 123-051-0200, 123-051-0300, 123-051-0600, 123-051-0700, 123-051-0800, 123-051-0900, 123-051-1000

Subject: The amendments to division 051 contain the removal of the reference to the State Board of Higher Education as they were abolished in the 2015 legislative session via SB 80. The maximum grant award amount was increased from \$1.5 million to \$2.5 million.

Rules Coordinator: Mindee Sublette — (503) 986-0036

123-051-0200

Definitions

(1) "Acute inpatient care facility" means a licensed hospital with an organized medical staff, with permanent facilities that include inpatient beds, with comprehensive medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for, but not limited to acutely ill patients and accident victims. "Acute inpatient care facility" includes the Oregon Health and Science University.

(2) "Applicant" means a school district, community college, education service district, police, sheriff, fire, hospital which is applying for a grant from the Seismic Rehabilitation program.

(3) "Authority" means the Infrastructure Finance Authority within the Oregon Business Development Department.

(4) "Collapse Prevention" means a building at this performance level is capable of maintaining gravity loads though structural damage is severe and risk of falling hazard is high as set forth in the American Society of Civil Engineers Standard for Seismic Rehabilitation of Existing Buildings newest edition.

(5) "Critical Public Buildings" includes hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs' offices, other facilities used by state, county, district, or municipal law enforcement agencies and buildings with a capacity of 250 or more persons that are routinely used for student activities by kindergarten through grade 12 public schools, community colleges and education service districts.

(6) "Distressed or Impoverished" means all Oregon cities and counties designated by Oregon Business Development Department as distressed or impoverished by established methodology.

(7) "Education Service District (ESD)" means a district created under ORS 334.010 that provides regional educational services to component school districts.

(8) "Grant Program" means The Seismic Rehabilitation Grant Program (SRGP).

(9) "Grant Selection Committee" means the committee that is charged with evaluating grant applications for the purpose of determining which projects receive funding. The grant selection committee membership shall include representatives of Oregon Department of Education, The Department of Human Services, The Office of Emergency Management/Oregon Military Department, The State Department of Geology and Mineral Industries, Oregon Seismic Safety Policy Advisory Commission, The Oregon Department of Administrative Services, The Oregon Fire Chiefs' Association, The Oregon Association of Chiefs of Police, Community Colleges and Workforce Development, The Oregon Association of Hospitals and Health Systems, The Confederation of Oregon School Administrators and others who possess expertise in construction, construction grants and structural design as determined by the Authority.

(10) "Grantee" means applicant awarded grant funds for seismic rehabilitation project.

(11) "Holistic Project" means a project emphasizing the whole building instead of the separation of its parts.

(12) "Immediate Occupancy" means a building at this performance level is expected of being sufficiently functional for occupancy as set forth in the American Society of Civil Engineers Standard for Seismic Rehabilitation of Existing Buildings newest edition.

(13) "Life Safety" means a building at this performance level is expected to present low risk of life threatening injury to building inhabitants as set forth in the American Society of Civil Engineers Standard for Seismic Evaluation of Existing Buildings newest edition.

ADMINISTRATIVE RULES

(14) “Match” is any contribution to a project that is non-seismic grant funds. Match may include:

(a) Cash on hand or cash that is pledged to be on hand prior to commencement of the project; and,

(b) Secured funding commitments from other sources.

(15) “Project” means seismic rehabilitation activity (or activities) to be performed on a building that is eligible for assistance from the Seismic Rehabilitation Grant Program.

(16) “Seismic Rehabilitation” means construction of structural improvements to a building that results in the increased capability of the building to resist earthquake forces and that is based on standards adopted by the State of Oregon or by local governments.

(17) “Structural” means components of a building that support or resist loads. Parts of a building that bear weight.

(18) “Tsunami Inundation Zone” means for purposes of the SRGP, the area depicted as the tsunami inundation zone in Oregon Department of Geology and Mineral Industries Open-File Reports O-95-09 through O-95-38, O-95-43 through O-95-66 and O-97-31 through O-97-32.

(19) “Useful Life” means the length of time that the building or structure is expected to be used, or 30 years, whichever is greater.

Stat. Auth.: ORS 285A.093, 285A.098, 401.910 & 2013 OL Ch. 782

Stats. Implemented: ORS 285A.093, 285A.098 & 401.910

Hist.: OBDD 13-2013, f. 12-30-13, cert. ef. 1-1-14; OBDD 2-2017, f. & cert. ef. 8-8-17

123-051-0300

Eligible Applicants

The following are eligible to apply for a Seismic Rehabilitation Grant, except those determined to be ineligible by the Authority because of non-performance under a prior Seismic Rehabilitation Grant contract:

(1) All hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs’ offices, other facilities used by state, county, district or municipal law enforcement agencies.

(2) Kindergarten through grade 12 public schools, community colleges and education service district buildings with a capacity of 250 or more persons that are routinely used for student activities and are owned by a school district, an education service district, a community college district or a community college service district.

Stat. Auth.: ORS 285A.093, 285A.098, 401.910 & 2013 OL Ch. 782

Stats. Implemented: ORS 285A.093, 285A.098 & 401.910

Hist.: OBDD 13-2013, f. 12-30-13, cert. ef. 1-1-14; OBDD 2-2017, f. & cert. ef. 8-8-17

123-051-0600

Project Eligible Activities

Projects must meet the following criteria to be eligible for this program:

(1) Education building gymnasiums, cafeterias and multipurpose rooms that are feasible to be used as emergency shelters in disasters must be rehabilitated to meet the Immediate Occupancy seismic safety performance level as defined in OAR 123-051-0200(12)

(a) Applicants may request a waiver for education building gymnasiums, cafeterias and multipurpose rooms that will not be used as emergency shelters in disasters, upon showing that there are other buildings in the community that may be used as emergency shelters in disasters instead of the education building. Any projects approved under this subsection must be rehabilitated to meet the life safety seismic performance level as defined in OAR 123-051-0200(13).

(b) Applicants may request approval for other types of education building rooms that are feasible to be used as emergency shelters upon showing that there are no gymnasiums, cafeterias and multipurpose rooms that are feasible to be used as emergency shelters. Any approved projects under this subsection must be rehabilitated to meet the immediate occupancy seismic safety performance level defined in OAR 123-051-0200(12).

(2) Other education buildings that will not be used as emergency shelters in disasters, must be rehabilitated to meet the life safety seismic safety performance level defined in OAR 123-051-0200(13).

(3) Emergency services building rehabilitation to immediate occupancy seismic safety performance level as defined in OAR 123-051-0200(12).

Stat. Auth.: ORS 285A.093, 285A.098, 401.910 & 2013 OL Ch. 782

Stats. Implemented: ORS 285A.093, 285A.098 & 401.910

Hist.: OBDD 13-2013, f. 12-30-13, cert. ef. 1-1-14; OBDD 2-2017, f. & cert. ef. 8-8-17

123-051-0700

Project Ineligible Activities

Project ineligible activities include, but are not limited to:

(1) The demolition and rebuild of an existing critical public building.

(2) Rehabilitation to a building located in the Tsunami Inundation Zone as defined in OAR 123-051-0200(18).

(3) Rehabilitation of a building located in the 100 year flood zone.

(4) Partial rehabilitation of a building that does not holistically address all known seismic deficiencies, as defined in OAR 123-051-0200(11).

(5) Reimbursement for already budgeted staff and routine or ongoing expenses of the recipient.

Stat. Auth.: ORS 285A.093, 285A.098, 401.910 & 2013 OL Ch. 782

Stats. Implemented: ORS 285A.093, 285A.098 & 401.910

Hist.: OBDD 13-2013, f. 12-30-13, cert. ef. 1-1-14; OBDD 2-2017, f. & cert. ef. 8-8-17

123-051-0800

Application Submittal, Review and Approval

(1) The Authority shall announce deadlines for submitting applications, how to obtain an application form, and required supplemental documents.

(2) An eligible critical public building may submit an application after consulting with the Authority on a preliminary determination of eligibility and otherwise follow the Authority’s procedures for submitting applications. The application must be in the form provided by the Authority and must contain or be accompanied by such information as the Authority may require. The Authority will process only completed applications.

(3) Upon receipt of signed application, the Authority will notify the applicant within 30 days as to the receipt of the application.

(4) Upon receipt of a completed application, the Authority will evaluate the application using ranking factors and point values and will provide recommendations to the Grant Selection Committee to determine the project’s prioritization ranking during a public meeting.

Stat. Auth.: ORS 285A.093, 285A.098, 401.910 & 2013 OL Ch. 782

Stats. Implemented: ORS 285A.093, 285A.098 & 401.910

Hist.: OBDD 13-2013, f. 12-30-13, cert. ef. 1-1-14; OBDD 2-2017, f. & cert. ef. 8-8-17

123-051-0900

Project Administration

(1) The Authority and the Applicant must execute a grant contract prior to disbursement of grant funds.

(2) Documentation of project costs incurred by entity must be submitted to the Authority prior to disbursement of funds.

(3) Disbursement of grant funds to entity will be made on the schedule determined by the Authority.

(4) Prior to final disbursement, the Authority will review and evaluate all documents produced as a result of the project, and determine how closely the project delivered the outcome anticipated in the application.

Stat. Auth.: ORS 285A.093, 285A.098, 401.910 & 2013 OL Ch. 782

Stats. Implemented: ORS 285A.093, 285A.098 & 401.910

Hist.: OBDD 13-2013, f. 12-30-13, cert. ef. 1-1-14; OBDD 2-2017, f. & cert. ef. 8-8-17

123-051-1000

Grant Awards and Match

(1) Grants will be awarded only when there are sufficient funds available in the Seismic Rehabilitation Grants program.

(2) Grant funds shall be distributed to public education facilities and emergency services facilities as allocated by the Legislative Assembly.

(3) The maximum grant award is \$2.5 million.

(4) There is no required match for this program.

Stat. Auth.: ORS 285A.093, 285A.098, 401.910 & 2013 OL Ch. 782

Stats. Implemented: ORS 285A.093, 285A.098 & 401.910

Hist.: OBDD 13-2013, f. 12-30-13, cert. ef. 1-1-14; OBDD 2-2017, f. & cert. ef. 8-8-17

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**Oregon Department of Education,
Early Learning Division
Chapter 414**

Rule Caption: Permanent rule revisions to 414-061-0080 rules to meet federal background check requirements.

Adm. Order No.: ELD 8-2017

Filed with Sec. of State: 8-3-2017

Certified to be Effective: 8-3-17

Notice Publication Date: 7-1-2017

Rules Amended: 414-061-0080

Subject: Revisions to rules will allow the Office of Child Care (OCC) to conduct FBI fingerprint checks in all circumstances as required by federal law as a condition for receiving federal Child Care and Development Block Grant (CCDBG) funds.

Rules Coordinator: Lisa Pinheiro—(503) 910-8135

ADMINISTRATIVE RULES

414-061-0080

Procedures for Conducting FBI Criminal History Checks

(1) An FBI criminal records check will be done on all subject individuals who:

- (a) Are currently enrolled in the CBR; or
- (b) Are submitting an application for enrollment in the Office of Child Care's Central Background Registry.

(2) The subject individual shall supply to OCC the following information:

- (a) One properly completed FBI fingerprint card, with printing in the "reason fingerprinted" block that reads "License/Certificate/Permit ORS 181.534"; and
- (b) A properly completed "Instructions to Authorized Fingerprinter" form; or
- (c) Electronically submitted fingerprints through an OCC designated fingerprinter. The "reason fingerprinted" field must read "License/Certificate/Permit".

(3) OCC will review the criminal records information and any additional information and will determine whether or not a subject individual may be enrolled, suspended or removed in or from the Central Background Registry.

(4) OCC will charge the subject individual up to the amount equal to the cost incurred by OCC for an FBI records check, to be paid at the time of the request.

(5) Individuals currently enrolled in the Central Background Registry or with pending applications for enrollment in the Central Background Registry will receive a request to complete an FBI criminal records check from the Office of Child Care and must complete the FBI criminal records check by the date indicated on the request.

(6) Failure to complete and pass the FBI criminal records check is a basis for suspension of enrollment in the Central Background Registry, removal from the Central Background Registry, or denial of the application.

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

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98 ; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 6-2004, f. & cert. ef. 12-17-04; CCD 3-2005(Temp), f. & cert. ef. 8-16-05 thru 2-12-06; CCD 5-2005, f. 12-29-05, cert. ef. 1-1-06; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10; ELD 3-2015, f. & cert. ef. 2-3-15; ELD 1-2017(Temp), f. & cert. ef. 1-26-17 thru 7-24-17; ELD 8-2017, f. & cert. ef. 8-3-17

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Rule Caption: Repeals match requirement for Healthy Families Oregon; updates language to conform with current program administration.

Adm. Order No.: ELD 9-2017

Filed with Sec. of State: 8-9-2017

Certified to be Effective: 10-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 414-525-0015

Subject: Proposed rule repeals the match requirement for Healthy Families Oregon programs and updates rule language to conform with current program administration.

Rules Coordinator: Lisa Pinheiro—(503) 910-8135

414-525-0015

Program Restrictions

(1) Systems Requirements:

(a) Healthy Families Oregon services will be offered in a manner consistent with the local early childhood system planning.

(b) Healthy Families Oregon programs will collaborate with local home visiting partners within the context of the statewide home visiting system as a part of the voluntary local early childhood system, to identify and build upon existing services for families and to prioritize additional services if needed (e.g. mental health, drug and alcohol, and early intervention).

(c) If collaboration does not effectively occur, the Department of Human Services and the Early Learning Division will provide technical assistance to promote improved collaboration.

(d) Healthy Families Oregon programs actively participate in local community efforts to implement the early childhood system of supports and services towards the achievement of desired outcomes, working to maximize the effective use of available resources and avoid duplication of services.

(e) Local contracted agencies are not required to engage in a competitive bidding process, unless required by local policy, to select program providers for Healthy Families Oregon services each biennium. Local con-

tracting agencies may conduct a competitive or collaborative funding process when significant deficits in program operations and services are found or when changes in the stability of service delivery systems present new options for these services.

(2) Age: Children ages prenatal through three and their families.

(3) Services: Funded services include: voluntary family support services, including but not limited to screening and follow-up services such as resource referral, further assessment, and intensive home visiting provided by highly trained home visitors organized in teams and supervised by a program manager and supervisor following the Healthy Families America model.

(4) Program Requirements:

(a) New Healthy Families Oregon Programs will make progress toward full compliance with ORS 417.795 as operationalized by the Healthy Families Oregon Implementation Manual: Statewide Program Policies and Procedures. All Healthy Families Oregon programs are required to be in full compliance within one year of program start up.

NOTE: Copies of the Healthy Families America model best practice standards and of the Healthy Families Oregon Program Policy and Procedure Manual are available from the Early Learning Division.

(b) Programs will develop site specific procedure manuals to further specify local program operations. Local procedure manuals will be submitted to the Early Learning Division at intervals specified by the Early Learning Division.

(c) Participation in services provided by the Healthy Families Oregon program is voluntary. Service providers will obtain express written consent before any services are offered.

(d) Local Healthy Families Oregon programs will ensure that parents have given express written consent prior to any release of information.

(e) Healthy Families Oregon program services will not be a part of a mandated plan for families. Mandated plans include plans developed by the Department of Human Services Self Sufficiency and Child Welfare services.

(f) Local Healthy Families Oregon Programs will:

(A) Participate in the independent statewide program evaluation;

(B) Participate in statewide training for program managers, supervisors home visitors and screening staff;

(C) Participate in annual meetings and trainings for program managers;

(D) Meet statewide and local early childhood system quality assurance standards;

(E) Participate in the Healthy Families America site self-assessment, as part of ongoing quality assurance;

(F) Ensure that voluntary home visiting services through Healthy Families Oregon are coordinated with home visiting services offered by the voluntary local early childhood system.

(5) Program Budget Requirements:

(a) All programs are required to participate in federal Medicaid (Title XIX) Administrative Claiming, following program procedures provided by the Early Learning Division.

(A) Medicaid earnings, except as described in 423-010-0023(3), must be used to maintain or expand Healthy Families Oregon program core services, as defined in the Healthy Families Oregon Program Policy and Procedure Manual.

(B) Programs will report on the use of their Medicaid (Title XIX) funds to the Early Learning Division at intervals specified by the Early Learning Division.

(C) All program staff will attend training provided by the Early Learning Division prior to participation in Medicaid (Title XIX) Administrative Claiming and annually thereafter.

(b) The local contracting agency will monitor the local Healthy Families Oregon programs to ensure fiscal and programmatic integrity.

(c) If, for any reason, a current provider stops providing contracted services prior to the end of the contract, the local contracting agency will notify the Early Learning Division 45 days prior to signing a new provider contract so that the Early Learning Division can provide program specific training and technical assistance. The local contracting agency and the Early Learning Division may mutually agree to a notice period of less than 45 days if necessitated by specific local circumstances.

(d) The Early Learning Division will manage the Title XIX Medicaid Administrative Claiming program in accordance with all state and federal rules and regulations.

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

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented: ORS 417.705 - 417.797

Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04; OCCF 2-2007(Temp), f. & cert. ef. 2-16-07 thru 8-15-07; Administrative correction 7-9-08;

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Renumbered from 423-045-0015, ELD 11-2014, f. & cert. ef. 11-25-14; ELD 9-2017, f. 8-9-17, cert. ef. 10-1-17

**Oregon Health Authority, Health Licensing Office,
Behavior Analysis Regulatory Board
Chapter 824**

Rule Caption: House Bill 2931 added an option to the qualifications for behavior analysis interventionist registration.

Adm. Order No.: BARB 1-2017

Filed with Sec. of State: 7-28-2017

Certified to be Effective: 7-28-17

Notice Publication Date: 7-1-2017

Rules Amended: 824-030-0040

Subject: 2017 House Bill 2931 added “a degree from a post-secondary institution” to the qualification options for registration as a behavior analysis interventionist.

Rules Coordinator: Anne Thompson—(503) 373-1904

824-030-0040

Registration of a Behavior Analysis Interventionist

An individual applying for registration as a Behavior Analysis Interventionist must:

(1) Submit a completed application form, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees;

(2) Submit required registration fees.

(3) Submit proof of being at least 18 years old;

(4) Submit documentation of a high school diploma or General Educational Development (GED) certificate or a degree from a post-secondary institution;

(5) Pass a fingerprint-based nationwide criminal records check pursuant to OAR 331-030-0004; and

(6) Submit documentation of 40 hours of professional training in applied behavior analysis on a form prescribed by the Office in the following knowledge and skill areas, as verified by an individual listed in ORS 676.802 2(a-h) or licensed by the Board:

(a) Professional and ethical issues;

(b) Foundational knowledge of behavioral change principles;

(c) Assessment;

(d) Implementation of prescribed intervention plans;

(e) Data collection and documentation.

Stat. Auth.: ORS 676.800

Stats. Implemented: ORS 676.800

Hist.: BARB 1-2014, f. 10-21-14, cert. ef. 12-1-14; BARB 1-2015, f. 10-30-15, cert. ef. 11-1-15; BARB 1-2016, f. 11-22-16, cert. ef. 1-1-17; BARB 1-2017, f. & cert. ef. 7-28-17

**Oregon Health Authority, Health Licensing Office,
Board of Direct Entry Midwifery
Chapter 332**

Rule Caption: Align board meeting procedures with statutory requirements and repeal certain continuing education requirements.

Adm. Order No.: DEM 1-2017

Filed with Sec. of State: 8-15-2017

Certified to be Effective: 8-15-17

Notice Publication Date: 5-1-2017

Rules Adopted: 332-010-0002, 332-010-0004, 332-010-0006

Rules Amended: 332-020-0010

Subject: Align statutory requirements pursuant to ORS 678.475 which requires the Board of Direct Entry Midwifery implement administrative rules regarding board officers, meetings and quorum.

Amend requirements under continuing education related to initial legend drug and devices by changing the hour requirement from 40 to 48 hours of continuing education which adds Group B Streptococcal to the training program.

Rules Coordinator: Anne Thompson—(503) 373-1904

332-010-0002

Election

The chairperson of the Board must be elected annually. Elections must be held during the last regularly scheduled Board meeting of the year

or if canceled the next regularly scheduled meeting. Terms of office run from January 1st to December 31st.

Stat. Auth.: ORS 676.615, 687.475

Stats. Implemented: ORS 687.425, 687.475, 687.493

Hist.: DEM 1-2017, f. & cert. ef. 8-15-17

332-010-0004

Vacancies in Office

If the chairperson is unable to complete the term the Board will elect another chairperson.

Stat. Auth.: ORS 676.615, 687.475

Stats. Implemented: ORS 687.425, 687.475, 687.493

Hist.: DEM 1-2017, f. & cert. ef. 8-15-17

332-010-0006

Duties of Officers

(1) The chairperson must preside at all meetings. The chairperson must confer with the Office on matters that come up between meeting dates, and matters that need to be placed on the agenda for Board meetings. The chairperson may order or reorder the agenda.

(2) In the absence of the chairperson from a meeting or a portion of a meeting, the Board must vote to elect another Board member to run the meeting.

(3) Decisions will be made by a vote of the Board and carried out with a motion and second and vote by majority.

Stat. Auth.: ORS 676.615, 687.475

Stats. Implemented: ORS 687.425, 687.475, 687.493

Hist.: DEM 1-2017, f. & cert. ef. 8-15-17

332-020-0010

Continuing Education

(1) Standard Continuing Education Renewal Requirements: To maintain licensure an LDM must complete 35 hours of continuing education related to services listed in ORS 687.405, cultural competency, patient charting, ethics, communication, or professional development every two years from the date of initial licensure and every two years thereafter.

(2) In addition to the requirements listed in subsection (1) of this rule and in accordance with ORS 687.425 an LDM who has attended less than five births in the previous renewal year must obtain an additional 10 hours of continuing education separate from all other continuing education requirements. The additional 10 hours of continuing education must be obtained during the next renewal cycle. Subject matter for the additional 10 hours of continuing education must be related to subjects listed in subsection (1) of this rule.

(3) Initial Legend Drugs and Devices Continuing Education Renewal Requirements including continuing education in Group B Streptococcal: An individual licensed after January 1, 2017 must successfully complete 48 hours of instruction in an approved curriculum prior to purchasing or administering legend drugs and devices listed in division 26 of these rules or by the date of first renewal following initial licensing as an LDM. The initial renewal continuing education is comprised of theory, hands-on practice, and skills testing for competency which must include the following:

(a) 10 hours in Pharmacology covering drugs listed in ORS 687.493, OAR 332-026-0010 and 332-026-0020 including intravenous antibiotics Group B Streptococcal prophylaxis;

(b) Four hours of administration of medications through injection;

(c) Four hours in advanced treatment of shock;

(d) 16 hours in intravenous therapy including intravenous antibiotics Group B Streptococcal prophylaxis;

(e) Four hours in neonatal resuscitation; and

(f) 10 hours in suturing.

(4) Subsequent Renewal Legend Drugs and Devices Continuing Education Requirements: To maintain licensure an LDM must complete eight and a half hours of legend drugs and devices continuing education, every two-years and attest to this on the renewal application. The 8.5 hours of legend drugs and devices continuing education is in addition to continuing education required under subsection (1), (2), and (3) of this rule, if applicable, with exception of neonatal resuscitation. Each LDM is required to show evidence of current certification in neonatal resuscitation upon renewal each year. Continuing education components for subsequent renewals must include the following:

(a) Two hours in pharmacology as of January 1, 2017 all subsequent renewal programs must include continuing education in intravenous antibiotics for Group B Streptococcal prophylaxis;

(b) One half hour in administration of medications through injection;

(c) One hour in advanced treatment of shock;

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(d) Three hours in intravenous therapy as of January 1, 2017 all subsequent renewal programs must include continuing education in intravenous antibiotics for Group B Streptococcal prophylaxis; and

(e) Three hours in suturing.

(5) Continuing Education may be obtained through online courses, attendance at lectures, sessions, courses, workshops, symposiums seminars or other presentations offered by:

(a) Institutions or programs accredited by a federally recognized accrediting agency;

(b) Institutions or programs approved by an agency within the Oregon Higher Education Coordinating Commission;

(c) An organization offering continuing medical education opportunities, including but not limited to, Accreditation Council for Continuing Medical Education, MEAC accredited or pre-accredited schools and the Oregon Midwifery Council.

(d) Any additional board approved professional organization, or association, hospital, or health care clinic offering continuing education related to subject matter listed above.

(6) Continuing education relating to subject matter listed in subsection (1) of this rule may also be obtained through research, authorship or teaching, provided that no more than half the required hours be in research, authorship or teaching.

(7) Up to nine hours of continuing education relating to subject matter listed in subsection (1) of this rule may be completed through self-study. Documentation substantiating the completion of continuing education through self-study must be submitted on forms provided by the agency and must include the following:

(a) Name of sponsor or source, type of study, description of content, date of completion, and duration in hours in accordance with subsection (8) of this rule;

(b) Name of approved correspondence courses or national home study issues;

(c) Name of publications, textbooks, printed material or audiocassette's, including date of publication, publisher, and ISBN identifier; and

(d) Name of films, videos, or slides, including date of production, name of sponsor or producer and catalog number.

(8) Obtaining and maintaining proof of participation in continuing education is the responsibility of the licensee. The licensee must ensure that adequate proof of attainment of required continuing education is available for audit or investigation or when otherwise requested by the agency. Adequate proof of participation is listed under OAR 332-020-0015(3).

(9) Documentation of participation in continuing education requirements must be maintained for a period of two years following renewal, and must be available to the agency upon request.

(10) Hours of continuing education that are obtained in excess of the minimum requirements listed in this rule will not be carried forward as credit for the subsequent license renewal reporting cycle.

(11) For the purpose of this rule continuing education must include periods of continuous instruction and education, not to include breaks, rest periods, travel registration or meals.

(12) A copy of Board-approved curriculum objectives for LDD program is available at the Health Licensing Office or on the office website at <http://www.oregon.gov/ohla/Pages/index.aspx>. Payment of administrative fees may be required. Refer to OAR 331-010-0030 for applicable public record request fees.

(13) Continuing education hours obtained for legend drugs and devices, neonatal resuscitation or cardiopulmonary resuscitation for adults and infants cannot be used towards the 35 Standard Continuing Education Renewal Requirements listed under subsection (1) of this rule.

Stat. Auth.: ORS 676.615, 687.425 & 687.485

Stats. Implemented: ORS 676.615, 687.425 & 687.485

Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 2-2008(Temp), f. 9-15-08 cert. ef. 10-1-08 thru 3-30-09; DEM 1-2009, f. 3-31-09, cert. ef. 4-1-09; DEM 5-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2013(Temp), f. 7-10-13, cert. ef. 7-12-13 thru 1-8-14; DEM 2-2013, f. 12-30-13, cert. ef. 1-1-14; DEM 2-2014, f. 12-31-14, cert. ef. 1-1-15; DEM 2-2015, f. & cert. ef. 7-1-15; DEM 1-2017, f. & cert. ef. 8-15-17

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

Rule Caption: Updating Rate Table Incorporated by Reference
Adm. Order No.: DMAP 30-2017(Temp)

Filed with Sec. of State: 7-25-2017

Certified to be Effective: 7-25-17 thru 1-20-18

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 July 1, 2017, which is adopted as Exhibit I and incorporated by reference into this rule. The BRS Rates Table is available at <http://www.oregon.gov/oha/HSD/OHP/Pages/Policy-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.

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(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 943-120-0350 and 943-120-0360.

[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]

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; DMAP 64-2016, f. 11-23-16, cert. ef. 11-29-16; DMAP 30-2017(Temp), f. & cert. ef. 7-25-17 thru 1-20-18

Rule Caption: Creates Rules to Address Payments and Participation Requirements for Fee-For-Service Comprehensive Primary Care Plus Demonstration

Adm. Order No.: DMAP 31-2017(Temp)

Filed with Sec. of State: 7-28-2017

Certified to be Effective: 8-1-17 thru 1-27-18

Notice Publication Date:

Rules Adopted: 410-149-0100, 410-149-0110, 410-149-0120, 410-149-0130, 410-149-0140, 410-149-0150

Subject: The Division needs to create these rules as part of its partnership with the Center for Medicare and Medicaid Services (CMS) in the administration of the Comprehensive Primary Care Plus Demonstration. Creation of these rules are necessary to ensure agency expectations of participating demonstration providers are met in order to receive special payments for their participation.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-149-0100

Definitions

(1) “Alternative Payment Methodology (APM)” means a payment mechanism that is at least a partial alternative to fee-for-service (FFS) payments for Track 2 practice sites. APMs shall allow Track 2 practice sites the flexibility to provide comprehensive care outside of the constraints of a billable office visit.

(2) “Attributed Members” means those Oregon Health Plan (OHP) clients assigned to the CPC+ practice under the Comprehensive Primary Care Plus (CPC+) demonstration who are not enrolled with a managed care plan or CCO for physical health services.

(3) “Care Management Fees” means per-member per-month (PMPM) incentive payments issued by the Oregon Health Authority (Authority) to CPC+ practice sites for attributed members.

(4) “Participating Providers” means the health care providers practicing within the practice site approved by CMS to participate in CPC+.

(5) “Patient-Centered Primary Care Home” means a primary care practice site that has applied and achieved recognition as a PCPCH at a particular tier level by the Authority.

(6) “Performance Based Incentive Payment (PBIP)” means a PMPM payment made to the CPC+ practices, based on annual performance on quality measures, patient experience of care, and utilization measures.

(7) “Practice” means the practice site that has been selected by CMS to participate in the CPC+ demonstration.

(8) “Track 1 Practice” means a CPC+ practice designation issued by CMS as one of two possible designations that stipulate the advanced care requirements and payment options available to the practice.

(9) “Track 2 Practice” means a CPC+ practice designation issued by CMS as one of two possible designations that stipulate the advanced care requirements and payment options available to the practice.

Stat. Auth.: ORS 413.042

Stat. Implemented: ORS 413.042, 413.259 & 414.065

Hist.: DMAP 31-2017(Temp), f. 7-28-17, cert. ef. 8-1-17 thru 1-27-18

410-149-0110

Technical Requirements for Participation in the Authority CPC+ Demonstration

(1) The Authority shall recognize CPC+ practice sites as a Patient-Centered Primary Care Home (PCPCH) under the 2017 PCPCH recognition standards.

(2) Individual CPC+ practice sites shall be enrolled with Oregon Medicaid with a site specific Oregon Medicaid ID number.

(3) The CPC+ practice site shall execute the Comprehensive Primary Care Plus Agreement with the Authority.

(4) The practice must have access to the Oregon Medicaid Management Information System (MMIS) Provider Web Portal to attribute members for care management and PBIPs.

Stat. Auth.: ORS 413.042

Stat. Implemented: ORS 413.042, 413.259 & 414.065

Hist.: DMAP 31-2017(Temp), f. 7-28-17, cert. ef. 8-1-17 thru 1-27-18

410-149-0120

CPC+ Practice Reimbursement and Program Integrity

(1) All funds received through the CPC+ demonstration shall be used to support the participating practice site.

(2) As a condition of payment, a participating CPC+ practice shall require and ensure that its participating providers and staff implement the care delivery requirements set forth in their Comprehensive Primary Care Agreement.

(3) Practices shall be entitled to care management fees for all attributed members that had a primary care visit in the prior 18 months from January 1, 2017, and any new attributed members with a primary care visit after January 1, 2017. Under the care management fees, no changes to FFS rates shall be made as additional compensation for services provided.

(4) No part of the care management fee, APM, or PBIPs may be used as an inducement for practices to promote or otherwise affect the provision of any health care item or service owned or distributed by the Authority.

(5) PBIP may be issued prospectively and reconciled to the practice’s actual performance score once quality and utilization measurement data becomes available.

(6) Care management fees are provided for care management services and not healthcare service delivery and not subject to Oregon insurance laws and regulations on provider contracting and payment. Any healthcare services rendered by the provider shall be governed by the participating provider agreement between the provider and the Authority.

(7) The enrolled CPC+ practice must use aggregate payments received solely to support infrastructure and provide salary support in meeting the terms, conditions, and milestones of CPC+ as directed by CMS.

(8) If the practice fails to comply with the terms and conditions of the CPC+ demonstration, the Authority may seek reimbursement for any fees paid to the practice.

(9) The Authority shall give the practice prior notice that it has determined the practice was not making a good faith effort to comply with the terms and conditions of the CPC+ demonstration and allow the practice an opportunity to take corrective action, within 90 days of the notice send date, to avoid having to reimburse fees to the Authority.

Stat. Auth.: ORS 413.042

Stat. Implemented: ORS 413.042, 413.259 & 414.065

Hist.: DMAP 31-2017(Temp), f. 7-28-17, cert. ef. 8-1-17 thru 1-27-18

410-149-0130

Care Management Fees

(1) The Authority shall provide care management fees as a PMPM payment to practice sites for FFS OHP attributed members. These payments shall be used to:

(a) Provide up-front investment in participating practices; and

(b) Assist practices to continue practice transformation efforts and offer comprehensive integrated services for patients.

(2) Care management fees vary by practice track and PCPCH tier and are issued in the following amounts:

(a) Track 1:

(A) Tier 1 PCPCH qualifies for \$2 PMPM;

(B) Tier 2 PCPCH qualifies for \$4 PMPM;

(C) Tier 3 PCPCH qualifies for \$6 PMPM;

(D) Tier 4 PCPCH qualifies for \$8 PMPM;

(E) Tier 5-STAR PCPCH qualifies for \$10 PMPM.

(b) Track 2:

(A) Tier 3 PCPCH qualifies for \$9 PMPM;

(B) Tier 4 PCPCH qualifies for \$12 PMPM;

(C) Tier 5-STAR PCPCH qualifies for \$18 PMPM.

Stat. Auth.: ORS 413.042

Stat. Implemented: ORS 413.042, 413.259 & 414.065

Hist.: DMAP 31-2017(Temp), f. 7-28-17, cert. ef. 8-1-17 thru 1-27-18

ADMINISTRATIVE RULES

410-149-0140

Performance Based Incentive Payments (PBIP)

(1) To assess quality performance and eligibility for the CPC+ PBIP, both Track 1 and Track 2 practices shall be required to report electronic clinical quality measures (eCQM) to CMS annually at the practice site level.

(2) Additional PMPM payments shall be available based on performance measures included in eCQM from CMS and utilization measures calculated by the Authority:

(a) Practices must report to CMS on nine of the 14 eCQMs for the measurement period in order to receive PBIP payments;

(b) PBIP payments may be issued prospectively prior to eCQM performance results and reconciled at a later date when eCQM performance is available.

(3) PBIP vary by practice track and are issued in the following amounts:

(a) Track 1:

(A) PMPM amount for achieving maximum eCQM targets is \$1;

(B) PMPM amount for achieving maximum utilization targets is \$1.

(b) Track 2:

(A) PMPM amount for achieving maximum eCQM targets is \$2;

(B) PMPM amount for achieving maximum utilization targets is \$2.

(4) Practices shall be eligible to achieve the maximum eCQM and utilization incentive amounts or partial amounts. Incentive percentage available shall be calculated by CMS based on each individual eCQM measure and by the Authority for two utilization measures.

Stat. Auth.: ORS 413.042

Stat. Implemented: ORS 413.042, 413.259 & 414.065

Hist.: DMAP 31-2017(Temp), f. 7-28-17, cert. ef. 8-1-17 thru 1-27-18

410-149-0150

CPC+ Alternative Payment Methodology

(1) The APM for Track 2 practices is a lump sum payment based on the percentage of FFS payments issued by the Authority to the practice in the prior calendar year. FFS payments shall be reconciled or adjusted down by the same percentage of the APM payment (e.g., 20 percent lump sum payment in January 2018 causes FFS payments issued throughout 2018 to be reduced by 20 percent):

(a) This structure is intended to allow Track 2 practices flexibility to deliver comprehensive care outside of the constraints of billable office visits;

(b) Track 1 practices are not eligible for the APM;

(c) Track 2 practices shall receive lump sum APM payments based on expected revenue for FFS Medicaid beneficiaries beginning in 2018, after Track 2 practice confirms FFS claims from prior year.

(2) Track 2 practices shall receive an additional 1 percent investment payment for each 10 percent payment the practice receives up front with up to 5 percent overall increased investment for practices receiving 50 percent of FFS Medicaid payments as a lump sum.

(3) Track 2 lump sum APM payments shall increase by 10 percentage points per year over the five years of the demonstration to a maximum of 50 percent up front.

(4) Beginning in Year 2, CY2018, eligible practices shall receive 20 percent of expected FFS payments from the Authority for FFS Medicaid beneficiaries, based on claims paid in CY2017.

(5) Practices participating in Track 2 shall continue to bill Oregon Medicaid FFS or CCOs through existing Authority protocols.

(6) The Authority may reconcile Medicaid APM dollars if quality and utilization performance targets are not met in the fourth and fifth years of the CPC+ demonstration.

Stat. Auth.: ORS 413.042

Stat. Implemented: ORS 413.042, 413.259 & 414.065

Hist.: DMAP 31-2017(Temp), f. 7-28-17, cert. ef. 8-1-17 thru 1-27-18

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Oregon Housing and Community Services Department Chapter 813

Rule Caption: Amends the General Housing Account rules to reflect the updated program policy and procedure manual

Adm. Order No.: OHCS 6-2017(Temp)

Filed with Sec. of State: 7-20-2017

Certified to be Effective: 7-20-17 thru 1-7-18

Notice Publication Date:

Rules Amended: 813-055-0001, 813-055-0040

Subject: Amends the rules to reflect an updated policy and procedure manual for the General Housing Account program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-055-0001

Purpose

ORAR chapter 813, division 55, is promulgated to carry out the allocation of monies deposited in the General Housing Account and to carry out the account's purpose of meeting critical housing needs, building the organizational capacity of affordable housing partners throughout the state, and requiring equitable distribution of resources over time based on objective measures of need. Additional policies and instructions are outlined in the General Housing Account Program (GHAP) Manual dated July 1, 2016 (the "GHAP Manual" or "Manual"), incorporated herein by reference. The Manual may be accessed online at the department's website.

Stat. Auth.: ORS 456.555, 458.665

Stat. Implemented: ORS 456.515 - 456.725, 458.665

Hist.: OHCS 5-2009, f. & cert. ef. 12-22-09; OHCS 13-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13; OHCS 23-2013, f. & cert. ef. 12-18-13; OHCS 28-2014(Temp), f. & cert. ef. 6-5-14 thru 12-2-14; OHCS 37-2014, f. & cert. ef. 12-2-14; OHCS 6-2017(Temp), f. & cert. ef. 7-20-17 thru 1-7-18

813-055-0040

Application Procedure and Requirements

(1) The process to obtain GHAP assistance typically will be spelled out in the solicitation documents issued by the department. In addition to, or in lieu of formal solicitation documents, the department may provide other means for accessing GHAP assistance. Additional direction and guidance may be found in the GHAP Manual and the General Policy and Guideline Manual (GPGM).

(2) The department may require payment of a non-refundable application charge from any applicant requesting GHAP funds through a formal solicitation or otherwise.

(3) The department may require payment of other charges with respect to its reasonably anticipated costs in processing applications, coordinating programs or with other project participants, providing funding, negotiating documents, monitoring compliance, evaluating and documenting transfers, or otherwise. The department may require payment of a supplemental application charge from applicants requesting additional resources for projects that have already been funded by the department.

(4) The department may refuse to process applications or terminate processing if it determines an application to be incomplete or that it fails to satisfy threshold standards for further processing.

(5) An applicant shall submit to the department, on the application form and in accordance with the application process prescribed by the department, such information as the department may require, including but not limited to:

(a) The name, address and telephone number of applicant;

(b) The type of assistance requested;

(c) A written description of the project, including the number of units, unit mix, proposed rents, site location, amenities, and any other information requested by the department.

(d) A statement of project purpose indicating the housing type and residents to be housed, and the length of the affordability period;

(e) A pro forma of project income and expenses;

(f) The amount of funding requested and total project development costs, including a description and documentation of all project funding sources and uses;

(g) A narrative of the applicant's experience in developing affordable housing, including the experience of all members of the project development team;

(h) A narrative of the experience of the applicant's management team or agent as it relates to operating affordable housing projects;

(i) A description of resident services, if any, to be provided;

(j) A narrative of the applicant's experience in providing resident services, including the experience of any relevant project team members;

(k) A description of the applicant's readiness to proceed with project activities;

(l) A schedule for completion of project activities;

(m) The need of a nonprofit or housing authority to build its capacity to develop and operate housing serving low income and very low income populations; and

(n) How the nonprofit or housing authority would employ GHAP assistance to build its capacity to develop and operate housing serving low income and very low income populations.

(6) The department may restrict the amount and/or type of assistance available in any solicitation or other provision of assistance and restrict the

ADMINISTRATIVE RULES

type or number of applicants or recipients eligible for assistance in a particular funding process.

Stat. Auth.: ORS 456.555, 458.665

Stats. Implemented: ORS 456.515 - 456.725, 458.665

Hist.: OHCS 5-2009, f. & cert. ef. 12-22-09; OHCS 13-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13; OHCS 23-2013, f. & cert. ef. 12-18-13; OHCS 6-2017(Temp), f. & cert. ef. 7-20-17 thru 1-7-18

Rule Caption: Amends the Housing Choice Landlord Guarantee Landlord eligibility requirements and repeals the tenant repayment requirements

Adm. Order No.: OHCS 7-2017(Temp)

Filed with Sec. of State: 7-24-2017

Certified to be Effective: 7-24-17 thru 1-19-18

Notice Publication Date:

Rules Amended: 813-360-0030

Rules Suspended: 813-360-0060

Subject: The 2017 Legislature adopted HB 2944 which amends the landlord eligibility requirements of the Housing Choice Landlord Guarantee program and removes the tenant repayment plan requirements. The landlord eligibility requires the tenant occupancy to have begun after July 1, 2014 and clarifies that the qualifying damages does not include eviction costs or fees. The legislation also eliminated the tenant repayment requirement.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-360-0030

Landlord Eligibility

(1) In order to be eligible for program assistance, a landlord must first obtain a judgment with a monetary award against a tenant from a court in the county in which the tenant or the property is located.

(a) The judgment must be from a circuit court, the small claims department of a circuit court, or a justice court.

(b) The time frame for appeal of the judgment must have expired without appeal or the judgment must otherwise not be subject to further judicial review.

