

2020 Five Year Rule Review

January 1, 2021



*Prepared by
Oregon Department of State Lands*

Introduction

ORS 183.405 requires state agencies to review all administrative rules adopted five years prior, with the purpose of analyzing the impacts of each rule. Specifically, the report must determine:

- Whether the rule had the intended effect;
- Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- Whether subsequent changes in the law require that the rule be repealed or amended;
- Whether there is continued need for the rule; and
- What impacts the rule has had on small businesses.

In this report, the Oregon Department of State Lands (DSL) is submitting rule reviews for rules adopted between 2012 and 2015. The Department did not submit reviews between 2017-2019 due to a lack of staffing, and will submit these reviews with the 2020 report.

The final report will be sent to the Small Business Rules Advisory Committee, to any rule advisory committee that aided in the adoption of a rule subject to review, and to the Secretary of State for inclusion in the comprehensive report to the Oregon Legislative Assembly.

Exemptions

Under ORS 183.405(5) & (6), this rule review does not apply to the amendment or repeal of a rule, rules adopted to implement court orders or the settlement of civil proceedings, rules that adopt federal laws or rules by reference, rules adopted to implement legislatively approved fee charges, or rules adopted to correct errors or omissions. The Department did not adopt any rules between 2012 and 2015 that met these conditions; all adopted rules are subject to review as described in ORS 183.405(1).

Rule Reviews

Between 2012 and 2015, the Department adopted nine rules (or sets of rules) subject to review.

Rule(s)	Effective Date
141-082-0250, -0255, -0260, -0265, -0270, -0275, -0280, -0285, -0290, -0295, -0300, -0305, -0310, -0315, -0320, -0325, -0330, -0335, -0340	October 16, 2012
141-085-0768	August 14, 2014
141-088-0055	August 12, 2013
141-088-0190	November 12, 2013
141-088-0195, -0200, -0205	May 6, 2015
141-093-0180, -0185, -0187, -0190, -0195, -0200, -0205, -0215	March 14, 2012
141-093-0220, -0225, -0230, -0235, -0240, -0245	September 28, 2012
141-142-0045, -0050, -0055, -0060, -0065, -0070, -0075, -0080, -0085, -0090, -0095	October 16, 2012
141-145-0000, -0005, -0010, -0015, -0020, -0025, -0030, -0035, -0040, -0045, -0050, -0055, -0060, -0065, -0070, -0075, -0080, -0085, -0090	January 13, 2014

OAR 141-082-0250 through 141-082-0340

Rule/Division Name: Rules Governing the Management of, and Issuing of Leases, Licenses and Registrations for Structures on, and Uses of State-Owned Submerged and Submersible Land

Rules Number(s): 141-082-0250, -0255, -0260, -0265, -0270, -0275, -0280, -0285, -0290, -0295, -0300, -0305, -0310, -0315, -0320, -0325, -0330, -0335, -0340

Program Area: Aquatic Resource Management: Proprietary Waterways

Adoption Date: October 16, 2012

Review Due Date:

November 1, 2020

Review Date:

October 8, 2020

Reviewer's Name:

Patricia Fox

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Earl Fisher	Columbia County Commissioner
David Koch	Oregon International Port of Coos Bay
David Grant	Waterfront Organizations of Oregon, Dikeside Moorage
Pat Russell	League of Women Voters Oregon
Lori Sattenspeil	Oregon School Board Association
David Smith	Property Owner, Willamette River
Kaitlin Lovell	City of Portland

ORS 183.405 Questions

1) Did the rule have the intended effect?

Yes

2) Was the anticipated fiscal impact overestimated or underestimated?

Neither underestimated nor overestimated.

3) Have there been any subsequent changes in law that require the rule be amended or repealed?

No

4) Is there continued need for this rule?

Yes, the waterway leasing and public facility renewal and modification fees are still necessary, as well as the revised waterway registration fees for various structures.

5) What impacts has this rule had on small businesses, if any?

No noticeable impacts have been observed on small businesses.

OAR 141-085-0768

Rule/Division Name: Advance Aquatic Resource Plans

Rules Number(s): 141-085-0768

Program Area: Aquatic Resource Management: Removal Fill

Adoption Date: August 14, 2014

Review Due Date:

November 1, 2020

Review Date:

September 10, 2020

Reviewer's Name:

Kirk Jarvie

Rule Advisory Committee Used

Rule Advisory Committee Not Used

ORS 183.405 Questions

1) Did the rule have the intended effect?

Yes

2) Was the anticipated fiscal impact overestimated or underestimated?

Neither underestimated nor overestimated.

3) Have there been any subsequent changes in law that require the rule be amended or repealed?

No

4) Is there continued need for this rule?

Yes. This rule provides ongoing state framework for local governments and large-scale landowners to perform advance planning for wetland identification, avoidance, minimization, mitigation, and permit streamlining that would otherwise not be possible without this rule.

5) What impacts has this rule had on small businesses, if any?

None known.

OAR 141-088-0055

Rule/Division Name: Restrictions on Use of Motorized Vehicles in the State-Owned Bed and Banks of the Chetco River

Rules Number(s): 141-088-0055

Program Area: Aquatic Resource Management: Proprietary Waterways

Adoption Date: August 12, 2013

Review Due Date:

November 1, 2020

Review Date:

October 14, 2020

Reviewer's Name:

Jacob Taylor

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Robert Elayer	Tidewater Contractors
Harry Hoogesteger	South Coast Watershed Council
Todd Confer	Oregon Department of Fish and Wildlife
Steve Mazur	Oregon Department of Fish and Wildlife
Dan Stinnett	Oregon State Police
Val Early	Small Business Owner
Mayor Ron Hedenskog	City of Brookings
Dr. Washburn	Chetco River Watershed Council (Petitioner)
Ted Fitzgerald	Port of Brookings
Gary Milliman	Property Owner, Adjacent to Public Entry Point

ORS 183.405 Questions

1) Did the rule have the intended effect?

Yes

2) Was the anticipated fiscal impact overestimated or underestimated?

Neither underestimated nor overestimated.

3) Have there been any subsequent changes in law that require the rule be amended or repealed?

No

4) Is there continued need for this rule?

Yes. DSL has heard from the Oregon State Police this rule was well received and has helped solve issues in the area.

5) What impacts has this rule had on small businesses, if any?

No observed impacts.

Additional Comments:

The closure of the bed and banks of the Chetco River to motorized vehicles maintains access for public trust values. The State Police report that having a rule to reference has helped solve issues when they arise. OAR 141-088-0055 has reduced the use conflicts and pollution associated with motor traffic on the bed and banks of the Chetco River.

OAR 141-088-0190

Rule/Division Name: Restrictions for the State-Owned Property at Jones Beach (Columbia River)

Rules Number(s): 141-088-0190

Program Area: Aquatic Resource Management: Proprietary Waterways

Adoption Date: November 12, 2013

Review Due Date:

November 1, 2020

Review Date:

October 14, 2020

Reviewer's Name:

Jacob Taylor

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Jessica Spurlock	Oregon State Police
Mike Nelson	Clatsop County Sheriff
Tom Murtagh	Oregon Department of Fish and Wildlife
Garth Gale	Oregon Department of Fish and Wildlife
Khosoro Pieravi	Small Business Owner
Marvin Hoover	Clatskanie Police
Scott Fraser	Adjacent Landowner (Petitioner)

ORS 