(2) Program assistance is limited to reimbursement for those amounts covered in a judgment that are related to property damage, unpaid rent or other damages satisfactorily described and documented in a claim to the department from a landlord and:

(a) Incurred from occupancy that began after July 1, 2014;

(b) Caused as a result of the tenant's occupancy pursuant to a rental agreement under the Housing Choice Voucher Program in effect at the time the damage was incurred;

(c) That exceed normal wear and tear; and

(d) That are in excess of \$500, but not more than \$5,000 per tenancy.

(A) Program assistance for damages in amounts less than \$500 may be provided by the department, when a partial amount still owes on a judgment in excess of \$500. For example, if a landlord has received a payment of \$400 on a \$700 judgment for qualifying damages, the landlord may seek reimbursement for the remaining \$300 owing to it under the judgment.

(B) Program assistance for damages up to \$5,000 may be provided by the department on a judgment that is in excess of \$5,000. For example, if a landlord has a judgment for \$7,000 of qualifying damages, the landlord may seek reimbursement for up to \$5,000 of the qualifying damages.

(3) Qualifying damages included within the meaning of property damage, unpaid rent or other damages may include:

(a) Attorney fees, court costs, and interest, but does not include eviction costs or fees;

(b) Loss of rental income during the time required for repairs with respect to qualifying property damage;

(c) Lease-break fees;

(d) Other costs related to lease violations by a tenant.

(4) A landlord may not seek, accept or retain program assistance from the department for amounts paid to the landlord for qualifying damages by the tenant or by a third party.

(5) If, after submitting a claim for program assistance to the department, a landlord receives payment for any claimed damages from a tenant or a third party, the landlord must notify the department within ten (10) days of such payment.

(6) A landlord must provide restitution to the department for overpaid program assistance within forty-five (45) days.

(7) The department shall maintain a record of program assistance provided to a landlord to assist it in determining if there has been an overpayment of program assistance to that landlord.

(8) The following examples are illustrative of when restitution may or may not be owed by a landlord to the department. Any amounts paid to the landlord shall be applied to the sum total of the qualifying judgment owed the landlord:

(a) Example 1: A qualifying judgment is \$6,000. The landlord receives a \$5,000 reimbursement from the fund, and a \$1,000 payment from the tenant. The landlord reports the receipt of \$1,000. There has been no overpayment.

(b) Example 2: A qualifying judgment is for \$6,000. The landlord receives a \$5,000 reimbursement from the fund, and a \$2,000 payment from the tenant. The landlord reports the \$2,000. There has been a \$1,000 overpayment to the landlord, which must be reimbursed to the department by the landlord.

(9) A landlord must submit a claim for program assistance to the department within one year from the date of the expiration of the right to appeal a qualifying judgment against a tenant or the date after which the judgment is not subject to further appeal.

(10) A landlord must file a satisfaction of judgment in the amount of any program assistance received from the department in the court from which the judgment against the tenant was obtained. A copy of this filed satisfaction must be delivered to the department within 30 days of the landlord's receipt of the program assistance.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.375 to 456.390

Hist.: OHCS 32-2014, f. & cert. ef. 6-24-14; OHCS 7-2017(Temp), f. & cert. ef. 7-24-17 thru 1-19-18

813-360-0060

Tenant Repayment Plans

(1) When a payment of program assistance is made to a landlord, the department will require the responsible tenant to repay the full or a partial amount of any program assistance paid to the landlord and shall offer the responsible tenant a reasonable repayment agreement that provides for repayment by the tenant to the department of the full or a partial amount of the program assistance paid to the landlord.

(2) Repayment plans from the department shall take into account factors the department deems relevant as to capacity for repayment, including but not limited to the tenant's family size, monthly income, debt obligations, and the family's ability to meet the basic needs of the household.

(3) After the department pays a claim for program assistance to a landlord, the department will serve a notice upon the responsible tenant that informs the tenant of the following:

(a) That the tenant must repay to the department the amount of any program assistance paid to a landlord on the tenant's behalf;

(b) That the tenant may enter into a reasonable repayment agreement with the department to repay the full or a partial amount of any program assistance paid to a landlord on the tenant's behalf. The tenant may request a repayment plan by contacting the department;

(c) That the tenant may request a waiver of the repayment requirement for good cause by contacting the department;

(d) That if the tenant does not enter into a repayment agreement or make good faith efforts to comply with the terms of a repayment agreement, or otherwise fails to repay the full or an agreed-upon partial amount of assistance paid to the landlord on the tenant's behalf, the department may seek to collect any amount remaining unpaid by the tenant;

(e) That the department will make available upon request by local housing authorities and landlords information regarding a tenant's compliance with the provisions of this section, including records of repayments made by the tenant, where applicable;

(f) That the tenant may seek a waiver of repayment requirements under this section for good cause shown and may contest the department's determination that the tenant has an obligation to repay any amounts of assistance paid to a landlord on the tenant's behalf, in accordance with ORS Chapter 183; and

(g) The means by which a tenant may contest the department's determination that the tenant has an obligation to repay any program assistance, its determination as to a tenant's failure to comply in good faith with a repayment agreement, or the department's determination with respect to any requested waiver of repayment.

(4) The department will waive program assistance repayment requirements upon its determination of good cause for such waiver. The department may waive other requirements of the Act and this division upon its determination of good cause for such waiver. Factors that the department may consider if there is good cause for waiver include, but are not limited to the following:

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(4) The landlord has already been paid, either by the tenant or a third party;

(b) The damages resulting in the judgment were the result of domestic violence, sexual assault, stalking, or other crime of which the tenant or someone in the tenant's household was the victim;

(c) The tenant and family have insufficient income, including all financial assistance and subsidies, to meet the basic minimum needs of the household; and

(d) Other extenuating circumstances as further defined in the guidelines.

(5) Amounts repaid by tenants under this section will be deposited by the department into the fund.

(6) The department may pursue any rights, remedies or processes provided at law or otherwise for the collection of unpaid amounts due from a tenant for program assistance paid to a landlord on the tenant's behalf.

(7) The department will, in accordance with ORS chapter 183, provide an opportunity for the tenant to contest the following:

(a) The department's determination that the tenant has an obligation to repay the department,

(b) That the tenant has failed to repay amounts due under a repayment agreement,

(c) That the tenant has not made or is not making a good faith effort to comply with the repayment agreement;

(d) That the tenant has not paid to the department the full or a partial amount of the assistance paid to a landlord on the tenant's behalf; or

(e) That the department properly failed to waive a repayment obligation.

(8) The department will serve a notice of noncompliance upon a tenant in accordance with ORS 183.415 that states the amount of program assistance remaining unpaid by the tenant. If the notice is served by mail, it will be sent to the tenant's last known address, and the address used to accomplish service of the court pleadings on the tenant, if different.

(9) The department will note whether or not a tenant is in compliance with applicable repayment obligations and make that information available to local housing authorities and landlords at no cost. A tenant will be considered in compliance if the tenant has been granted a relevant waiver, or the department determines that the tenant has made or is making good faith efforts at repayment. The department will note if the full amount of program assistance has been repaid.

(a) The contact number or email address that a landlord may use to request compliance information will be made available on the department's website.

(b) The department will respond promptly to requests for compliance information.

(c) The department will update compliance information on a timely basis, not less frequently than every 30 days.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.375 - 456.390

Hist.: OHCS 32-2014, f. & cert. ef. 6-24-14; Suspended by OHCS 7-2017(Temp), f. & cert. ef. 7-24-17 thru 1-19-18

Rule Caption: Amend Rules for the Wildfire Damage Housing Relief Account

Adm. Order No.: OHCS 8-2017(Temp)

Filed with Sec. of State: 8-14-2017

Certified to be Effective: 8-14-17 thru 2-9-18

Notice Publication Date:

Rules Amended: 813-330-0010, 813-330-0030, 813-330-0040

Subject: The 2017 Oregon Legislature adopted changes to the Wildfire Damage Housing Relief Account in HB 2742. The rules reflect the statutory changes made, including changing the income eligibility to access the fund and raising the limit on assistance to \$7,000 per eligible applicant.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-330-0010

Definitions

(1) "Account" means the Wildfire Damage Housing Relief Account, revolving account within the Oregon Housing Fund created under ORS 458.620.

(2) "Administrative costs" means costs that are incurred in the process of administering the program.

(3) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(4) "Households of lower income" means persons or families residing in Oregon whose federal adjusted gross income for the tax year preceding the year in which a loss of housing due to wildfire occurs does not exceed 200 percent of the federal poverty guidelines.

(5) "Wildfire" has the definition as used in ORS 477.089.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.620, OL 2015 HB 3148, OL 2017 HB 2742

Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16; OHCS 8-2017(Temp), f. & cert. ef. 8-14-17 thru 2-9-18

813-330-0030

Eligible Applicants

Services shall be available to households of lower incomes who meet the following criteria:

(1) The applicant must be an Oregon resident at the time of the loss or damage to housing.

(2) The loss or damage to housing must have occurred in Oregon on or after July 1, 2017.

(3) The home lost or damaged due to wildfire must be the household's primary residence.

(4) The household must own the home that is lost or damaged due to wildfire.

(5) The home that is lost or damaged due to wildfire may be a stick built home, a site built home, or a recreational vehicle that is the primary residence of the applicant.

(6) If the home lost or damaged due to wildfire is a recreational vehicle that is the primary residence of the applicant, the applicant must own or rent the land on which the RV was damaged.

(7) The home damaged by the wildfire is considered uninhabitable unless repaired or replaced.

(8) To receive assistance, the household must submit an application to the department along with verification of loss, proof of ownership, and proof of income.

(9) The household must apply for grant funds within one hundred and eighty (180) days after the loss of the home.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.620, OL 2015 HB 3148, OL 2017 HB 2742

Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16; OHCS 8-2017(Temp), f. & cert. ef. 8-14-17 thru 2-9-18

813-330-0040

Use of Funds

(1) The funds in the account will only be allocated to households of lower income who have lost their home due to wildfire.

(2) The department may provide assistance in the form of a grant, not to exceed \$7,000, to an eligible applicant.

(3) If approved claims for assistance exceed the available balance of the account, the department may make pro-rata reductions in grant amounts to increase the number of claimants who receive assistance.

(4) The department shall verify eligibility of applicants.

(5) The department shall award a grant to a qualified household within thirty (30) days of receiving a complete application from that household.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.620, OL 2015 HB 3148, OL 2017 HB 2742

Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16; OHCS 8-2017(Temp), f. & cert. ef. 8-14-17 thru 2-9-18

Oregon Liquor Control Commission

Chapter 845

Rule Caption: Senate Bill 1057 repealed the Commission's authority to issue expanded canopy endorsements.

Adm. Order No.: OLCC 11-2017(Temp)

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 8-1-17 thru 12-27-17

Notice Publication Date:

Rules Amended: 845-025-1060

Rules Suspended: 845-025-2500, 845-025-2510, 845-025-2520, 845-025-2530, 845-025-2540, 845-025-2550, 845-025-2560

Subject: The Oregon Legislature adopted Senate Bill 1511 during the 2016 legislative session which directed the Oregon Liquor Control Commission to register qualified marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers for purposes of producing, processing and selling medically designated marijuana items. Staff worked with industry and public safety

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interests to implement the provisions of SB 1511 - Section 2; also known as the "Bump-Up Canopy Package".

However, Senate Bill 1057 recently passed during the 2017 legislative session which repealed Section 2 of SB 1511 and effectively rewrote the Bump-Up Canopy into a different concept. The Commission will work with industry, community partners and other interested parties to develop a rule package that implements SB 1057 as it relates to licensed producers growing a medically designated canopy. We expect to complete rule-making in late 2016.

Rules Coordinator: Bryant Haley—(503) 872-5136

845-025-1060

Fees

(1) At the time of initial license or certificate application an applicant must pay a \$250 non-refundable application fee.

(2) If the Commission approves an application and grants an annual license, the following fees must be paid, prorated for an initial license that is issued for six months or less:

- (a) Producers:
 - (A) Micro Tier I \$1,000.
 - (B) Micro Tier II \$2,000.
 - (C) Tier I \$3,750.
 - (D) Tier II \$5,750.
- (b) Processors: \$4,750.
- (c) Wholesalers: \$4,750.
- (d) Micro Wholesalers: \$1,000.
- (e) Retailers: \$4,750.
- (f) Laboratories: \$4,750.
- (g) Sampling Laboratory: \$2,250.

(3) If the Commission approves an application and grants a research certificate, the fee is \$4,750 for a three-year term.

(4) At the time of license or certificate application renewal, an applicant must pay a \$250 non-refundable application fee.

(5) If the Commission approves a renewal application the renewal license or certificate fees must be paid in the amounts specified in subsections (2) and (3) of this rule.

(6) If the Commission approves an initial or renewal application and grants a marijuana worker permit, the individual must pay a \$100 permit fee.

(7) The Commission shall charge the following fees:

(a) Criminal background checks: \$50 per individual listed on a license application (if the background check is not part of an initial or renewal application)

- (b) Transfer of location of premises review: \$1000 per license.
- (c) Packaging preapproval: \$100.
- (d) Labeling preapproval: \$100.
- (e) Change to previously approved package or label: \$25.

Stat. Auth.: ORS 475B.025

Stats. Implemented: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110, 475B.218, 475B.560, 475B.610 & 475B.620 & 2016 OL Ch. 24 Sec. 1

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16; OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16; OLCC 9-2016(Temp), f. 6-28-16, cert. ef. 6-30-16 thru 12-26-16; OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16; OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17; OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17

845-025-2500

Registration to Produce Usable Marijuana for Patients

(1) In order to produce marijuana for a patient a licensed producer must register in a form and manner specified by the commission and submit the fee specified in OAR 845-025-1060.

(2) To qualify for registration a producer must:

(a) Submit a control plan describing how the producer will:

(A) Identify the medical canopy and separate the medical canopy from the recreational canopy;

(B) Segregate usable marijuana harvested from the medical plants from the usable marijuana harvested from recreational plants.

(b) Provide the Commission with a scaled floor plan or map specifying where the medical production will occur on the licensed premises.

(c) Provide the Commission with the agreement that meets the requirements of these rules for any patient for which the producer intends to produce usable marijuana under these rules.

(3) Licensed producers who have previously submitted a land use compatibility statement are not required to submit an additional land use compatibility statement when registering to produce usable marijuana for patients.

(4) Licensed producers who were exempt from submitting a land use compatibility statement under these rules at the time of licensure must submit a land use compatibility statement when registering to produce marijuana for patients if the producer's total canopy of mature medical and recreational plants exceeds 5000 square feet for outdoor producers and 1250 square feet for indoor producers.

(5) Upon receiving a registration form, fee and other information required to be submitted by this rule the Commission must verify the information submitted by the producer with the Authority, if applicable.

(6) A registration request will be denied if the producer has not complied with this rule or if any information submitted by the producer is false or misleading.

Stat. Auth.: ORS 475B.025

Stats. Implemented: 2016 OL Ch. 83 Sec. 2

Hist.: OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17; Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17

845-025-2510

Licensed Producer and Patient Agreements

(1) A licensed producer who is registered by the Commission to produce marijuana for patients may have agreements with up to 24 patients during any one calendar year.

(2) A licensed producer must use a form of patient agreement prescribed by the Commission that includes:

(a) The name, contact information, and OMMP card number of the patient and the patient's designated primary caregiver, if applicable.

(b) A statement that the producer may not be compensated by the patient for producing or providing marijuana to the patient, but may reimburse the producer for the costs associated with producing or providing marijuana to the patient.

(c) A statement that the producer may not produce more than the equivalent in square feet of six mature plants for the patient.

(d) The amount of usable marijuana that may be provided to the patient or to the patient's designated primary caregiver, not to exceed 24 ounces in any one transfer or three pounds in a 12 month period.

(e) The amount of usable marijuana the producer is permitted to transfer, if any, to other patients not named in the agreement, not to exceed 24 ounces in any one transfer or three pounds per patient in a 12 month period.

(f) The amount of usable marijuana the producer is permitted to transfer or sell if any to a registered marijuana processing site or registered dispensary, not to exceed 25% of the total annual yield from the producer's medical canopy.

(g) The requirements for terminating an agreement as prescribed by the Commission.

(h) A statement that the producer may not produce marijuana for the patient unless the producer has been registered with the Commission to produce marijuana for patients.

(3) A producer may not enter into an agreement with a patient who has a grower registered with the Authority or with a patient who has entered into an agreement with another licensed producer under this rule.

(4) A producer may not produce marijuana for a patient until the Commission:

(a) Verifies the patient's registration status with the Authority;

(b) Approves the agreement; and

(c) Notifies the producer that the producer may produce and provide usable marijuana to that patient.

(5) A producer may neither give nor receive consideration for entering into a patient agreement, except as allowed by these rules.

Stat. Auth.: ORS 475B.025

Stats. Implemented: 2016 OL Ch. 83 Sec. 2

Hist.: OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17; Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17

845-025-2520

Termination of Producer and Patient Agreements

(1) A producer or a patient may terminate an agreement at any time with 30 days written notice.

(2) The producer must provide a copy of any notice of termination to the Commission within 2 business days of terminating an agreement or receiving notice of termination from a patient.

(3) Effect of the termination. The producer's medical canopy will be reduced by 280 square feet for outdoor producers and 70 square feet for indoor producers if the producer has agreements with fewer than 14 patients and the producer fails to enter into a new agreement as described in OAR 845-025-2530.

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(4) If a patient, at any time during the term of the producer-patient agreement is no longer registered with the Authority, the agreement is invalid.

(5) If the Commission learns that a patient has been disciplined by the Authority for violations of the Oregon Medical Marijuana Act or the Authority's rules, has been convicted of marijuana related crimes, or has a registered grower under ORS 475B.420, the Commission may notify the producer and the patient that the agreement is no longer valid and will provide instructions to the producer regarding the disposition of any marijuana plants or usable marijuana that were produced for that patient.

Stat. Auth.: ORS 475B.025

Stats. Implemented: 2016 OL Ch. 83 Sec. 2

Hist.: OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17; Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17

845-025-2530

Adding or Replacing Patients Agreements

(1) If a producer or a patient terminates an agreement at least 90 days before the date the producer's license expires, the producer may, within 90 days of the notice of termination, enter into a new agreement with a patient to replace a patient whose agreement is being terminated.

(2) Except as provided in section (1) of this rule, after August 31, 2017, new patient agreements may only be entered into and submitted to the Commission for verification and review at the time the producer applies for a new license or renewal of an existing license.

Stat. Auth.: ORS 475B.025

Stats. Implemented: 2016 OL Ch. 83 Sec. 2

Hist.: OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17; Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17

845-025-2540

Grow Canopy Limitation for Producers Registered to Produce Marijuana for Patients

(1) A licensed producer who has been registered by the Commission to produce marijuana for patients may only produce the following amounts of marijuana for patients:

(a) For outdoor producers, up to 240 square feet per patient agreement, not to exceed a sum total of 3360 square feet of mature plant canopy.

(b) For indoor producers, up to 60 square feet per patient agreement, not to exceed a sum total of 840 square feet of mature plant canopy.

(2) A licensed producer must physically separate usable marijuana produced for patients from the marijuana canopy authorized under OAR 845-025-2040.

Stat. Auth.: ORS 475B.025

Stats. Implemented: 2016 OL Ch. 83 Sec. 2

Hist.: OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17; Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17

845-025-2550

Requirements for Producing and Providing Marijuana for Patients

A licensed producer who has been registered by the Commission to produce marijuana for patients:

(1) Must:

(a) Comply with all seed-to-sale tracking requirements required in these rules.

(b) Comply with all applicable testing rules prior to transferring usable marijuana to a patient or the patient's designated primary caregiver and upon request by a patient, provide a patient with a copy of all testing results.

(c) Comply with all applicable testing, labeling and packaging rules when transferring or selling usable marijuana to registered processing sites and registered dispensaries.

(d) In addition to subsection (a) of this section, use CTS to document the amount of usable marijuana transferred or sold to each registrant, the date of the transfer, and the registrant's OMMP number.

(e) Identify the mature marijuana plants being grown pursuant to grower-patient agreements separately from the producer's recreational marijuana canopy in a manner proscribed by the Commission.

(2) May transfer immature marijuana plants, seeds and tissue cultures from the producer's recreational plant stock to the area used for the production of marijuana for patients.

(3) May not:

(a) Be compensated for producing or providing marijuana to a patient or the patient's designated primary caregiver except as allowed by OAR 845-025-2510.

(b) Produce more than the equivalent in square feet of six mature marijuana plants for any one patient. Equivalent square feet of mature canopy

space is calculated at the rate of 40 square feet of canopy per outdoor marijuana plant and 10 square feet for indoor marijuana plants.

(c) Provide more than the amount of usable marijuana specified in an approved patient agreement to a patient or the patient's designated primary caregiver, or provide an amount that exceeds what is allowed in these rules.

(d) Transfer more than 25% of the total annual yield of usable marijuana from the producer's medical canopy to registered processing sites and registered dispensaries.

Stat. Auth.: ORS 475B.025

Stats. Implemented: 2016 OL Ch. 83 Sec. 2

Hist.: OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17; Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17

845-025-2560

Cancellation of Registration; Violations

The Commission may cancel or suspend a licensed producer's registration to produce for patients or the producer's license if the producer violates these rules.

Stat. Auth.: ORS 475B.025

Stats. Implemented: 2016 OL Ch. 83 Sec. 2

Hist.: OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17; Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17

Oregon Patient Safety Commission Chapter 325

Rule Caption: Corrects the Commission 2017-2019 biennial budget filing error by amending OAR 325-005-0015.

Adm. Order No.: PSC 3-2017

Filed with Sec. of State: 8-1-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 5-1-2017

Rules Amended: 325-005-0015

Subject: In accordance with the rules governing semi-independent state agencies, this action updates the Oregon Patient Safety Commission 2017-2019 biennial budget of \$4,353,196 by correcting the biennial budget end-date and amending OAR 325-005-015.

Rules Coordinator: Thomas H. Stuebner—(503) 224-5034

325-005-0015

Biennial Budget

The Commission hereby adopts by reference the Oregon Patient Safety Commission 2017–2019 biennial budget of \$4,353,196 covering the period July 1, 2017, through June 30, 2019. The Commission's Executive Director will amend budgeted accounts as necessary, within the approved budget of \$4,353,196 for the effective operation of the Commission. The Commission will not exceed the approved 2017–2019 biennial budget without amending this rule, notifying interested parties, and holding a public hearing as required by ORS Chapter 182.462. Copies of the budget are available from the Commission office and are posted on the Commission website.

Stat. Auth.: ORS 442.820, 442.831

Stats. Implemented: ORS 182.462, 442.831

Hist.: PSC 1-2006, f. & cert. ef. 2-6-06; PSC 4-2007, f. & cert. ef. 7-2-07; PSC 1-2009, f. & cert. ef. 6-26-09; PSC 1-2011, f. & cert. ef. 7-1-11; PSC 1-2012, f. 3-27-12, cert. ef. 4-1-12; PSC 1-2013, f. & cert. ef. 4-25-13; PSC 2-2013, f. & cert. ef. 7-3-13; PSC 1-2014, f. 3-18-14, cert. ef. 3-21-14; PSC 1-2015, f. & cert. ef. 3-17-15; PSC 2-2015, f. & cert. ef. 7-10-15; PSC 1-2016, f. & cert. ef. 1-29-16; PSC 1-2017, f. 2-28-17, cert. ef. 3-1-17; PSC 2-2017, f. 5-19-17, cert. ef. 6-30-17; PSC 3-2017, f. & cert. ef. 8-1-17

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Reflect change in assumed rate and specify effective date of implementation for PERS transactions.

Adm. Order No.: PERS 4-2017

Filed with Sec. of State: 7-28-2017

Certified to be Effective: 7-28-17

Notice Publication Date: 6-1-2017

Rules Amended: 459-007-0007

Subject: The PERS Board reviews the assumed rate in odd-numbered years as part of the Board's adoption of actuarial methods and assumptions. That rate is then adopted in an administrative rule at the time the Board sets the new rate. On July 28, 2017, the PERS Board adopted a 7.20% assumed rate.

The rule specifies that the adopted assumed rate will be effective for PERS transactions with an effective date of January 1, 2018, con-

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sistent with this Board's policy decision from 2013 that the assumed rate will be effective January 1 following the Board's adoption of the rate. A January 1 effective date also provides equitable treatment to all members who retire in a year that a change is adopted, no matter which month they retire. The adopted assumed rate will be aligned with the new actuarial equivalency factors (AEFs), which will allow for a clear effective date for all transactions that involve calculations using both the rate and AEF components.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-007-0007

Assumed Rate

(1) The Board will review the assumed rate in odd-numbered years as part of the Board's review and adoption of actuarial assumptions and methods.

(2) The Board may adopt a change in the assumed rate at any time. A change in the assumed rate is effective the first of the year following the Board's adoption of the change.

(3) The assumed rate is set at 7.20 percent, effective on January 1, 2018.

Stat. Auth.: ORS 238.650 & 238A.450

Stats. Implemented: ORS 238.255

Hist.: PERS 9-2013, f. & cert. ef. 9-27-13; PERS 11-2015, f. & cert. ef. 9-25-15; PERS 4-2017, f. & cert. ef. 7-28-17

Rule Caption: Exempts non-PERS participating employers from EFT payment requirements.

Adm. Order No.: PERS 5-2017

Filed with Sec. of State: 7-28-2017

Certified to be Effective: 7-28-17

Notice Publication Date: 6-1-2017

Rules Amended: 459-005-0225

Subject: ORS 293.525 allows state agencies to require payments via Electronic Funds Transfer (EFT). In 2005, PERS began requiring public employers to make payments via EFT, which provides for safer, more efficient processing of payments. However, the definition of "public employer" in OAR 459-005-0225 included non-PERS participating employers that pay only an annual fee to PERS for their share of the expenses incurred in administering the state Social Security Program, as required by ORS 237.500.

Currently, 889 PERS-participating employers pay this annual fee via EFT, and 189 non-PERS participating employers pay the annual fee via check. The non-PERS participating employers make no other payments to PERS, and to require the Social Security annual fee be paid by EFT would put an undue burden on these small employers that typically only have a few employees.

To continue allowing non-PERS participating employers to pay the Social Security annual fee via check, the amendments to OAR 459-005-0225 clarify that the EFT requirements apply only to PERS-participating employers.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0225

Requirement to Make Payments by Electronic Funds Transfer

(1) As used in this rule, the following words and phrases have the following meanings:

(a) "Electronic funds transfer" has the same meaning given the term in ORS 293.525.

(b) "ACH credit" means the electronic funds transfer from the participating employer's account, initiated by the participating employer and cleared through the Automated Clearing House (ACH) network for deposit to PERS.

(c) "ACH debit" means the electronic funds transfer from the participating employer's account, initiated by PERS and cleared through the ACH network to debit the participating employer's account and credit the PERS account.

(2) Participating employers are required to make all payments to PERS by means of electronic funds transfer (EFT).

(3) On a form provided by PERS, participating employers shall authorize EFT payments to PERS, and submit the form to PERS by December 1, 2005.

(a) The participating employer shall provide PERS with all information necessary to allow for EFT payments, including the method of EFT payment (ACH debit or ACH credit).

(b) A participating employer must complete a new EFT authorization form to change the method of transfer or to update the employer's account information.

(4) ACH debits from a participating employer's account will be processed on the third business day after the statement date and be effective on the fifth business day after the statement date.

(5) Effective on and after January 1, 2006, a penalty shall be assessed equal to one percent of payments by participating employers made by means other than EFT. This penalty is in addition to any penalties incurred under ORS 238.705 and 238.710.

(6) The PERS Executive Director will have the discretion to waive the penalty described in section (5) of this rule. The employer must submit any such requests in writing.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 293.525

Hist.: PERS 12-2005, f. & cert. ef. 7-5-05; PERS 5-2017, f. & cert. ef. 7-28-17

Oregon State Marine Board Chapter 250

Rule Caption: Clarification of motor use exemption for landowners with special boater passes for the Deschutes River.

Adm. Order No.: OSMB 2-2017

Filed with Sec. of State: 7-17-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 250-030-0110

Subject: Rule amendment will add motor use exemption language for landowner's ability to ingress/egress the Deschutes River with authorization by special annual boater passes.

Rules Coordinator: June LeTarte—(503) 378-2617

250-030-0110

Restrictions for the Deschutes River

(1) A person must not use a motor for propelling a boat for any purpose:

(a) On the portion of the river bordering the Warm Springs Reservation, year round (ORS 830.180);

(b) Between the northern boundary of the Warm Springs Reservation and the mouth of Buckhollow Creek (downstream from Sherars Falls), year round, with the exception of a person who has been issued a Special Boater Pass under OAR 736-040-0071(10) by Oregon Parks and Recreation Department (ORPD) or its designated contractor;

(c) Between the mouth of Buckhollow Creek and Macks Canyon Campground from June 15 to September 30, with the exception of a person who has been issued a Special Boater Pass under OAR 736-040-0071(10) by ORPD or its designated contractor;

(2) In the area between Macks Canyon Campground and the Heritage Landing boat ramp:

(a) Use of motors is prohibited on alternating Thursday, Friday, Saturday and Sunday periods beginning with the first Thursday-Sunday period that falls on or after June 15 and continuing through September 30;

(b) There are no daily restrictions on motorized use from October 1 to June 14.

(3) A person must not operate a motorboat in excess of a "slow-no wake speed on the Deschutes River from the confluence with the Columbia River upstream to a point approximately 1,500 feet (500 yards) as marked.

(4) A person must not operate more than two round trips from Heritage Landing Boat Ramp or Macks Canyon Boat Ramp per day, except for emergencies.

(5) A person must not operate a motorboat with more than seven persons on board including the operator. The passenger capacity restriction does not apply to:

(a) Persons operating under a Special Boater Pass under OAR 736-040-0071(10) by ORPD or its designated contractor;

(b) U.S. Coast Guard certified tour boat with a maximum of 16 persons operating under BLM Special Use Permit between the confluence with the Columbia River and Sherars Falls.

(6) A special "pass through" zone is established from the "slow-no wake" zone below Moody Rapids and the upstream end of Rattlesnake Rapids, as posted. A person must not stop or anchor any boat for the pur-

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pose of picking up or discharging passengers in this zone, except in an emergency.

Stat. Auth.: ORS 830.110 & 830.175
Stats. Implemented: ORS 830.175
Hist.: OSMB 1-2015, f. 1-11-16, cert. ef. 2-1-16; OSMB 2-2017, f. 7-17-17, cert. ef. 8-1-17

Oregon Watershed Enhancement Board Chapter 695

Rule Caption: Revisions to Education and Outreach grant rules to implement Stakeholder Engagement grant-making.

Adm. Order No.: OWEB 2-2017

Filed with Sec. of State: 7-31-2017

Certified to be Effective: 7-31-17

Notice Publication Date: 6-1-2017

Rules Adopted: 695-015-0010, 695-015-0040, 695-015-0050, 695-015-0080, 695-015-0090, 695-015-0100, 695-015-0110, 695-015-0120

Rules Amended: 695-015-0020, 695-015-0070

Rules Repealed: 695-015-0030, 695-015-0130

Subject: OWEB completed rule amendments and rulemaking related to the administration of the outreach grant program. The purpose is to develop a stakeholder engagement grant program that is necessary for carrying out eligible restoration or acquisitions projects. In the process, the name of the grant program has changed from Education and Outreach Grants to Stakeholder Engagement Grants. The Definitions [695-015-0020] and Evaluation Criteria [695-015-0070] administrative rules have been amended. The Education and Outreach Priorities [695-015-0030] and Special Watershed Educational Project Grants [695-015-0130] administrative rules have been repealed. The repealed rules will be replaced by newly adopted administrative rules describing the stakeholder engagement grant program: Purpose [695-015-0010], Eligible and Ineligible Project Types [695-015-0040], Application Requirements [695-015-0050], Technical Review Process [695-015-0080], Staff Funding Recommendation Process [695-015-0090], Board Funding Decision [695-015-0100], Grant Agreement Conditions [695-015-0110], and Waiver and Periodic Review of Rules [695-015-0120].

Rules Coordinator: Eric Hartstein—(503) 986-0029

695-015-0010

Purpose

The Board shall provide outreach grants, as funds are available, for stakeholder engagement projects that are necessary for carrying out eligible restoration and acquisition projects, or programs that lead to development of eligible projects, as required by ORS 541.956(4) and OR CONST Art. XV, §4b(2)(d).

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0020

Definitions

“Stakeholder Engagement Project” means a project whose purpose is to communicate and engage with landowners, organizations, and the community about the need for, feasibility, and benefits of a specific eligible restoration or acquisition project or program that leads to development of eligible projects within an identified geography.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0040

Eligible and Ineligible Project Types

(1) The Board will only consider projects that:

(a) Are focused on a specific project site or sites, or that support resource assessment and planning that results in identification of a specific project site or sites; and

(b) Will lead to eligible restoration or acquisition projects within a specific timeframe.

(2) Projects whose primary purpose is education are not eligible.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0050

Application Requirements

Applications must be submitted on the most current form prescribed by the Board. In accordance with Section 4(b)(2)(d) of Article XV of the Oregon Constitution and ORS 541.956(4), funds used for outreach activities are required to be necessary for carrying out eligible restoration or acquisition projects. These are described in OAR 695-010 and 695-045. Stakeholder engagement applications must include the following:

(1) The eligible project type, or program that leads to development of eligible project types, that the Stakeholder Engagement project intends to develop. Eligible project types include:

- (a) Acquiring, from willing owners, interests in land or water that will protect or restore native fish or wildlife habitats;
- (b) Projects to protect or restore native fish or wildlife habitat;
- (c) Projects to protect or restore natural watershed or ecosystem functions in order to improve water quality or streamflow; or
- (d) Resource assessment or planning for the above project types.

(2) A description of the direct connection the Stakeholder Engagement project has with future restoration or acquisition projects or programs.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0070

Evaluation Criteria

Stakeholder Engagement projects will be evaluated on:

- (1) The degree to which applicants engage with the appropriate stakeholders in the appropriate geography;
- (2) The likely effectiveness of multi-directional communication among the applicant and stakeholders;
- (3) The proposed evidence base linking the stakeholder engagement project and the resulting restoration or acquisition projects, or program that leads to development of eligible project types;
- (4) The timeliness of the resulting restoration or acquisition projects, or program that leads to development of eligible project types;
- (5) Cost effectiveness;
- (6) The qualifications and experience of applicant; and
- (7) The expected outcomes of the resulting restoration or acquisition project with respect to protecting or restoring fish or wildlife habitat, watershed function, and water quality or quantity.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0080

Technical Review Process

(1) Prior to the technical review team meeting, the technical review team:

(a) Shall receive each application, past evaluations for projects resubmitted in the current grant cycle, and an evaluation sheet to complete for each application;

(b) Shall evaluate each application based on the information provided. During this process, team members are encouraged to contact the applicants, Board staff, or other agency staff to clarify information in the application or to get expert review.

(2) At the technical review team meeting, the team shall:

(a) Review and evaluate each project individually based on how well the proposed project meets the criteria in OAR 695-015-0070;

(b) Recommend the project as:

(A) Do fund;

(B) Do fund with conditions;

(C) Do not fund; or

(D) Defer to staff or the Board with an explanation, if there is a policy issue or budget issue that needs to be addressed by the Board prior to a funding decision; and

(c) Rank order all projects recommended for funding based on:

(A) How well the project meets the criteria established in OAR 695-010-0040 and 695-010-0050;

(B) The certainty of success of the stakeholder engagement project, based on the organizational capacity of the applicant and the likelihood the project will meet its stakeholder engagement objectives;

(3) The project description, summary evaluation and funding recommendation for all projects, and the rank order of projects recommended for funding shall be forwarded from the regional review team to Board staff for their consideration. This information will be sent to all applicants within a region for their region and for all regions to the Board.

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Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0090

Staff Funding Recommendation Process

(1) Staff shall review the recommendations from each technical review team and make a statewide funding recommendation to the Board based on available resources for the grant period and type. The recommendation shall include any conditions placed on individual projects and may include proposed budget adjustments. The staff recommendation, as represented in the staff report to the Board, shall be sent to applicants and members of the technical review teams at least two weeks before the Board meeting where funding decisions are to be made.

(2) Applicants may provide written or oral comment to the Board on the staff recommendation prior to the Board decision.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0100

Board Funding Decision

(1) The Board may fund a project in whole or in part.

(2) Projects not funded may be resubmitted during application submission periods prescribed by the Board.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0110

Grant Agreement Conditions

(1) The Grantee must submit a report at completion of the project describing the work done and placing it in its larger watershed context.

(2) The Grantee must agree to complete the project as approved by the Board and within the timeframe specified in the grant agreement unless proposed modifications are submitted and approved by the Director prior to the beginning of any work proposed in the modification.

(3) The Director will consider project modifications including expansion of funded projects with moneys remaining from the original project allocation if the purpose and intent of the amendment remains the same as the original project, the proposed activity is within the same geographic area, and the modification would be compatible with acknowledged comprehensive plans.

(4) The Director may authorize minor changes within the scope of the original project plan.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 2-2017, f. & cert. ef. 7-31-17

695-015-0120

Waiver and Periodic Review of Rules

The Director may waive the requirements of Division 15 for individual grant applications unless required by statute, when doing so will result in more efficient or effective implementation of the Board's stakeholder engagement grant program. Any waiver must be in writing and included in the grant file to which the waiver applies.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.956
Hist.: OWEB 2-2017, f. & cert. ef. 7-31-17

Oregon Youth Authority
Chapter 416

Rule Caption: Updating BRS Rate Table incorporated by reference.

Adm. Order No.: OYA 2-2017(Temp)

Filed with Sec. of State: 7-25-2017

Certified to be Effective: 7-25-17 thru 1-19-18

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

416-335-0090

Billing and Payment for Services and Placement Related Activities

(1) Billable Care Days:

(a) The BRS Contractor is compensated for a Billable Care Day (Service and Placement Related Activities rates) on a fee-for-service basis in accordance with OAR 410-170-0110 and this rule.

(b) The BRS Contractor may include overnight Transitional Visits by the BRS Client to another placement in its Billable Care Days. The BRS Contractor must:

(A) Receive prior approval for the Transitional Visit from OYA;

(B) Ensure that the Transitional Visit is in support of the MSP, MSP-T, or MSP-S goals related to transition;

(C) Pay the hosting placement at the established Absent Rate for the sending BRS Provider; and

(D) Ensure that the hosting placement will not seek any reimbursement from OYA for the care of the visiting BRS Client.

(2) Absent Days:

(a) The BRS Contractor is compensated for an Absent Day at the Absent Day rate in order to hold a BRS Program placement for a BRS Client with the prior approval of the BRS Client's JPPO and the Community Resources Manager.

(b) Notwithstanding OAR 410-170-0110(4), the BRS Contractor may request prior approval from OYA to be reimbursed for more than eight calendar days of home visits in a month for a BRS Client. However, any additional days of home visits approved under this rule will be paid at the Absent Day rate.

(3) The BRS Contractor may be reimbursed only for the BRS Type of Care authorized in the contract with OYA.

(4) Invoice Form:

(a) The BRS Contractor must submit a monthly billing form to OYA in a format acceptable to the Agency, on or after the first day of the month following the month in which it provided Services and Placement Related Activities to the BRS Client. The billing form must specify the number of Billable Care Days and Absent Days for each BRS Client in that month.

(b) The BRS Contractor must provide upon request, in a format that meets OYA's approval, written documentation of each BRS Client's location for each day claimed as a Billable Care Day and an Absent Day.

(c) The BRS Contractor may only submit a claim for a Billable Care Day and an Absent Day consistent with the Agency's prior authorization or approval.

(5) Billable Care Day and Absent Day rates are provided in the "BRS Rates Table", dated July 1, 2017, 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; OYA 10-2016, f. & cert. ef. 12-8-16; OYA 2-2017(Temp), f. & cert. ef. 7-25-17 thru 1-19-18

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123-051-0700	8-8-2017	Amend	9-1-2017	137-076-0000	4-27-2017	Amend	6-1-2017
123-051-0800	8-8-2017	Amend	9-1-2017	137-076-0005	4-27-2017	Amend	6-1-2017
123-051-0900	8-8-2017	Amend	9-1-2017	137-076-0010	4-27-2017	Amend	6-1-2017
123-051-1000	8-8-2017	Amend	9-1-2017	137-076-0016	4-27-2017	Amend	6-1-2017
123-061-0010	12-22-2016	Amend	2-1-2017	137-076-0017	4-27-2017	Adopt	6-1-2017
123-061-0020	12-22-2016	Amend	2-1-2017	137-076-0018	4-27-2017	Repeal	6-1-2017
123-061-0030	12-22-2016	Amend	2-1-2017	137-076-0019	4-27-2017	Adopt	6-1-2017
123-061-0031	12-22-2016	Adopt	2-1-2017	137-076-0020	4-27-2017	Amend	6-1-2017
123-061-0032	12-22-2016	Adopt	2-1-2017	137-076-0025	4-27-2017	Amend	6-1-2017
123-061-0033	12-22-2016	Adopt	2-1-2017	137-076-0030	4-27-2017	Amend	6-1-2017
123-061-0035	12-22-2016	Amend	2-1-2017	137-076-0032	4-27-2017	Amend	6-1-2017
123-061-0040	12-22-2016	Repeal	2-1-2017	137-076-0034	4-27-2017	Amend	6-1-2017

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137-076-0040	4-27-2017	Amend	6-1-2017	141-075-0040	1-12-2017	Repeal	2-1-2017
137-076-0043	4-27-2017	Amend	6-1-2017	141-075-0045	1-12-2017	Repeal	2-1-2017
137-076-0045	4-27-2017	Amend	6-1-2017	141-075-0050	1-12-2017	Repeal	2-1-2017
137-076-0050	4-27-2017	Repeal	6-1-2017	141-075-0055	1-12-2017	Repeal	2-1-2017
137-076-0055	4-27-2017	Amend	6-1-2017	141-075-0060	1-12-2017	Repeal	2-1-2017
137-076-0056	4-27-2017	Amend	6-1-2017	141-075-0080	1-12-2017	Repeal	2-1-2017
137-076-0060	4-27-2017	Repeal	6-1-2017	141-075-0110	1-12-2017	Repeal	2-1-2017
137-076-0065	4-27-2017	Amend	6-1-2017	141-075-0130	1-12-2017	Repeal	2-1-2017
137-076-0070	4-27-2017	Amend	6-1-2017	141-075-0140	1-12-2017	Repeal	2-1-2017
137-080-0005	4-27-2017	Amend	6-1-2017	141-075-0145	1-12-2017	Repeal	2-1-2017
137-080-0010	4-27-2017	Amend	6-1-2017	141-075-0150	1-12-2017	Repeal	2-1-2017
137-080-0015	4-27-2017	Amend	6-1-2017	141-075-0155	1-12-2017	Repeal	2-1-2017
137-080-0020	4-27-2017	Repeal	6-1-2017	141-075-0160	1-12-2017	Repeal	2-1-2017
137-080-0025	4-27-2017	Amend	6-1-2017	141-075-0165	1-12-2017	Repeal	2-1-2017
137-080-0030	4-27-2017	Amend	6-1-2017	141-075-0170	1-12-2017	Repeal	2-1-2017
137-105-0001	11-17-2016	Amend	1-1-2017	141-075-0175	1-12-2017	Repeal	2-1-2017
137-105-0010	11-17-2016	Amend	1-1-2017	141-075-0180	1-12-2017	Repeal	2-1-2017
137-105-0020	11-17-2016	Amend	1-1-2017	141-075-0190	1-12-2017	Repeal	2-1-2017
137-105-0025	11-17-2016	Adopt	1-1-2017	141-075-0195	1-12-2017	Repeal	2-1-2017
137-105-0030	11-17-2016	Amend	1-1-2017	141-075-0200	1-12-2017	Repeal	2-1-2017
137-106-0001	11-17-2016	Adopt	1-1-2017	141-075-0205	1-12-2017	Repeal	2-1-2017
137-106-0010	11-17-2016	Adopt	1-1-2017	141-075-0210	1-12-2017	Repeal	2-1-2017
137-106-0030	11-17-2016	Adopt	1-1-2017	141-075-0215	1-12-2017	Repeal	2-1-2017
137-106-0040	11-17-2016	Adopt	1-1-2017	141-075-0220	1-12-2017	Repeal	2-1-2017
141-067-0130	1-12-2017	Amend	2-1-2017	141-075-0225	1-12-2017	Repeal	2-1-2017
141-067-0150	1-12-2017	Amend	2-1-2017	141-075-0230	1-12-2017	Repeal	2-1-2017
141-067-0155	1-12-2017	Amend	2-1-2017	141-075-0235	1-12-2017	Repeal	2-1-2017
141-067-0170	1-12-2017	Amend	2-1-2017	141-075-0240	1-12-2017	Repeal	2-1-2017
141-067-0180	1-12-2017	Amend	2-1-2017	141-075-0245	1-12-2017	Repeal	2-1-2017
141-067-0195	1-12-2017	Amend	2-1-2017	141-075-0250	1-12-2017	Repeal	2-1-2017
141-067-0200	1-12-2017	Repeal	2-1-2017	141-075-0255	1-12-2017	Repeal	2-1-2017
141-067-0215	1-12-2017	Amend	2-1-2017	141-075-0260	1-12-2017	Repeal	2-1-2017
141-067-0220	1-12-2017	Amend	2-1-2017	141-075-0265	1-12-2017	Repeal	2-1-2017
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141-067-0300	1-12-2017	Amend	2-1-2017	141-075-0275	1-12-2017	Repeal	2-1-2017
141-068-0000	1-12-2017	Adopt	2-1-2017	141-075-0280	1-12-2017	Repeal	2-1-2017
141-068-0010	1-12-2017	Adopt	2-1-2017	141-075-0285	1-12-2017	Repeal	2-1-2017
141-068-0020	1-12-2017	Adopt	2-1-2017	141-075-0290	1-12-2017	Repeal	2-1-2017
141-068-0030	1-12-2017	Adopt	2-1-2017	141-075-0295	1-12-2017	Repeal	2-1-2017
141-068-0040	1-12-2017	Adopt	2-1-2017	141-075-0300	1-12-2017	Repeal	2-1-2017
141-068-0050	1-12-2017	Adopt	2-1-2017	141-075-0305	1-12-2017	Repeal	2-1-2017
141-068-0060	1-12-2017	Adopt	2-1-2017	141-075-0310	1-12-2017	Repeal	2-1-2017
141-068-0070	1-12-2017	Adopt	2-1-2017	141-075-0315	1-12-2017	Repeal	2-1-2017
141-068-0080	1-12-2017	Adopt	2-1-2017	141-075-0320	1-12-2017	Repeal	2-1-2017
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141-068-0100	1-12-2017	Adopt	2-1-2017	141-075-0335	1-12-2017	Repeal	2-1-2017
141-068-0110	1-12-2017	Adopt	2-1-2017	141-075-0400	1-12-2017	Repeal	2-1-2017
141-068-0120	1-12-2017	Adopt	2-1-2017	141-075-0405	1-12-2017	Repeal	2-1-2017
141-068-0130	1-12-2017	Adopt	2-1-2017	141-075-0460	1-12-2017	Repeal	2-1-2017
141-068-0140	1-12-2017	Adopt	2-1-2017	141-075-0465	1-12-2017	Repeal	2-1-2017
141-075-0010	1-12-2017	Repeal	2-1-2017	141-075-0470	1-12-2017	Repeal	2-1-2017
141-075-0015	1-12-2017	Repeal	2-1-2017	141-075-0475	1-12-2017	Repeal	2-1-2017
141-075-0020	1-12-2017	Repeal	2-1-2017	141-075-0480	1-12-2017	Repeal	2-1-2017
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141-075-0535	1-12-2017	Repeal	2-1-2017	150-311-0800	6-15-2017	Amend	7-1-2017
141-075-0540	1-12-2017	Repeal	2-1-2017	150-312-0010	6-15-2017	Amend	7-1-2017
141-075-0545	1-12-2017	Repeal	2-1-2017	150-312-0020	6-15-2017	Amend	7-1-2017
141-075-0550	1-12-2017	Repeal	2-1-2017	150-312-0040	6-28-2017	Amend	8-1-2017
141-075-0555	1-12-2017	Repeal	2-1-2017	150-314-0020	6-1-2017	Repeal	7-1-2017
141-075-0560	1-12-2017	Repeal	2-1-2017	150-314-0078	8-1-2017	Amend	9-1-2017
141-075-0565	1-12-2017	Repeal	2-1-2017	150-314-0082	6-28-2017	Amend	8-1-2017
141-075-0570	1-12-2017	Repeal	2-1-2017	150-314-0084	6-28-2017	Amend	8-1-2017
141-075-0575	1-12-2017	Repeal	2-1-2017	150-314-0115	8-1-2017	Amend	9-1-2017
141-125-0100	1-12-2017	Amend	2-1-2017	150-314-0120	8-2-2017	Amend	9-1-2017
141-125-0110	1-12-2017	Amend	2-1-2017	150-314-0140	1-1-2017	Amend	2-1-2017
141-125-0120	1-12-2017	Amend	2-1-2017	150-314-0150	1-1-2017	Amend	2-1-2017
141-125-0140	1-12-2017	Amend	2-1-2017	150-314-0240	6-1-2017	Amend	7-1-2017
141-125-0160	1-12-2017	Amend	2-1-2017	150-314-0246	6-28-2017	Amend	8-1-2017
141-125-0170	1-12-2017	Amend	2-1-2017	150-314-0317	8-1-2017	Amend	9-1-2017
141-141-0100	7-1-2017	Adopt	7-1-2017	150-314-0327	6-28-2017	Amend	8-1-2017
141-141-0110	7-1-2017	Adopt	7-1-2017	150-314-0353	8-2-2017	Amend	9-1-2017
141-141-0120	7-1-2017	Adopt	7-1-2017	150-314-0355	8-2-2017	Amend	9-1-2017
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141-141-0140	7-1-2017	Adopt	7-1-2017	150-314-0406	7-21-2017	Amend	9-1-2017
141-141-0150	7-1-2017	Adopt	7-1-2017	150-314-0460	8-2-2017	Amend	9-1-2017
141-141-0160	7-1-2017	Adopt	7-1-2017	150-314-0485	1-1-2017	Amend	2-1-2017
150-090-0020	1-1-2017	Adopt	2-1-2017	150-315-0070	1-1-2017	Amend	2-1-2017
150-118-0050	7-24-2017	Amend	9-1-2017	150-315-0080	1-1-2017	Repeal	2-1-2017
150-118-0150	1-1-2017	Amend	2-1-2017	150-315-0082	1-1-2017	Repeal	2-1-2017
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150-222-0110	8-11-2017	Amend	9-1-2017	150-315-0090	7-21-2017	Amend	9-1-2017
150-280-0010	6-8-2017	Amend	7-1-2017	150-315-0120	1-1-2017	Repeal	2-1-2017
150-294-0430	1-1-2017	Amend	2-1-2017	150-315-0121	1-1-2017	Adopt	2-1-2017
150-294-0840	1-1-2017	Amend	2-1-2017	150-315-0125	1-1-2017	Adopt	2-1-2017
150-305-0068	1-1-2017	Amend	2-1-2017	150-315-0130	6-1-2017	Repeal	7-1-2017
150-305-0130	1-1-2017	Amend	2-1-2017	150-315-0132	6-1-2017	Repeal	7-1-2017
150-305-0140	1-1-2017	Amend	2-1-2017	150-315-0144	8-1-2017	Amend	9-1-2017
150-305-0142	1-1-2017	Amend	2-1-2017	150-315-0190	1-1-2017	Repeal	2-1-2017
150-305-0150	6-1-2017	Amend	7-1-2017	150-316-0005	8-2-2017	Amend	9-1-2017
150-305-0202	1-1-2017	Amend	2-1-2017	150-316-0060	6-1-2017	Amend	7-1-2017
150-305-0304	6-8-2017	Amend	7-1-2017	150-316-0070	8-2-2017	Amend	9-1-2017
150-305-0360	6-1-2017	Amend	7-1-2017	150-316-0075	1-1-2017	Repeal	2-1-2017
150-305-0360 T	12-21-2016	Amend(T)	2-1-2017	150-316-0086	1-1-2017	Amend	2-1-2017
150-307-0470	1-1-2017	Repeal	2-1-2017	150-316-0100	1-1-2017	Repeal	2-1-2017
150-307-0510	1-1-2017	Amend	2-1-2017	150-316-0105	6-1-2017	Repeal	7-1-2017
150-308-0250	6-15-2017	Amend	7-1-2017	150-316-0107	6-1-2017	Repeal	7-1-2017
150-308-0280	6-15-2017	Amend	7-1-2017	150-316-0120	6-1-2017	Amend	7-1-2017
150-308-0310	7-24-2017	Amend	9-1-2017	150-316-0125	7-21-2017	Amend	9-1-2017
150-308-0580	6-15-2017	Amend	7-1-2017	150-316-0135	8-2-2017	Amend	9-1-2017
150-308-0760	6-1-2017	Amend	7-1-2017	150-316-0150	6-1-2017	Amend	7-1-2017
150-308-1140	6-1-2017	Amend	7-1-2017	150-316-0155	7-21-2017	Amend	9-1-2017
150-310-0010	6-15-2017	Amend	7-1-2017	150-316-0195	8-2-2017	Amend	9-1-2017
150-310-0050	6-28-2017	Amend	8-1-2017	150-316-0210	1-1-2017	Repeal	2-1-2017
150-310-0060	6-15-2017	Amend	7-1-2017	150-316-0215	1-1-2017	Repeal	2-1-2017
150-310-0560	6-15-2017	Amend	7-1-2017	150-316-0220	6-1-2017	Repeal	7-1-2017
150-311-0100	6-15-2017	Amend	7-1-2017	150-316-0235	6-1-2017	Amend	7-1-2017
150-311-0120	1-1-2017	Repeal	2-1-2017	150-316-0332	8-2-2017	Amend	9-1-2017
150-311-0130	1-1-2017	Repeal	2-1-2017	150-316-0359	1-1-2017	Amend	2-1-2017

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150-316-0435	1-1-2017	Amend	2-1-2017	166-150-0110	1-13-2017	Amend	2-1-2017
150-316-0470	6-1-2017	Amend	7-1-2017	166-400-0010	1-13-2017	Amend	2-1-2017
150-316-0493	6-1-2017	Amend	7-1-2017	166-400-0015	1-13-2017	Amend	2-1-2017
150-316-0505	8-3-2017	Amend	9-1-2017	166-400-0020	1-13-2017	Amend	2-1-2017
150-316-0509	7-21-2017	Amend	9-1-2017	166-400-0025	1-13-2017	Amend	2-1-2017
150-316-0511	8-3-2017	Amend	9-1-2017	166-400-0030	1-13-2017	Amend	2-1-2017
150-316-0515	7-21-2017	Amend	9-1-2017	166-400-0035	1-13-2017	Amend	2-1-2017
150-316-0517	1-1-2017	Repeal	2-1-2017	166-400-0040	1-13-2017	Amend	2-1-2017
150-316-0525	8-3-2017	Amend	9-1-2017	166-400-0045	1-13-2017	Amend	2-1-2017
150-316-0535	8-8-2017	Amend	9-1-2017	166-400-0050	1-13-2017	Amend	2-1-2017
150-316-0557	8-8-2017	Amend	9-1-2017	166-400-0055	1-13-2017	Amend	2-1-2017
150-316-0565	8-8-2017	Amend	9-1-2017	166-400-0060	1-13-2017	Amend	2-1-2017
150-316-0575	8-3-2017	Amend	9-1-2017	166-400-0065	1-13-2017	Amend	2-1-2017
150-316-0615	6-1-2017	Amend	7-1-2017	170-002-0010	5-25-2017	Amend	7-1-2017
150-316-0620	6-1-2017	Repeal	7-1-2017	170-062-0000	2-23-2017	Amend	4-1-2017
150-316-0645	6-1-2017	Repeal	7-1-2017	170-063-0000	2-23-2017	Amend	4-1-2017
150-317-0310	8-8-2017	Amend	9-1-2017	170-080-0001	4-19-2017	Adopt	6-1-2017
150-317-0370	8-8-2017	Amend	9-1-2017	170-080-0002	4-19-2017	Adopt	6-1-2017
150-317-0460	7-21-2017	Amend	9-1-2017	170-080-0005	4-19-2017	Adopt	6-1-2017
150-317-0600	8-3-2017	Amend	9-1-2017	170-080-0010	4-19-2017	Adopt	6-1-2017
150-317-0660	8-8-2017	Amend	9-1-2017	170-080-0015	4-19-2017	Adopt	6-1-2017
150-320-0010	1-1-2017	Repeal	2-1-2017	170-080-0015	6-22-2017	Amend	8-1-2017
150-320-0040	1-1-2017	Amend	2-1-2017	170-080-0020	4-19-2017	Adopt	6-1-2017
150-321-0210	7-21-2017	Amend	9-1-2017	170-080-0025	4-19-2017	Adopt	6-1-2017
150-321-0340	1-1-2017	Amend	2-1-2017	170-080-0030	4-19-2017	Adopt	6-1-2017
150-321-0340	6-1-2017	Amend	7-1-2017	170-080-0035	4-19-2017	Adopt	6-1-2017
150-321-0810	1-1-2017	Amend	2-1-2017	170-080-0040	4-19-2017	Adopt	6-1-2017
150-321-0810	6-1-2017	Amend	7-1-2017	170-080-0045	4-19-2017	Adopt	6-1-2017
150-323-0130	1-1-2017	Amend	2-1-2017	170-080-0050	4-19-2017	Adopt	6-1-2017
150-323-0150	1-1-2017	Amend	2-1-2017	170-080-0055	4-19-2017	Adopt	6-1-2017
150-418-0010	1-1-2017	Adopt	2-1-2017	170-080-0060	4-19-2017	Adopt	6-1-2017
150-457-0450	8-8-2017	Amend	9-1-2017	170-080-0065	4-19-2017	Adopt	6-1-2017
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161-006-0025	7-28-2017	Repeal	9-1-2017	177-036-0030	2-1-2017	Amend	3-1-2017
161-006-0030	7-28-2017	Repeal	9-1-2017	177-036-0030(T)	2-1-2017	Repeal	3-1-2017
161-006-0050	7-28-2017	Repeal	9-1-2017	177-099-0000	5-21-2017	Amend	6-1-2017
161-006-0060	7-28-2017	Amend	9-1-2017	177-099-0020	5-21-2017	Amend	6-1-2017
161-006-0070	7-28-2017	Repeal	9-1-2017	177-099-0030	5-21-2017	Amend	6-1-2017
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161-006-0110	7-28-2017	Repeal	9-1-2017	177-099-0095	5-21-2017	Amend	6-1-2017
161-006-0120	7-28-2017	Repeal	9-1-2017	177-099-0100	5-21-2017	Amend	6-1-2017
161-006-0140	7-28-2017	Amend	9-1-2017	177-099-0105	5-21-2017	Adopt	6-1-2017
161-006-0155	7-28-2017	Amend	9-1-2017	199-001-0010	11-17-2016	Amend	1-1-2017
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165-005-0180	6-16-2017	Adopt	8-1-2017	213-017-0004	1-1-2017	Amend	2-1-2017
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165-012-0005	4-7-2017	Amend	5-1-2017	213-017-0006	1-1-2017	Amend	2-1-2017
166-035-0005	7-14-2017	Adopt	8-1-2017	213-017-0008	1-1-2017	Amend	2-1-2017
166-035-0010	7-14-2017	Adopt	8-1-2017	213-017-0011	1-1-2017	Amend	2-1-2017
166-035-0015	7-14-2017	Adopt	8-1-2017	213-018-0075	1-1-2017	Amend	2-1-2017
166-037-0010	7-14-2017	Adopt	8-1-2017	213-019-0007	1-1-2017	Amend	2-1-2017

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213-019-0011	1-1-2017	Amend	2-1-2017	259-008-0005	8-1-2017	Amend	9-1-2017
213-019-0012	1-1-2017	Amend	2-1-2017	259-008-0010	4-1-2017	Amend	5-1-2017
213-019-0015	1-1-2017	Amend	2-1-2017	259-008-0010	8-1-2017	Amend	9-1-2017
213-071-0010	12-29-2016	Adopt	2-1-2017	259-008-0011	4-1-2017	Amend	5-1-2017
213-071-0015	12-29-2016	Adopt	2-1-2017	259-008-0011	8-1-2017	Amend	9-1-2017
213-071-0020	12-29-2016	Adopt	2-1-2017	259-008-0020	5-1-2017	Amend	6-1-2017
230-020-0330	12-1-2016	Amend	1-1-2017	259-008-0025	12-22-2016	Amend	2-1-2017
230-030-0150	2-28-2017	Amend	4-1-2017	259-008-0025	7-1-2017	Amend	8-1-2017
250-020-0041	5-1-2017	Amend	6-1-2017	259-008-0045	1-1-2017	Amend	2-1-2017
250-020-0091	12-5-2016	Amend(T)	1-1-2017	259-008-0060	1-1-2017	Amend	2-1-2017
250-020-0091(T)	12-5-2016	Suspend	1-1-2017	259-008-0060	5-1-2017	Amend	6-1-2017
250-030-0110	8-1-2017	Amend	9-1-2017	259-008-0064	7-1-2017	Amend	8-1-2017
255-005-0005	4-5-2017	Amend	5-1-2017	259-008-0065	3-22-2017	Amend	5-1-2017
255-060-0011	1-3-2017	Amend(T)	2-1-2017	259-008-0070	8-1-2017	Amend	9-1-2017
255-060-0011	4-5-2017	Amend	5-1-2017	259-008-0075	4-1-2017	Amend	5-1-2017
255-060-0016	1-3-2017	Amend(T)	2-1-2017	259-008-0080	4-1-2017	Amend	5-1-2017
255-060-0016	4-5-2017	Amend	5-1-2017	259-008-0080	8-1-2017	Amend	9-1-2017
255-080-0001	4-5-2017	Amend	5-1-2017	259-008-0085	4-1-2017	Amend	5-1-2017
255-085-0010	1-3-2017	Amend(T)	2-1-2017	259-008-0090	3-22-2017	Amend	5-1-2017
255-085-0010	3-21-2017	Amend(T)	5-1-2017	259-009-0005	7-1-2017	Amend	8-1-2017
255-085-0010	7-1-2017	Amend	8-1-2017	259-009-0062	12-22-2016	Amend	2-1-2017
255-085-0020	1-3-2017	Amend(T)	2-1-2017	259-009-0062	7-1-2017	Amend	8-1-2017
255-085-0020	3-21-2017	Amend(T)	5-1-2017	259-060-0010	3-22-2017	Amend	5-1-2017
255-085-0020	7-1-2017	Amend	8-1-2017	259-060-0015	3-22-2017	Amend	5-1-2017
255-085-0030	3-21-2017	Amend(T)	5-1-2017	259-060-0130	3-22-2017	Amend	5-1-2017
255-085-0030	7-1-2017	Amend	8-1-2017	259-060-0200	3-22-2017	Adopt	5-1-2017
255-085-0040	3-21-2017	Amend(T)	5-1-2017	259-060-0300	6-23-2017	Amend	8-1-2017
255-085-0040	7-1-2017	Amend	8-1-2017	259-060-0450	3-22-2017	Amend	5-1-2017
255-085-0050	3-21-2017	Amend(T)	5-1-2017	259-060-0600	3-22-2017	Amend	5-1-2017
255-085-0050	7-1-2017	Amend	8-1-2017	259-061-0010	3-22-2017	Amend	5-1-2017
255-085-0060	3-21-2017	Adopt(T)	5-1-2017	259-061-0018	3-22-2017	Amend	5-1-2017
255-085-0060	7-1-2017	Adopt	8-1-2017	259-061-0110	3-22-2017	Amend	5-1-2017
257-050-0050	11-18-2016	Amend(T)	1-1-2017	274-030-0500	7-21-2017	Amend(T)	9-1-2017
257-050-0050	3-8-2017	Amend	4-1-2017	274-030-0505	7-21-2017	Amend(T)	9-1-2017
257-050-0145	11-18-2016	Amend(T)	1-1-2017	274-030-0506	7-21-2017	Suspend	9-1-2017
257-050-0145	3-8-2017	Amend	4-1-2017	274-030-0510	7-21-2017	Suspend	9-1-2017
257-095-0000	12-14-2016	Adopt(T)	1-1-2017	274-030-0515	7-21-2017	Amend(T)	9-1-2017
257-095-0000	6-6-2017	Adopt	7-1-2017	274-030-0520	7-21-2017	Amend(T)	9-1-2017
257-095-0010	12-14-2016	Adopt(T)	1-1-2017	274-030-0525	7-21-2017	Amend(T)	9-1-2017
257-095-0010	6-6-2017	Adopt	7-1-2017	274-030-0530	7-21-2017	Suspend	9-1-2017
257-095-0030	12-14-2016	Adopt(T)	1-1-2017	274-030-0535	7-21-2017	Amend(T)	9-1-2017
257-095-0030	6-6-2017	Adopt	7-1-2017	274-030-0541	7-21-2017	Adopt(T)	9-1-2017
257-095-0040	12-14-2016	Adopt(T)	1-1-2017	274-030-0545	7-21-2017	Amend(T)	9-1-2017
257-095-0040	6-6-2017	Adopt	7-1-2017	274-030-0550	7-21-2017	Amend(T)	9-1-2017
257-095-0050	12-14-2016	Adopt(T)	1-1-2017	274-030-0555	7-21-2017	Suspend	9-1-2017
257-095-0050	6-6-2017	Adopt	7-1-2017	274-030-0560	7-21-2017	Amend(T)	9-1-2017
257-095-0060	12-14-2016	Adopt(T)	1-1-2017	274-030-0565	7-21-2017	Amend(T)	9-1-2017
257-095-0060	6-6-2017	Adopt	7-1-2017	274-030-0570	7-21-2017	Amend(T)	9-1-2017
257-095-0070	12-14-2016	Adopt(T)	1-1-2017	274-030-0575	7-21-2017	Suspend	9-1-2017
257-095-0070	6-6-2017	Adopt	7-1-2017	274-030-0600	7-21-2017	Suspend	9-1-2017
257-095-0080	12-14-2016	Adopt(T)	1-1-2017	274-030-0602	7-21-2017	Suspend	9-1-2017
257-095-0080	6-6-2017	Adopt	7-1-2017	274-030-0610	7-21-2017	Suspend	9-1-2017
257-095-0090	12-14-2016	Adopt(T)	1-1-2017	274-030-0615	7-21-2017	Suspend	9-1-2017
257-095-0090	6-6-2017	Adopt	7-1-2017	274-030-0620	7-21-2017	Suspend	9-1-2017
257-095-0100	12-14-2016	Adopt(T)	1-1-2017	274-030-0621	7-21-2017	Suspend	9-1-2017

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274-030-0640	7-21-2017	Suspend	9-1-2017	291-210-0040	6-8-2017	Adopt	7-1-2017
291-001-0110	6-8-2017	Amend	7-1-2017	291-210-0040(T)	6-8-2017	Repeal	7-1-2017
291-001-0115	3-9-2017	Adopt	4-1-2017	291-210-0050	2-15-2017	Adopt(T)	3-1-2017
291-013-0104	6-22-2017	Amend	8-1-2017	291-210-0050	6-8-2017	Adopt	7-1-2017
291-058-0010	5-17-2017	Amend	7-1-2017	291-210-0050(T)	6-8-2017	Repeal	7-1-2017
291-058-0020	5-17-2017	Amend	7-1-2017	309-008-0100	11-30-2016	Adopt	1-1-2017
291-058-0030	5-17-2017	Amend	7-1-2017	309-008-0200	11-30-2016	Adopt	1-1-2017
291-058-0040	5-17-2017	Amend	7-1-2017	309-008-0250	11-30-2016	Adopt	1-1-2017
291-058-0045	5-17-2017	Amend	7-1-2017	309-008-0300	11-30-2016	Adopt	1-1-2017
291-058-0046	5-17-2017	Amend	7-1-2017	309-008-0400	11-30-2016	Adopt	1-1-2017
291-058-0047	5-17-2017	Adopt	7-1-2017	309-008-0500	11-30-2016	Adopt	1-1-2017
291-058-0050	5-17-2017	Amend	7-1-2017	309-008-0600	11-30-2016	Adopt	1-1-2017
291-058-0060	5-17-2017	Amend	7-1-2017	309-008-0700	11-30-2016	Adopt	1-1-2017
291-058-0065	5-17-2017	Amend	7-1-2017	309-008-0800	11-30-2016	Adopt	1-1-2017
291-058-0066	5-17-2017	Adopt	7-1-2017	309-008-0800	1-1-2017	Amend(T)	2-1-2017
291-058-0067	5-17-2017	Adopt	7-1-2017	309-008-0800	6-1-2017	Amend	7-1-2017
291-058-0070	5-17-2017	Amend	7-1-2017	309-008-0800(T)	6-1-2017	Repeal	7-1-2017
291-061-0061	3-30-2017	Amend(T)	5-1-2017	309-008-0900	11-30-2016	Adopt	1-1-2017
291-061-0061	6-21-2017	Amend	8-1-2017	309-008-0900	1-1-2017	Amend(T)	2-1-2017
291-062-0100	5-17-2017	Amend	7-1-2017	309-008-0900	6-1-2017	Amend	7-1-2017
291-062-0110	5-17-2017	Amend	7-1-2017	309-008-0900(T)	6-1-2017	Repeal	7-1-2017
291-062-0120	5-17-2017	Amend	7-1-2017	309-008-0905	1-1-2017	Adopt(T)	2-1-2017
291-062-0130	5-17-2017	Amend	7-1-2017	309-008-0905	6-1-2017	Adopt	7-1-2017
291-062-0140	5-17-2017	Amend	7-1-2017	309-008-0905(T)	6-1-2017	Repeal	7-1-2017
291-062-0150	5-17-2017	Amend	7-1-2017	309-008-1000	11-30-2016	Adopt	1-1-2017
291-062-0160	5-17-2017	Amend	7-1-2017	309-008-1100	11-30-2016	Adopt	1-1-2017
291-062-0165	5-17-2017	Adopt	7-1-2017	309-008-1100	1-1-2017	Amend(T)	2-1-2017
291-062-0170	5-17-2017	Amend	7-1-2017	309-008-1100	6-1-2017	Amend	7-1-2017
291-063-0005	6-12-2017	Am. & Ren.	7-1-2017	309-008-1100(T)	6-1-2017	Repeal	7-1-2017
291-063-0010	6-12-2017	Am. & Ren.	7-1-2017	309-008-1200	11-30-2016	Adopt	1-1-2017
291-063-0016	6-12-2017	Am. & Ren.	7-1-2017	309-008-1200	1-1-2017	Amend(T)	2-1-2017
291-063-0030	3-15-2017	Amend(T)	4-1-2017	309-008-1200	6-1-2017	Amend	7-1-2017
291-063-0030	6-12-2017	Am. & Ren.	7-1-2017	309-008-1200(T)	6-1-2017	Repeal	7-1-2017
291-063-0030(T)	6-12-2017	Repeal	7-1-2017	309-008-1300	11-30-2016	Adopt	1-1-2017
291-063-0036	6-12-2017	Am. & Ren.	7-1-2017	309-008-1300	1-1-2017	Amend(T)	2-1-2017
291-063-0040	6-12-2017	Am. & Ren.	7-1-2017	309-008-1300	6-1-2017	Amend	7-1-2017
291-063-0050	6-12-2017	Am. & Ren.	7-1-2017	309-008-1300(T)	6-1-2017	Repeal	7-1-2017
291-063-0060	6-12-2017	Am. & Ren.	7-1-2017	309-008-1400	11-30-2016	Adopt	1-1-2017
291-063-0130	6-12-2017	Adopt	7-1-2017	309-008-1500	11-30-2016	Adopt	1-1-2017
291-063-0150	6-12-2017	Adopt	7-1-2017	309-008-1600	11-30-2016	Adopt	1-1-2017
291-063-1000	6-12-2017	Adopt	7-1-2017	309-011-0024	12-27-2016	Amend	2-1-2017
291-063-1010	6-12-2017	Adopt	7-1-2017	309-011-0026	12-27-2016	Amend	2-1-2017
291-065-0006	3-17-2017	Amend	5-1-2017	309-011-0028	12-27-2016	Amend	2-1-2017
291-065-0007	3-17-2017	Amend	5-1-2017	309-011-0031	12-27-2016	Adopt	2-1-2017
291-079-0030	11-30-2016	Repeal	1-1-2017	309-011-0032	12-27-2016	Amend	2-1-2017
291-079-0040	11-30-2016	Repeal	1-1-2017	309-011-0034	12-27-2016	Amend	2-1-2017
291-210-0010	2-15-2017	Amend(T)	3-1-2017	309-011-0036	12-27-2016	Amend	2-1-2017
291-210-0010	6-8-2017	Amend	7-1-2017	309-012-0130	12-1-2016	Repeal	1-1-2017
291-210-0010(T)	6-8-2017	Repeal	7-1-2017	309-012-0140	12-1-2016	Repeal	1-1-2017
291-210-0020	2-15-2017	Amend(T)	3-1-2017	309-012-0150	12-1-2016	Repeal	1-1-2017
291-210-0020	6-8-2017	Amend	7-1-2017	309-012-0160	12-1-2016	Repeal	1-1-2017
291-210-0020(T)	6-8-2017	Repeal	7-1-2017	309-012-0170	12-1-2016	Repeal	1-1-2017
291-210-0030	2-15-2017	Amend(T)	3-1-2017	309-012-0180	12-1-2016	Repeal	1-1-2017
291-210-0030	6-8-2017	Amend	7-1-2017	309-012-0190	12-1-2016	Repeal	1-1-2017
291-210-0030(T)	6-8-2017	Repeal	7-1-2017	309-012-0200	12-1-2016	Repeal	1-1-2017

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309-012-0220	12-1-2016	Repeal	1-1-2017	309-019-0145	6-23-2017	Amend	8-1-2017
309-012-0230	12-1-2016	Repeal	1-1-2017	309-019-0145(T)	6-23-2017	Repeal	8-1-2017
309-014-0000	12-1-2016	Amend	1-1-2017	309-019-0150	12-28-2016	Amend(T)	2-1-2017
309-014-0005	12-1-2016	Amend	1-1-2017	309-019-0150	1-18-2017	Amend(T)	3-1-2017
309-014-0010	12-1-2016	Amend	1-1-2017	309-019-0150	6-23-2017	Amend	8-1-2017
309-014-0015	12-1-2016	Amend	1-1-2017	309-019-0150(T)	6-23-2017	Repeal	8-1-2017
309-014-0020	12-1-2016	Amend	1-1-2017	309-019-0151	12-28-2016	Adopt(T)	2-1-2017
309-014-0021	12-1-2016	Adopt	1-1-2017	309-019-0151	1-18-2017	Amend(T)	3-1-2017
309-014-0022	12-1-2016	Adopt	1-1-2017	309-019-0151	6-23-2017	Adopt	8-1-2017
309-014-0023	12-1-2016	Adopt	1-1-2017	309-019-0151(T)	6-23-2017	Repeal	8-1-2017
309-014-0025	12-1-2016	Amend	1-1-2017	309-019-0152	12-28-2016	Adopt(T)	2-1-2017
309-014-0030	12-1-2016	Amend	1-1-2017	309-019-0152	6-23-2017	Adopt	8-1-2017
309-014-0035	12-1-2016	Amend	1-1-2017	309-019-0152(T)	6-23-2017	Repeal	8-1-2017
309-014-0036	12-1-2016	Adopt	1-1-2017	309-019-0155	12-28-2016	Amend(T)	2-1-2017
309-014-0037	12-1-2016	Amend	1-1-2017	309-019-0155	6-23-2017	Amend	8-1-2017
309-014-0040	12-1-2016	Amend	1-1-2017	309-019-0155(T)	6-23-2017	Repeal	8-1-2017
309-018-0100	11-28-2016	Amend	1-1-2017	309-019-0160	12-28-2016	Amend(T)	2-1-2017
309-018-0105	11-28-2016	Amend	1-1-2017	309-019-0160	6-23-2017	Amend	8-1-2017
309-018-0107	11-28-2016	Adopt	1-1-2017	309-019-0160(T)	6-23-2017	Repeal	8-1-2017
309-018-0160	11-28-2016	Amend	1-1-2017	309-019-0165	12-28-2016	Amend(T)	2-1-2017
309-018-0210	11-28-2016	Amend	1-1-2017	309-019-0165	6-23-2017	Amend	8-1-2017
309-018-0215	11-28-2016	Amend	1-1-2017	309-019-0165(T)	6-23-2017	Repeal	8-1-2017
309-019-0100	11-30-2016	Amend	1-1-2017	309-019-0170	6-23-2017	Amend	8-1-2017
309-019-0100	6-23-2017	Amend	8-1-2017	309-019-0175	11-30-2016	Amend	1-1-2017
309-019-0105	11-30-2016	Amend	1-1-2017	309-019-0175	12-28-2016	Amend(T)	2-1-2017
309-019-0105	12-28-2016	Amend(T)	2-1-2017	309-019-0175	6-23-2017	Amend	8-1-2017
309-019-0105	6-23-2017	Amend	8-1-2017	309-019-0175(T)	6-23-2017	Repeal	8-1-2017
309-019-0105(T)	6-23-2017	Repeal	8-1-2017	309-019-0180	12-28-2016	Amend(T)	2-1-2017
309-019-0110	11-30-2016	Amend	1-1-2017	309-019-0180	6-23-2017	Amend	8-1-2017
309-019-0110	12-28-2016	Amend(T)	2-1-2017	309-019-0180(T)	6-23-2017	Repeal	8-1-2017
309-019-0110	6-23-2017	Amend	8-1-2017	309-019-0185	12-28-2016	Amend(T)	2-1-2017
309-019-0110(T)	6-23-2017	Repeal	8-1-2017	309-019-0185	6-23-2017	Amend	8-1-2017
309-019-0115	12-28-2016	Amend(T)	2-1-2017	309-019-0185(T)	6-23-2017	Repeal	8-1-2017
309-019-0115	6-23-2017	Amend	8-1-2017	309-019-0190	6-23-2017	Amend	8-1-2017
309-019-0115(T)	6-23-2017	Repeal	8-1-2017	309-019-0195	11-30-2016	Amend	1-1-2017
309-019-0120	12-28-2016	Amend(T)	2-1-2017	309-019-0195	6-23-2017	Amend	8-1-2017
309-019-0120	6-23-2017	Amend	8-1-2017	309-019-0200	6-23-2017	Amend	8-1-2017
309-019-0120(T)	6-23-2017	Repeal	8-1-2017	309-019-0205	6-23-2017	Amend	8-1-2017
309-019-0125	11-30-2016	Amend	1-1-2017	309-019-0210	11-30-2016	Amend	1-1-2017
309-019-0125	12-28-2016	Amend(T)	2-1-2017	309-019-0210	6-23-2017	Amend	8-1-2017
309-019-0125	6-23-2017	Amend	8-1-2017	309-019-0215	11-30-2016	Amend	1-1-2017
309-019-0125(T)	6-23-2017	Repeal	8-1-2017	309-019-0215	12-28-2016	Amend(T)	2-1-2017
309-019-0130	11-30-2016	Amend	1-1-2017	309-019-0215	6-23-2017	Amend	8-1-2017
309-019-0130	12-28-2016	Amend(T)	2-1-2017	309-019-0215(T)	6-23-2017	Repeal	8-1-2017
309-019-0130	6-23-2017	Amend	8-1-2017	309-019-0220	11-30-2016	Amend	1-1-2017
309-019-0130(T)	6-23-2017	Repeal	8-1-2017	309-019-0220	6-23-2017	Amend	8-1-2017
309-019-0135	11-30-2016	Amend	1-1-2017	309-019-0225	11-30-2016	Adopt	1-1-2017
309-019-0135	12-28-2016	Amend(T)	2-1-2017	309-019-0225	12-28-2016	Amend(T)	2-1-2017
309-019-0135	6-23-2017	Amend	8-1-2017	309-019-0225	1-18-2017	Amend(T)	3-1-2017
309-019-0135(T)	6-23-2017	Repeal	8-1-2017	309-019-0225	6-23-2017	Amend	8-1-2017
309-019-0140	11-30-2016	Amend	1-1-2017	309-019-0225(T)	6-23-2017	Repeal	8-1-2017
309-019-0140	12-28-2016	Amend(T)	2-1-2017	309-019-0226	12-28-2016	Adopt(T)	2-1-2017
309-019-0140	6-23-2017	Amend	8-1-2017	309-019-0226	1-18-2017	Amend(T)	3-1-2017
309-019-0140(T)	6-23-2017	Repeal	8-1-2017	309-019-0226	6-23-2017	Adopt	8-1-2017
309-019-0145	11-30-2016	Amend	1-1-2017	309-019-0226(T)	6-23-2017	Repeal	8-1-2017

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309-019-0230	11-30-2016	Adopt	1-1-2017	309-019-0295(T)	6-23-2017	Repeal	8-1-2017
309-019-0230	12-28-2016	Amend(T)	2-1-2017	309-019-0300	6-23-2017	Adopt	8-1-2017
309-019-0230	6-23-2017	Amend	8-1-2017	309-019-0305	6-23-2017	Adopt	8-1-2017
309-019-0230(T)	6-23-2017	Repeal	8-1-2017	309-019-0310	6-23-2017	Adopt	8-1-2017
309-019-0235	11-30-2016	Adopt	1-1-2017	309-019-0315	6-23-2017	Adopt	8-1-2017
309-019-0235	1-18-2017	Amend(T)	3-1-2017	309-019-0320	6-23-2017	Adopt	8-1-2017
309-019-0235	6-23-2017	Amend	8-1-2017	309-022-0100	12-1-2016	Amend	1-1-2017
309-019-0235(T)	6-23-2017	Repeal	8-1-2017	309-022-0105	12-1-2016	Amend	1-1-2017
309-019-0240	11-30-2016	Adopt	1-1-2017	309-022-0105	12-29-2016	Amend(T)	2-1-2017
309-019-0240	12-28-2016	Amend(T)	2-1-2017	309-022-0105	6-23-2017	Amend	8-1-2017
309-019-0240	6-23-2017	Amend	8-1-2017	309-022-0105(T)	6-23-2017	Repeal	8-1-2017
309-019-0240(T)	6-23-2017	Repeal	8-1-2017	309-022-0110	12-29-2016	Amend(T)	2-1-2017
309-019-0241	12-28-2016	Adopt(T)	2-1-2017	309-022-0110	6-23-2017	Amend	8-1-2017
309-019-0241	6-23-2017	Adopt	8-1-2017	309-022-0110(T)	6-23-2017	Repeal	8-1-2017
309-019-0241(T)	6-23-2017	Repeal	8-1-2017	309-022-0115	12-29-2016	Amend(T)	2-1-2017
309-019-0242	12-28-2016	Adopt(T)	2-1-2017	309-022-0115	6-23-2017	Amend	8-1-2017
309-019-0242	1-18-2017	Amend(T)	3-1-2017	309-022-0115(T)	6-23-2017	Repeal	8-1-2017
309-019-0242	6-23-2017	Adopt	8-1-2017	309-022-0125	12-29-2016	Amend(T)	2-1-2017
309-019-0242(T)	6-23-2017	Repeal	8-1-2017	309-022-0125	6-23-2017	Amend	8-1-2017
309-019-0245	11-30-2016	Adopt	1-1-2017	309-022-0125(T)	6-23-2017	Repeal	8-1-2017
309-019-0245	12-28-2016	Amend(T)	2-1-2017	309-022-0130	12-29-2016	Amend(T)	2-1-2017
309-019-0245	6-23-2017	Amend	8-1-2017	309-022-0130	6-23-2017	Amend	8-1-2017
309-019-0245(T)	6-23-2017	Repeal	8-1-2017	309-022-0130(T)	6-23-2017	Repeal	8-1-2017
309-019-0248	11-30-2016	Adopt	1-1-2017	309-022-0135	12-1-2016	Amend	1-1-2017
309-019-0248	1-18-2017	Amend(T)	3-1-2017	309-022-0140	12-29-2016	Amend(T)	2-1-2017
309-019-0248	6-23-2017	Amend	8-1-2017	309-022-0140	6-23-2017	Amend	8-1-2017
309-019-0248(T)	6-23-2017	Repeal	8-1-2017	309-022-0140(T)	6-23-2017	Repeal	8-1-2017
309-019-0250	11-30-2016	Adopt	1-1-2017	309-022-0155	12-29-2016	Amend(T)	2-1-2017
309-019-0250	1-18-2017	Amend(T)	3-1-2017	309-022-0155	6-23-2017	Amend	8-1-2017
309-019-0250	6-23-2017	Amend	8-1-2017	309-022-0155(T)	6-23-2017	Repeal	8-1-2017
309-019-0250(T)	6-23-2017	Repeal	8-1-2017	309-022-0160	12-29-2016	Amend(T)	2-1-2017
309-019-0255	11-30-2016	Adopt	1-1-2017	309-022-0160	6-23-2017	Amend	8-1-2017
309-019-0255	6-23-2017	Amend	8-1-2017	309-022-0160(T)	6-23-2017	Repeal	8-1-2017
309-019-0270	12-28-2016	Adopt(T)	2-1-2017	309-022-0175	12-1-2016	Amend	1-1-2017
309-019-0270	1-18-2017	Amend(T)	3-1-2017	309-022-0175	12-29-2016	Amend(T)	2-1-2017
309-019-0270	6-23-2017	Adopt	8-1-2017	309-022-0175	6-23-2017	Amend	8-1-2017
309-019-0270(T)	6-23-2017	Repeal	8-1-2017	309-022-0175(T)	6-23-2017	Repeal	8-1-2017
309-019-0275	12-28-2016	Adopt(T)	2-1-2017	309-022-0180	12-29-2016	Amend(T)	2-1-2017
309-019-0275	1-18-2017	Amend(T)	3-1-2017	309-022-0180	6-23-2017	Amend	8-1-2017
309-019-0275	6-23-2017	Adopt	8-1-2017	309-022-0180(T)	6-23-2017	Repeal	8-1-2017
309-019-0275(T)	6-23-2017	Repeal	8-1-2017	309-022-0192	12-29-2016	Adopt(T)	2-1-2017
309-019-0280	12-28-2016	Adopt(T)	2-1-2017	309-022-0192	6-23-2017	Adopt	8-1-2017
309-019-0280	1-18-2017	Amend(T)	3-1-2017	309-022-0192(T)	6-23-2017	Repeal	8-1-2017
309-019-0280	6-23-2017	Adopt	8-1-2017	309-022-0195	12-29-2016	Amend(T)	2-1-2017
309-019-0280(T)	6-23-2017	Repeal	8-1-2017	309-022-0200	12-29-2016	Amend(T)	2-1-2017
309-019-0285	12-28-2016	Adopt(T)	2-1-2017	309-022-0205	12-1-2016	Amend	1-1-2017
309-019-0285	1-18-2017	Amend(T)	3-1-2017	309-022-0205	12-29-2016	Amend(T)	2-1-2017
309-019-0285	6-23-2017	Adopt	8-1-2017	309-022-0210	12-29-2016	Amend(T)	2-1-2017
309-019-0285(T)	6-23-2017	Repeal	8-1-2017	309-022-0215	12-29-2016	Amend(T)	2-1-2017
309-019-0290	12-28-2016	Adopt(T)	2-1-2017	309-022-0220	12-29-2016	Amend(T)	2-1-2017
309-019-0290	1-18-2017	Amend(T)	3-1-2017	309-022-0225	12-29-2016	Amend(T)	2-1-2017
309-019-0290	6-23-2017	Adopt	8-1-2017	309-022-0230	12-29-2016	Amend(T)	2-1-2017
309-019-0290(T)	6-23-2017	Repeal	8-1-2017	309-023-0100	12-29-2016	Adopt	2-1-2017
309-019-0295	12-28-2016	Adopt(T)	2-1-2017	309-023-0110	12-29-2016	Adopt	2-1-2017
309-019-0295	1-18-2017	Amend(T)	3-1-2017	309-023-0120	12-29-2016	Adopt	2-1-2017
309-019-0295	6-23-2017	Adopt	8-1-2017	309-023-0130	12-29-2016	Adopt	2-1-2017

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309-023-0150	12-29-2016	Adopt	2-1-2017	309-035-0135	6-8-2017	Amend	7-1-2017
309-023-0160	12-29-2016	Adopt	2-1-2017	309-035-0135(T)	6-8-2017	Repeal	7-1-2017
309-023-0170	12-29-2016	Adopt	2-1-2017	309-035-0140	3-4-2017	Amend(T)	4-1-2017
309-023-0180	12-29-2016	Adopt	2-1-2017	309-035-0140	6-8-2017	Amend	7-1-2017
309-027-0010	12-5-2016	Adopt	1-1-2017	309-035-0140(T)	6-8-2017	Repeal	7-1-2017
309-027-0020	12-5-2016	Adopt	1-1-2017	309-035-0145	3-4-2017	Amend(T)	4-1-2017
309-027-0030	12-5-2016	Adopt	1-1-2017	309-035-0145	6-8-2017	Amend	7-1-2017
309-027-0040	12-5-2016	Adopt	1-1-2017	309-035-0145(T)	6-8-2017	Repeal	7-1-2017
309-027-0050	12-5-2016	Adopt	1-1-2017	309-035-0150	3-4-2017	Amend(T)	4-1-2017
309-027-0060	12-5-2016	Adopt	1-1-2017	309-035-0150	6-8-2017	Amend	7-1-2017
309-032-0311	6-23-2017	Amend	8-1-2017	309-035-0150(T)	6-8-2017	Repeal	7-1-2017
309-032-0850	12-1-2016	Amend	1-1-2017	309-035-0155	3-4-2017	Amend(T)	4-1-2017
309-032-0850	6-23-2017	Amend	8-1-2017	309-035-0155	6-8-2017	Amend	7-1-2017
309-032-0860	12-1-2016	Amend	1-1-2017	309-035-0155(T)	6-8-2017	Repeal	7-1-2017
309-032-0860	6-23-2017	Amend	8-1-2017	309-035-0157	3-4-2017	Suspend	4-1-2017
309-032-0870	12-1-2016	Amend	1-1-2017	309-035-0157	6-8-2017	Repeal	7-1-2017
309-032-0870	6-23-2017	Amend	8-1-2017	309-035-0159	3-4-2017	Suspend	4-1-2017
309-032-0890	12-1-2016	Amend	1-1-2017	309-035-0159	6-8-2017	Repeal	7-1-2017
309-032-0890	6-23-2017	Amend	8-1-2017	309-035-0163	3-4-2017	Adopt(T)	4-1-2017
309-033-0210	12-29-2016	Amend	2-1-2017	309-035-0163	6-8-2017	Adopt	7-1-2017
309-033-0410	12-29-2016	Amend	2-1-2017	309-035-0163(T)	6-8-2017	Repeal	7-1-2017
309-033-0432	12-29-2016	Amend	2-1-2017	309-035-0165	3-4-2017	Amend(T)	4-1-2017
309-033-0510	12-29-2016	Amend	2-1-2017	309-035-0165	6-8-2017	Amend	7-1-2017
309-033-0530	12-29-2016	Amend	2-1-2017	309-035-0165(T)	6-8-2017	Repeal	7-1-2017
309-033-0610	12-29-2016	Amend	2-1-2017	309-035-0167	3-4-2017	Suspend	4-1-2017
309-033-0710	12-29-2016	Amend	2-1-2017	309-035-0167	6-8-2017	Repeal	7-1-2017
309-033-0720	12-29-2016	Amend	2-1-2017	309-035-0170	3-4-2017	Amend(T)	4-1-2017
309-033-0740	12-29-2016	Amend	2-1-2017	309-035-0170	6-8-2017	Amend	7-1-2017
309-033-0910	12-29-2016	Amend	2-1-2017	309-035-0170(T)	6-8-2017	Repeal	7-1-2017
309-033-0970	12-29-2016	Amend	2-1-2017	309-035-0175	3-4-2017	Amend(T)	4-1-2017
309-035-0100	3-4-2017	Amend(T)	4-1-2017	309-035-0175	6-8-2017	Amend	7-1-2017
309-035-0100	6-8-2017	Amend	7-1-2017	309-035-0175(T)	6-8-2017	Repeal	7-1-2017
309-035-0100(T)	6-8-2017	Repeal	7-1-2017	309-035-0183	3-4-2017	Adopt(T)	4-1-2017
309-035-0105	3-4-2017	Amend(T)	4-1-2017	309-035-0183	6-8-2017	Adopt	7-1-2017
309-035-0105	6-8-2017	Amend	7-1-2017	309-035-0183(T)	6-8-2017	Repeal	7-1-2017
309-035-0105(T)	6-8-2017	Repeal	7-1-2017	309-035-0185	3-4-2017	Amend(T)	4-1-2017
309-035-0110	3-4-2017	Amend(T)	4-1-2017	309-035-0185	6-8-2017	Amend	7-1-2017
309-035-0110	6-8-2017	Amend	7-1-2017	309-035-0185(T)	6-8-2017	Repeal	7-1-2017
309-035-0110(T)	6-8-2017	Repeal	7-1-2017	309-035-0190	3-4-2017	Amend(T)	4-1-2017
309-035-0113	3-4-2017	Suspend	4-1-2017	309-035-0190	6-8-2017	Amend	7-1-2017
309-035-0113	6-8-2017	Repeal	7-1-2017	309-035-0190(T)	6-8-2017	Repeal	7-1-2017
309-035-0115	3-4-2017	Amend(T)	4-1-2017	309-035-0195	3-4-2017	Adopt(T)	4-1-2017
309-035-0115	6-8-2017	Amend	7-1-2017	309-035-0195	6-8-2017	Adopt	7-1-2017
309-035-0115(T)	6-8-2017	Repeal	7-1-2017	309-035-0195(T)	6-8-2017	Repeal	7-1-2017
309-035-0117	3-4-2017	Suspend	4-1-2017	309-035-0200	3-4-2017	Adopt(T)	4-1-2017
309-035-0117	6-8-2017	Repeal	7-1-2017	309-035-0200	6-8-2017	Adopt	7-1-2017
309-035-0120	3-4-2017	Amend(T)	4-1-2017	309-035-0200(T)	6-8-2017	Repeal	7-1-2017
309-035-0120	6-8-2017	Amend	7-1-2017	309-035-0205	3-4-2017	Adopt(T)	4-1-2017
309-035-0120(T)	6-8-2017	Repeal	7-1-2017	309-035-0205	6-8-2017	Adopt	7-1-2017
309-035-0125	3-4-2017	Amend(T)	4-1-2017	309-035-0205(T)	6-8-2017	Repeal	7-1-2017
309-035-0125	6-8-2017	Amend	7-1-2017	309-035-0210	3-4-2017	Adopt(T)	4-1-2017
309-035-0125(T)	6-8-2017	Repeal	7-1-2017	309-035-0210	6-8-2017	Adopt	7-1-2017
309-035-0130	3-4-2017	Amend(T)	4-1-2017	309-035-0210(T)	6-8-2017	Repeal	7-1-2017
309-035-0130	6-8-2017	Amend	7-1-2017	309-035-0215	3-4-2017	Adopt(T)	4-1-2017
309-035-0130(T)	6-8-2017	Repeal	7-1-2017	309-035-0215	6-8-2017	Adopt	7-1-2017

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309-035-0220	3-4-2017	Adopt(T)	4-1-2017	309-035-0570	3-4-2017	Suspend	4-1-2017
309-035-0220	6-8-2017	Adopt	7-1-2017	309-035-0570	6-8-2017	Repeal	7-1-2017
309-035-0220(T)	6-8-2017	Repeal	7-1-2017	309-035-0580	3-4-2017	Suspend	4-1-2017
309-035-0225	3-4-2017	Adopt(T)	4-1-2017	309-035-0580	6-8-2017	Repeal	7-1-2017
309-035-0225	6-8-2017	Adopt	7-1-2017	309-035-0590	3-4-2017	Suspend	4-1-2017
309-035-0225(T)	6-8-2017	Repeal	7-1-2017	309-035-0590	6-8-2017	Repeal	7-1-2017
309-035-0250	3-4-2017	Suspend	4-1-2017	309-035-0600	3-4-2017	Suspend	4-1-2017
309-035-0250	6-8-2017	Repeal	7-1-2017	309-035-0600	6-8-2017	Repeal	7-1-2017
309-035-0260	3-4-2017	Suspend	4-1-2017	309-039-0500	11-30-2016	Amend	1-1-2017
309-035-0260	6-8-2017	Repeal	7-1-2017	309-039-0510	11-30-2016	Amend	1-1-2017
309-035-0270	3-4-2017	Suspend	4-1-2017	309-039-0530	11-30-2016	Amend	1-1-2017
309-035-0270	6-8-2017	Repeal	7-1-2017	309-039-0580	11-30-2016	Amend	1-1-2017
309-035-0280	3-4-2017	Suspend	4-1-2017	309-040-0300	3-4-2017	Amend(T)	4-1-2017
309-035-0280	6-8-2017	Repeal	7-1-2017	309-040-0300	7-1-2017	Amend	8-1-2017
309-035-0290	3-4-2017	Suspend	4-1-2017	309-040-0300(T)	7-1-2017	Repeal	8-1-2017
309-035-0290	6-8-2017	Repeal	7-1-2017	309-040-0305	3-4-2017	Amend(T)	4-1-2017
309-035-0300	3-4-2017	Suspend	4-1-2017	309-040-0305	7-1-2017	Amend	8-1-2017
309-035-0300	6-8-2017	Repeal	7-1-2017	309-040-0305(T)	7-1-2017	Repeal	8-1-2017
309-035-0310	3-4-2017	Suspend	4-1-2017	309-040-0307	3-4-2017	Adopt(T)	4-1-2017
309-035-0310	6-8-2017	Repeal	7-1-2017	309-040-0307	7-1-2017	Adopt	8-1-2017
309-035-0320	3-4-2017	Suspend	4-1-2017	309-040-0307(T)	7-1-2017	Repeal	8-1-2017
309-035-0320	6-8-2017	Repeal	7-1-2017	309-040-0310	3-4-2017	Amend(T)	4-1-2017
309-035-0330	3-4-2017	Suspend	4-1-2017	309-040-0310	7-1-2017	Amend	8-1-2017
309-035-0330	6-8-2017	Repeal	7-1-2017	309-040-0310(T)	7-1-2017	Repeal	8-1-2017
309-035-0340	3-4-2017	Suspend	4-1-2017	309-040-0315	3-4-2017	Amend(T)	4-1-2017
309-035-0340	6-8-2017	Repeal	7-1-2017	309-040-0315	7-1-2017	Amend	8-1-2017
309-035-0350	3-4-2017	Suspend	4-1-2017	309-040-0315(T)	7-1-2017	Repeal	8-1-2017
309-035-0350	6-8-2017	Repeal	7-1-2017	309-040-0320	3-4-2017	Amend(T)	4-1-2017
309-035-0360	3-4-2017	Suspend	4-1-2017	309-040-0320	7-1-2017	Amend	8-1-2017
309-035-0360	6-8-2017	Repeal	7-1-2017	309-040-0320(T)	7-1-2017	Repeal	8-1-2017
309-035-0370	3-4-2017	Suspend	4-1-2017	309-040-0325	3-4-2017	Amend(T)	4-1-2017
309-035-0370	6-8-2017	Repeal	7-1-2017	309-040-0325	7-1-2017	Amend	8-1-2017
309-035-0380	3-4-2017	Suspend	4-1-2017	309-040-0325(T)	7-1-2017	Repeal	8-1-2017
309-035-0380	6-8-2017	Repeal	7-1-2017	309-040-0330	3-4-2017	Amend(T)	4-1-2017
309-035-0390	3-4-2017	Suspend	4-1-2017	309-040-0330	7-1-2017	Amend	8-1-2017
309-035-0390	6-8-2017	Repeal	7-1-2017	309-040-0330(T)	7-1-2017	Repeal	8-1-2017
309-035-0400	3-4-2017	Suspend	4-1-2017	309-040-0335	3-4-2017	Amend(T)	4-1-2017
309-035-0400	6-8-2017	Repeal	7-1-2017	309-040-0335	7-1-2017	Amend	8-1-2017
309-035-0410	3-4-2017	Suspend	4-1-2017	309-040-0335(T)	7-1-2017	Repeal	8-1-2017
309-035-0410	6-8-2017	Repeal	7-1-2017	309-040-0340	3-4-2017	Amend(T)	4-1-2017
309-035-0420	3-4-2017	Suspend	4-1-2017	309-040-0340	7-1-2017	Amend	8-1-2017
309-035-0420	6-8-2017	Repeal	7-1-2017	309-040-0340(T)	7-1-2017	Repeal	8-1-2017
309-035-0430	3-4-2017	Suspend	4-1-2017	309-040-0345	3-4-2017	Amend(T)	4-1-2017
309-035-0430	6-8-2017	Repeal	7-1-2017	309-040-0345	7-1-2017	Amend	8-1-2017
309-035-0440	3-4-2017	Suspend	4-1-2017	309-040-0345(T)	7-1-2017	Repeal	8-1-2017
309-035-0440	6-8-2017	Repeal	7-1-2017	309-040-0350	3-4-2017	Amend(T)	4-1-2017
309-035-0450	3-4-2017	Suspend	4-1-2017	309-040-0350	7-1-2017	Amend	8-1-2017
309-035-0450	6-8-2017	Repeal	7-1-2017	309-040-0350(T)	7-1-2017	Repeal	8-1-2017
309-035-0460	3-4-2017	Suspend	4-1-2017	309-040-0355	3-4-2017	Amend(T)	4-1-2017
309-035-0460	6-8-2017	Repeal	7-1-2017	309-040-0355	7-1-2017	Amend	8-1-2017
309-035-0500	3-4-2017	Suspend	4-1-2017	309-040-0355(T)	7-1-2017	Repeal	8-1-2017
309-035-0500	6-8-2017	Repeal	7-1-2017	309-040-0360	3-4-2017	Amend(T)	4-1-2017
309-035-0550	3-4-2017	Suspend	4-1-2017	309-040-0360	7-1-2017	Amend	8-1-2017
309-035-0550	6-8-2017	Repeal	7-1-2017	309-040-0360(T)	7-1-2017	Repeal	8-1-2017
309-035-0560	3-4-2017	Suspend	4-1-2017	309-040-0365	3-4-2017	Amend(T)	4-1-2017

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309-040-0365(T)	7-1-2017	Repeal	8-1-2017	309-040-0450	7-1-2017	Amend	8-1-2017
309-040-0370	3-4-2017	Amend(T)	4-1-2017	309-040-0450(T)	7-1-2017	Repeal	8-1-2017
309-040-0370	7-1-2017	Amend	8-1-2017	309-040-0455	3-4-2017	Amend(T)	4-1-2017
309-040-0370(T)	7-1-2017	Repeal	8-1-2017	309-040-0455	7-1-2017	Amend	8-1-2017
309-040-0375	3-4-2017	Amend(T)	4-1-2017	309-040-0455(T)	7-1-2017	Repeal	8-1-2017
309-040-0375	7-1-2017	Amend	8-1-2017	325-005-0015	3-1-2017	Amend	4-1-2017
309-040-0375(T)	7-1-2017	Repeal	8-1-2017	325-005-0015	6-30-2017	Amend	7-1-2017
309-040-0380	3-4-2017	Amend(T)	4-1-2017	325-005-0015	8-1-2017	Amend	9-1-2017
309-040-0380	7-1-2017	Amend	8-1-2017	330-001-0015	5-24-2017	Repeal	7-1-2017
309-040-0380(T)	7-1-2017	Repeal	8-1-2017	330-001-0025	5-24-2017	Amend	7-1-2017
309-040-0385	3-4-2017	Amend(T)	4-1-2017	330-007-0200	5-8-2017	Amend	6-1-2017
309-040-0385	7-1-2017	Amend	8-1-2017	330-007-0210	5-8-2017	Amend	6-1-2017
309-040-0385(T)	7-1-2017	Repeal	8-1-2017	330-007-0220	5-8-2017	Repeal	6-1-2017
309-040-0390	3-4-2017	Amend(T)	4-1-2017	330-007-0230	5-8-2017	Repeal	6-1-2017
309-040-0390	7-1-2017	Amend	8-1-2017	330-007-0240	5-8-2017	Amend	6-1-2017
309-040-0390(T)	7-1-2017	Repeal	8-1-2017	330-007-0250	5-8-2017	Repeal	6-1-2017
309-040-0393	3-4-2017	Adopt(T)	4-1-2017	330-007-0260	5-8-2017	Repeal	6-1-2017
309-040-0393	7-1-2017	Adopt	8-1-2017	330-007-0270	5-8-2017	Repeal	6-1-2017
309-040-0393(T)	7-1-2017	Repeal	8-1-2017	330-007-0280	5-8-2017	Repeal	6-1-2017
309-040-0394	3-4-2017	Adopt(T)	4-1-2017	330-007-0290	5-8-2017	Repeal	6-1-2017
309-040-0394	7-1-2017	Adopt	8-1-2017	330-007-0300	5-8-2017	Repeal	6-1-2017
309-040-0394(T)	7-1-2017	Repeal	8-1-2017	330-007-0310	5-8-2017	Repeal	6-1-2017
309-040-0395	3-4-2017	Amend(T)	4-1-2017	330-007-0320	5-8-2017	Amend	6-1-2017
309-040-0395	7-1-2017	Amend	8-1-2017	330-007-0330	5-8-2017	Amend	6-1-2017
309-040-0395(T)	7-1-2017	Repeal	8-1-2017	330-063-0010	12-21-2016	Amend	2-1-2017
309-040-0400	3-4-2017	Amend(T)	4-1-2017	330-063-0015	12-21-2016	Amend	2-1-2017
309-040-0400	7-1-2017	Amend	8-1-2017	330-063-0020	12-21-2016	Amend	2-1-2017
309-040-0400(T)	7-1-2017	Repeal	8-1-2017	330-063-0025	12-21-2016	Amend	2-1-2017
309-040-0405	3-4-2017	Amend(T)	4-1-2017	330-070-0010	1-1-2017	Amend	2-1-2017
309-040-0405	7-1-2017	Amend	8-1-2017	330-070-0013	1-1-2017	Amend	2-1-2017
309-040-0405(T)	7-1-2017	Repeal	8-1-2017	330-070-0014	1-1-2017	Amend	2-1-2017
309-040-0410	3-4-2017	Amend(T)	4-1-2017	330-070-0022	1-1-2017	Amend	2-1-2017
309-040-0410	7-1-2017	Amend	8-1-2017	330-070-0024	1-1-2017	Amend	2-1-2017
309-040-0410(T)	7-1-2017	Repeal	8-1-2017	330-070-0025	1-1-2017	Amend	2-1-2017
309-040-0415	3-4-2017	Amend(T)	4-1-2017	330-070-0026	1-1-2017	Amend	2-1-2017
309-040-0415	7-1-2017	Amend	8-1-2017	330-070-0027	1-1-2017	Amend	2-1-2017
309-040-0415(T)	7-1-2017	Repeal	8-1-2017	330-070-0029	1-1-2017	Amend	2-1-2017
309-040-0420	3-4-2017	Amend(T)	4-1-2017	330-070-0060	1-1-2017	Amend	2-1-2017
309-040-0420	7-1-2017	Amend	8-1-2017	330-070-0073	1-1-2017	Amend	2-1-2017
309-040-0420(T)	7-1-2017	Repeal	8-1-2017	330-092-0015	12-21-2016	Amend	2-1-2017
309-040-0425	3-4-2017	Amend(T)	4-1-2017	330-110-0042	1-25-2017	Amend(T)	3-1-2017
309-040-0425	7-1-2017	Amend	8-1-2017	330-130-0010	8-15-2017	Amend	9-1-2017
309-040-0425(T)	7-1-2017	Repeal	8-1-2017	330-130-0020	8-15-2017	Amend	9-1-2017
309-040-0430	3-4-2017	Amend(T)	4-1-2017	330-130-0025	8-15-2017	Repeal	9-1-2017
309-040-0430	7-1-2017	Amend	8-1-2017	330-130-0030	8-15-2017	Amend	9-1-2017
309-040-0430(T)	7-1-2017	Repeal	8-1-2017	330-130-0040	8-15-2017	Amend	9-1-2017
309-040-0435	3-4-2017	Amend(T)	4-1-2017	330-130-0050	8-15-2017	Amend	9-1-2017
309-040-0435	7-1-2017	Amend	8-1-2017	330-130-0060	8-15-2017	Amend	9-1-2017
309-040-0435(T)	7-1-2017	Repeal	8-1-2017	330-130-0070	8-15-2017	Amend	9-1-2017
309-040-0440	3-4-2017	Amend(T)	4-1-2017	330-130-0080	8-15-2017	Amend	9-1-2017
309-040-0440	7-1-2017	Amend	8-1-2017	330-130-0090	8-15-2017	Amend	9-1-2017
309-040-0440(T)	7-1-2017	Repeal	8-1-2017	330-130-0100	8-15-2017	Amend	9-1-2017
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309-040-0445(T)	7-1-2017	Repeal	8-1-2017	330-160-0030	12-21-2016	Amend	2-1-2017

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330-160-0080	12-21-2016	Adopt	2-1-2017	333-004-0050	1-10-2017	Amend	2-1-2017
330-160-0090	12-21-2016	Adopt	2-1-2017	333-004-0060	1-10-2017	Amend	2-1-2017
330-220-0000	1-25-2017	Amend	3-1-2017	333-004-0070	1-10-2017	Amend	2-1-2017
330-220-0010	1-25-2017	Amend	3-1-2017	333-004-0080	1-10-2017	Amend	2-1-2017
330-220-0020	1-25-2017	Amend	3-1-2017	333-004-0110	1-10-2017	Amend	2-1-2017
330-220-0030	1-25-2017	Amend	3-1-2017	333-004-0120	1-10-2017	Amend	2-1-2017
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330-220-0080	1-25-2017	Amend	3-1-2017	333-004-0160	1-10-2017	Amend	2-1-2017
330-220-0090	1-25-2017	Amend	3-1-2017	333-007-0010	11-28-2016	Amend	1-1-2017
330-220-0100	1-25-2017	Amend	3-1-2017	333-007-0010(T)	11-28-2016	Repeal	1-1-2017
330-220-0150	1-25-2017	Amend	3-1-2017	333-007-0090	11-28-2016	Amend	1-1-2017
331-910-0000	1-6-2017	Amend	2-1-2017	333-007-0090	12-2-2016	Amend(T)	1-1-2017
331-910-0005	1-6-2017	Amend	2-1-2017	333-007-0090	12-15-2016	Amend(T)	1-1-2017
331-910-0010	1-6-2017	Amend	2-1-2017	333-007-0090	5-31-2017	Amend	7-1-2017
331-910-0015	1-6-2017	Amend	2-1-2017	333-007-0090(T)	5-31-2017	Repeal	7-1-2017
331-910-0025	1-6-2017	Amend	2-1-2017	333-007-0100	11-28-2016	Amend	1-1-2017
331-910-0030	1-6-2017	Amend	2-1-2017	333-007-0100(T)	11-28-2016	Repeal	1-1-2017
331-910-0035	1-6-2017	Amend	2-1-2017	333-007-0200	11-28-2016	Amend	1-1-2017
331-910-0040	1-6-2017	Amend	2-1-2017	333-007-0200	5-31-2017	Amend	7-1-2017
331-910-0045	1-6-2017	Amend	2-1-2017	333-007-0210	11-28-2016	Amend	1-1-2017
331-910-0050	1-6-2017	Amend	2-1-2017	333-007-0210	5-31-2017	Amend	7-1-2017
331-910-0055	1-6-2017	Amend	2-1-2017	333-007-0220	11-28-2016	Amend	1-1-2017
331-910-0060	1-6-2017	Amend	2-1-2017	333-007-0220	5-31-2017	Amend	7-1-2017
331-910-0070	1-6-2017	Amend	2-1-2017	333-007-0300	11-28-2016	Amend	1-1-2017
331-910-0075	1-6-2017	Amend	2-1-2017	333-007-0300	5-31-2017	Amend	7-1-2017
331-910-0080	1-6-2017	Amend	2-1-2017	333-007-0310	12-2-2016	Amend(T)	1-1-2017
331-910-0085	1-6-2017	Amend	2-1-2017	333-007-0310	5-31-2017	Amend	7-1-2017
331-915-0000	1-6-2017	Amend	2-1-2017	333-007-0310(T)	5-31-2017	Repeal	7-1-2017
331-915-0005	1-6-2017	Amend	2-1-2017	333-007-0315	12-2-2016	Amend(T)	1-1-2017
331-915-0007	1-6-2017	Adopt	2-1-2017	333-007-0315	5-31-2017	Amend	7-1-2017
331-915-0015	1-6-2017	Amend	2-1-2017	333-007-0315(T)	5-31-2017	Repeal	7-1-2017
331-915-0020	1-6-2017	Amend	2-1-2017	333-007-0320	12-2-2016	Amend(T)	1-1-2017
331-915-0025	1-6-2017	Amend	2-1-2017	333-007-0320	12-15-2016	Amend(T)	1-1-2017
331-915-0030	1-6-2017	Amend	2-1-2017	333-007-0320	5-31-2017	Amend	7-1-2017
331-915-0035	1-6-2017	Amend	2-1-2017	333-007-0320(T)	5-31-2017	Repeal	7-1-2017
331-915-0040	1-6-2017	Amend	2-1-2017	333-007-0330	5-31-2017	Amend	7-1-2017
331-915-0045	1-6-2017	Repeal	2-1-2017	333-007-0340	5-31-2017	Amend	7-1-2017
331-915-0050	1-6-2017	Amend	2-1-2017	333-007-0345	5-31-2017	Amend	7-1-2017
331-915-0055	1-6-2017	Amend	2-1-2017	333-007-0350	12-2-2016	Amend(T)	1-1-2017
331-915-0060	1-6-2017	Amend	2-1-2017	333-007-0350	12-15-2016	Amend(T)	1-1-2017
331-915-0065	1-6-2017	Amend	2-1-2017	333-007-0350	5-31-2017	Amend	7-1-2017
331-915-0070	1-6-2017	Amend	2-1-2017	333-007-0350(T)	5-31-2017	Repeal	7-1-2017
331-915-0075	1-6-2017	Amend	2-1-2017	333-007-0360	12-2-2016	Amend(T)	1-1-2017
331-915-0080	1-6-2017	Amend	2-1-2017	333-007-0360	12-15-2016	Amend(T)	1-1-2017
331-915-0085	1-6-2017	Amend	2-1-2017	333-007-0360	5-31-2017	Amend	7-1-2017
332-010-0002	8-15-2017	Adopt	9-1-2017	333-007-0360(T)	5-31-2017	Repeal	7-1-2017
332-010-0004	8-15-2017	Adopt	9-1-2017	333-007-0370	5-31-2017	Amend	7-1-2017
332-010-0006	8-15-2017	Adopt	9-1-2017	333-007-0390	5-31-2017	Amend	7-1-2017
332-020-0010	8-15-2017	Amend	9-1-2017	333-007-0400	5-31-2017	Amend	7-1-2017
333-004-0000	1-10-2017	Amend	2-1-2017	333-007-0410	12-2-2016	Amend(T)	1-1-2017
333-004-0010	1-10-2017	Amend	2-1-2017	333-007-0410	5-31-2017	Amend	7-1-2017
333-004-0020	1-10-2017	Amend	2-1-2017	333-007-0410(T)	5-31-2017	Repeal	7-1-2017
333-004-0030	1-10-2017	Amend	2-1-2017	333-007-0420	5-31-2017	Amend	7-1-2017

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333-007-0430(T)	5-31-2017	Repeal	7-1-2017	333-008-1630	5-31-2017	Amend	7-1-2017
333-007-0440	12-2-2016	Amend(T)	1-1-2017	333-008-1690	5-31-2017	Amend	7-1-2017
333-007-0440	12-15-2016	Amend(T)	1-1-2017	333-008-1730	11-28-2016	Amend	1-1-2017
333-007-0440	5-31-2017	Amend	7-1-2017	333-008-1740	11-28-2016	Amend	1-1-2017
333-007-0440(T)	5-31-2017	Repeal	7-1-2017	333-008-1740(T)	11-28-2016	Repeal	1-1-2017
333-007-0450	12-2-2016	Amend(T)	1-1-2017	333-008-1760	11-28-2016	Amend	1-1-2017
333-007-0450	5-31-2017	Amend	7-1-2017	333-008-1760	5-31-2017	Amend	7-1-2017
333-007-0450(T)	5-31-2017	Repeal	7-1-2017	333-008-1770	11-28-2016	Amend	1-1-2017
333-007-0480	12-2-2016	Amend(T)	1-1-2017	333-008-1810	5-31-2017	Amend	7-1-2017
333-007-0480	5-31-2017	Amend	7-1-2017	333-008-1820	11-28-2016	Amend	1-1-2017
333-007-0480(T)	5-31-2017	Repeal	7-1-2017	333-008-1830	5-31-2017	Amend	7-1-2017
333-007-0490	12-2-2016	Suspend	1-1-2017	333-008-2080	11-28-2016	Amend	1-1-2017
333-007-0490	5-31-2017	Repeal	7-1-2017	333-008-2120	11-28-2016	Amend	1-1-2017
333-007-0500	5-31-2017	Adopt	7-1-2017	333-008-2130	11-28-2016	Repeal	1-1-2017
333-007-2000	3-2-2017	Adopt(T)	4-1-2017	333-008-2180	5-31-2017	Amend	7-1-2017
333-007-2000	5-31-2017	Adopt	7-1-2017	333-008-2190	11-28-2016	Amend	1-1-2017
333-007-2000(T)	5-31-2017	Repeal	7-1-2017	333-008-2210	5-31-2017	Adopt	7-1-2017
333-008-0010	11-28-2016	Amend	1-1-2017	333-008-9900	11-28-2016	Amend	1-1-2017
333-008-0023	11-28-2016	Amend	1-1-2017	333-008-9900	5-31-2017	Repeal	7-1-2017
333-008-0033	5-31-2017	Amend	7-1-2017	333-008-9910	12-31-2016	Adopt(T)	2-1-2017
333-008-0040	11-28-2016	Amend	1-1-2017	333-008-9910(T)	5-31-2017	Repeal	7-1-2017
333-008-0550	5-31-2017	Amend	7-1-2017	333-010-0405	12-12-2016	Amend	1-1-2017
333-008-0570	5-31-2017	Amend	7-1-2017	333-010-0415	12-12-2016	Amend	1-1-2017
333-008-0600	11-28-2016	Amend	1-1-2017	333-010-0435	12-12-2016	Amend	1-1-2017
333-008-0600	5-31-2017	Amend	7-1-2017	333-016-2035	12-1-2016	Adopt	1-1-2017
333-008-1020	11-28-2016	Amend	1-1-2017	333-016-2040	12-1-2016	Adopt	1-1-2017
333-008-1020	5-31-2017	Amend	7-1-2017	333-016-2040	2-1-2017	Amend	3-1-2017
333-008-1030	5-31-2017	Amend	7-1-2017	333-016-2050	12-1-2016	Adopt	1-1-2017
333-008-1070	5-31-2017	Amend	7-1-2017	333-016-2060	12-1-2016	Adopt	1-1-2017
333-008-1110	11-28-2016	Amend	1-1-2017	333-016-2060	2-1-2017	Amend	3-1-2017
333-008-1190	11-28-2016	Repeal	1-1-2017	333-016-2070	12-1-2016	Adopt	1-1-2017
333-008-1200	11-28-2016	Amend	1-1-2017	333-016-2070	2-1-2017	Amend	3-1-2017
333-008-1200	12-31-2016	Amend(T)	2-1-2017	333-016-2080	2-1-2017	Adopt	3-1-2017
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333-008-1205	5-31-2017	Amend	7-1-2017	333-023-0830	1-10-2017	Adopt	2-1-2017
333-008-1220	5-31-2017	Repeal	7-1-2017	333-028-0220	7-1-2017	Amend	2-1-2017
333-008-1225	11-28-2016	Repeal	1-1-2017	333-028-0230	7-1-2017	Amend	2-1-2017
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333-008-1230	12-31-2016	Amend(T)	2-1-2017	333-028-0238	7-1-2017	Adopt	2-1-2017
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333-008-1245	5-31-2017	Amend	7-1-2017	333-046-0010	12-22-2016	Adopt	2-1-2017
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333-008-1255	11-28-2016	Adopt	1-1-2017	333-046-0030	12-22-2016	Adopt	2-1-2017
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333-046-0120	12-22-2016	Adopt	2-1-2017	333-102-0015	2-1-2017	Amend	3-1-2017
333-046-0130	12-22-2016	Adopt	2-1-2017	333-102-0101	2-1-2017	Amend	3-1-2017
333-064-0100	12-2-2016	Amend(T)	1-1-2017	333-106-0325	2-1-2017	Amend	3-1-2017
333-064-0100	12-15-2016	Amend(T)	1-1-2017	333-125-0040	2-1-2017	Amend	3-1-2017
333-064-0100	5-31-2017	Amend	7-1-2017	333-125-0120	2-1-2017	Amend	3-1-2017
333-064-0100(T)	5-31-2017	Repeal	7-1-2017	333-250-0000	3-21-2017	Renumber	5-1-2017
333-064-0110	12-2-2016	Amend(T)	1-1-2017	333-250-0010	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110	12-15-2016	Amend(T)	1-1-2017	333-250-0020	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110	5-31-2017	Amend	7-1-2017	333-250-0030	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110(T)	5-31-2017	Repeal	7-1-2017	333-250-0031	3-21-2017	Repeal	5-1-2017
333-068-0005	1-1-2017	Repeal	1-1-2017	333-250-0040	3-21-2017	Am. & Ren.	5-1-2017
333-068-0010	1-1-2017	Repeal	1-1-2017	333-250-0041	3-21-2017	Am. & Ren.	5-1-2017
333-068-0015	1-1-2017	Repeal	1-1-2017	333-250-0042	3-21-2017	Repeal	5-1-2017
333-068-0020	1-1-2017	Repeal	1-1-2017	333-250-0043	3-21-2017	Am. & Ren.	5-1-2017
333-068-0025	1-1-2017	Repeal	1-1-2017	333-250-0044	3-21-2017	Repeal	5-1-2017
333-068-0030	1-1-2017	Repeal	1-1-2017	333-250-0045	3-21-2017	Repeal	5-1-2017
333-068-0035	1-1-2017	Repeal	1-1-2017	333-250-0046	3-21-2017	Am. & Ren.	5-1-2017
333-068-0040	1-1-2017	Repeal	1-1-2017	333-250-0047	3-21-2017	Am. & Ren.	5-1-2017
333-068-0045	1-1-2017	Repeal	1-1-2017	333-250-0048	3-21-2017	Repeal	5-1-2017
333-068-0050	1-1-2017	Repeal	1-1-2017	333-250-0049	3-21-2017	Repeal	5-1-2017
333-068-0055	1-1-2017	Repeal	1-1-2017	333-250-0050	3-21-2017	Am. & Ren.	5-1-2017
333-068-0060	1-1-2017	Repeal	1-1-2017	333-250-0060	3-21-2017	Am. & Ren.	5-1-2017
333-068-0065	1-1-2017	Repeal	1-1-2017	333-250-0070	3-21-2017	Am. & Ren.	5-1-2017
333-069-0005	1-1-2017	Repeal	1-1-2017	333-250-0080	3-21-2017	Am. & Ren.	5-1-2017
333-069-0010	1-1-2017	Repeal	1-1-2017	333-250-0085	3-21-2017	Am. & Ren.	5-1-2017
333-069-0015	1-1-2017	Repeal	1-1-2017	333-250-0100	3-21-2017	Repeal	5-1-2017
333-069-0020	1-1-2017	Repeal	1-1-2017	333-250-0220	3-21-2017	Adopt	5-1-2017
333-069-0030	1-1-2017	Repeal	1-1-2017	333-250-0225	3-21-2017	Adopt	5-1-2017
333-069-0040	1-1-2017	Repeal	1-1-2017	333-250-0230	3-21-2017	Adopt	5-1-2017
333-069-0050	1-1-2017	Repeal	1-1-2017	333-250-0235	3-21-2017	Adopt	5-1-2017
333-069-0060	1-1-2017	Repeal	1-1-2017	333-250-0255	3-21-2017	Adopt	5-1-2017
333-069-0070	1-1-2017	Repeal	1-1-2017	333-250-0265	3-21-2017	Adopt	5-1-2017
333-069-0080	1-1-2017	Repeal	1-1-2017	333-250-0310	3-21-2017	Adopt	5-1-2017
333-069-0085	1-1-2017	Am. & Ren.	1-1-2017	333-250-0320	3-21-2017	Adopt	5-1-2017
333-069-0090	1-1-2017	Repeal	1-1-2017	333-250-0350	3-21-2017	Adopt	5-1-2017
333-069-0100	1-1-2017	Adopt	1-1-2017	333-250-0360	3-21-2017	Adopt	5-1-2017
333-069-0120	1-1-2017	Adopt	1-1-2017	333-250-0380	3-21-2017	Adopt	5-1-2017
333-070-0075	1-1-2017	Repeal	1-1-2017	333-250-0390	3-21-2017	Adopt	5-1-2017
333-070-0080	1-1-2017	Repeal	1-1-2017	333-250-0410	3-21-2017	Adopt	5-1-2017
333-070-0085	1-1-2017	Repeal	1-1-2017	333-265-0000	3-30-2017	Amend	5-1-2017
333-070-0090	1-1-2017	Repeal	1-1-2017	333-265-0010	3-30-2017	Amend	5-1-2017
333-070-0095	1-1-2017	Repeal	1-1-2017	333-265-0011	3-30-2017	Repeal	5-1-2017
333-070-0100	1-1-2017	Repeal	1-1-2017	333-265-0012	3-30-2017	Amend	5-1-2017
333-070-0105	1-1-2017	Repeal	1-1-2017	333-265-0014	3-30-2017	Amend	5-1-2017
333-070-0110	1-1-2017	Repeal	1-1-2017	333-265-0015	3-30-2017	Amend	5-1-2017
333-070-0115	1-1-2017	Am. & Ren.	1-1-2017	333-265-0016	3-30-2017	Amend	5-1-2017
333-070-0120	1-1-2017	Am. & Ren.	1-1-2017	333-265-0018	3-30-2017	Amend	5-1-2017
333-070-0125	1-1-2017	Repeal	1-1-2017	333-265-0020	3-30-2017	Amend	5-1-2017
333-070-0130	1-1-2017	Repeal	1-1-2017	333-265-0022	3-30-2017	Amend	5-1-2017
333-070-0135	1-1-2017	Repeal	1-1-2017	333-265-0023	3-30-2017	Amend	5-1-2017
333-070-0140	1-1-2017	Repeal	1-1-2017	333-265-0024	3-30-2017	Amend	5-1-2017
333-070-0145	1-1-2017	Am. & Ren.	1-1-2017	333-265-0025	3-30-2017	Amend	5-1-2017
333-070-0150	1-1-2017	Repeal	1-1-2017	333-265-0030	3-30-2017	Amend	5-1-2017
333-070-0160	1-1-2017	Am. & Ren.	1-1-2017	333-265-0040	3-30-2017	Amend	5-1-2017
333-070-0200	1-1-2017	Adopt	1-1-2017	333-265-0050	3-30-2017	Amend	5-1-2017

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333-265-0060	3-30-2017	Amend	5-1-2017	340-090-0350	1-19-2017	Amend	3-1-2017
333-265-0070	3-30-2017	Amend	5-1-2017	340-090-0360	1-19-2017	Amend	3-1-2017
333-265-0080	3-30-2017	Amend	5-1-2017	340-090-0370	1-19-2017	Amend	3-1-2017
333-265-0083	3-30-2017	Amend	5-1-2017	340-090-0380	1-19-2017	Amend	3-1-2017
333-265-0085	3-30-2017	Amend	5-1-2017	340-090-0390	1-19-2017	Amend	3-1-2017
333-265-0087	3-30-2017	Amend	5-1-2017	340-090-0400	1-19-2017	Amend	3-1-2017
333-265-0090	3-30-2017	Amend	5-1-2017	340-090-0410	1-19-2017	Amend	3-1-2017
333-265-0100	3-30-2017	Am. & Ren.	5-1-2017	340-090-0420	1-19-2017	Amend	3-1-2017
333-265-0105	3-30-2017	Amend	5-1-2017	340-090-0430	1-19-2017	Amend	3-1-2017
333-265-0110	3-30-2017	Amend	5-1-2017	340-090-0510	1-19-2017	Amend	3-1-2017
333-265-0140	3-30-2017	Amend	5-1-2017	340-100-0002	7-12-2017	Amend	8-1-2017
333-265-0150	3-30-2017	Amend	5-1-2017	340-101-0004	7-12-2017	Amend	8-1-2017
333-265-0160	3-30-2017	Amend	5-1-2017	340-102-0200	7-12-2017	Adopt	8-1-2017
333-265-0170	3-30-2017	Amend	5-1-2017	340-143-0005	3-1-2017	Amend	3-1-2017
333-510-0130	1-23-2017	Amend	3-1-2017	340-143-0010	3-1-2017	Amend	3-1-2017
333-510-0130(T)	1-23-2017	Repeal	3-1-2017	340-143-0050	3-1-2017	Amend	3-1-2017
333-535-0086	12-23-2016	Amend	2-1-2017	340-200-0040	1-19-2017	Amend	3-1-2017
334-001-0012	7-1-2017	Amend	7-1-2017	340-200-0040	7-13-2017	Amend	8-1-2017
334-010-0005	7-1-2017	Amend	7-1-2017	340-200-0050	7-13-2017	Amend	8-1-2017
334-010-0046	7-1-2017	Amend	7-1-2017	340-202-0090	7-13-2017	Amend	8-1-2017
334-010-0050	7-1-2017	Amend	7-1-2017	340-220-0030	1-19-2017	Amend	3-1-2017
337-010-0011	8-9-2017	Amend	9-1-2017	340-220-0040	1-19-2017	Amend	3-1-2017
337-030-0010	8-9-2017	Amend	9-1-2017	340-220-0050	1-19-2017	Amend	3-1-2017
339-010-0005	2-15-2017	Amend	3-1-2017	340-222-0060	7-13-2017	Amend	8-1-2017
339-010-0005	3-13-2017	Amend	4-1-2017	340-230-0500	7-13-2017	Amend	8-1-2017
339-010-0020	1-27-2017	Amend	3-1-2017	340-238-0040	7-13-2017	Amend	8-1-2017
339-010-0020	2-16-2017	Amend	4-1-2017	340-238-0060	7-13-2017	Amend	8-1-2017
340-041-0004	7-18-2017	Amend	9-1-2017	340-244-0030	7-13-2017	Amend	8-1-2017
340-041-0305	7-18-2017	Amend	9-1-2017	340-244-0220	7-13-2017	Amend	8-1-2017
340-090-0005	1-19-2017	Amend	3-1-2017	345-021-0010	3-8-2017	Amend	4-1-2017
340-090-0010	1-19-2017	Amend	3-1-2017	345-022-0000	3-8-2017	Amend	4-1-2017
340-090-0015	1-19-2017	Amend	3-1-2017	345-022-0060	3-8-2017	Amend	4-1-2017
340-090-0020	1-19-2017	Amend	3-1-2017	350-010-0000	4-1-2017	Adopt	4-1-2017
340-090-0030	1-19-2017	Amend	3-1-2017	350-010-0010	4-1-2017	Adopt	4-1-2017
340-090-0040	1-19-2017	Amend	3-1-2017	350-010-0020	4-1-2017	Adopt	4-1-2017
340-090-0041	1-19-2017	Adopt	3-1-2017	350-010-0030	4-1-2017	Adopt	4-1-2017
340-090-0042	1-19-2017	Adopt	3-1-2017	350-010-0040	4-1-2017	Adopt	4-1-2017
340-090-0045	1-19-2017	Repeal	3-1-2017	350-010-0050	4-1-2017	Adopt	4-1-2017
340-090-0050	1-19-2017	Amend	3-1-2017	350-081-0017	4-1-2017	Repeal	4-1-2017
340-090-0060	1-19-2017	Amend	3-1-2017	407-007-0210	12-1-2016	Amend	1-1-2017
340-090-0068	1-19-2017	Adopt	3-1-2017	407-007-0210	3-15-2017	Amend(T)	4-1-2017
340-090-0070	1-19-2017	Amend	3-1-2017	407-007-0210	7-1-2017	Amend	8-1-2017
340-090-0080	1-19-2017	Amend	3-1-2017	407-007-0210(T)	12-1-2016	Repeal	1-1-2017
340-090-0090	1-19-2017	Amend	3-1-2017	407-007-0210(T)	7-1-2017	Repeal	8-1-2017
340-090-0100	1-19-2017	Amend	3-1-2017	407-007-0250	12-1-2016	Amend	1-1-2017
340-090-0110	1-19-2017	Amend	3-1-2017	407-007-0250	3-15-2017	Amend(T)	4-1-2017
340-090-0120	1-19-2017	Amend	3-1-2017	407-007-0250	7-1-2017	Amend	8-1-2017
340-090-0130	1-19-2017	Amend	3-1-2017	407-007-0250(T)	12-1-2016	Repeal	1-1-2017
340-090-0140	1-19-2017	Amend	3-1-2017	407-007-0250(T)	7-1-2017	Repeal	8-1-2017
340-090-0150	1-19-2017	Amend	3-1-2017	407-007-0279	12-1-2016	Amend	1-1-2017
340-090-0180	1-19-2017	Amend	3-1-2017	407-007-0279	3-15-2017	Amend(T)	4-1-2017
340-090-0190	1-19-2017	Amend	3-1-2017	407-007-0279	7-1-2017	Amend	8-1-2017
340-090-0310	1-19-2017	Amend	3-1-2017	407-007-0279(T)	12-1-2016	Repeal	1-1-2017
340-090-0320	1-19-2017	Amend	3-1-2017	407-007-0279(T)	7-1-2017	Repeal	8-1-2017
340-090-0330	1-19-2017	Amend	3-1-2017	407-007-0290	12-1-2016	Amend	1-1-2017

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407-007-0320	12-1-2016	Amend	1-1-2017	409-055-0030	12-22-2016	Amend	2-1-2017
407-007-0320	3-15-2017	Amend(T)	4-1-2017	409-055-0030(T)	12-22-2016	Repeal	2-1-2017
407-007-0320	7-1-2017	Amend	8-1-2017	409-055-0040	12-22-2016	Amend	2-1-2017
407-007-0320(T)	12-1-2016	Repeal	1-1-2017	409-055-0045	12-22-2016	Amend	2-1-2017
407-007-0320(T)	7-1-2017	Repeal	8-1-2017	409-055-0050	12-22-2016	Amend	2-1-2017
407-007-0330	12-1-2016	Amend	1-1-2017	409-060-0110	12-22-2016	Amend	2-1-2017
407-007-0330	3-15-2017	Amend(T)	4-1-2017	409-060-0120	12-22-2016	Amend	2-1-2017
407-007-0330	7-1-2017	Amend	8-1-2017	409-060-0140	12-22-2016	Amend	2-1-2017
407-007-0330(T)	12-1-2016	Repeal	1-1-2017	409-060-0150	12-22-2016	Amend	2-1-2017
407-007-0330(T)	7-1-2017	Repeal	8-1-2017	409-110-0025	11-29-2016	Renumber	1-1-2017
407-007-0335	1-24-2017	Amend(T)	3-1-2017	409-110-0030	11-29-2016	Renumber	1-1-2017
407-007-0335	7-1-2017	Amend	8-1-2017	409-110-0035	11-29-2016	Renumber	1-1-2017
407-007-0335(T)	7-1-2017	Repeal	8-1-2017	409-110-0040	11-29-2016	Renumber	1-1-2017
407-014-0200	5-15-2017	Amend(T)	6-1-2017	409-110-0045	11-29-2016	Renumber	1-1-2017
407-014-0200	5-16-2017	Amend	7-1-2017	410-050-0861	7-1-2017	Amend	8-1-2017
407-014-0200(T)	5-16-2017	Repeal	7-1-2017	410-120-0000	1-1-2017	Amend	2-1-2017
407-014-0205	5-15-2017	Amend(T)	6-1-2017	410-120-0000(T)	1-1-2017	Repeal	2-1-2017
407-014-0205	5-16-2017	Amend	7-1-2017	410-120-0006	3-1-2017	Amend(T)	4-1-2017
407-014-0205(T)	5-16-2017	Repeal	7-1-2017	410-120-0006	7-1-2017	Amend	8-1-2017
407-045-0800	12-1-2016	Amend	1-1-2017	410-120-0006(T)	7-1-2017	Repeal	8-1-2017
407-045-0800	7-17-2017	Amend(T)	9-1-2017	410-120-1230	1-1-2017	Amend	2-1-2017
407-045-0810	12-1-2016	Repeal	1-1-2017	410-120-1340	5-26-2017	Amend(T)	7-1-2017
407-045-0820	12-1-2016	Amend	1-1-2017	410-121-0030	12-1-2016	Amend	1-1-2017
407-045-0820	7-17-2017	Amend(T)	9-1-2017	410-121-0030	1-1-2017	Amend(T)	2-1-2017
407-045-0825	12-1-2016	Adopt	1-1-2017	410-121-0030	5-1-2017	Amend(T)	6-1-2017
407-045-0830	12-1-2016	Repeal	1-1-2017	410-121-0030	6-29-2017	Amend	8-1-2017
407-045-0850	12-1-2016	Repeal	1-1-2017	410-121-0030	7-1-2017	Amend	8-1-2017
407-045-0860	12-1-2016	Repeal	1-1-2017	410-121-0030(T)	12-1-2016	Repeal	1-1-2017
407-045-0870	12-1-2016	Repeal	1-1-2017	410-121-0030(T)	6-29-2017	Repeal	8-1-2017
407-045-0880	12-1-2016	Repeal	1-1-2017	410-121-0040	12-1-2016	Amend	1-1-2017
407-045-0885	12-1-2016	Adopt	1-1-2017	410-121-0040	1-1-2017	Amend(T)	2-1-2017
407-045-0885	7-17-2017	Amend(T)	9-1-2017	410-121-0040	2-21-2017	Amend(T)	4-1-2017
407-045-0886	12-1-2016	Adopt	1-1-2017	410-121-0040	4-1-2017	Amend(T)	5-1-2017
407-045-0887	12-1-2016	Adopt	1-1-2017	410-121-0040	6-1-2017	Amend(T)	5-1-2017
407-045-0890	12-1-2016	Amend	1-1-2017	410-121-0040	6-29-2017	Amend	8-1-2017
407-045-0895	12-1-2016	Adopt	1-1-2017	410-121-0040	7-1-2017	Amend	8-1-2017
407-045-0895	7-17-2017	Amend(T)	9-1-2017	410-121-0040(T)	12-1-2016	Repeal	1-1-2017
407-045-0900	12-1-2016	Repeal	1-1-2017	410-121-0040(T)	6-1-2017	Suspend	5-1-2017
407-045-0910	12-1-2016	Amend	1-1-2017	410-121-0040(T)	6-29-2017	Repeal	8-1-2017
407-045-0920	12-1-2016	Repeal	1-1-2017	410-123-1220	1-1-2017	Amend(T)	2-1-2017
407-045-0930	12-1-2016	Repeal	1-1-2017	410-123-1220	6-29-2017	Amend	8-1-2017
407-045-0940	12-1-2016	Amend	1-1-2017	410-123-1220(T)	6-29-2017	Repeal	8-1-2017
407-045-0940	1-13-2017	Amend(T)	2-1-2017	410-123-1260	1-1-2017	Amend(T)	2-1-2017
407-045-0940	7-1-2017	Amend	8-1-2017	410-123-1260	6-29-2017	Amend	8-1-2017
407-045-0940(T)	7-1-2017	Repeal	8-1-2017	410-123-1260(T)	6-29-2017	Repeal	8-1-2017
407-045-0950	12-1-2016	Amend	1-1-2017	410-125-0085	1-1-2017	Amend	2-1-2017
407-045-0955	12-1-2016	Adopt	1-1-2017	410-125-0085(T)	1-1-2017	Repeal	2-1-2017
407-045-0960	12-1-2016	Repeal	1-1-2017	410-125-0360	1-1-2017	Amend	2-1-2017
407-045-0970	12-1-2016	Repeal	1-1-2017	410-125-0360(T)	1-1-2017	Repeal	2-1-2017
407-045-0980	12-1-2016	Repeal	1-1-2017	410-127-0020	7-15-2017	Amend(T)	8-1-2017
409-025-0100	1-1-2018	Amend	8-1-2017	410-127-0040	7-15-2017	Amend(T)	8-1-2017
409-025-0110	1-1-2018	Amend	8-1-2017	410-127-0045	7-15-2017	Adopt(T)	8-1-2017
409-025-0120	5-3-2017	Amend	6-1-2017	410-127-0050	7-15-2017	Suspend	8-1-2017
409-025-0120	1-1-2018	Amend	8-1-2017	410-127-0060	7-15-2017	Amend(T)	8-1-2017
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410-127-0200	7-15-2017	Amend(T)	8-1-2017	410-138-0060	1-13-2017	Amend(T)	2-1-2017
410-129-0020	1-1-2017	Amend(T)	1-1-2017	410-138-0060	2-10-2017	Amend(T)	3-1-2017
410-129-0020	6-9-2017	Amend	7-1-2017	410-138-0060	4-1-2017	Amend	5-1-2017
410-129-0020(T)	6-9-2017	Repeal	7-1-2017	410-138-0060(T)	4-1-2017	Repeal	5-1-2017
410-129-0040	1-1-2017	Amend(T)	1-1-2017	410-138-0080	1-1-2017	Amend	2-1-2017
410-129-0040	6-9-2017	Repeal	7-1-2017	410-138-0080	1-13-2017	Amend(T)	2-1-2017
410-129-0070	1-1-2017	Amend(T)	1-1-2017	410-138-0080	2-10-2017	Amend(T)	3-1-2017
410-129-0070	6-9-2017	Amend	7-1-2017	410-138-0080	4-1-2017	Amend	5-1-2017
410-129-0070(T)	6-9-2017	Repeal	7-1-2017	410-138-0080(T)	4-1-2017	Repeal	5-1-2017
410-129-0100	6-9-2017	Amend	7-1-2017	410-138-0390	1-1-2017	Amend	2-1-2017
410-129-0190	1-1-2017	Suspend	1-1-2017	410-138-0390	1-13-2017	Amend(T)	2-1-2017
410-129-0190	6-9-2017	Repeal	7-1-2017	410-138-0390	2-10-2017	Amend(T)	3-1-2017
410-130-0015	5-1-2017	Amend(T)	6-1-2017	410-138-0390	4-1-2017	Amend	5-1-2017
410-130-0015	5-25-2017	Amend(T)	7-1-2017	410-138-0390(T)	4-1-2017	Repeal	5-1-2017
410-131-0040	1-1-2017	Amend(T)	1-1-2017	410-138-0420	1-1-2017	Amend	2-1-2017
410-131-0040	6-9-2017	Amend	7-1-2017	410-138-0420	1-13-2017	Amend(T)	2-1-2017
410-131-0040(T)	6-9-2017	Repeal	7-1-2017	410-138-0420	2-10-2017	Amend(T)	3-1-2017
410-131-0080	1-1-2017	Amend(T)	1-1-2017	410-138-0420	4-1-2017	Amend	5-1-2017
410-131-0080	6-9-2017	Amend	7-1-2017	410-138-0420(T)	4-1-2017	Repeal	5-1-2017
410-131-0080(T)	6-9-2017	Repeal	7-1-2017	410-141-0000	7-1-2017	Amend(T)	8-1-2017
410-131-0100	1-1-2017	Amend(T)	1-1-2017	410-141-0520	12-1-2016	Amend	1-1-2017
410-131-0100	6-9-2017	Repeal	7-1-2017	410-141-0520	1-1-2017	Amend(T)	2-1-2017
410-131-0120	1-1-2017	Amend(T)	1-1-2017	410-141-0520	3-1-2017	Amend	4-1-2017
410-131-0120	6-9-2017	Amend	7-1-2017	410-141-0520(T)	12-1-2016	Repeal	1-1-2017
410-131-0120(T)	6-9-2017	Repeal	7-1-2017	410-141-0520(T)	3-1-2017	Repeal	4-1-2017
410-138-0000	1-1-2017	Amend	2-1-2017	410-141-3015	1-1-2017	Amend	2-1-2017
410-138-0000	1-13-2017	Amend(T)	2-1-2017	410-141-3015	1-13-2017	Amend	2-1-2017
410-138-0000	2-10-2017	Amend(T)	3-1-2017	410-141-3015(T)	1-1-2017	Repeal	2-1-2017
410-138-0000	4-1-2017	Amend	5-1-2017	410-141-3015(T)	1-13-2017	Repeal	2-1-2017
410-138-0000(T)	4-1-2017	Repeal	5-1-2017	410-141-3070	1-1-2017	Amend	2-1-2017
410-138-0005	1-1-2017	Amend	2-1-2017	410-141-3145	1-1-2017	Amend	2-1-2017
410-138-0005	1-13-2017	Amend(T)	2-1-2017	410-141-3145	1-13-2017	Amend	2-1-2017
410-138-0005	2-10-2017	Amend(T)	3-1-2017	410-141-3145(T)	1-1-2017	Repeal	2-1-2017
410-138-0005	4-1-2017	Amend	5-1-2017	410-141-3145(T)	1-13-2017	Repeal	2-1-2017
410-138-0005(T)	4-1-2017	Repeal	5-1-2017	410-141-3160	1-1-2017	Amend(T)	2-1-2017
410-138-0007	1-1-2017	Amend	2-1-2017	410-141-3160	6-29-2017	Amend	7-1-2017
410-138-0007	1-13-2017	Amend(T)	2-1-2017	410-141-3160	7-1-2017	Amend(T)	8-1-2017
410-138-0007	2-10-2017	Amend(T)	3-1-2017	410-141-3160(T)	6-29-2017	Repeal	7-1-2017
410-138-0007	4-1-2017	Amend	5-1-2017	410-141-3260	1-1-2017	Amend	2-1-2017
410-138-0007(T)	4-1-2017	Repeal	5-1-2017	410-141-3260	1-13-2017	Amend	2-1-2017
410-138-0009	1-1-2017	Amend	2-1-2017	410-141-3260(T)	1-1-2017	Repeal	2-1-2017
410-138-0009	1-13-2017	Amend(T)	2-1-2017	410-141-3260(T)	1-13-2017	Repeal	2-1-2017
410-138-0009	2-10-2017	Amend(T)	3-1-2017	410-141-3300	1-1-2017	Amend	2-1-2017
410-138-0009	4-1-2017	Amend	5-1-2017	410-141-3300	1-1-2017	Amend	2-1-2017
410-138-0009(T)	4-1-2017	Repeal	5-1-2017	410-141-3300	1-13-2017	Amend	2-1-2017
410-138-0020	1-1-2017	Amend	2-1-2017	410-141-3300(T)	1-1-2017	Repeal	2-1-2017
410-138-0020	1-13-2017	Amend(T)	2-1-2017	410-141-3300(T)	1-13-2017	Repeal	2-1-2017
410-138-0020	2-10-2017	Amend(T)	3-1-2017	410-141-3395	1-1-2017	Amend	2-1-2017
410-138-0020	4-1-2017	Amend	5-1-2017	410-141-3435	12-1-2016	Amend	1-1-2017
410-138-0020(T)	4-1-2017	Repeal	5-1-2017	410-149-0100	8-1-2017	Adopt(T)	9-1-2017
410-138-0040	1-1-2017	Amend	2-1-2017	410-149-0110	8-1-2017	Adopt(T)	9-1-2017
410-138-0040	1-13-2017	Amend(T)	2-1-2017	410-149-0120	8-1-2017	Adopt(T)	9-1-2017
410-138-0040	2-10-2017	Amend(T)	3-1-2017	410-149-0130	8-1-2017	Adopt(T)	9-1-2017
410-138-0040	4-1-2017	Amend	5-1-2017	410-149-0140	8-1-2017	Adopt(T)	9-1-2017
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410-165-0000(T)	6-2-2017	Repeal	7-1-2017	411-305-0010	1-1-2017	Am. & Ren.	2-1-2017
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410-165-0020	6-2-2017	Amend	7-1-2017	411-305-0023	1-1-2017	Am. & Ren.	2-1-2017
410-165-0020(T)	6-2-2017	Repeal	7-1-2017	411-305-0025	1-1-2017	Am. & Ren.	2-1-2017
410-165-0040	6-2-2017	Amend	7-1-2017	411-305-0027	1-1-2017	Repeal	2-1-2017
410-165-0060	2-2-2017	Amend(T)	3-1-2017	411-305-0030	1-1-2017	Am. & Ren.	2-1-2017
410-165-0060	6-2-2017	Amend	7-1-2017	411-305-0050	1-1-2017	Repeal	2-1-2017
410-165-0060(T)	6-2-2017	Repeal	7-1-2017	411-305-0080	1-1-2017	Am. & Ren.	2-1-2017
410-165-0080	2-2-2017	Amend(T)	3-1-2017	411-305-0090	1-1-2017	Am. & Ren.	2-1-2017
410-165-0080	6-2-2017	Amend	7-1-2017	411-305-0105	1-1-2017	Repeal	2-1-2017
410-165-0080(T)	6-2-2017	Repeal	7-1-2017	411-305-0110	1-1-2017	Repeal	2-1-2017
410-170-0110	11-29-2016	Amend	1-1-2017	411-305-0115	1-1-2017	Repeal	2-1-2017
410-170-0110	7-25-2017	Amend(T)	9-1-2017	411-305-0120	1-1-2017	Am. & Ren.	2-1-2017
410-170-0110(T)	11-29-2016	Repeal	1-1-2017	411-305-0140	1-1-2017	Am. & Ren.	2-1-2017
410-172-0650	4-4-2017	Amend	5-1-2017	411-305-0160	1-1-2017	Repeal	2-1-2017
410-172-0650(T)	4-4-2017	Repeal	5-1-2017	411-305-0170	1-1-2017	Repeal	2-1-2017
410-172-0760	4-4-2017	Amend	5-1-2017	411-305-0180	1-1-2017	Repeal	2-1-2017
410-172-0760(T)	4-4-2017	Repeal	5-1-2017	411-317-0000	2-28-2017	Amend	4-1-2017
410-172-0770	4-4-2017	Amend	5-1-2017	411-317-0000	5-1-2017	Amend(T)	5-1-2017
410-172-0770(T)	4-4-2017	Repeal	5-1-2017	411-317-0000	6-5-2017	Amend	7-1-2017
410-200-0315	3-1-2017	Amend(T)	4-1-2017	411-317-0000(T)	6-5-2017	Repeal	7-1-2017
410-200-0315	5-1-2017	Amend	6-1-2017	411-323-0050	12-16-2016	Amend(T)	2-1-2017
410-200-0315(T)	5-1-2017	Repeal	6-1-2017	411-323-0050	4-22-2017	Amend	6-1-2017
411-004-0000	7-1-2017	Amend	8-1-2017	411-323-0050(T)	12-16-2016	Suspend	2-1-2017
411-004-0010	7-1-2017	Amend	8-1-2017	411-325-0020	2-28-2017	Amend	4-1-2017
411-004-0020	7-1-2017	Amend	8-1-2017	411-328-0560	2-28-2017	Amend	4-1-2017
411-004-0030	7-1-2017	Amend	8-1-2017	411-345-0020	2-28-2017	Amend	4-1-2017
411-004-0040	12-28-2016	Amend	2-1-2017	411-360-0020	2-28-2017	Amend	4-1-2017
411-004-0040	7-1-2017	Amend	8-1-2017	411-360-0140	2-15-2017	Amend(T)	3-1-2017
411-019-0000	3-1-2017	Adopt	4-1-2017	411-360-0140	6-9-2017	Amend	7-1-2017
411-019-0010	3-1-2017	Adopt	4-1-2017	411-360-0140(T)	6-9-2017	Repeal	7-1-2017
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411-019-0030	3-1-2017	Adopt	4-1-2017	411-375-0020	2-28-2017	Amend	4-1-2017
411-027-0170	12-28-2016	Amend	1-1-2017	411-375-0035	2-28-2017	Amend	4-1-2017
411-030-0020	8-1-2017	Amend(T)	9-1-2017	411-375-0040	2-28-2017	Amend	4-1-2017
411-030-0033	12-28-2016	Amend	2-1-2017	411-375-0050	2-28-2017	Amend	4-1-2017
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411-030-0068	8-1-2017	Amend(T)	9-1-2017	411-375-0070	2-28-2017	Amend	4-1-2017
411-030-0070	12-28-2016	Amend	2-1-2017	411-380-0020	2-28-2017	Amend	4-1-2017
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411-030-0080	8-1-2017	Amend(T)	9-1-2017	411-380-0060	2-28-2017	Amend	4-1-2017
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411-033-0010	5-30-2017	Adopt	7-1-2017	411-415-0070	2-28-2017	Amend	4-1-2017
411-033-0030	5-30-2017	Adopt	7-1-2017	411-435-0020	2-28-2017	Amend	4-1-2017
411-050-0615	5-1-2017	Amend(T)	6-1-2017	411-435-0050	2-28-2017	Amend	4-1-2017
411-050-0650	5-1-2017	Amend(T)	6-1-2017	411-435-0060	2-28-2017	Amend	4-1-2017
411-050-0665	5-1-2017	Amend(T)	6-1-2017	411-435-0070	2-28-2017	Amend	4-1-2017
411-054-0005	8-1-2017	Amend(T)	9-1-2017	411-450-0020	2-28-2017	Amend	4-1-2017
411-054-0027	8-1-2017	Amend(T)	9-1-2017	411-450-0030	2-28-2017	Amend	4-1-2017
411-054-0038	8-1-2017	Amend(T)	9-1-2017	411-450-0060	2-28-2017	Amend	4-1-2017
411-054-0060	8-1-2017	Amend(T)	9-1-2017	411-450-0070	2-28-2017	Amend	4-1-2017
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413-010-0500	12-1-2016	Amend	1-1-2017	413-015-9030(T)	12-1-2016	Repeal	1-1-2017
413-010-0501	12-1-2016	Repeal	1-1-2017	413-015-9040	12-1-2016	Amend	1-1-2017
413-010-0502	12-1-2016	Amend	1-1-2017	413-015-9040(T)	12-1-2016	Repeal	1-1-2017
413-010-0505	12-1-2016	Amend	1-1-2017	413-017-0000	2-7-2017	Adopt(T)	3-1-2017
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413-010-0525	12-1-2016	Amend	1-1-2017	413-017-0010	2-7-2017	Adopt(T)	3-1-2017
413-010-0535	12-1-2016	Amend	1-1-2017	413-017-0010(T)	7-27-2017	Suspend	9-1-2017
413-015-0100	12-1-2016	Amend	1-1-2017	413-017-0020	2-7-2017	Adopt(T)	3-1-2017
413-015-0100(T)	12-1-2016	Repeal	1-1-2017	413-017-0020(T)	7-27-2017	Suspend	9-1-2017
413-015-0115	12-1-2016	Amend	1-1-2017	413-017-0030	2-7-2017	Adopt(T)	3-1-2017
413-015-0115	2-7-2017	Amend(T)	3-1-2017	413-017-0030(T)	7-27-2017	Suspend	9-1-2017
413-015-0115	8-6-2017	Amend	9-1-2017	413-017-0040	2-7-2017	Adopt(T)	3-1-2017
413-015-0125	12-1-2016	Amend	1-1-2017	413-017-0040(T)	7-27-2017	Suspend	9-1-2017
413-015-0125(T)	12-1-2016	Repeal	1-1-2017	413-020-0000	2-7-2017	Amend(T)	3-1-2017
413-015-0205	12-1-2016	Amend	1-1-2017	413-020-0000	8-6-2017	Amend	9-1-2017
413-015-0205	2-7-2017	Amend(T)	3-1-2017	413-020-0010	2-7-2017	Amend(T)	3-1-2017
413-015-0205	8-6-2017	Amend	9-1-2017	413-020-0010	8-6-2017	Amend	9-1-2017
413-015-0205(T)	12-1-2016	Repeal	1-1-2017	413-020-0020	2-7-2017	Amend(T)	3-1-2017
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413-015-0210	8-8-2017	Amend(T)	9-1-2017	413-020-0050	2-7-2017	Amend(T)	3-1-2017
413-015-0212	12-1-2016	Amend	1-1-2017	413-020-0050	8-6-2017	Amend	9-1-2017
413-015-0212(T)	12-1-2016	Repeal	1-1-2017	413-020-0075	2-7-2017	Amend(T)	3-1-2017
413-015-0215	2-7-2017	Amend(T)	3-1-2017	413-020-0075	8-6-2017	Amend	9-1-2017
413-015-0215	8-6-2017	Amend	9-1-2017	413-020-0090	2-7-2017	Amend(T)	3-1-2017
413-015-0215	8-8-2017	Amend(T)	9-1-2017	413-020-0090	8-6-2017	Amend	9-1-2017
413-015-0300	12-1-2016	Amend	1-1-2017	413-030-0000	2-7-2017	Amend(T)	3-1-2017
413-015-0300(T)	12-1-2016	Repeal	1-1-2017	413-030-0000	8-6-2017	Amend	9-1-2017
413-015-0409	12-1-2016	Amend	1-1-2017	413-030-0009	2-7-2017	Amend(T)	3-1-2017
413-015-0409(T)	12-1-2016	Repeal	1-1-2017	413-030-0009	8-6-2017	Amend	9-1-2017
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413-015-0415	8-8-2017	Amend(T)	9-1-2017	413-030-0300	1-1-2017	Repeal	2-1-2017
413-015-0420	12-1-2016	Amend	1-1-2017	413-030-0310	1-1-2017	Repeal	2-1-2017
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413-015-0432	2-7-2017	Amend(T)	3-1-2017	413-030-0445	2-7-2017	Amend(T)	3-1-2017
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413-015-0620(T)	12-1-2016	Repeal	1-1-2017	413-040-0310	2-7-2017	Amend(T)	3-1-2017
413-015-0625	12-1-2016	Adopt	1-1-2017	413-040-0310	8-6-2017	Amend	9-1-2017
413-015-0625(T)	12-1-2016	Repeal	1-1-2017	413-040-0325	2-7-2017	Amend(T)	3-1-2017
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413-015-0630(T)	12-1-2016	Repeal	1-1-2017	413-070-0000	2-7-2017	Amend(T)	3-1-2017
413-015-0640	12-1-2016	Adopt	1-1-2017	413-070-0000	8-6-2017	Amend	9-1-2017
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413-070-0100	8-6-2017	Repeal	9-1-2017	413-080-0052(T)	12-1-2016	Repeal	1-1-2017
413-070-0130	2-7-2017	Suspend	3-1-2017	413-080-0053	1-1-2017	Amend	2-1-2017
413-070-0130	8-6-2017	Repeal	9-1-2017	413-080-0053(T)	1-1-2017	Repeal	2-1-2017
413-070-0140	2-7-2017	Suspend	3-1-2017	413-080-0054	12-1-2016	Amend	1-1-2017
413-070-0140	8-6-2017	Repeal	9-1-2017	413-080-0054(T)	12-1-2016	Repeal	1-1-2017
413-070-0150	2-7-2017	Suspend	3-1-2017	413-080-0059	12-1-2016	Amend	1-1-2017
413-070-0150	8-6-2017	Repeal	9-1-2017	413-080-0059(T)	12-1-2016	Repeal	1-1-2017
413-070-0160	2-7-2017	Suspend	3-1-2017	413-080-0062	1-1-2017	Amend	2-1-2017
413-070-0160	8-6-2017	Repeal	9-1-2017	413-080-0062(T)	1-1-2017	Repeal	2-1-2017
413-070-0170	2-7-2017	Suspend	3-1-2017	413-080-0070	12-1-2016	Adopt	1-1-2017
413-070-0170	8-6-2017	Repeal	9-1-2017	413-080-0070(T)	12-1-2016	Repeal	1-1-2017
413-070-0180	2-7-2017	Suspend	3-1-2017	413-090-0000	12-1-2016	Amend	1-1-2017
413-070-0180	8-6-2017	Repeal	9-1-2017	413-090-0000(T)	12-1-2016	Repeal	1-1-2017
413-070-0190	2-7-2017	Suspend	3-1-2017	413-090-0051	7-5-2017	Adopt	8-1-2017
413-070-0190	8-6-2017	Repeal	9-1-2017	413-090-0055	12-1-2016	Amend	1-1-2017
413-070-0200	2-7-2017	Suspend	3-1-2017	413-090-0055(T)	12-1-2016	Repeal	1-1-2017
413-070-0200	8-6-2017	Repeal	9-1-2017	413-090-0065	12-1-2016	Amend	1-1-2017
413-070-0210	2-7-2017	Suspend	3-1-2017	413-090-0065(T)	12-1-2016	Repeal	1-1-2017
413-070-0210	8-6-2017	Repeal	9-1-2017	413-090-0070	12-1-2016	Amend	1-1-2017
413-070-0220	2-7-2017	Suspend	3-1-2017	413-090-0070(T)	12-1-2016	Repeal	1-1-2017
413-070-0220	8-6-2017	Repeal	9-1-2017	413-090-0075	12-1-2016	Amend	1-1-2017
413-070-0230	2-7-2017	Suspend	3-1-2017	413-090-0075(T)	12-1-2016	Repeal	1-1-2017
413-070-0230	8-6-2017	Repeal	9-1-2017	413-090-0080	12-1-2016	Amend	1-1-2017
413-070-0240	2-7-2017	Suspend	3-1-2017	413-090-0080(T)	12-1-2016	Repeal	1-1-2017
413-070-0240	8-6-2017	Repeal	9-1-2017	413-090-0085	7-26-2017	Amend(T)	9-1-2017
413-070-0250	2-7-2017	Suspend	3-1-2017	413-090-0090	12-1-2016	Amend	1-1-2017
413-070-0250	8-6-2017	Repeal	9-1-2017	413-090-0090(T)	12-1-2016	Repeal	1-1-2017
413-070-0260	2-7-2017	Suspend	3-1-2017	413-100-0020	2-7-2017	Amend(T)	3-1-2017
413-070-0260	8-6-2017	Repeal	9-1-2017	413-100-0020	8-6-2017	Amend	9-1-2017
413-070-0512	2-7-2017	Amend(T)	3-1-2017	413-100-0240	2-7-2017	Amend(T)	3-1-2017
413-070-0512	8-6-2017	Amend	9-1-2017	413-100-0240	8-6-2017	Amend	9-1-2017
413-070-0516	1-1-2017	Amend	2-1-2017	413-110-0000	2-7-2017	Amend(T)	3-1-2017
413-070-0516	2-7-2017	Amend(T)	3-1-2017	413-110-0000	8-6-2017	Amend	9-1-2017
413-070-0516	8-6-2017	Amend	9-1-2017	413-110-0280	1-1-2017	Repeal	2-1-2017
413-070-0518	1-1-2017	Amend	2-1-2017	413-110-0282	1-1-2017	Repeal	2-1-2017
413-070-0518	1-19-2017	Amend	3-1-2017	413-110-0286	1-1-2017	Repeal	2-1-2017
413-070-0519	2-7-2017	Amend(T)	3-1-2017	413-110-0288	1-1-2017	Repeal	2-1-2017
413-070-0519	8-6-2017	Amend	9-1-2017	413-110-0290	1-1-2017	Repeal	2-1-2017
413-070-0625	2-7-2017	Amend(T)	3-1-2017	413-110-0291	1-1-2017	Repeal	2-1-2017
413-070-0670	1-1-2017	Amend	2-1-2017	413-110-0292	1-1-2017	Repeal	2-1-2017
413-070-0900	1-1-2017	Amend	2-1-2017	413-110-0293	1-1-2017	Repeal	2-1-2017
413-070-0900(T)	1-1-2017	Repeal	2-1-2017	413-110-0295	1-1-2017	Repeal	2-1-2017
413-070-0917	1-1-2017	Amend	2-1-2017	413-110-0297	1-1-2017	Repeal	2-1-2017
413-070-0917(T)	1-1-2017	Repeal	2-1-2017	413-110-0299	1-1-2017	Repeal	2-1-2017
413-070-0959	1-1-2017	Amend	2-1-2017	413-110-0300	2-7-2017	Amend(T)	3-1-2017
413-070-0959(T)	1-1-2017	Repeal	2-1-2017	413-110-0300	8-6-2017	Amend	9-1-2017
413-070-1020	1-1-2017	Amend	2-1-2017	413-115-0000	2-7-2017	Adopt(T)	3-1-2017
413-070-1050	2-7-2017	Amend(T)	3-1-2017	413-115-0000	8-6-2017	Adopt	9-1-2017
413-070-1050	8-6-2017	Amend	9-1-2017	413-115-0010	2-7-2017	Adopt(T)	3-1-2017
413-080-0050	12-1-2016	Amend	1-1-2017	413-115-0010	8-6-2017	Adopt	9-1-2017
413-080-0050	2-7-2017	Amend(T)	3-1-2017	413-115-0020	2-7-2017	Adopt(T)	3-1-2017
413-080-0050	8-6-2017	Amend	9-1-2017	413-115-0020	8-6-2017	Adopt	9-1-2017
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413-115-0030	8-6-2017	Adopt	9-1-2017	413-120-0880	2-7-2017	Amend(T)	3-1-2017
413-115-0030(T)	5-12-2017	Suspend	6-1-2017	413-120-0880	8-6-2017	Amend	9-1-2017
413-115-0040	2-7-2017	Adopt(T)	3-1-2017	413-120-0925	2-7-2017	Amend(T)	3-1-2017
413-115-0040	8-6-2017	Adopt	9-1-2017	413-120-0925	8-6-2017	Amend	9-1-2017
413-115-0050	2-7-2017	Adopt(T)	3-1-2017	413-120-0950	2-7-2017	Amend(T)	3-1-2017
413-115-0050	5-12-2017	Adopt(T)	6-1-2017	413-200-0260	2-7-2017	Amend(T)	3-1-2017
413-115-0050	8-6-2017	Adopt	9-1-2017	413-200-0260	8-6-2017	Amend	9-1-2017
413-115-0050(T)	5-12-2017	Suspend	6-1-2017	413-200-0306	2-7-2017	Amend(T)	3-1-2017
413-115-0060	2-7-2017	Adopt(T)	3-1-2017	413-200-0306	8-6-2017	Amend	9-1-2017
413-115-0060	8-6-2017	Adopt	9-1-2017	413-215-0000	12-1-2016	Adopt	1-1-2017
413-115-0070	2-7-2017	Adopt(T)	3-1-2017	413-215-0000	2-7-2017	Amend(T)	3-1-2017
413-115-0070	8-6-2017	Adopt	9-1-2017	413-215-0000	8-6-2017	Amend	9-1-2017
413-115-0080	2-7-2017	Adopt(T)	3-1-2017	413-215-0000(T)	12-1-2016	Repeal	1-1-2017
413-115-0080	8-6-2017	Adopt	9-1-2017	413-215-0001	12-1-2016	Amend	1-1-2017
413-115-0090	2-7-2017	Adopt(T)	3-1-2017	413-215-0001(T)	12-1-2016	Repeal	1-1-2017
413-115-0090	8-6-2017	Adopt	9-1-2017	413-215-0006	12-1-2016	Repeal	1-1-2017
413-115-0100	2-7-2017	Adopt(T)	3-1-2017	413-215-0011	12-1-2016	Amend	1-1-2017
413-115-0100	8-6-2017	Adopt	9-1-2017	413-215-0011(T)	12-1-2016	Repeal	1-1-2017
413-115-0110	2-7-2017	Adopt(T)	3-1-2017	413-215-0016	12-1-2016	Amend	1-1-2017
413-115-0110	8-6-2017	Adopt	9-1-2017	413-215-0016(T)	12-1-2016	Repeal	1-1-2017
413-115-0120	2-7-2017	Adopt(T)	3-1-2017	413-215-0021	12-1-2016	Amend	1-1-2017
413-115-0120	5-12-2017	Adopt(T)	6-1-2017	413-215-0021(T)	12-1-2016	Repeal	1-1-2017
413-115-0120	8-6-2017	Adopt	9-1-2017	413-215-0026	12-1-2016	Amend	1-1-2017
413-115-0120(T)	5-12-2017	Suspend	6-1-2017	413-215-0026(T)	12-1-2016	Repeal	1-1-2017
413-115-0130	2-7-2017	Adopt(T)	3-1-2017	413-215-0031	12-1-2016	Amend	1-1-2017
413-115-0130	8-6-2017	Adopt	9-1-2017	413-215-0031(T)	12-1-2016	Repeal	1-1-2017
413-115-0140	2-7-2017	Adopt(T)	3-1-2017	413-215-0036	12-1-2016	Amend	1-1-2017
413-115-0140	8-6-2017	Adopt	9-1-2017	413-215-0036(T)	12-1-2016	Repeal	1-1-2017
413-115-0150	2-7-2017	Adopt(T)	3-1-2017	413-215-0041	12-1-2016	Amend	1-1-2017
413-115-0150	8-6-2017	Adopt	9-1-2017	413-215-0041(T)	12-1-2016	Repeal	1-1-2017
413-120-0000	2-7-2017	Amend(T)	3-1-2017	413-215-0046	12-1-2016	Amend	1-1-2017
413-120-0000	8-6-2017	Amend	9-1-2017	413-215-0046(T)	12-1-2016	Repeal	1-1-2017
413-120-0020	2-7-2017	Amend(T)	3-1-2017	413-215-0051	12-1-2016	Amend	1-1-2017
413-120-0020	8-6-2017	Amend	9-1-2017	413-215-0051(T)	12-1-2016	Repeal	1-1-2017
413-120-0021	2-7-2017	Amend(T)	3-1-2017	413-215-0056	12-1-2016	Amend	1-1-2017
413-120-0021	8-6-2017	Amend	9-1-2017	413-215-0056(T)	12-1-2016	Repeal	1-1-2017
413-120-0025	2-7-2017	Amend(T)	3-1-2017	413-215-0061	12-1-2016	Amend	1-1-2017
413-120-0025	8-6-2017	Amend	9-1-2017	413-215-0061(T)	12-1-2016	Repeal	1-1-2017
413-120-0057	2-7-2017	Amend(T)	3-1-2017	413-215-0066	12-1-2016	Amend	1-1-2017
413-120-0057	8-6-2017	Amend	9-1-2017	413-215-0066(T)	12-1-2016	Repeal	1-1-2017
413-120-0060	2-7-2017	Amend(T)	3-1-2017	413-215-0071	12-1-2016	Amend	1-1-2017
413-120-0060	8-6-2017	Amend	9-1-2017	413-215-0071(T)	12-1-2016	Repeal	1-1-2017
413-120-0165	2-7-2017	Amend(T)	3-1-2017	413-215-0076	12-1-2016	Amend	1-1-2017
413-120-0165	8-6-2017	Amend	9-1-2017	413-215-0076(T)	12-1-2016	Repeal	1-1-2017
413-120-0175	2-7-2017	Amend(T)	3-1-2017	413-215-0081	12-1-2016	Amend	1-1-2017
413-120-0175	8-6-2017	Amend	9-1-2017	413-215-0081	2-7-2017	Amend(T)	3-1-2017
413-120-0625	2-7-2017	Amend(T)	3-1-2017	413-215-0081	8-6-2017	Amend	9-1-2017
413-120-0625	8-6-2017	Amend	9-1-2017	413-215-0081(T)	12-1-2016	Repeal	1-1-2017
413-120-0730	2-7-2017	Amend(T)	3-1-2017	413-215-0086	12-1-2016	Amend	1-1-2017
413-120-0730	8-6-2017	Amend	9-1-2017	413-215-0086(T)	12-1-2016	Repeal	1-1-2017
413-120-0750	2-7-2017	Amend(T)	3-1-2017	413-215-0091	12-1-2016	Amend	1-1-2017
413-120-0750	8-6-2017	Amend	9-1-2017	413-215-0091(T)	12-1-2016	Repeal	1-1-2017
413-120-0760	2-7-2017	Amend(T)	3-1-2017	413-215-0096	12-1-2016	Repeal	1-1-2017
413-120-0760	8-6-2017	Amend	9-1-2017	413-215-0101	12-1-2016	Amend	1-1-2017
413-120-0870	2-7-2017	Amend(T)	3-1-2017	413-215-0101(T)	12-1-2016	Repeal	1-1-2017

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413-215-0106(T)	12-1-2016	Repeal	1-1-2017	413-215-0331	12-1-2016	Amend	1-1-2017
413-215-0111	12-1-2016	Amend	1-1-2017	413-215-0331(T)	12-1-2016	Repeal	1-1-2017
413-215-0111(T)	12-1-2016	Repeal	1-1-2017	413-215-0336	12-1-2016	Amend	1-1-2017
413-215-0116	12-1-2016	Amend	1-1-2017	413-215-0336(T)	12-1-2016	Repeal	1-1-2017
413-215-0116(T)	12-1-2016	Repeal	1-1-2017	413-215-0341	12-1-2016	Amend	1-1-2017
413-215-0121	12-1-2016	Amend	1-1-2017	413-215-0341(T)	12-1-2016	Repeal	1-1-2017
413-215-0121(T)	12-1-2016	Repeal	1-1-2017	413-215-0346	12-1-2016	Repeal	1-1-2017
413-215-0126	12-1-2016	Amend	1-1-2017	413-215-0349	12-1-2016	Amend	1-1-2017
413-215-0126(T)	12-1-2016	Repeal	1-1-2017	413-215-0349(T)	12-1-2016	Repeal	1-1-2017
413-215-0131	12-1-2016	Amend	1-1-2017	413-215-0351	12-1-2016	Amend	1-1-2017
413-215-0131(T)	12-1-2016	Repeal	1-1-2017	413-215-0351(T)	12-1-2016	Repeal	1-1-2017
413-215-0201	12-1-2016	Amend	1-1-2017	413-215-0356	12-1-2016	Amend	1-1-2017
413-215-0201(T)	12-1-2016	Repeal	1-1-2017	413-215-0356(T)	12-1-2016	Repeal	1-1-2017
413-215-0206	12-1-2016	Repeal	1-1-2017	413-215-0361	12-1-2016	Amend	1-1-2017
413-215-0211	12-1-2016	Amend	1-1-2017	413-215-0361(T)	12-1-2016	Repeal	1-1-2017
413-215-0211(T)	12-1-2016	Repeal	1-1-2017	413-215-0366	12-1-2016	Amend	1-1-2017
413-215-0216	12-1-2016	Amend	1-1-2017	413-215-0366(T)	12-1-2016	Repeal	1-1-2017
413-215-0216(T)	12-1-2016	Repeal	1-1-2017	413-215-0371	12-1-2016	Amend	1-1-2017
413-215-0218	12-1-2016	Adopt	1-1-2017	413-215-0371(T)	12-1-2016	Repeal	1-1-2017
413-215-0221	12-1-2016	Amend	1-1-2017	413-215-0376	12-1-2016	Amend	1-1-2017
413-215-0221(T)	12-1-2016	Repeal	1-1-2017	413-215-0376(T)	12-1-2016	Repeal	1-1-2017
413-215-0226	12-1-2016	Amend	1-1-2017	413-215-0381	12-1-2016	Amend	1-1-2017
413-215-0226(T)	12-1-2016	Repeal	1-1-2017	413-215-0381(T)	12-1-2016	Repeal	1-1-2017
413-215-0231	12-1-2016	Amend	1-1-2017	413-215-0386	12-1-2016	Amend	1-1-2017
413-215-0231(T)	12-1-2016	Repeal	1-1-2017	413-215-0386(T)	12-1-2016	Repeal	1-1-2017
413-215-0236	12-1-2016	Amend	1-1-2017	413-215-0391	12-1-2016	Amend	1-1-2017
413-215-0236(T)	12-1-2016	Repeal	1-1-2017	413-215-0391(T)	12-1-2016	Repeal	1-1-2017
413-215-0241	12-1-2016	Amend	1-1-2017	413-215-0396	12-1-2016	Amend	1-1-2017
413-215-0241(T)	12-1-2016	Repeal	1-1-2017	413-215-0396(T)	12-1-2016	Repeal	1-1-2017
413-215-0246	12-1-2016	Amend	1-1-2017	413-215-0401	12-1-2016	Amend	1-1-2017
413-215-0246(T)	12-1-2016	Repeal	1-1-2017	413-215-0401(T)	12-1-2016	Repeal	1-1-2017
413-215-0251	12-1-2016	Amend	1-1-2017	413-215-0406	12-1-2016	Repeal	1-1-2017
413-215-0251(T)	12-1-2016	Repeal	1-1-2017	413-215-0411	12-1-2016	Amend	1-1-2017
413-215-0256	12-1-2016	Repeal	1-1-2017	413-215-0411(T)	12-1-2016	Repeal	1-1-2017
413-215-0261	12-1-2016	Amend	1-1-2017	413-215-0416	12-1-2016	Amend	1-1-2017
413-215-0261(T)	12-1-2016	Repeal	1-1-2017	413-215-0416(T)	12-1-2016	Repeal	1-1-2017
413-215-0266	12-1-2016	Amend	1-1-2017	413-215-0421	12-1-2016	Amend	1-1-2017
413-215-0266(T)	12-1-2016	Repeal	1-1-2017	413-215-0421(T)	12-1-2016	Repeal	1-1-2017
413-215-0271	12-1-2016	Amend	1-1-2017	413-215-0426	12-1-2016	Amend	1-1-2017
413-215-0271(T)	12-1-2016	Repeal	1-1-2017	413-215-0426	2-7-2017	Amend(T)	3-1-2017
413-215-0276	12-1-2016	Amend	1-1-2017	413-215-0426	8-6-2017	Amend	9-1-2017
413-215-0276(T)	12-1-2016	Repeal	1-1-2017	413-215-0426(T)	12-1-2016	Repeal	1-1-2017
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413-215-0301(T)	12-1-2016	Repeal	1-1-2017	413-215-0431	2-7-2017	Amend(T)	3-1-2017
413-215-0306	12-1-2016	Repeal	1-1-2017	413-215-0431	8-6-2017	Amend	9-1-2017
413-215-0311	12-1-2016	Amend	1-1-2017	413-215-0431(T)	12-1-2016	Repeal	1-1-2017
413-215-0311(T)	12-1-2016	Repeal	1-1-2017	413-215-0436	12-1-2016	Amend	1-1-2017
413-215-0313	12-1-2016	Amend	1-1-2017	413-215-0436(T)	12-1-2016	Repeal	1-1-2017
413-215-0313(T)	12-1-2016	Repeal	1-1-2017	413-215-0441	12-1-2016	Amend	1-1-2017
413-215-0316	12-1-2016	Amend	1-1-2017	413-215-0441	2-7-2017	Amend(T)	3-1-2017
413-215-0316(T)	12-1-2016	Repeal	1-1-2017	413-215-0441	8-6-2017	Amend	9-1-2017
413-215-0318	12-1-2016	Adopt	1-1-2017	413-215-0441(T)	12-1-2016	Repeal	1-1-2017
413-215-0321	12-1-2016	Amend	1-1-2017	413-215-0446	12-1-2016	Amend	1-1-2017
413-215-0321(T)	12-1-2016	Repeal	1-1-2017	413-215-0446(T)	12-1-2016	Repeal	1-1-2017
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413-215-0811	12-1-2016	Amend	1-1-2017	413-215-0991(T)	12-1-2016	Repeal	1-1-2017
413-215-0811(T)	12-1-2016	Repeal	1-1-2017	413-215-0992	12-1-2016	Amend	1-1-2017
413-215-0816	12-1-2016	Amend	1-1-2017	413-215-0992(T)	12-1-2016	Repeal	1-1-2017
413-215-0816(T)	12-1-2016	Repeal	1-1-2017	413-215-0996	12-1-2016	Amend	1-1-2017
413-215-0821	12-1-2016	Amend	1-1-2017	413-215-0996(T)	12-1-2016	Repeal	1-1-2017
413-215-0821(T)	12-1-2016	Repeal	1-1-2017	413-215-1001	12-1-2016	Amend	1-1-2017
413-215-0826	12-1-2016	Amend	1-1-2017	413-215-1001(T)	12-1-2016	Repeal	1-1-2017
413-215-0826(T)	12-1-2016	Repeal	1-1-2017	413-215-1006	12-1-2016	Amend	1-1-2017
413-215-0831	12-1-2016	Amend	1-1-2017	413-215-1006(T)	12-1-2016	Repeal	1-1-2017
413-215-0831(T)	12-1-2016	Repeal	1-1-2017	413-215-1011	12-1-2016	Amend	1-1-2017
413-215-0836	12-1-2016	Amend	1-1-2017	413-215-1011(T)	12-1-2016	Repeal	1-1-2017
413-215-0836(T)	12-1-2016	Repeal	1-1-2017	413-215-1016	12-1-2016	Amend	1-1-2017
413-215-0841	12-1-2016	Amend	1-1-2017	413-215-1016(T)	12-1-2016	Repeal	1-1-2017
413-215-0841(T)	12-1-2016	Repeal	1-1-2017	413-215-1021	12-1-2016	Amend	1-1-2017
413-215-0846	12-1-2016	Amend	1-1-2017	413-215-1021(T)	12-1-2016	Repeal	1-1-2017
413-215-0846(T)	12-1-2016	Repeal	1-1-2017	413-215-1026	12-1-2016	Amend	1-1-2017
413-215-0851	12-1-2016	Amend	1-1-2017	413-215-1026(T)	12-1-2016	Repeal	1-1-2017
413-215-0851(T)	12-1-2016	Repeal	1-1-2017	413-215-1031	12-1-2016	Amend	1-1-2017
413-215-0856	12-1-2016	Amend	1-1-2017	413-215-1031(T)	12-1-2016	Repeal	1-1-2017
413-215-0856(T)	12-1-2016	Repeal	1-1-2017	414-061-0020	12-19-2016	Amend	2-1-2017
413-215-0901	12-1-2016	Amend	1-1-2017	414-061-0040	12-19-2016	Amend	2-1-2017
413-215-0901(T)	12-1-2016	Repeal	1-1-2017	414-061-0050	12-19-2016	Amend	2-1-2017
413-215-0906	12-1-2016	Repeal	1-1-2017	414-061-0080	1-26-2017	Amend(T)	3-1-2017
413-215-0911	12-1-2016	Repeal	1-1-2017	414-061-0080	8-3-2017	Amend	9-1-2017
413-215-0916	12-1-2016	Amend	1-1-2017	414-061-0100	12-19-2016	Amend	2-1-2017
413-215-0916(T)	12-1-2016	Repeal	1-1-2017	414-061-0110	12-19-2016	Amend	2-1-2017
413-215-0918	12-1-2016	Amend	1-1-2017	414-061-0120	12-19-2016	Amend	2-1-2017
413-215-0921	12-1-2016	Amend	1-1-2017	414-180-0005	1-31-2017	Amend	3-1-2017
413-215-0921(T)	12-1-2016	Repeal	1-1-2017	414-180-0010	1-31-2017	Amend	3-1-2017
413-215-0926	12-1-2016	Amend	1-1-2017	414-180-0015	1-31-2017	Amend	3-1-2017
413-215-0926(T)	12-1-2016	Repeal	1-1-2017	414-180-0015	3-27-2017	Amend	5-1-2017
413-215-0931	12-1-2016	Amend	1-1-2017	414-180-0020	1-31-2017	Amend	3-1-2017
413-215-0931(T)	12-1-2016	Repeal	1-1-2017	414-180-0020	3-27-2017	Amend	5-1-2017
413-215-0936	12-1-2016	Amend	1-1-2017	414-180-0025	1-31-2017	Amend	3-1-2017
413-215-0936(T)	12-1-2016	Repeal	1-1-2017	414-180-0025	3-27-2017	Amend	5-1-2017
413-215-0941	12-1-2016	Amend	1-1-2017	414-180-0025	6-27-2017	Amend	8-1-2017
413-215-0941(T)	12-1-2016	Repeal	1-1-2017	414-180-0055	1-31-2017	Amend	3-1-2017
413-215-0946	12-1-2016	Amend	1-1-2017	414-205-0040	3-27-2017	Amend	5-1-2017
413-215-0946(T)	12-1-2016	Repeal	1-1-2017	414-205-0055	3-27-2017	Amend	5-1-2017
413-215-0951	12-1-2016	Amend	1-1-2017	414-205-0100	3-27-2017	Amend	5-1-2017
413-215-0951(T)	12-1-2016	Repeal	1-1-2017	414-205-0110	3-27-2017	Amend	5-1-2017
413-215-0956	12-1-2016	Amend	1-1-2017	414-205-0110	6-27-2017	Amend	8-1-2017
413-215-0956(T)	12-1-2016	Repeal	1-1-2017	414-205-0120	3-27-2017	Amend	5-1-2017
413-215-0961	12-1-2016	Amend	1-1-2017	414-300-0040	3-27-2017	Amend	5-1-2017
413-215-0961(T)	12-1-2016	Repeal	1-1-2017	414-300-0120	3-27-2017	Amend	5-1-2017
413-215-0966	12-1-2016	Amend	1-1-2017	414-300-0170	3-27-2017	Amend	5-1-2017
413-215-0966(T)	12-1-2016	Repeal	1-1-2017	414-300-0180	3-27-2017	Amend	5-1-2017
413-215-0971	12-1-2016	Amend	1-1-2017	414-300-0220	3-27-2017	Amend	5-1-2017
413-215-0971(T)	12-1-2016	Repeal	1-1-2017	414-300-0295	3-27-2017	Amend	5-1-2017
413-215-0976	12-1-2016	Amend	1-1-2017	414-300-0350	3-27-2017	Amend	5-1-2017
413-215-0976(T)	12-1-2016	Repeal	1-1-2017	414-300-0350	6-27-2017	Amend	8-1-2017
413-215-0981	12-1-2016	Amend	1-1-2017	414-350-0050	3-27-2017	Amend	5-1-2017
413-215-0981(T)	12-1-2016	Repeal	1-1-2017	414-350-0060	3-27-2017	Amend	5-1-2017
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414-350-0170	3-27-2017	Amend	5-1-2017	436-009-0004	4-1-2017	Amend	4-1-2017
414-350-0180	3-27-2017	Amend	5-1-2017	436-009-0010	1-1-2017	Amend(T)	2-1-2017
414-350-0220	3-27-2017	Amend	5-1-2017	436-009-0010	4-1-2017	Amend	4-1-2017
414-350-0250	3-27-2017	Amend	5-1-2017	436-009-0020	4-1-2017	Amend	4-1-2017
414-350-0250	6-27-2017	Amend	8-1-2017	436-009-0023	4-1-2017	Amend	4-1-2017
414-525-0015	10-1-2017	Amend	9-1-2017	436-009-0025	4-1-2017	Amend	4-1-2017
415-012-0000	12-14-2016	Amend	1-1-2017	436-009-0030	4-1-2017	Amend	4-1-2017
415-012-0010	12-14-2016	Amend	1-1-2017	436-009-0040	1-1-2017	Amend(T)	2-1-2017
415-012-0010	2-2-2017	Amend(T)	3-1-2017	436-009-0040	4-1-2017	Amend	4-1-2017
415-012-0010	7-1-2017	Amend	8-1-2017	436-009-0060	4-1-2017	Amend	4-1-2017
415-012-0010(T)	7-1-2017	Repeal	8-1-2017	436-009-0110	4-1-2017	Amend	4-1-2017
415-012-0020	12-14-2016	Amend	1-1-2017	436-010-0001	4-11-2017	Amend(T)	5-1-2017
415-012-0020	2-2-2017	Amend(T)	3-1-2017	436-010-0210	4-1-2017	Amend	4-1-2017
415-012-0020	7-1-2017	Amend	8-1-2017	436-010-0280	4-11-2017	Amend(T)	5-1-2017
415-012-0020(T)	7-1-2017	Repeal	8-1-2017	436-030-0003	4-11-2017	Amend(T)	5-1-2017
415-012-0030	12-14-2016	Amend	1-1-2017	436-030-0020	4-11-2017	Amend(T)	5-1-2017
415-012-0030	2-2-2017	Amend(T)	3-1-2017	436-030-0035	4-11-2017	Amend(T)	5-1-2017
415-012-0030	7-1-2017	Amend	8-1-2017	436-035-0003	4-11-2017	Amend(T)	5-1-2017
415-012-0030(T)	7-1-2017	Repeal	8-1-2017	436-035-0006	4-11-2017	Amend(T)	5-1-2017
415-012-0035	12-14-2016	Amend	1-1-2017	436-035-0013	4-11-2017	Amend(T)	5-1-2017
415-012-0035	2-2-2017	Amend(T)	3-1-2017	436-050-0001	1-1-2017	Repeal	1-1-2017
415-012-0035	7-1-2017	Amend	8-1-2017	436-050-0002	1-1-2017	Repeal	1-1-2017
415-012-0035(T)	7-1-2017	Repeal	8-1-2017	436-050-0003	1-1-2017	Amend	1-1-2017
415-012-0040	12-14-2016	Amend	1-1-2017	436-050-0005	1-1-2017	Amend	1-1-2017
415-012-0050	12-14-2016	Amend	1-1-2017	436-050-0006	1-1-2017	Repeal	1-1-2017
415-012-0055	12-14-2016	Amend	1-1-2017	436-050-0008	1-1-2017	Amend	1-1-2017
415-012-0060	12-14-2016	Amend	1-1-2017	436-050-0015	1-1-2017	Amend	1-1-2017
415-012-0060	2-2-2017	Amend(T)	3-1-2017	436-050-0025	1-1-2017	Amend	1-1-2017
415-012-0060	7-1-2017	Amend	8-1-2017	436-050-0040	1-1-2017	Amend	1-1-2017
415-012-0060(T)	7-1-2017	Repeal	8-1-2017	436-050-0045	1-1-2017	Amend	1-1-2017
415-012-0065	12-14-2016	Amend	1-1-2017	436-050-0050	1-1-2017	Amend	1-1-2017
415-012-0067	12-14-2016	Amend	1-1-2017	436-050-0055	1-1-2017	Amend	1-1-2017
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415-012-0075	7-1-2017	Adopt	8-1-2017	436-050-0110	1-1-2017	Amend	1-1-2017
415-012-0075(T)	7-1-2017	Repeal	8-1-2017	436-050-0120	1-1-2017	Amend	1-1-2017
415-012-0090	12-14-2016	Amend	1-1-2017	436-050-0150	1-1-2017	Amend	1-1-2017
415-020-0000	12-14-2016	Amend	1-1-2017	436-050-0160	1-1-2017	Amend	1-1-2017
415-020-0005	12-14-2016	Amend	1-1-2017	436-050-0165	1-1-2017	Amend	1-1-2017
415-020-0010	12-14-2016	Amend	1-1-2017	436-050-0170	1-1-2017	Amend	1-1-2017
415-020-0090	12-14-2016	Amend	1-1-2017	436-050-0175	1-1-2017	Amend	1-1-2017
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415-055-0035	12-5-2016	Amend	1-1-2017	436-050-0185	1-1-2017	Amend	1-1-2017
415-060-0010	12-14-2016	Repeal	1-1-2017	436-050-0190	1-1-2017	Amend	1-1-2017
415-060-0020	12-14-2016	Repeal	1-1-2017	436-050-0195	1-1-2017	Amend	1-1-2017
415-060-0030	12-14-2016	Repeal	1-1-2017	436-050-0200	1-1-2017	Amend	1-1-2017
415-060-0040	12-14-2016	Repeal	1-1-2017	436-050-0205	1-1-2017	Amend	1-1-2017
415-060-0050	12-14-2016	Repeal	1-1-2017	436-050-0210	1-1-2017	Amend	1-1-2017
416-070-0010	1-31-2017	Amend	3-1-2017	436-050-0220	1-1-2017	Amend	1-1-2017
416-070-0020	1-31-2017	Amend	3-1-2017	436-050-0230	1-1-2017	Amend	1-1-2017
416-070-0040	1-31-2017	Amend	3-1-2017	436-050-0260	1-1-2017	Amend	1-1-2017
416-070-0050	1-31-2017	Amend	3-1-2017	436-050-0270	1-1-2017	Amend	1-1-2017
416-070-0060	1-31-2017	Amend	3-1-2017	436-050-0280	1-1-2017	Amend	1-1-2017
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436-050-0400	1-1-2017	Amend	1-1-2017	436-105-0511	1-1-2017	Amend	1-1-2017
436-050-0410	1-1-2017	Amend	1-1-2017	436-105-0512	1-1-2017	Amend	1-1-2017
436-050-0420	1-1-2017	Amend	1-1-2017	436-105-0520	1-1-2017	Amend	1-1-2017
436-050-0440	1-1-2017	Amend	1-1-2017	436-105-0530	1-1-2017	Amend	1-1-2017
436-050-0450	1-1-2017	Amend	1-1-2017	436-105-0540	1-1-2017	Amend	1-1-2017
436-050-0455	1-1-2017	Amend	1-1-2017	436-105-0550	1-1-2017	Amend	1-1-2017
436-050-0460	1-1-2017	Amend	1-1-2017	436-105-0560	1-1-2017	Amend	1-1-2017
436-050-0470	1-1-2017	Amend	1-1-2017	436-110-0001	1-1-2017	Repeal	1-1-2017
436-050-0480	1-1-2017	Amend	1-1-2017	436-110-0002	1-1-2017	Repeal	1-1-2017
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436-060-0002	1-1-2017	Repeal	1-1-2017	436-110-0005	1-1-2017	Amend	1-1-2017
436-060-0003	1-1-2017	Amend	1-1-2017	436-110-0006	1-1-2017	Amend	1-1-2017
436-060-0005	1-1-2017	Amend	1-1-2017	436-110-0007	1-1-2017	Amend	1-1-2017
436-060-0006	1-1-2017	Repeal	1-1-2017	436-110-0150	1-1-2017	Amend	1-1-2017
436-060-0008	1-1-2017	Amend	1-1-2017	436-110-0240	1-1-2017	Amend	1-1-2017
436-060-0009	1-1-2017	Amend	1-1-2017	436-110-0290	1-1-2017	Amend	1-1-2017
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436-060-0015	1-1-2017	Amend	1-1-2017	436-110-0325	1-1-2017	Amend	1-1-2017
436-060-0017	1-1-2017	Amend	1-1-2017	436-110-0330	1-1-2017	Amend	1-1-2017
436-060-0018	1-1-2017	Amend	1-1-2017	436-110-0335	1-1-2017	Amend	1-1-2017
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436-060-0020	1-1-2017	Amend	1-1-2017	436-110-0337	1-1-2017	Amend	1-1-2017
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436-060-0040	1-1-2017	Amend	1-1-2017	436-110-0350	1-1-2017	Amend	1-1-2017
436-060-0045	1-1-2017	Amend	1-1-2017	436-110-0351	1-1-2017	Amend	1-1-2017
436-060-0055	1-1-2017	Amend	1-1-2017	436-110-0352	1-1-2017	Amend	1-1-2017
436-060-0060	1-1-2017	Amend	1-1-2017	436-110-0850	1-1-2017	Amend	1-1-2017
436-060-0095	1-1-2017	Amend	1-1-2017	436-110-0900	1-1-2017	Amend	1-1-2017
436-060-0105	1-1-2017	Amend	1-1-2017	436-120-0001	1-1-2017	Repeal	1-1-2017
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436-060-0140	1-1-2017	Amend	1-1-2017	436-120-0005	1-1-2017	Amend	1-1-2017
436-060-0147	1-1-2017	Amend	1-1-2017	436-120-0006	1-1-2017	Repeal	1-1-2017
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436-060-0510	1-1-2017	Amend	1-1-2017	436-120-0155	1-1-2017	Am. & Ren.	1-1-2017
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436-105-0005	1-1-2017	Amend	1-1-2017	436-120-0340	1-1-2017	Am. & Ren.	1-1-2017
436-105-0006	1-1-2017	Amend	1-1-2017	436-120-0400	1-1-2017	Am. & Ren.	1-1-2017
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436-120-0520	1-1-2017	Amend	1-1-2017	437-002-2036	3-12-2018	Adopt	8-1-2017
436-120-0530	1-1-2017	Amend	1-1-2017	437-002-2037	3-12-2018	Adopt	8-1-2017
436-120-0700	1-1-2017	Amend	1-1-2017	437-002-2038	3-12-2018	Adopt	8-1-2017
436-120-0710	1-1-2017	Amend	1-1-2017	437-002-2040	3-12-2018	Adopt	8-1-2017
436-120-0720	1-1-2017	Amend	1-1-2017	437-002-2045	3-12-2018	Adopt	8-1-2017
436-120-0755	1-1-2017	Amend	1-1-2017	437-002-2306	11-1-2017	Amend	7-1-2017
436-120-0800	1-1-2017	Amend	1-1-2017	437-002-2307	11-1-2017	Amend	7-1-2017
436-120-0810	1-1-2017	Amend	1-1-2017	437-003-1000	3-12-2018	Amend	8-1-2017
436-120-0820	1-1-2017	Amend	1-1-2017	437-004-6000	1-1-2018	Amend	3-1-2017
436-120-0830	1-1-2017	Repeal	1-1-2017	437-004-6001	1-1-2018	Adopt	3-1-2017
436-120-0840	1-1-2017	Amend	1-1-2017	437-004-6401	1-1-2018	Adopt	3-1-2017
436-120-0900	1-1-2017	Amend	1-1-2017	437-004-6501	1-1-2018	Adopt	3-1-2017
436-120-0915	1-1-2017	Amend	1-1-2017	437-004-6502	1-1-2018	Adopt	3-1-2017
437-001-0700	1-1-2018	Amend	9-1-2017	437-004-6508	1-1-2018	Adopt	3-1-2017
437-002-0005	11-1-2017	Amend	7-1-2017	437-004-6509	1-1-2018	Adopt	3-1-2017
437-002-0020	11-1-2017	Amend	7-1-2017	437-005-0001	3-12-2018	Amend	8-1-2017
437-002-0022	11-1-2017	Amend	7-1-2017	440-007-0200	1-6-2017	Repeal	2-1-2017
437-002-0023	11-1-2017	Repeal	7-1-2017	440-007-0210	1-6-2017	Repeal	2-1-2017
437-002-0026	11-1-2017	Amend	7-1-2017	440-007-0230	1-6-2017	Repeal	2-1-2017
437-002-0027	11-1-2017	Repeal	7-1-2017	440-007-0240	1-6-2017	Repeal	2-1-2017
437-002-0028	11-1-2017	Repeal	7-1-2017	440-007-0250	1-6-2017	Repeal	2-1-2017
437-002-0030	11-1-2017	Repeal	7-1-2017	440-007-0260	1-6-2017	Repeal	2-1-2017
437-002-0031	11-1-2017	Repeal	7-1-2017	440-007-0270	1-6-2017	Repeal	2-1-2017
437-002-0032	11-1-2017	Amend	7-1-2017	440-007-0272	1-6-2017	Repeal	2-1-2017
437-002-0033	11-1-2017	Amend	7-1-2017	440-007-0275	1-6-2017	Repeal	2-1-2017
437-002-0060	11-1-2017	Amend	7-1-2017	440-007-0280	1-6-2017	Repeal	2-1-2017
437-002-0072	11-1-2017	Repeal	7-1-2017	440-007-0285	1-6-2017	Repeal	2-1-2017
437-002-0074	11-1-2017	Repeal	7-1-2017	440-007-0290	1-6-2017	Repeal	2-1-2017
437-002-0076	11-1-2017	Repeal	7-1-2017	440-007-0300	1-6-2017	Repeal	2-1-2017
437-002-0120	11-1-2017	Amend	7-1-2017	441-025-0005	2-1-2017	Amend	3-1-2017
437-002-0134	11-1-2017	Amend	7-1-2017	441-025-0010	2-1-2017	Repeal	3-1-2017
437-002-0170	1-1-2018	Amend	3-1-2017	441-025-0020	2-1-2017	Amend	3-1-2017
437-002-0182	11-1-2017	Amend	7-1-2017	441-025-0050	2-1-2017	Amend	3-1-2017
437-002-0220	11-1-2017	Amend	7-1-2017	441-025-0121	2-1-2017	Amend	3-1-2017
437-002-0300	11-1-2017	Amend	7-1-2017	441-035-0005	2-1-2017	Amend	3-1-2017
437-002-0309	11-1-2017	Amend	7-1-2017	441-035-0030	2-1-2017	Amend	3-1-2017
437-002-0310	11-1-2017	Amend	7-1-2017	441-035-0040	2-1-2017	Repeal	3-1-2017
437-002-0311	11-1-2017	Amend	7-1-2017	441-035-0045	2-1-2017	Amend	3-1-2017
437-002-0312	11-1-2017	Amend	7-1-2017	441-035-0080	7-12-2017	Amend	8-1-2017
437-002-0314	11-1-2017	Amend	7-1-2017	441-035-0090	7-12-2017	Amend	8-1-2017
437-002-0382	3-12-2018	Amend	8-1-2017	441-035-0120	7-12-2017	Amend	8-1-2017
437-002-2021	11-1-2017	Adopt	7-1-2017	441-035-0130	7-12-2017	Amend	8-1-2017
437-002-2022	11-1-2017	Adopt	7-1-2017	441-035-0140	7-12-2017	Amend	8-1-2017
437-002-2024	3-12-2018	Adopt	8-1-2017	441-035-0150	7-12-2017	Amend	8-1-2017
437-002-2025	3-12-2018	Adopt	8-1-2017	441-035-0300	2-1-2017	Adopt	3-1-2017
437-002-2025	3-12-2018	Amend	9-1-2017	441-049-1001	2-1-2017	Amend	3-1-2017
437-002-2026	3-12-2018	Adopt	8-1-2017	441-049-1011	2-1-2017	Amend	3-1-2017

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441-065-0270	2-1-2017	Repeal	3-1-2017	461-130-0310	1-1-2017	Amend	2-1-2017
441-175-0002	2-1-2017	Amend	3-1-2017	461-130-0310	4-1-2017	Amend	5-1-2017
441-175-0020	2-1-2017	Amend	3-1-2017	461-130-0310(T)	1-1-2017	Repeal	2-1-2017
441-175-0030	2-1-2017	Amend	3-1-2017	461-130-0315	1-1-2017	Amend	2-1-2017
441-500-0020	2-1-2017	Amend	3-1-2017	461-130-0315(T)	1-1-2017	Repeal	2-1-2017
441-505-3030	2-1-2017	Amend	3-1-2017	461-130-0327	4-1-2017	Amend	5-1-2017
441-505-3090	2-1-2017	Amend	3-1-2017	461-130-0330	1-1-2017	Amend	2-1-2017
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441-745-0000	4-14-2017	Amend	5-1-2017	461-135-0075	7-1-2017	Amend	8-1-2017
441-745-0300	4-14-2017	Amend	5-1-2017	461-135-0075	7-1-2017	Amend	8-1-2017
441-745-0310	4-14-2017	Amend	5-1-2017	461-135-0075(T)	7-1-2017	Suspend	8-1-2017
441-745-0330	4-14-2017	Amend	5-1-2017	461-135-0085	4-1-2017	Amend	5-1-2017
441-810-0020	4-14-2017	Amend	5-1-2017	461-135-0400	8-1-2017	Amend(T)	9-1-2017
441-810-0030	4-14-2017	Amend	5-1-2017	461-135-0485	7-1-2017	Amend	7-1-2017
441-810-0040	4-14-2017	Amend	5-1-2017	461-135-0491	7-1-2017	Amend	7-1-2017
441-810-0050	4-14-2017	Amend	5-1-2017	461-135-0493	7-1-2017	Amend	7-1-2017
441-810-0080	4-14-2017	Amend	5-1-2017	461-135-0520	1-1-2017	Amend	2-1-2017
441-860-0020	4-1-2017	Amend	3-1-2017	461-135-0520(T)	1-1-2017	Repeal	2-1-2017
441-860-0025	4-1-2017	Amend	3-1-2017	461-135-0560	4-1-2017	Amend	5-1-2017
441-860-0050	4-1-2017	Amend	3-1-2017	461-135-0730	1-1-2017	Amend	1-1-2017
441-880-0310	1-1-2017	Amend	2-1-2017	461-135-0780	1-1-2017	Amend	1-1-2017
441-885-0010	4-1-2017	Amend	3-1-2017	461-135-0820	1-1-2017	Amend	1-1-2017
441-910-0010	4-14-2017	Amend	5-1-2017	461-135-0832	2-13-2017	Amend(T)	3-1-2017
441-910-0030	4-14-2017	Amend	5-1-2017	461-135-0832	7-1-2017	Amend	7-1-2017
441-910-0050	4-14-2017	Amend	5-1-2017	461-135-0832(T)	7-1-2017	Repeal	7-1-2017
441-910-0055	4-14-2017	Amend	5-1-2017	461-135-0835	2-13-2017	Amend(T)	3-1-2017
459-005-0225	7-28-2017	Amend	9-1-2017	461-135-0835	7-1-2017	Amend	7-1-2017
459-005-0525	1-27-2017	Amend	3-1-2017	461-135-0835(T)	7-1-2017	Repeal	7-1-2017
459-005-0545	1-27-2017	Amend	3-1-2017	461-135-0900	4-1-2017	Amend	5-1-2017
459-007-0007	7-28-2017	Amend	9-1-2017	461-135-0915	4-1-2017	Adopt	5-1-2017
459-009-0400	5-26-2017	Adopt	7-1-2017	461-135-0930	4-1-2017	Amend	5-1-2017
459-011-0050	5-26-2017	Amend	7-1-2017	461-135-0950	7-1-2017	Amend	8-1-2017
459-017-0060	1-1-2017	Amend	1-1-2017	461-140-0040	4-1-2017	Amend	5-1-2017
459-080-0500	1-27-2017	Amend	3-1-2017	461-140-0210	4-1-2017	Amend	5-1-2017
461-025-0310	1-1-2017	Amend	2-1-2017	461-140-0296	1-1-2017	Amend	1-1-2017
461-101-0010	4-1-2017	Amend	5-1-2017	461-140-0296(T)	1-1-2017	Repeal	1-1-2017
461-110-0210	4-1-2017	Amend	5-1-2017	461-145-0000	12-28-2016	Adopt	1-1-2017
461-110-0370	1-1-2017	Amend	2-1-2017	461-145-0005	1-1-2017	Amend	1-1-2017
461-110-0630	4-1-2017	Amend	5-1-2017	461-145-0005	4-1-2017	Amend	5-1-2017
461-110-0750	4-1-2017	Amend	5-1-2017	461-145-0035	1-1-2017	Adopt	1-1-2017
461-115-0020	1-1-2017	Amend	2-1-2017	461-145-0035	4-1-2017	Amend	5-1-2017
461-115-0020(T)	1-1-2017	Repeal	2-1-2017	461-145-0040	7-1-2017	Amend	7-1-2017
461-115-0090	7-1-2017	Amend	8-1-2017	461-145-0050	7-1-2017	Amend	7-1-2017
461-115-0190	4-1-2017	Amend	5-1-2017	461-145-0088	4-1-2017	Amend	5-1-2017
461-115-0230	4-1-2017	Amend	5-1-2017	461-145-0108	7-1-2017	Amend	7-1-2017
461-115-0610	4-1-2017	Amend	5-1-2017	461-145-0110	7-1-2017	Amend	7-1-2017
461-115-0651	8-1-2017	Amend(T)	9-1-2017	461-145-0140	1-1-2017	Amend	1-1-2017
461-120-0010	7-1-2017	Amend	7-1-2017	461-145-0145	7-1-2017	Amend	7-1-2017
461-120-0125	4-1-2017	Amend	5-1-2017	461-145-0150	7-1-2017	Amend	7-1-2017
461-120-0330	4-1-2017	Amend	5-1-2017	461-145-0184	1-1-2017	Repeal	1-1-2017
461-120-0345	1-1-2017	Amend	1-1-2017	461-145-0210	7-1-2017	Amend	7-1-2017
461-120-0345	7-1-2017	Amend	7-1-2017	461-145-0220	1-1-2017	Amend	1-1-2017
461-120-0350	7-1-2017	Amend	7-1-2017	461-145-0240	7-1-2017	Amend	7-1-2017
461-120-0510	4-1-2017	Amend	5-1-2017	461-145-0285	7-1-2017	Adopt	7-1-2017
461-130-0305	1-1-2017	Amend	2-1-2017	461-145-0300	4-1-2017	Amend	5-1-2017

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461-145-0365	4-1-2017	Amend	5-1-2017	461-160-0160	4-1-2017	Amend	5-1-2017
461-145-0417	1-1-2017	Adopt	1-1-2017	461-160-0430	2-1-2017	Amend(T)	3-1-2017
461-145-0430	4-1-2017	Amend	5-1-2017	461-160-0430	7-1-2017	Amend	7-1-2017
461-145-0435	7-1-2017	Amend	7-1-2017	461-160-0430(T)	7-1-2017	Repeal	7-1-2017
461-145-0440	7-1-2017	Amend	7-1-2017	461-160-0551	7-1-2017	Amend	7-1-2017
461-145-0460	7-1-2017	Amend	7-1-2017	461-160-0580	1-1-2017	Amend	1-1-2017
461-145-0470	4-1-2017	Amend(T)	5-1-2017	461-160-0590	7-1-2017	Amend	7-1-2017
461-145-0470	9-1-2017	Amend	9-1-2017	461-160-0620	1-1-2017	Amend	1-1-2017
461-145-0470(T)	9-1-2017	Repeal	9-1-2017	461-160-0620	7-1-2017	Amend	7-1-2017
461-145-0505	4-1-2017	Amend	5-1-2017	461-160-0780	7-1-2017	Amend	7-1-2017
461-145-0510	7-1-2017	Amend	7-1-2017	461-165-0010	1-1-2017	Amend	2-1-2017
461-145-0520	7-1-2017	Amend	7-1-2017	461-165-0030	4-1-2017	Amend	5-1-2017
461-145-0530	4-1-2017	Amend	5-1-2017	461-165-0030	7-1-2017	Amend	7-1-2017
461-145-0540	1-1-2017	Amend	2-1-2017	461-165-0160	3-24-2017	Amend(T)	5-1-2017
461-145-0540	3-13-2017	Amend(T)	4-1-2017	461-165-0160	9-1-2017	Amend	9-1-2017
461-145-0540	9-1-2017	Amend	9-1-2017	461-165-0160(T)	9-1-2017	Repeal	9-1-2017
461-145-0540(T)	1-1-2017	Repeal	2-1-2017	461-165-0180	1-1-2017	Amend	2-1-2017
461-145-0540(T)	9-1-2017	Repeal	9-1-2017	461-165-0180	6-1-2017	Amend(T)	7-1-2017
461-145-0550	1-1-2017	Amend	1-1-2017	461-165-0180	8-8-2017	Amend(T)	9-1-2017
461-145-0930	1-1-2017	Amend	1-1-2017	461-165-0180(T)	1-1-2017	Repeal	2-1-2017
461-145-0930	4-1-2017	Amend	5-1-2017	461-165-0180(T)	8-8-2017	Suspend	9-1-2017
461-150-0050	1-1-2017	Amend	1-1-2017	461-170-0011	3-10-2017	Amend(T)	4-1-2017
461-155-0020	4-1-2017	Amend(T)	5-1-2017	461-170-0011	9-1-2017	Amend	9-1-2017
461-155-0020	9-1-2017	Amend	9-1-2017	461-170-0011(T)	9-1-2017	Repeal	9-1-2017
461-155-0020(T)	9-1-2017	Repeal	9-1-2017	461-170-0101	3-10-2017	Amend(T)	4-1-2017
461-155-0150	1-1-2017	Amend	2-1-2017	461-170-0101	9-1-2017	Amend	9-1-2017
461-155-0180	3-1-2017	Amend(T)	4-1-2017	461-170-0101(T)	9-1-2017	Repeal	9-1-2017
461-155-0180	7-1-2017	Amend	7-1-2017	461-170-0120	7-1-2017	Repeal	7-1-2017
461-155-0180(T)	7-1-2017	Repeal	7-1-2017	461-175-0220	4-1-2017	Amend	5-1-2017
461-155-0225	4-1-2017	Amend	5-1-2017	461-180-0050	1-1-2017	Amend	1-1-2017
461-155-0250	1-1-2017	Amend	1-1-2017	461-180-0090	7-1-2017	Amend	8-1-2017
461-155-0250	4-1-2017	Amend(T)	5-1-2017	461-190-0211	3-1-2017	Amend(T)	4-1-2017
461-155-0250	9-1-2017	Amend	9-1-2017	461-190-0231	4-1-2017	Amend	5-1-2017
461-155-0250(T)	9-1-2017	Repeal	9-1-2017	461-190-0360	1-1-2017	Amend	2-1-2017
461-155-0270	1-1-2017	Amend	1-1-2017	461-190-0500	1-1-2017	Amend	2-1-2017
461-155-0290	3-1-2017	Amend	4-1-2017	461-193-0031	4-1-2017	Amend	5-1-2017
461-155-0291	3-1-2017	Amend	4-1-2017	461-195-0501	1-1-2017	Amend	2-1-2017
461-155-0295	3-1-2017	Amend	4-1-2017	461-195-0601	4-1-2017	Amend	5-1-2017
461-155-0300	1-1-2017	Amend	1-1-2017	462-200-0665	1-23-2017	Adopt	3-1-2017
461-155-0300	4-1-2017	Suspend	5-1-2017	471-007-0200	4-5-2017	Amend	5-1-2017
461-155-0300	9-1-2017	Repeal	9-1-2017	471-007-0210	4-5-2017	Amend	5-1-2017
461-155-0551	7-1-2017	Repeal	7-1-2017	471-007-0220	4-5-2017	Repeal	5-1-2017
461-155-0580	7-1-2017	Amend	7-1-2017	471-007-0230	4-5-2017	Repeal	5-1-2017
461-155-0600	7-1-2017	Amend	7-1-2017	471-007-0240	4-5-2017	Repeal	5-1-2017
461-155-0620	7-1-2017	Amend	7-1-2017	471-007-0250	4-5-2017	Repeal	5-1-2017
461-155-0630	7-1-2017	Amend	7-1-2017	471-007-0260	4-5-2017	Repeal	5-1-2017
461-155-0640	7-1-2017	Repeal	7-1-2017	471-007-0270	4-5-2017	Repeal	5-1-2017
461-155-0660	4-1-2017	Amend(T)	5-1-2017	471-007-0280	4-5-2017	Repeal	5-1-2017
461-155-0660	9-1-2017	Amend	9-1-2017	471-007-0285	4-5-2017	Amend	5-1-2017
461-155-0660(T)	9-1-2017	Repeal	9-1-2017	471-007-0290	4-5-2017	Repeal	5-1-2017
461-155-0670	4-1-2017	Amend(T)	5-1-2017	471-007-0300	4-5-2017	Amend	5-1-2017
461-155-0670	7-1-2017	Amend	7-1-2017	471-007-0310	4-5-2017	Amend	5-1-2017
461-155-0670(T)	7-1-2017	Repeal	7-1-2017	471-030-0075	2-27-2017	Amend(T)	4-1-2017
461-155-0688	7-1-2017	Amend	7-1-2017	471-031-0017	2-1-2017	Amend	3-1-2017

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573-050-0016	12-6-2016	Amend	1-1-2017	581-022-1340	7-5-2017	Renumber	8-1-2017
573-050-0025	12-6-2016	Amend	1-1-2017	581-022-1350	7-5-2017	Renumber	8-1-2017
573-050-0040	12-6-2016	Amend	1-1-2017	581-022-1362	7-5-2017	Repeal	8-1-2017
573-050-0045	12-6-2016	Amend	1-1-2017	581-022-1363	7-5-2017	Repeal	8-1-2017
575-039-0080	8-11-2017	Amend(T)	9-1-2017	581-022-1364	7-5-2017	Repeal	8-1-2017
581-002-0090	7-5-2017	Amend	8-1-2017	581-022-1365	7-5-2017	Repeal	8-1-2017
581-002-1800	2-1-2017	Adopt	3-1-2017	581-022-1366	7-5-2017	Repeal	8-1-2017
581-002-1805	2-1-2017	Adopt	3-1-2017	581-022-1367	7-5-2017	Repeal	8-1-2017
581-002-1810	2-1-2017	Adopt	3-1-2017	581-022-1368	7-5-2017	Repeal	8-1-2017
581-013-0005	3-1-2017	Adopt	4-1-2017	581-022-1370	7-5-2017	Repeal	8-1-2017
581-013-0010	3-1-2017	Adopt	4-1-2017	581-022-1371	7-5-2017	Repeal	8-1-2017
581-013-0015	3-1-2017	Adopt	4-1-2017	581-022-1372	7-5-2017	Repeal	8-1-2017
581-013-0020	3-1-2017	Adopt	4-1-2017	581-022-1420	7-5-2017	Renumber	8-1-2017
581-013-0025	3-1-2017	Adopt	4-1-2017	581-022-1430	7-5-2017	Renumber	8-1-2017
581-013-0030	3-1-2017	Adopt	4-1-2017	581-022-1440	7-5-2017	Renumber	8-1-2017
581-013-0035	3-1-2017	Adopt	4-1-2017	581-022-1510	7-5-2017	Renumber	8-1-2017
581-015-2150	7-5-2017	Amend	8-1-2017	581-022-1520	7-5-2017	Renumber	8-1-2017
581-020-0600	12-20-2016	Amend	2-1-2017	581-022-1530	7-5-2017	Renumber	8-1-2017
581-020-0603	12-20-2016	Amend	2-1-2017	581-022-1610	7-5-2017	Renumber	8-1-2017
581-020-0606	12-20-2016	Amend	2-1-2017	581-022-1620	7-5-2017	Renumber	8-1-2017
581-020-0609	12-20-2016	Amend	2-1-2017	581-022-1622	7-5-2017	Renumber	8-1-2017
581-020-0612	12-20-2016	Amend	2-1-2017	581-022-1630	7-5-2017	Renumber	8-1-2017
581-020-0613	12-20-2016	Adopt	2-1-2017	581-022-1640	7-5-2017	Renumber	8-1-2017
581-020-0615	12-20-2016	Amend	2-1-2017	581-022-1650	7-5-2017	Renumber	8-1-2017
581-020-0621	12-20-2016	Adopt	2-1-2017	581-022-1660	7-5-2017	Renumber	8-1-2017
581-020-0624	12-20-2016	Adopt	2-1-2017	581-022-1661	7-5-2017	Renumber	8-1-2017
581-021-0037	6-29-2017	Amend	8-1-2017	581-022-1670	7-5-2017	Renumber	8-1-2017
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581-021-0570	7-1-2017	Amend	8-1-2017	581-022-1720	7-5-2017	Renumber	8-1-2017
581-022-0405	7-5-2017	Renumber	8-1-2017	581-022-1723	7-5-2017	Amend	8-1-2017
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581-022-0416	7-5-2017	Renumber	8-1-2017	581-022-1724	7-5-2017	Renumber	8-1-2017
581-022-0421	7-5-2017	Renumber	8-1-2017	581-022-1725	7-5-2017	Renumber	8-1-2017
581-022-0606	7-5-2017	Renumber	8-1-2017	581-022-1730	7-5-2017	Renumber	8-1-2017
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581-022-0615	7-5-2017	Renumber	8-1-2017	581-022-1941	7-1-2017	Am. & Ren.	8-1-2017
581-022-0617	7-5-2017	Renumber	8-1-2017	581-022-1941	7-5-2017	Renumber	8-1-2017
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581-022-0711	7-5-2017	Renumber	8-1-2017	581-027-0005	3-1-2017	Amend	4-1-2017
581-022-0807	7-5-2017	Renumber	8-1-2017	581-027-0010	3-1-2017	Amend	4-1-2017
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581-022-1030	7-5-2017	Repeal	8-1-2017	581-027-0015	3-1-2017	Amend	4-1-2017
581-022-1060	7-5-2017	Renumber	8-1-2017	581-027-0015	6-1-2017	Amend	7-1-2017
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581-022-1131	7-5-2017	Renumber	8-1-2017	581-027-0020	6-1-2017	Amend	7-1-2017
581-022-1133	7-5-2017	Renumber	8-1-2017	581-027-0023	6-1-2017	Adopt	7-1-2017
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581-022-1135	7-5-2017	Renumber	8-1-2017	581-027-0025	6-1-2017	Amend	7-1-2017
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581-022-1210	7-5-2017	Renumber	8-1-2017	581-027-0035	3-1-2017	Amend	4-1-2017
581-022-1215	7-5-2017	Repeal	8-1-2017	581-027-0035	6-1-2017	Amend	7-1-2017
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581-027-0050	6-1-2017	Amend	7-1-2017	584-230-0060	7-1-2017	Adopt	8-1-2017
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581-051-0125	6-1-2017	Adopt	7-1-2017	584-230-0080	7-1-2017	Adopt	8-1-2017
584-010-0004	2-1-2017	Adopt	3-1-2017	584-230-0100	7-1-2017	Adopt	8-1-2017
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584-017-1037	7-1-2017	Adopt	8-1-2017	584-420-0020	2-1-2017	Amend	3-1-2017
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584-020-0005	7-1-2017	Amend	8-1-2017	584-420-0305	4-12-2017	Adopt	5-1-2017
584-020-0040	7-1-2017	Amend	8-1-2017	584-420-0310	2-1-2017	Amend	3-1-2017
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584-042-0008	7-1-2017	Repeal	8-1-2017	584-420-0360	2-1-2017	Amend	3-1-2017
584-042-0012	7-1-2017	Repeal	8-1-2017	584-420-0365	2-1-2017	Amend	3-1-2017
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584-042-0022	7-1-2017	Repeal	8-1-2017	584-420-0390	4-12-2017	Repeal	5-1-2017
584-042-0031	7-1-2017	Repeal	8-1-2017	584-420-0415	2-1-2017	Amend	3-1-2017
584-042-0036	7-1-2017	Repeal	8-1-2017	584-420-0420	2-1-2017	Amend	3-1-2017
584-042-0044	7-1-2017	Repeal	8-1-2017	584-420-0425	2-1-2017	Amend	3-1-2017
584-042-0051	7-1-2017	Repeal	8-1-2017	584-420-0440	2-1-2017	Amend	3-1-2017
584-042-0060	7-1-2017	Repeal	8-1-2017	584-420-0460	2-1-2017	Amend	3-1-2017
584-042-0070	7-1-2017	Repeal	8-1-2017	584-420-0490	2-1-2017	Amend	3-1-2017
584-042-0081	7-1-2017	Repeal	8-1-2017	584-420-0630	2-1-2017	Amend	3-1-2017
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584-050-0035	7-1-2017	Amend	8-1-2017	603-011-0388	8-8-2017	Amend	9-1-2017
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584-200-0005	7-1-2017	Amend	8-1-2017	603-018-0020	3-24-2017	Amend(T)	5-1-2017
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584-210-0040	4-12-2017	Amend	5-1-2017	603-048-0200	3-15-2017	Amend(T)	4-1-2017
584-210-0040	7-1-2017	Amend	8-1-2017	603-048-0300	3-15-2017	Amend(T)	4-1-2017
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584-210-0050	7-1-2017	Amend	8-1-2017	603-048-0500	3-15-2017	Amend(T)	4-1-2017
584-210-0060	2-1-2017	Amend	3-1-2017	603-048-0600	3-15-2017	Amend(T)	4-1-2017
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603-048-2450	3-15-2017	Adopt(T)	4-1-2017	629-642-0110	7-1-2017	Adopt	7-1-2017
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603-052-0127	4-15-2017	Amend(T)	5-1-2017	629-665-0120	9-1-2017	Amend	9-1-2017
603-052-0360	2-17-2017	Amend(T)	4-1-2017	629-665-0130	9-1-2017	Adopt	9-1-2017
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603-075-0025	1-17-2017	Amend	3-1-2017	629-665-0230	9-1-2017	Repeal	9-1-2017
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603-075-0120	1-17-2017	Amend	3-1-2017	635-003-0085	4-24-2017	Amend	6-1-2017
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629-043-0036	7-1-2017	Amend	7-1-2017	635-005-0240	1-1-2017	Amend	1-1-2017
629-043-0040	7-1-2017	Amend	7-1-2017	635-005-0263	1-1-2017	Adopt	1-1-2017
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635-008-0153	8-16-2017	Amend(T)	9-1-2017	635-019-0090	8-2-2017	Amend(T)	9-1-2017
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635-014-0080	1-1-2017	Amend	2-1-2017	635-021-0090(T)	8-11-2017	Suspend	9-1-2017
635-014-0080	1-1-2018	Amend	9-1-2017	635-023-0080	1-1-2017	Amend	2-1-2017
635-014-0090	1-1-2017	Amend	2-1-2017	635-023-0080	1-1-2018	Amend	9-1-2017
635-014-0090	1-25-2017	Amend	3-1-2017	635-023-0090	1-1-2017	Amend	2-1-2017
635-014-0090	1-1-2018	Amend	9-1-2017	635-023-0090	1-25-2017	Amend	3-1-2017
635-016-0080	1-1-2017	Amend	2-1-2017	635-023-0090	1-1-2018	Amend	9-1-2017
635-016-0080	1-1-2018	Amend	9-1-2017	635-023-0095	1-1-2017	Amend	2-1-2017
635-016-0090	1-1-2017	Amend	2-1-2017	635-023-0095	3-25-2017	Amend(T)	4-1-2017
635-016-0090	5-15-2017	Amend(T)	6-1-2017	635-023-0095	3-30-2017	Amend(T)	5-1-2017
635-016-0090	1-1-2018	Amend	9-1-2017	635-023-0095	6-5-2017	Amend(T)	7-1-2017
635-017-0080	1-1-2017	Amend	2-1-2017	635-023-0095	6-15-2017	Amend(T)	7-1-2017
635-017-0080	4-1-2017	Amend(T)	5-1-2017	635-023-0095	1-1-2018	Amend	9-1-2017
635-017-0080	1-1-2018	Amend	9-1-2017	635-023-0095(T)	6-15-2017	Suspend	7-1-2017
635-017-0090	1-1-2017	Amend	2-1-2017	635-023-0125	1-1-2017	Amend	2-1-2017
635-017-0090	1-25-2017	Amend	3-1-2017	635-023-0125	3-1-2017	Amend(T)	4-1-2017
635-017-0090	4-24-2017	Amend(T)	6-1-2017	635-023-0125	4-7-2017	Amend(T)	5-1-2017
635-017-0090	4-25-2017	Amend(T)	6-1-2017	635-023-0125	4-13-2017	Amend(T)	5-1-2017
635-017-0090	5-1-2017	Amend(T)	6-1-2017	635-023-0125	5-16-2017	Amend(T)	6-1-2017
635-017-0090	5-8-2017	Amend(T)	6-1-2017	635-023-0125	1-1-2018	Amend	9-1-2017
635-017-0090	5-13-2017	Amend(T)	6-1-2017	635-023-0128	1-1-2017	Amend	2-1-2017
635-017-0090	6-1-2017	Amend(T)	7-1-2017	635-023-0128	6-16-2017	Amend(T)	7-1-2017
635-017-0090	6-8-2017	Amend(T)	7-1-2017	635-023-0128	7-1-2017	Amend	8-1-2017
635-017-0090	6-8-2017	Amend(T)	7-1-2017	635-023-0128	7-7-2017	Amend	8-1-2017
635-017-0090	6-27-2017	Amend	8-1-2017	635-023-0128	1-1-2018	Amend	9-1-2017
635-017-0090	1-1-2018	Amend	9-1-2017	635-023-0128(T)	7-1-2017	Suspend	8-1-2017
635-017-0090(T)	6-1-2017	Suspend	7-1-2017	635-023-0128(T)	7-7-2017	Suspend	8-1-2017
635-017-0090(T)	6-8-2017	Suspend	7-1-2017	635-023-0130	1-1-2017	Amend	2-1-2017
635-017-0090(T)	6-8-2017	Suspend	7-1-2017	635-023-0130	8-1-2017	Amend(T)	9-1-2017
635-017-0095	1-1-2017	Amend	2-1-2017	635-023-0130	1-1-2018	Amend	9-1-2017
635-017-0095	1-1-2018	Amend	9-1-2017	635-023-0134	1-1-2017	Amend	2-1-2017
635-018-0080	1-1-2017	Amend	2-1-2017	635-023-0134	4-22-2017	Amend(T)	6-1-2017
635-018-0080	1-1-2018	Amend	9-1-2017	635-023-0134	7-31-2017	Amend(T)	9-1-2017
635-018-0090	1-1-2017	Amend	2-1-2017	635-023-0134	1-1-2018	Amend	9-1-2017
635-018-0090	4-5-2017	Amend(T)	5-1-2017	635-023-0134(T)	7-31-2017	Suspend	9-1-2017
635-018-0090	4-15-2017	Amend(T)	3-1-2017	635-023-0140	1-1-2017	Amend	2-1-2017
635-018-0090	8-2-2017	Amend(T)	9-1-2017	635-023-0140	1-1-2018	Amend	9-1-2017
635-018-0090	8-7-2017	Amend(T)	9-1-2017	635-039-0080	1-1-2017	Amend	2-1-2017
635-018-0090	1-1-2018	Amend	9-1-2017	635-039-0080	2-15-2017	Amend	3-1-2017
635-018-0090(T)	4-15-2017	Suspend	3-1-2017	635-039-0080	1-1-2018	Amend	9-1-2017
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635-039-0085	6-8-2017	Amend(T)	7-1-2017	635-042-0145(T)	5-29-2017	Suspend	7-1-2017
635-039-0085	6-17-2017	Amend(T)	7-1-2017	635-042-0145(T)	6-1-2017	Suspend	7-1-2017
635-039-0085	6-23-2017	Amend	8-1-2017	635-042-0160	2-6-2017	Amend(T)	3-1-2017
635-039-0085	7-12-2017	Amend	8-1-2017	635-042-0160	3-20-2017	Amend(T)	5-1-2017
635-039-0085	7-30-2017	Amend(T)	9-1-2017	635-042-0160	3-30-2017	Amend(T)	5-1-2017
635-039-0085(T)	6-8-2017	Suspend	7-1-2017	635-042-0160	4-6-2017	Amend(T)	5-1-2017
635-039-0085(T)	6-17-2017	Suspend	7-1-2017	635-042-0160	4-13-2017	Amend(T)	5-1-2017
635-039-0085(T)	6-23-2017	Suspend	8-1-2017	635-042-0160	5-22-2017	Amend(T)	7-1-2017
635-039-0085(T)	7-12-2017	Suspend	8-1-2017	635-042-0160	6-15-2017	Amend(T)	7-1-2017
635-039-0085(T)	7-30-2017	Suspend	9-1-2017	635-042-0160	7-13-2017	Amend	8-1-2017
635-039-0090	1-1-2017	Amend	1-1-2017	635-042-0160	8-1-2017	Amend(T)	9-1-2017
635-039-0090	1-1-2017	Amend	2-1-2017	635-042-0160(T)	2-6-2017	Suspend	3-1-2017
635-039-0090	4-24-2017	Amend	6-1-2017	635-042-0160(T)	7-13-2017	Suspend	8-1-2017
635-039-0090	1-1-2018	Amend	9-1-2017	635-042-0170	2-6-2017	Amend(T)	3-1-2017
635-041-0005	2-21-2017	Amend	3-1-2017	635-042-0170	3-20-2017	Amend(T)	5-1-2017
635-041-0025	2-21-2017	Amend	3-1-2017	635-042-0170	3-30-2017	Amend(T)	5-1-2017
635-041-0030	2-21-2017	Amend	3-1-2017	635-042-0170	5-22-2017	Amend(T)	7-1-2017
635-041-0045	6-15-2017	Amend(T)	7-1-2017	635-042-0170	6-15-2017	Amend(T)	7-1-2017
635-041-0045	8-1-2017	Amend(T)	9-1-2017	635-042-0170	7-13-2017	Amend	8-1-2017
635-041-0050	2-21-2017	Amend	3-1-2017	635-042-0170	8-1-2017	Amend(T)	9-1-2017
635-041-0061	2-21-2017	Amend	3-1-2017	635-042-0170(T)	2-6-2017	Suspend	3-1-2017
635-041-0063	2-21-2017	Amend	3-1-2017	635-042-0170(T)	7-13-2017	Suspend	8-1-2017
635-041-0063	8-1-2017	Amend(T)	9-1-2017	635-042-0180	2-6-2017	Amend(T)	3-1-2017
635-041-0065	2-1-2017	Amend(T)	3-1-2017	635-042-0180	3-30-2017	Amend(T)	5-1-2017
635-041-0065	2-7-2017	Amend(T)	3-1-2017	635-042-0180	5-22-2017	Amend(T)	7-1-2017
635-041-0065	2-15-2017	Amend(T)	3-1-2017	635-042-0180	8-1-2017	Amend(T)	9-1-2017
635-041-0065	2-22-2017	Amend(T)	4-1-2017	635-042-0180(T)	2-6-2017	Suspend	3-1-2017
635-041-0065	3-1-2017	Amend(T)	4-1-2017	635-043-0156	8-9-2017	Adopt(T)	9-1-2017
635-041-0065	3-17-2017	Amend(T)	4-1-2017	635-044-0000	1-24-2017	Repeal	3-1-2017
635-041-0065(T)	2-7-2017	Suspend	3-1-2017	635-044-0002	1-24-2017	Repeal	3-1-2017
635-041-0075	8-1-2017	Amend(T)	9-1-2017	635-044-0005	1-24-2017	Repeal	3-1-2017
635-041-0076	6-15-2017	Amend(T)	7-1-2017	635-044-0010	1-24-2017	Repeal	3-1-2017
635-041-0076	7-3-2017	Amend	8-1-2017	635-044-0015	1-24-2017	Repeal	3-1-2017
635-041-0076	7-12-2017	Amend	8-1-2017	635-044-0020	1-24-2017	Repeal	3-1-2017
635-041-0076	7-19-2017	Amend(T)	9-1-2017	635-044-0025	1-24-2017	Repeal	3-1-2017
635-041-0076(T)	7-3-2017	Suspend	8-1-2017	635-044-0030	1-24-2017	Repeal	3-1-2017
635-041-0076(T)	7-12-2017	Suspend	8-1-2017	635-044-0035	1-24-2017	Repeal	3-1-2017
635-041-0076(T)	7-19-2017	Suspend	9-1-2017	635-044-0035	1-24-2017	Repeal	3-1-2017
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635-042-0100	6-26-2017	Amend	8-1-2017	635-044-0050	1-24-2017	Repeal	3-1-2017
635-042-0130	2-2-2017	Amend(T)	3-1-2017	635-044-0051	1-24-2017	Repeal	3-1-2017
635-042-0133	7-26-2017	Amend(T)	9-1-2017	635-044-0060	1-24-2017	Repeal	3-1-2017
635-042-0145	2-6-2017	Amend(T)	3-1-2017	635-044-0075	1-24-2017	Repeal	3-1-2017
635-042-0145	3-30-2017	Amend(T)	5-1-2017	635-044-0080	1-24-2017	Repeal	3-1-2017
635-042-0145	4-6-2017	Amend(T)	5-1-2017	635-044-0120	1-24-2017	Repeal	3-1-2017
635-042-0145	4-13-2017	Amend(T)	5-1-2017	635-044-0125	1-24-2017	Repeal	3-1-2017
635-042-0145	4-27-2017	Amend(T)	6-1-2017	635-044-0130	1-24-2017	Repeal	3-1-2017
635-042-0145	5-3-2017	Amend(T)	6-1-2017	635-044-0132	1-24-2017	Repeal	3-1-2017
635-042-0145	5-15-2017	Amend(T)	6-1-2017	635-044-0400	1-24-2017	Adopt	3-1-2017
635-042-0145	5-22-2017	Amend(T)	7-1-2017	635-044-0410	1-24-2017	Adopt	3-1-2017
635-042-0145	5-29-2017	Amend(T)	7-1-2017	635-044-0420	1-24-2017	Adopt	3-1-2017
635-042-0145	6-1-2017	Amend(T)	7-1-2017	635-044-0430	1-24-2017	Adopt	3-1-2017
635-042-0145	6-15-2017	Amend(T)	7-1-2017	635-044-0440	1-24-2017	Adopt	3-1-2017
635-042-0145	8-1-2017	Amend(T)	9-1-2017	635-044-0450	1-24-2017	Adopt	3-1-2017

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635-044-0475	1-24-2017	Adopt	3-1-2017	635-200-0010	7-14-2017	Amend	8-1-2017
635-044-0480	1-24-2017	Adopt	3-1-2017	635-200-0080	7-14-2017	Amend	8-1-2017
635-044-0490	1-24-2017	Adopt	3-1-2017	635-200-0135	7-14-2017	Adopt	8-1-2017
635-044-0500	1-24-2017	Adopt	3-1-2017	635-200-0140	7-14-2017	Adopt	8-1-2017
635-044-0500	3-9-2017	Amend	4-1-2017	635-500-6705	1-25-2017	Amend	3-1-2017
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635-044-0520	1-24-2017	Adopt	3-1-2017	635-500-6715	12-15-2016	Amend	1-1-2017
635-044-0530	1-24-2017	Adopt	3-1-2017	635-500-6715	1-25-2017	Amend	3-1-2017
635-044-0540	1-24-2017	Adopt	3-1-2017	635-500-6715	4-4-2017	Amend	5-1-2017
635-044-0550	1-24-2017	Adopt	3-1-2017	635-500-6720	12-15-2016	Amend	1-1-2017
635-044-0560	1-24-2017	Adopt	3-1-2017	635-500-6720	1-25-2017	Amend	3-1-2017
635-044-0570	1-24-2017	Adopt	3-1-2017	635-500-6720	4-4-2017	Amend	5-1-2017
635-044-0580	1-24-2017	Adopt	3-1-2017	635-500-6725	12-15-2016	Amend	1-1-2017
635-044-0590	1-24-2017	Adopt	3-1-2017	635-500-6725	1-25-2017	Amend	3-1-2017
635-045-0000	4-24-2017	Amend	6-1-2017	635-500-6730	12-15-2016	Amend	1-1-2017
635-045-0002	3-2-2017	Amend	4-1-2017	635-500-6730	1-25-2017	Amend	3-1-2017
635-050-0045	3-9-2017	Amend(T)	4-1-2017	635-500-6730	4-4-2017	Amend	5-1-2017
635-051-0000	4-24-2017	Amend	6-1-2017	635-500-6735	12-15-2016	Amend	1-1-2017
635-052-0000	4-24-2017	Amend	6-1-2017	635-500-6735	1-25-2017	Amend	3-1-2017
635-053-0000	4-24-2017	Amend	6-1-2017	635-500-6735	4-4-2017	Amend	5-1-2017
635-053-0005	8-8-2017	Amend(T)	9-1-2017	635-500-6740	12-15-2016	Amend	1-1-2017
635-054-0000	4-24-2017	Amend	6-1-2017	635-500-6740	1-25-2017	Amend	3-1-2017
635-056-0010	7-14-2017	Amend	8-1-2017	635-500-6745	12-15-2016	Amend	1-1-2017
635-056-0060	7-14-2017	Amend	8-1-2017	635-500-6745	1-25-2017	Amend	3-1-2017
635-056-0070	7-14-2017	Amend	8-1-2017	635-500-6750	12-15-2016	Amend	1-1-2017
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635-056-0076	7-14-2017	Adopt	8-1-2017	647-010-0010	4-25-2017	Amend	6-1-2017
635-056-0140	7-14-2017	Amend	8-1-2017	647-015-0010	4-25-2017	Amend	6-1-2017
635-056-0150	7-14-2017	Amend	8-1-2017	660-023-0030	2-10-2017	Amend	3-1-2017
635-060-0000	3-2-2017	Amend	4-1-2017	660-023-0115	5-25-2017	Amend	7-1-2017
635-060-0000	4-24-2017	Amend	6-1-2017	660-023-0200	2-10-2017	Amend	3-1-2017
635-060-0046	4-24-2017	Amend	6-1-2017	660-025-0030	2-28-2017	Amend	4-1-2017
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635-066-0000	8-7-2017	Amend(T)	9-1-2017	660-039-0020	2-27-2017	Adopt	4-1-2017
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635-066-0020	3-2-2017	Amend	4-1-2017	660-039-0050	2-27-2017	Adopt	4-1-2017
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635-069-0000	3-2-2017	Amend	4-1-2017	660-039-0090	2-27-2017	Adopt	4-1-2017
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661-010-0021	1-1-2017	Amend	2-1-2017	734-010-0285	11-28-2016	Adopt	1-1-2017
661-010-0025	1-1-2017	Amend	2-1-2017	734-010-0290	11-28-2016	Amend	1-1-2017
661-010-0030	1-1-2017	Amend	2-1-2017	734-010-0300	11-28-2016	Amend	1-1-2017
661-010-0035	1-1-2017	Amend	2-1-2017	734-010-0320	11-28-2016	Amend	1-1-2017
661-010-0050	1-1-2017	Amend	2-1-2017	734-010-0330	11-28-2016	Amend	1-1-2017
661-010-0068	1-1-2017	Amend	2-1-2017	734-010-0340	11-28-2016	Amend	1-1-2017
661-010-0075	1-1-2017	Amend	2-1-2017	734-010-0350	11-28-2016	Repeal	1-1-2017
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690-507-0030	5-22-2017	Amend	7-1-2017	734-060-0000	11-28-2016	Amend	1-1-2017
690-507-0040	5-22-2017	Amend	7-1-2017	734-060-0010	11-28-2016	Repeal	1-1-2017
690-507-0050	5-22-2017	Amend	7-1-2017	734-060-0175	11-28-2016	Amend	1-1-2017
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690-507-0080	5-22-2017	Amend	7-1-2017	734-065-0010	11-28-2016	Amend	1-1-2017
690-507-0090	5-22-2017	Amend	7-1-2017	734-065-0015	11-28-2016	Amend	1-1-2017
690-507-0610	5-22-2017	Amend	7-1-2017	734-065-0020	11-28-2016	Amend	1-1-2017
690-507-0620	5-22-2017	Amend	7-1-2017	734-065-0025	11-28-2016	Amend	1-1-2017
690-507-0630	5-22-2017	Amend	7-1-2017	734-065-0035	11-28-2016	Amend	1-1-2017
690-507-0635	5-22-2017	Amend	7-1-2017	734-065-0040	11-28-2016	Amend	1-1-2017
690-507-0640	5-22-2017	Amend	7-1-2017	734-065-0045	11-28-2016	Amend	1-1-2017
690-507-0647	5-22-2017	Amend	7-1-2017	734-072-0005	5-23-2017	Amend	7-1-2017
690-507-0650	5-22-2017	Amend	7-1-2017	734-072-0007	5-23-2017	Adopt	7-1-2017
690-507-0660	5-22-2017	Amend	7-1-2017	734-072-0010	5-23-2017	Amend	7-1-2017
690-507-0670	5-22-2017	Amend	7-1-2017	734-072-0011	5-23-2017	Amend	7-1-2017
690-507-0680	5-22-2017	Amend	7-1-2017	734-072-0015	5-23-2017	Amend	7-1-2017
690-507-0690	5-22-2017	Amend	7-1-2017	734-072-0020	5-23-2017	Amend	7-1-2017
690-507-0790	5-22-2017	Amend	7-1-2017	734-072-0022	5-23-2017	Amend	7-1-2017
695-005-0010	5-2-2017	Amend	6-1-2017	734-072-0023	5-23-2017	Amend	7-1-2017
695-005-0030	5-2-2017	Amend	6-1-2017	734-072-0025	5-23-2017	Amend	7-1-2017
695-005-0040	5-2-2017	Amend	6-1-2017	734-072-0030	5-23-2017	Amend	7-1-2017
695-005-0050	5-2-2017	Amend	6-1-2017	735-001-0100	2-1-2017	Amend	3-1-2017
695-005-0060	5-2-2017	Amend	6-1-2017	735-010-0020	1-24-2017	Amend	3-1-2017
695-010-0020	5-2-2017	Amend	6-1-2017	735-010-0130	7-24-2017	Amend	9-1-2017
695-010-0060	5-2-2017	Amend	6-1-2017	735-024-0015	11-22-2016	Amend	1-1-2017
695-015-0010	7-31-2017	Adopt	9-1-2017	735-024-0025	11-22-2016	Amend	1-1-2017
695-015-0020	7-31-2017	Amend	9-1-2017	735-040-0115	1-24-2017	Amend	3-1-2017
695-015-0030	7-31-2017	Repeal	9-1-2017	735-061-0210	3-20-2017	Amend	5-1-2017
695-015-0040	7-31-2017	Adopt	9-1-2017	735-061-0210(T)	3-20-2017	Repeal	5-1-2017
695-015-0050	7-31-2017	Adopt	9-1-2017	735-062-0013	7-1-2017	Adopt	7-1-2017
695-015-0070	7-31-2017	Amend	9-1-2017	735-062-0040	4-26-2017	Amend	6-1-2017
695-015-0080	7-31-2017	Adopt	9-1-2017	735-062-0090	3-20-2017	Amend	5-1-2017
695-015-0090	7-31-2017	Adopt	9-1-2017	735-062-0090(T)	3-20-2017	Repeal	5-1-2017
695-015-0100	7-31-2017	Adopt	9-1-2017	735-150-0005	2-22-2017	Amend	4-1-2017
695-015-0110	7-31-2017	Adopt	9-1-2017	735-150-0005	3-7-2017	Amend	4-1-2017
695-015-0120	7-31-2017	Adopt	9-1-2017	735-150-0010	5-25-2017	Amend	7-1-2017
695-015-0130	7-31-2017	Repeal	9-1-2017	735-150-0015	5-25-2017	Amend	7-1-2017
710-005-0005	6-21-2017	Amend	8-1-2017	735-150-0020	5-25-2017	Amend	7-1-2017
715-045-0001	1-1-2017	Amend	2-1-2017	735-150-0027	5-25-2017	Amend	7-1-2017
715-045-0007	1-1-2017	Amend	2-1-2017	735-150-0030	5-25-2017	Amend	7-1-2017

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735-150-0110	5-25-2017	Amend	7-1-2017	801-010-0340	1-4-2017	Amend	2-1-2017
735-150-0110	7-24-2017	Amend	9-1-2017	801-010-0345	1-4-2017	Amend	2-1-2017
735-150-0120	5-25-2017	Amend	7-1-2017	801-020-0690	1-4-2017	Amend	2-1-2017
735-150-0130	5-25-2017	Amend	7-1-2017	801-020-0700	1-4-2017	Amend	2-1-2017
735-150-0140	7-24-2017	Amend	9-1-2017	801-030-0005	1-4-2017	Amend	2-1-2017
735-150-0160	5-25-2017	Amend	7-1-2017	801-030-0020	1-4-2017	Amend	2-1-2017
735-152-0000	5-25-2017	Amend	7-1-2017	801-030-0020	8-8-2017	Amend	9-1-2017
735-152-0005	5-25-2017	Amend	7-1-2017	801-040-0020	1-4-2017	Amend	2-1-2017
735-152-0031	5-25-2017	Amend	7-1-2017	801-040-0030	1-4-2017	Amend	2-1-2017
736-018-0045	4-19-2017	Amend	6-1-2017	801-040-0050	1-4-2017	Amend	2-1-2017
736-040-0100	2-2-2017	Adopt	3-1-2017	801-040-0090	1-4-2017	Repeal	2-1-2017
736-040-0110	2-2-2017	Adopt	3-1-2017	801-050-0020	1-4-2017	Amend	2-1-2017
738-080-0030	4-28-2017	Amend	6-1-2017	801-050-0040	1-4-2017	Amend	2-1-2017
738-080-0045	7-12-2017	Amend	8-1-2017	804-001-0002	7-1-2017	Amend	7-1-2017
738-090-0030	7-12-2017	Amend	8-1-2017	804-003-0000	2-10-2017	Amend	3-1-2017
738-124-0020	3-8-2017	Amend(T)	4-1-2017	804-022-0025	2-10-2017	Amend	3-1-2017
738-124-0020	7-12-2017	Amend	8-1-2017	804-030-0011	2-10-2017	Amend	3-1-2017
738-124-0020(T)	7-12-2017	Repeal	8-1-2017	804-035-0000	2-10-2017	Adopt	3-1-2017
738-125-0020	3-8-2017	Amend(T)	4-1-2017	804-035-0010	2-10-2017	Amend	3-1-2017
738-125-0020	7-12-2017	Amend	8-1-2017	804-035-0020	2-10-2017	Amend	3-1-2017
738-125-0020(T)	7-12-2017	Repeal	8-1-2017	804-035-0030	2-10-2017	Amend	3-1-2017
740-100-0010	7-25-2017	Amend	9-1-2017	804-035-0035	2-10-2017	Amend	3-1-2017
740-100-0065	7-25-2017	Amend	9-1-2017	804-035-0040	2-10-2017	Amend	3-1-2017
740-100-0070	7-25-2017	Amend	9-1-2017	804-040-0000	2-10-2017	Amend	3-1-2017
740-100-0080	7-25-2017	Amend	9-1-2017	804-040-0000	7-1-2017	Amend	7-1-2017
740-100-0085	7-25-2017	Amend	9-1-2017	804-050-0005	2-10-2017	Amend	3-1-2017
740-100-0090	7-25-2017	Amend	9-1-2017	804-050-0010	2-10-2017	Amend	3-1-2017
740-110-0010	7-25-2017	Amend	9-1-2017	804-050-0015	2-10-2017	Amend	3-1-2017
740-200-0010	2-22-2017	Amend	4-1-2017	806-001-0003	5-15-2017	Amend	6-1-2017
740-200-0010	3-7-2017	Amend	4-1-2017	806-001-0003	6-8-2017	Amend	7-1-2017
740-200-0020	2-22-2017	Amend	4-1-2017	808-001-0008	7-1-2017	Amend	7-1-2017
740-200-0020	3-7-2017	Amend	4-1-2017	808-001-0020	8-1-2017	Amend	9-1-2017
740-200-0040	2-22-2017	Amend	4-1-2017	808-002-0480	8-1-2017	Amend	9-1-2017
740-200-0040	3-7-2017	Amend	4-1-2017	808-002-0685	8-1-2017	Adopt	9-1-2017
740-200-0045	5-23-2017	Amend	7-1-2017	808-003-0700	12-19-2016	Amend	2-1-2017
800-010-0015	1-27-2017	Amend	3-1-2017	808-003-0700(T)	12-19-2016	Repeal	2-1-2017
800-010-0035	1-27-2017	Amend	3-1-2017	808-003-0710	3-24-2017	Amend	5-1-2017
800-010-0040	1-27-2017	Amend	3-1-2017	808-004-0360	8-1-2017	Adopt(T)	9-1-2017
800-010-0050	1-27-2017	Amend	3-1-2017	808-005-0020	7-1-2017	Amend	7-1-2017
800-015-0010	1-27-2017	Amend	3-1-2017	809-010-0001	7-1-2017	Amend	7-1-2017
800-015-0020	1-27-2017	Amend	3-1-2017	809-010-0025	7-1-2017	Amend	7-1-2017
800-020-0015	1-27-2017	Amend	3-1-2017	811-010-0005	1-6-2017	Amend	2-1-2017
800-020-0020	1-27-2017	Amend	3-1-2017	811-010-0015	1-6-2017	Amend	2-1-2017
800-020-0022	1-27-2017	Amend	3-1-2017	811-010-0025	1-6-2017	Amend	2-1-2017
800-025-0060	1-27-2017	Amend	3-1-2017	811-010-0040	1-6-2017	Amend	2-1-2017
801-001-0005	1-4-2017	Amend	2-1-2017	811-010-0066	1-6-2017	Amend	2-1-2017
801-001-0035	1-4-2017	Amend	2-1-2017	811-010-0071	1-6-2017	Amend	2-1-2017
801-001-0040	8-8-2017	Amend	9-1-2017	811-010-0084	1-6-2017	Amend	2-1-2017
801-005-0010	1-4-2017	Amend	2-1-2017	811-010-0084	1-1-2018	Amend	6-1-2017
801-010-0060	1-4-2017	Amend	2-1-2017	811-010-0086	1-1-2018	Amend	6-1-2017
801-010-0065	1-4-2017	Amend	2-1-2017	811-010-0090	1-6-2017	Amend	2-1-2017
801-010-0080	1-4-2017	Amend	2-1-2017	811-010-0093	1-6-2017	Amend	2-1-2017
801-010-0110	1-4-2017	Amend	2-1-2017	811-010-0095	1-6-2017	Amend	2-1-2017
801-010-0115	1-4-2017	Amend	2-1-2017	811-010-0110	1-1-2018	Amend	6-1-2017
801-010-0120	1-4-2017	Amend	2-1-2017	811-035-0001	4-21-2017	Amend	6-1-2017

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812-003-0131	7-1-2017	Amend	8-1-2017	813-005-0025(T)	12-14-2016	Repeal	1-1-2017
812-003-0142	7-1-2017	Amend	8-1-2017	813-006-0005	12-19-2016	Amend	2-1-2017
812-003-0171	1-1-2017	Amend	2-1-2017	813-006-0005(T)	12-19-2016	Repeal	2-1-2017
812-003-0171	7-1-2017	Amend	8-1-2017	813-006-0010	12-19-2016	Amend	2-1-2017
812-003-0221	1-1-2017	Amend	2-1-2017	813-006-0010(T)	12-19-2016	Repeal	2-1-2017
812-003-0221	7-1-2017	Amend	8-1-2017	813-046-0011	4-19-2017	Amend	6-1-2017
812-004-0001	7-1-2017	Repeal	8-1-2017	813-046-0011(T)	4-19-2017	Repeal	6-1-2017
812-004-0110	7-1-2017	Repeal	8-1-2017	813-053-0000	6-20-2017	Adopt(T)	8-1-2017
812-004-0120	7-1-2017	Repeal	8-1-2017	813-053-0010	6-20-2017	Adopt(T)	8-1-2017
812-004-0140	7-1-2017	Repeal	8-1-2017	813-053-0020	6-20-2017	Adopt(T)	8-1-2017
812-004-0160	7-1-2017	Repeal	8-1-2017	813-053-0030	6-20-2017	Adopt(T)	8-1-2017
812-004-0180	7-1-2017	Repeal	8-1-2017	813-053-0040	6-20-2017	Adopt(T)	8-1-2017
812-004-0195	7-1-2017	Repeal	8-1-2017	813-053-0050	6-20-2017	Adopt(T)	8-1-2017
812-004-0210	7-1-2017	Repeal	8-1-2017	813-053-0060	6-20-2017	Adopt(T)	8-1-2017
812-004-0240	7-1-2017	Repeal	8-1-2017	813-053-0070	6-20-2017	Adopt(T)	8-1-2017
812-004-0250	7-1-2017	Repeal	8-1-2017	813-053-0080	6-20-2017	Adopt(T)	8-1-2017
812-004-0260	7-1-2017	Repeal	8-1-2017	813-053-0090	6-20-2017	Adopt(T)	8-1-2017
812-004-0300	7-1-2017	Repeal	8-1-2017	813-055-0001	7-20-2017	Amend(T)	9-1-2017
812-004-0320	7-1-2017	Repeal	8-1-2017	813-055-0040	7-20-2017	Amend(T)	9-1-2017
812-004-0340	7-1-2017	Repeal	8-1-2017	813-135-0010	3-9-2017	Adopt	4-1-2017
812-004-0350	7-1-2017	Repeal	8-1-2017	813-135-0010(T)	3-9-2017	Repeal	4-1-2017
812-004-0360	7-1-2017	Repeal	8-1-2017	813-135-0020	3-9-2017	Adopt	4-1-2017
812-004-0400	7-1-2017	Repeal	8-1-2017	813-135-0020(T)	3-9-2017	Repeal	4-1-2017
812-004-0420	7-1-2017	Repeal	8-1-2017	813-135-0030	3-9-2017	Adopt	4-1-2017
812-004-0440	7-1-2017	Repeal	8-1-2017	813-135-0030(T)	3-9-2017	Repeal	4-1-2017
812-004-0450	7-1-2017	Repeal	8-1-2017	813-135-0040	3-9-2017	Adopt	4-1-2017
812-004-0460	7-1-2017	Repeal	8-1-2017	813-135-0040	7-13-2017	Amend	8-1-2017
812-004-0470	7-1-2017	Repeal	8-1-2017	813-135-0040(T)	3-9-2017	Repeal	4-1-2017
812-004-0480	7-1-2017	Repeal	8-1-2017	813-135-0050	3-9-2017	Adopt	4-1-2017
812-004-0500	7-1-2017	Repeal	8-1-2017	813-135-0050(T)	3-9-2017	Repeal	4-1-2017
812-004-0510	7-1-2017	Repeal	8-1-2017	813-135-0060	3-9-2017	Adopt	4-1-2017
812-004-0520	7-1-2017	Repeal	8-1-2017	813-135-0060(T)	3-9-2017	Repeal	4-1-2017
812-004-0530	7-1-2017	Repeal	8-1-2017	813-240-0005	4-19-2017	Amend	6-1-2017
812-004-0535	7-1-2017	Repeal	8-1-2017	813-240-0005(T)	4-19-2017	Repeal	6-1-2017
812-004-0537	7-1-2017	Repeal	8-1-2017	813-330-0010	8-14-2017	Amend(T)	9-1-2017
812-004-0540	7-1-2017	Repeal	8-1-2017	813-330-0030	8-14-2017	Amend(T)	9-1-2017
812-004-0550	7-1-2017	Repeal	8-1-2017	813-330-0040	8-14-2017	Amend(T)	9-1-2017
812-004-0560	7-1-2017	Repeal	8-1-2017	813-360-0030	7-24-2017	Amend(T)	9-1-2017
812-004-0590	7-1-2017	Repeal	8-1-2017	813-360-0060	7-24-2017	Suspend	9-1-2017
812-004-0600	7-1-2017	Repeal	8-1-2017	818-021-0011	3-1-2017	Amend	3-1-2017
812-004-1001	7-1-2017	Amend	8-1-2017	818-021-0025	3-1-2017	Amend	3-1-2017
812-020-0071	7-1-2017	Amend	8-1-2017	819-005-0005	1-3-2017	Adopt	2-1-2017
812-020-0083	7-1-2017	Adopt	8-1-2017	819-020-0015	1-3-2017	Adopt	2-1-2017
812-020-0085	7-1-2017	Amend	8-1-2017	819-020-0020	1-3-2017	Adopt	2-1-2017
812-022-0000	7-1-2017	Amend	8-1-2017	819-020-0035	1-3-2017	Adopt	2-1-2017
812-022-0016	7-1-2017	Repeal	8-1-2017	819-020-0045	1-3-2017	Adopt	2-1-2017
812-022-0021	7-1-2017	Amend	8-1-2017	819-020-0055	1-3-2017	Adopt	2-1-2017
812-022-0025	7-1-2017	Amend	8-1-2017	819-020-0065	1-3-2017	Adopt	2-1-2017
812-022-0026	7-1-2017	Repeal	8-1-2017	819-020-0075	1-3-2017	Adopt	2-1-2017
812-022-0027	7-1-2017	Repeal	8-1-2017	819-020-0085	1-3-2017	Adopt	2-1-2017
812-022-0028	7-1-2017	Amend	8-1-2017	819-020-0090	1-3-2017	Adopt	2-1-2017
812-022-0029	7-1-2017	Repeal	8-1-2017	819-030-0000	1-3-2017	Adopt	2-1-2017
812-022-0040	7-1-2017	Amend	8-1-2017	819-040-0005	1-3-2017	Adopt	2-1-2017
813-005-0005	12-14-2016	Amend	1-1-2017	820-001-0025	5-12-2017	Amend	6-1-2017
813-005-0005(T)	12-14-2016	Repeal	1-1-2017	820-010-0505	7-12-2017	Amend	8-1-2017

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820-010-0520	12-29-2016	Amend	2-1-2017	833-100-0051	1-1-2018	Repeal	7-1-2017
820-010-0520	7-12-2017	Amend	8-1-2017	833-100-0061	1-1-2018	Repeal	7-1-2017
820-010-0720	12-29-2016	Amend	2-1-2017	833-100-0071	1-1-2018	Repeal	7-1-2017
820-010-1000	5-12-2017	Amend	6-1-2017	833-110-0031	8-15-2017	Adopt	9-1-2017
820-010-1010	5-12-2017	Amend	6-1-2017	834-030-0010	1-17-2017	Amend(T)	3-1-2017
820-010-1020	7-12-2017	Amend	8-1-2017	834-030-0010	4-1-2017	Amend	5-1-2017
820-010-2000	5-12-2017	Amend	6-1-2017	834-050-0000	1-9-2017	Amend	2-1-2017
820-010-2020	7-12-2017	Amend	8-1-2017	834-050-0010	1-9-2017	Amend	2-1-2017
820-010-3000	5-12-2017	Amend	6-1-2017	836-005-0405	1-10-2017	Adopt	2-1-2017
820-010-3010	7-12-2017	Amend	8-1-2017	836-010-0135	1-9-2017	Amend	2-1-2017
820-010-4000	7-1-2017	Amend	7-1-2017	836-010-0140	1-9-2017	Amend	2-1-2017
820-010-5000	7-12-2017	Amend	8-1-2017	836-011-0000	1-31-2017	Amend(T)	3-1-2017
820-020-0035	5-12-2017	Amend	6-1-2017	836-011-0000	4-20-2017	Amend	6-1-2017
820-025-0005	12-29-2016	Amend	2-1-2017	836-011-0000	4-27-2017	Amend	6-1-2017
820-025-0005	7-12-2017	Amend	8-1-2017	836-011-0000(T)	4-20-2017	Repeal	6-1-2017
820-040-0005	6-13-2017	Amend(T)	7-1-2017	836-011-0000(T)	4-27-2017	Repeal	6-1-2017
820-040-0030	5-12-2017	Amend	6-1-2017	836-011-0030	12-21-2016	Adopt	2-1-2017
820-080-0010	7-12-2017	Amend	8-1-2017	836-014-0400	4-14-2017	Repeal	5-1-2017
820-080-1000	7-1-2017	Amend	7-1-2017	836-031-0605	12-21-2016	Adopt	2-1-2017
824-010-0005	1-1-2017	Amend	1-1-2017	836-053-0011	7-26-2017	Adopt	9-1-2017
824-030-0010	1-1-2017	Amend	1-1-2017	836-053-0013	7-26-2017	Amend	9-1-2017
824-030-0040	1-1-2017	Amend	1-1-2017	836-053-0015	3-9-2017	Amend	4-1-2017
824-030-0040	7-28-2017	Amend	9-1-2017	837-039-0003	7-1-2017	Amend	8-1-2017
824-035-0005	1-1-2017	Repeal	1-1-2017	837-039-0010	7-1-2017	Am. & Ren.	8-1-2017
824-036-0001	1-1-2017	Adopt	1-1-2017	837-039-0015	7-1-2017	Am. & Ren.	8-1-2017
824-040-0010	1-1-2017	Amend	1-1-2017	837-039-0035	7-1-2017	Adopt	8-1-2017
824-050-0010	1-1-2017	Amend	1-1-2017	837-039-0045	7-1-2017	Adopt	8-1-2017
824-060-0010	1-1-2017	Amend	1-1-2017	837-039-0055	7-1-2017	Am. & Ren.	8-1-2017
824-070-0005	1-1-2017	Adopt	1-1-2017	837-039-0056	7-1-2017	Adopt	8-1-2017
824-070-0010	1-1-2017	Adopt	1-1-2017	837-039-0110	7-1-2017	Am. & Ren.	8-1-2017
830-011-0065	1-12-2017	Amend	2-1-2017	837-039-0120	7-1-2017	Am. & Ren.	8-1-2017
830-011-0065	8-1-2017	Amend	8-1-2017	837-120-0501	2-1-2017	Adopt	3-1-2017
830-030-0070	8-1-2017	Amend	8-1-2017	837-120-0510	2-1-2017	Adopt	3-1-2017
830-030-0080	8-1-2017	Amend	8-1-2017	837-120-0520	2-1-2017	Adopt	3-1-2017
830-040-0090	8-1-2017	Amend	8-1-2017	837-120-0530	2-1-2017	Adopt	3-1-2017
833-020-0011	8-15-2017	Amend	9-1-2017	837-120-0540	2-1-2017	Adopt	3-1-2017
833-020-0081	6-10-2017	Amend	7-1-2017	839-025-0700	1-1-2017	Amend	2-1-2017
833-020-0081	8-15-2017	Amend	9-1-2017	839-025-0700	4-1-2017	Amend	4-1-2017
833-030-0021	6-10-2017	Amend	7-1-2017	839-025-0700	7-1-2017	Amend	7-1-2017
833-040-0021	6-10-2017	Amend	7-1-2017	845-005-0306	5-1-2017	Amend	6-1-2017
833-040-0041	12-12-2016	Amend(T)	1-1-2017	845-005-0412	1-1-2017	Adopt	1-1-2017
833-040-0041	6-12-2017	Amend	7-1-2017	845-006-0443	7-1-2017	Amend	8-1-2017
833-040-0041(T)	6-12-2017	Repeal	7-1-2017	845-006-0500	12-1-2016	Amend	1-1-2017
833-050-0031	1-1-2018	Amend	7-1-2017	845-007-0020	7-1-2017	Amend	8-1-2017
833-050-0041	1-1-2018	Amend	7-1-2017	845-013-0100	3-1-2017	Amend	4-1-2017
833-050-0091	1-1-2018	Amend	7-1-2017	845-015-0142	3-1-2017	Adopt	4-1-2017
833-070-0011	7-1-2017	Amend(T)	7-1-2017	845-025-1015	12-27-2016	Amend	2-1-2017
833-070-0011	8-15-2017	Amend	9-1-2017	845-025-1030	12-27-2016	Amend	2-1-2017
833-070-0011(T)	8-15-2017	Repeal	9-1-2017	845-025-1045	12-27-2016	Amend	2-1-2017
833-075-0050	1-1-2018	Amend	7-1-2017	845-025-1060	12-27-2016	Amend	2-1-2017
833-075-0070	1-1-2018	Amend	7-1-2017	845-025-1060	5-1-2017	Amend	6-1-2017
833-100-0011	1-1-2018	Amend	7-1-2017	845-025-1060	8-1-2017	Amend(T)	9-1-2017
833-100-0012	1-1-2018	Adopt	7-1-2017	845-025-1090	12-27-2016	Amend	2-1-2017
833-100-0021	1-1-2018	Amend	7-1-2017	845-025-1100	12-27-2016	Amend	2-1-2017
833-100-0031	1-1-2018	Repeal	7-1-2017	845-025-1115	12-27-2016	Amend	2-1-2017

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845-025-1175	12-27-2016	Amend	2-1-2017	845-025-7060	12-27-2016	Amend	2-1-2017
845-025-1230	12-27-2016	Amend	2-1-2017	845-025-7520	12-27-2016	Amend	2-1-2017
845-025-1335	7-1-2017	Adopt(T)	8-1-2017	845-025-7580	12-27-2016	Amend	2-1-2017
845-025-1360	12-27-2016	Amend	2-1-2017	845-025-7700	12-27-2016	Amend	2-1-2017
845-025-1410	12-27-2016	Amend	2-1-2017	845-025-7750	12-27-2016	Amend	2-1-2017
845-025-1420	12-27-2016	Amend	2-1-2017	845-025-8040	12-27-2016	Amend	2-1-2017
845-025-1440	12-27-2016	Amend	2-1-2017	845-025-8060	12-27-2016	Amend	2-1-2017
845-025-1450	12-27-2016	Amend	2-1-2017	845-025-8520	12-27-2016	Amend	2-1-2017
845-025-1470	12-27-2016	Amend	2-1-2017	845-025-8560	12-27-2016	Amend	2-1-2017
845-025-2020	12-27-2016	Amend	2-1-2017	845-025-8750	12-27-2016	Adopt	2-1-2017
845-025-2030	12-27-2016	Amend	2-1-2017	847-003-0100	7-14-2017	Amend	8-1-2017
845-025-2040	12-27-2016	Amend	2-1-2017	847-003-0200	7-1-2017	Amend	2-1-2017
845-025-2060	12-27-2016	Amend	2-1-2017	847-010-0066	4-7-2017	Amend	5-1-2017
845-025-2070	1-1-2017	Amend(T)	2-1-2017	847-035-0030	1-6-2017	Amend	2-1-2017
845-025-2070	6-30-2017	Amend	8-1-2017	847-035-0030	7-14-2017	Amend	8-1-2017
845-025-2100	12-27-2016	Adopt	2-1-2017	847-050-0041	7-14-2017	Amend	8-1-2017
845-025-2500	5-1-2017	Adopt	6-1-2017	847-070-0005	1-6-2017	Amend	2-1-2017
845-025-2500	8-1-2017	Suspend	9-1-2017	848-005-0010	6-14-2017	Amend(T)	7-1-2017
845-025-2510	5-1-2017	Adopt	6-1-2017	848-005-0010	7-1-2017	Amend	4-1-2017
845-025-2510	8-1-2017	Suspend	9-1-2017	851-001-0000	8-1-2017	Amend	8-1-2017
845-025-2520	5-1-2017	Adopt	6-1-2017	851-001-0005	8-1-2017	Amend	8-1-2017
845-025-2520	8-1-2017	Suspend	9-1-2017	851-001-0010	8-1-2017	Amend	8-1-2017
845-025-2530	5-1-2017	Adopt	6-1-2017	851-001-0015	8-1-2017	Amend	8-1-2017
845-025-2530	8-1-2017	Suspend	9-1-2017	851-001-0020	8-1-2017	Amend	8-1-2017
845-025-2540	5-1-2017	Adopt	6-1-2017	851-001-0030	8-1-2017	Amend	8-1-2017
845-025-2540	8-1-2017	Suspend	9-1-2017	851-001-0100	8-1-2017	Amend	8-1-2017
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845-025-2550	8-1-2017	Suspend	9-1-2017	851-001-0125	8-1-2017	Adopt	8-1-2017
845-025-2560	5-1-2017	Adopt	6-1-2017	851-001-0135	8-1-2017	Adopt	8-1-2017
845-025-2560	8-1-2017	Suspend	9-1-2017	851-010-0000	1-1-2017	Adopt	1-1-2017
845-025-2800	12-27-2016	Amend	2-1-2017	851-010-0005	1-1-2017	Amend	1-1-2017
845-025-2840	12-27-2016	Amend	2-1-2017	851-010-0010	1-1-2017	Amend	1-1-2017
845-025-2900	12-27-2016	Adopt	2-1-2017	851-010-0015	1-1-2017	Amend	1-1-2017
845-025-2910	12-27-2016	Adopt	2-1-2017	851-010-0020	1-1-2017	Repeal	1-1-2017
845-025-3215	12-27-2016	Amend	2-1-2017	851-010-0024	1-1-2017	Amend	1-1-2017
845-025-3250	1-1-2017	Amend(T)	2-1-2017	851-010-0035	1-1-2017	Amend	1-1-2017
845-025-3250	6-30-2017	Amend	8-1-2017	851-045-0030	8-1-2017	Amend	8-1-2017
845-025-3255	1-1-2017	Adopt(T)	2-1-2017	851-045-0035	8-1-2017	Adopt	8-1-2017
845-025-3255	6-30-2017	Adopt	8-1-2017	851-045-0040	8-1-2017	Amend	8-1-2017
845-025-3260	12-27-2016	Amend	2-1-2017	851-045-0050	8-1-2017	Amend	8-1-2017
845-025-3300	12-27-2016	Adopt	2-1-2017	851-045-0060	8-1-2017	Amend	8-1-2017
845-025-3310	12-27-2016	Adopt	2-1-2017	851-045-0070	8-1-2017	Amend	8-1-2017
845-025-3500	12-27-2016	Amend	2-1-2017	851-045-0080	8-1-2017	Repeal	8-1-2017
845-025-3510	12-27-2016	Adopt	2-1-2017	851-045-0090	8-1-2017	Amend	8-1-2017
845-025-3600	12-27-2016	Adopt	2-1-2017	851-045-0100	8-1-2017	Amend	8-1-2017
845-025-5000	12-27-2016	Amend	2-1-2017	851-050-0001	3-1-2017	Amend	4-1-2017
845-025-5300	12-27-2016	Amend	2-1-2017	851-050-0004	4-15-2017	Amend(T)	5-1-2017
845-025-5350	12-27-2016	Amend	2-1-2017	851-052-0000	3-1-2017	Amend	4-1-2017
845-025-5500	12-27-2016	Amend	2-1-2017	851-052-0010	3-1-2017	Amend	4-1-2017
845-025-5540	12-27-2016	Amend	2-1-2017	851-052-0020	3-1-2017	Amend	4-1-2017
845-025-5700	12-27-2016	Amend	2-1-2017	851-052-0030	3-1-2017	Amend	4-1-2017
845-025-5700	3-3-2017	Amend(T)	4-1-2017	851-052-0040	3-1-2017	Amend	4-1-2017
845-025-5700(T)	12-27-2016	Repeal	2-1-2017	851-052-0050	3-1-2017	Adopt	4-1-2017
845-025-7000	12-27-2016	Amend	2-1-2017	851-052-0060	3-1-2017	Adopt	4-1-2017
845-025-7020	12-27-2016	Amend	2-1-2017	851-052-0100	3-1-2017	Amend	4-1-2017

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851-063-0080	8-1-2017	Repeal	8-1-2017	860-032-0620	11-22-2016	Am. & Ren.	1-1-2017
851-063-0110	8-1-2017	Repeal	8-1-2017	860-032-0630	11-22-2016	Am. & Ren.	1-1-2017
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852-005-0005	7-1-2017	Amend	4-1-2017	860-032-0650	11-22-2016	Renumber	1-1-2017
852-010-0080	2-14-2017	Amend	3-1-2017	860-032-0660	11-22-2016	Renumber	1-1-2017
852-010-0080	3-14-2017	Amend	4-1-2017	860-032-0670	11-22-2016	Renumber	1-1-2017
852-010-0080	4-26-2017	Amend(T)	6-1-2017	860-033-0005	12-2-2016	Amend(T)	1-1-2017
852-020-0045	2-14-2017	Amend	3-1-2017	860-033-0005	5-31-2017	Amend	7-1-2017
852-020-0045	3-14-2017	Amend	4-1-2017	860-033-0030	12-2-2016	Amend(T)	1-1-2017
852-050-0001	2-14-2017	Amend	3-1-2017	860-033-0030	5-31-2017	Amend	7-1-2017
852-050-0001	3-14-2017	Amend	4-1-2017	860-033-0046	12-2-2016	Amend(T)	1-1-2017
852-050-0025	2-14-2017	Amend	3-1-2017	860-033-0046	5-31-2017	Amend	7-1-2017
852-050-0025	3-14-2017	Amend	4-1-2017	860-033-0050	12-2-2016	Amend(T)	1-1-2017
852-060-0025	2-14-2017	Amend	3-1-2017	860-033-0050	5-31-2017	Amend	7-1-2017
852-060-0025	3-14-2017	Amend	4-1-2017	860-033-0110	5-31-2017	Amend	7-1-2017
852-070-0010	2-14-2017	Amend	3-1-2017	860-033-0530	5-31-2017	Amend	7-1-2017
852-070-0010	3-14-2017	Amend	4-1-2017	860-036-0001	1-24-2017	Repeal	3-1-2017
855-007-0060	2-23-2017	Amend	4-1-2017	860-036-0005	1-24-2017	Repeal	3-1-2017
855-019-0120	12-14-2016	Amend	1-1-2017	860-036-0010	1-24-2017	Repeal	3-1-2017
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855-019-0450	12-14-2016	Adopt	1-1-2017	860-036-0020	1-24-2017	Repeal	3-1-2017
855-019-0450(T)	12-14-2016	Repeal	1-1-2017	860-036-0025	1-24-2017	Repeal	3-1-2017
855-019-0455	12-14-2016	Adopt	1-1-2017	860-036-0030	1-24-2017	Repeal	3-1-2017
855-019-0455(T)	12-14-2016	Repeal	1-1-2017	860-036-0035	1-24-2017	Repeal	3-1-2017
855-019-0460	12-14-2016	Adopt	1-1-2017	860-036-0040	1-24-2017	Repeal	3-1-2017
855-019-0460(T)	12-14-2016	Repeal	1-1-2017	860-036-0045	1-24-2017	Repeal	3-1-2017
855-041-1001	2-23-2017	Amend	4-1-2017	860-036-0050	1-24-2017	Repeal	3-1-2017
855-041-1010	2-23-2017	Amend	4-1-2017	860-036-0055	1-24-2017	Repeal	3-1-2017
855-041-1036	2-23-2017	Amend	4-1-2017	860-036-0060	1-24-2017	Repeal	3-1-2017
855-041-1045	2-23-2017	Amend	4-1-2017	860-036-0065	1-24-2017	Repeal	3-1-2017
855-041-1046	2-23-2017	Adopt	4-1-2017	860-036-0070	1-24-2017	Repeal	3-1-2017
855-041-1120	7-1-2017	Amend	8-1-2017	860-036-0075	1-24-2017	Repeal	3-1-2017
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855-041-4100	2-23-2017	Amend	4-1-2017	860-036-0095	1-24-2017	Repeal	3-1-2017
855-041-4120	2-23-2017	Amend	4-1-2017	860-036-0097	1-24-2017	Repeal	3-1-2017
855-041-5005	2-23-2017	Amend	4-1-2017	860-036-0105	1-24-2017	Repeal	3-1-2017
855-044-0001	2-23-2017	Amend	4-1-2017	860-036-0110	1-24-2017	Repeal	3-1-2017
855-044-0030	2-23-2017	Amend	4-1-2017	860-036-0115	1-24-2017	Repeal	3-1-2017
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855-080-0021	12-14-2016	Amend	1-1-2017	860-036-0125	1-24-2017	Repeal	3-1-2017
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856-010-0016	7-1-2017	Amend	8-1-2017	860-036-0205	1-24-2017	Repeal	3-1-2017
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858-010-0034	2-16-2017	Amend	4-1-2017	860-036-0215	1-24-2017	Repeal	3-1-2017
858-010-0075	5-24-2017	Amend	7-1-2017	860-036-0220	1-24-2017	Repeal	3-1-2017
858-020-0055	3-20-2017	Amend	5-1-2017	860-036-0225	1-24-2017	Repeal	3-1-2017
859-010-0005	11-18-2016	Amend	1-1-2017	860-036-0230	1-24-2017	Repeal	3-1-2017
859-020-0020	7-2-2017	Repeal	8-1-2017	860-036-0235	1-24-2017	Repeal	3-1-2017
859-510-0005	12-13-2016	Amend	1-1-2017	860-036-0240	1-24-2017	Repeal	3-1-2017
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860-036-1840	1-24-2017	Adopt	3-1-2017	860-088-0190	6-30-2017	Adopt	8-1-2017
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860-036-1910	1-24-2017	Adopt	3-1-2017	875-010-0031	12-12-2016	Suspend	1-1-2017
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860-036-2010	1-24-2017	Adopt	3-1-2017	875-010-0045	5-16-2017	Amend	7-1-2017
860-036-2020	1-24-2017	Adopt	3-1-2017	875-010-0090	12-12-2016	Amend	1-1-2017
860-036-2030	1-24-2017	Adopt	3-1-2017	875-010-0090	1-12-2017	Amend	2-1-2017
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860-036-2120	1-24-2017	Adopt	3-1-2017	875-030-0010	12-13-2016	Amend	1-1-2017
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860-036-2150	1-24-2017	Adopt	3-1-2017	875-030-0050	1-12-2017	Amend	2-1-2017
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860-036-2310	1-24-2017	Adopt	3-1-2017	918-001-0014	4-1-2017	Adopt	5-1-2017
860-036-2350	1-24-2017	Adopt	3-1-2017	918-001-0016	4-1-2017	Adopt	5-1-2017
860-036-2360	1-24-2017	Adopt	3-1-2017	918-001-0034	4-1-2017	Amend	5-1-2017
860-036-2370	1-24-2017	Adopt	3-1-2017	918-001-0300	4-1-2017	Adopt	5-1-2017
860-036-2380	1-24-2017	Adopt	3-1-2017	918-001-0310	4-1-2017	Adopt	5-1-2017
860-036-2390	1-24-2017	Adopt	3-1-2017	918-001-0380	4-1-2017	Adopt	5-1-2017
860-036-2400	1-24-2017	Adopt	3-1-2017	918-020-0380	7-1-2017	Adopt	8-1-2017
860-036-2410	1-24-2017	Adopt	3-1-2017	918-098-1305	1-19-2017	Amend(T)	3-1-2017
860-036-2410	1-24-2017	Adopt	3-1-2017	918-098-1305	7-1-2017	Amend	8-1-2017
860-087-0001	11-22-2016	Adopt	1-1-2017	918-098-1325	1-19-2017	Amend(T)	3-1-2017
860-087-0010	11-22-2016	Adopt	1-1-2017	918-098-1325	7-1-2017	Amend	8-1-2017
860-087-0030	11-22-2016	Adopt	1-1-2017	918-098-1325(T)	7-1-2017	Repeal	8-1-2017
860-087-0040	11-22-2016	Adopt	1-1-2017	918-098-1505(T)	7-1-2017	Repeal	8-1-2017
860-088-0005	6-30-2017	Adopt	8-1-2017	918-282-0465	2-1-2017	Adopt(T)	3-1-2017
860-088-0010	6-30-2017	Adopt	8-1-2017	918-282-0470	2-1-2017	Adopt(T)	3-1-2017
860-088-0020	6-30-2017	Adopt	8-1-2017	918-282-0475	2-1-2017	Adopt(T)	3-1-2017
860-088-0030	6-30-2017	Adopt	8-1-2017	918-308-0000	1-1-2017	Amend	2-1-2017
860-088-0040	6-30-2017	Adopt	8-1-2017	918-308-0010	1-1-2017	Amend	2-1-2017
860-088-0050	6-30-2017	Adopt	8-1-2017	918-308-0160	1-1-2017	Amend	2-1-2017
860-088-0060	6-30-2017	Adopt	8-1-2017	918-460-0015	5-2-2017	Amend(T)	6-1-2017
860-088-0070	6-30-2017	Adopt	8-1-2017	918-500-0450	1-19-2017	Amend(T)	3-1-2017
860-088-0080	6-30-2017	Adopt	8-1-2017	918-500-0450	7-1-2017	Amend	8-1-2017
860-088-0090	6-30-2017	Adopt	8-1-2017	918-500-0450(T)	7-1-2017	Repeal	8-1-2017
860-088-0100	6-30-2017	Adopt	8-1-2017	918-525-0000	1-19-2017	Amend(T)	3-1-2017
860-088-0110	6-30-2017	Adopt	8-1-2017	918-525-0000	7-1-2017	Amend	8-1-2017

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918-525-0005	1-19-2017	Amend(T)	3-1-2017	918-525-0260	1-19-2017	Amend(T)	3-1-2017
918-525-0005	7-1-2017	Amend	8-1-2017	918-525-0260	7-1-2017	Repeal	8-1-2017
918-525-0005(T)	7-1-2017	Repeal	8-1-2017	918-525-0260(T)	7-1-2017	Repeal	8-1-2017
918-525-0015	1-19-2017	Amend(T)	3-1-2017	918-525-0270	1-19-2017	Amend(T)	3-1-2017
918-525-0015	7-1-2017	Amend	8-1-2017	918-525-0270	7-1-2017	Repeal	8-1-2017
918-525-0015(T)	7-1-2017	Repeal	8-1-2017	918-525-0270(T)	7-1-2017	Repeal	8-1-2017
918-525-0020	1-19-2017	Amend(T)	3-1-2017	918-525-0310	1-19-2017	Amend(T)	3-1-2017
918-525-0020	7-1-2017	Amend	8-1-2017	918-525-0310	7-1-2017	Amend	8-1-2017
918-525-0020(T)	7-1-2017	Repeal	8-1-2017	918-525-0310(T)	7-1-2017	Repeal	8-1-2017
918-525-0035	1-19-2017	Amend(T)	3-1-2017	918-525-0320	1-19-2017	Amend(T)	3-1-2017
918-525-0035	7-1-2017	Amend	8-1-2017	918-525-0320	7-1-2017	Amend	8-1-2017
918-525-0035(T)	7-1-2017	Repeal	8-1-2017	918-525-0320(T)	7-1-2017	Repeal	8-1-2017
918-525-0040	1-19-2017	Amend(T)	3-1-2017	918-525-0325	1-19-2017	Suspend	3-1-2017
918-525-0040	7-1-2017	Amend	8-1-2017	918-525-0325	7-1-2017	Repeal	8-1-2017
918-525-0040(T)	7-1-2017	Repeal	8-1-2017	918-525-0325(T)	7-1-2017	Repeal	8-1-2017
918-525-0042	1-19-2017	Amend(T)	3-1-2017	918-525-0330	1-19-2017	Amend(T)	3-1-2017
918-525-0042	7-1-2017	Amend	8-1-2017	918-525-0330	7-1-2017	Amend	8-1-2017
918-525-0042(T)	7-1-2017	Repeal	8-1-2017	918-525-0330(T)	7-1-2017	Repeal	8-1-2017
918-525-0045	1-19-2017	Suspend	3-1-2017	918-525-0350	1-19-2017	Amend(T)	3-1-2017
918-525-0045	7-1-2017	Repeal	8-1-2017	918-525-0350	7-1-2017	Amend	8-1-2017
918-525-0045(T)	7-1-2017	Repeal	8-1-2017	918-525-0350(T)	7-1-2017	Repeal	8-1-2017
918-525-0055	1-19-2017	Suspend	3-1-2017	918-525-0360	7-1-2017	Amend	8-1-2017
918-525-0055	7-1-2017	Repeal	8-1-2017	918-525-0370	1-19-2017	Suspend	3-1-2017
918-525-0055(T)	7-1-2017	Repeal	8-1-2017	918-525-0370	7-1-2017	Repeal	8-1-2017
918-525-0060	1-19-2017	Amend(T)	3-1-2017	918-525-0370(T)	7-1-2017	Repeal	8-1-2017
918-525-0060	7-1-2017	Am. & Ren.	8-1-2017	918-525-0410	1-19-2017	Amend(T)	3-1-2017
918-525-0060(T)	7-1-2017	Repeal	8-1-2017	918-525-0410	7-1-2017	Amend	8-1-2017
918-525-0065	1-19-2017	Amend(T)	3-1-2017	918-525-0410(T)	7-1-2017	Repeal	8-1-2017
918-525-0065	7-1-2017	Amend	8-1-2017	918-525-0420	1-19-2017	Amend(T)	3-1-2017
918-525-0065(T)	7-1-2017	Repeal	8-1-2017	918-525-0420	7-1-2017	Amend	8-1-2017
918-525-0070	1-19-2017	Amend(T)	3-1-2017	918-525-0420(T)	7-1-2017	Repeal	8-1-2017
918-525-0070	7-1-2017	Am. & Ren.	8-1-2017	918-525-0430	1-19-2017	Amend(T)	3-1-2017
918-525-0070(T)	7-1-2017	Repeal	8-1-2017	918-525-0430	7-1-2017	Amend	8-1-2017
918-525-0080	1-19-2017	Amend(T)	3-1-2017	918-525-0430(T)	7-1-2017	Repeal	8-1-2017
918-525-0080	7-1-2017	Am. & Ren.	8-1-2017	918-525-0440	1-19-2017	Amend(T)	3-1-2017
918-525-0080(T)	7-1-2017	Repeal	8-1-2017	918-525-0440	7-1-2017	Amend	8-1-2017
918-525-0090	1-19-2017	Amend(T)	3-1-2017	918-525-0440(T)	7-1-2017	Repeal	8-1-2017
918-525-0090	7-1-2017	Amend	8-1-2017	918-525-0450	1-19-2017	Amend(T)	3-1-2017
918-525-0090(T)	7-1-2017	Repeal	8-1-2017	918-525-0450	7-1-2017	Amend	8-1-2017
918-525-0100	1-19-2017	Amend(T)	3-1-2017	918-525-0450(T)	7-1-2017	Repeal	8-1-2017
918-525-0100	7-1-2017	Amend	8-1-2017	918-525-0460	1-19-2017	Suspend	3-1-2017
918-525-0100(T)	7-1-2017	Repeal	8-1-2017	918-525-0460	7-1-2017	Repeal	8-1-2017
918-525-0120	7-1-2017	Repeal	8-1-2017	918-525-0460(T)	7-1-2017	Repeal	8-1-2017
918-525-0130	7-1-2017	Repeal	8-1-2017	918-525-0510	1-19-2017	Amend(T)	3-1-2017
918-525-0140	7-1-2017	Repeal	8-1-2017	918-525-0510	7-1-2017	Amend	8-1-2017
918-525-0150	7-1-2017	Repeal	8-1-2017	918-525-0510(T)	7-1-2017	Repeal	8-1-2017
918-525-0160	7-1-2017	Repeal	8-1-2017	918-525-0520	1-19-2017	Amend(T)	3-1-2017
918-525-0170	7-1-2017	Repeal	8-1-2017	918-525-0520	7-1-2017	Amend	8-1-2017
918-525-0210	1-19-2017	Amend(T)	3-1-2017	918-525-0520(T)	7-1-2017	Repeal	8-1-2017
918-525-0210	7-1-2017	Repeal	8-1-2017	918-530-0005	1-19-2017	Suspend	3-1-2017
918-525-0210(T)	7-1-2017	Repeal	8-1-2017	918-530-0005	7-1-2017	Repeal	8-1-2017
918-525-0220	1-19-2017	Amend(T)	3-1-2017	918-530-0005(T)	7-1-2017	Repeal	8-1-2017
918-525-0220	7-1-2017	Repeal	8-1-2017	918-530-0010	1-19-2017	Suspend	3-1-2017
918-525-0220(T)	7-1-2017	Repeal	8-1-2017	918-530-0010	7-1-2017	Repeal	8-1-2017
918-525-0240	7-1-2017	Repeal	8-1-2017	918-530-0010(T)	7-1-2017	Repeal	8-1-2017

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918-530-0020	7-1-2017	Repeal	8-1-2017	918-550-0010	7-31-2017	Amend	9-1-2017
918-530-0020(T)	7-1-2017	Repeal	8-1-2017	918-550-0020	2-1-2017	Adopt(T)	3-1-2017
918-530-0040	1-19-2017	Suspend	3-1-2017	918-550-0020	7-31-2017	Adopt	9-1-2017
918-530-0040	7-1-2017	Repeal	8-1-2017	918-550-0030	2-1-2017	Adopt(T)	3-1-2017
918-530-0040(T)	7-1-2017	Repeal	8-1-2017	918-550-0030	7-31-2017	Adopt	9-1-2017
918-530-0050	1-19-2017	Suspend	3-1-2017	918-550-0040	2-1-2017	Adopt(T)	3-1-2017
918-530-0050	7-1-2017	Repeal	8-1-2017	918-550-0040	7-31-2017	Adopt	9-1-2017
918-530-0050(T)	7-1-2017	Repeal	8-1-2017	918-550-0100	2-1-2017	Amend(T)	3-1-2017
918-530-0060	1-19-2017	Suspend	3-1-2017	918-550-0100	7-31-2017	Amend	9-1-2017
918-530-0060	7-1-2017	Repeal	8-1-2017	918-550-0120	2-1-2017	Amend(T)	3-1-2017
918-530-0060(T)	7-1-2017	Repeal	8-1-2017	918-550-0120	7-31-2017	Amend	9-1-2017
918-530-0070	1-19-2017	Suspend	3-1-2017	918-550-0140	2-1-2017	Amend(T)	3-1-2017
918-530-0070	7-1-2017	Repeal	8-1-2017	918-550-0140	7-31-2017	Amend	9-1-2017
918-530-0070(T)	7-1-2017	Repeal	8-1-2017	918-550-0160	2-1-2017	Suspend	3-1-2017
918-530-0080	1-19-2017	Suspend	3-1-2017	918-550-0160	7-31-2017	Repeal	9-1-2017
918-530-0080	7-1-2017	Repeal	8-1-2017	918-550-0180	2-1-2017	Suspend	3-1-2017
918-530-0080(T)	7-1-2017	Repeal	8-1-2017	918-550-0180	7-31-2017	Repeal	9-1-2017
918-530-0090	1-19-2017	Suspend	3-1-2017	918-550-0200	2-1-2017	Amend(T)	3-1-2017
918-530-0090	7-1-2017	Repeal	8-1-2017	918-550-0200	7-31-2017	Amend	9-1-2017
918-530-0090(T)	7-1-2017	Repeal	8-1-2017	918-550-0600	2-1-2017	Amend(T)	3-1-2017
918-530-0100	1-19-2017	Suspend	3-1-2017	918-550-0600	7-31-2017	Amend	9-1-2017
918-530-0100	7-1-2017	Repeal	8-1-2017	943-014-0200	5-17-2017	Amend	7-1-2017
918-530-0100(T)	7-1-2017	Repeal	8-1-2017	943-014-0205	5-17-2017	Amend	7-1-2017
918-530-0110	1-19-2017	Suspend	3-1-2017	945-001-0002	8-14-2017	Amend	9-1-2017
918-530-0110	7-1-2017	Repeal	8-1-2017	945-020-0030	8-14-2017	Adopt	9-1-2017
918-530-0110(T)	7-1-2017	Repeal	8-1-2017	945-030-0020	6-29-2017	Amend	8-1-2017
918-530-0120	1-19-2017	Suspend	3-1-2017	945-030-0030	4-5-2017	Amend	5-1-2017
918-530-0120	7-1-2017	Repeal	8-1-2017	951-002-0000	5-2-2017	Amend	6-1-2017
918-530-0120(T)	7-1-2017	Repeal	8-1-2017	951-002-0001	5-2-2017	Amend	6-1-2017
918-530-0310	1-19-2017	Suspend	3-1-2017	951-002-0005	5-2-2017	Amend	6-1-2017
918-530-0310	7-1-2017	Repeal	8-1-2017	951-002-0010	5-2-2017	Amend	6-1-2017
918-530-0310(T)	7-1-2017	Repeal	8-1-2017	951-002-0020	5-2-2017	Amend	6-1-2017
918-530-0320	1-19-2017	Suspend	3-1-2017	951-007-0000	5-2-2017	Adopt	6-1-2017
918-530-0320	7-1-2017	Repeal	8-1-2017	951-007-0001	5-2-2017	Adopt	6-1-2017
918-530-0320(T)	7-1-2017	Repeal	8-1-2017	951-007-0005	5-2-2017	Adopt	6-1-2017
918-530-0340	1-19-2017	Suspend	3-1-2017	951-007-0010	5-2-2017	Adopt	6-1-2017
918-530-0340	7-1-2017	Repeal	8-1-2017	951-007-0020	5-2-2017	Adopt	6-1-2017
918-530-0340(T)	7-1-2017	Repeal	8-1-2017	966-100-0900	3-14-2017	Adopt	4-1-2017
918-550-0000	2-1-2017	Amend(T)	3-1-2017	976-002-0040	2-13-2017	Amend	3-1-2017
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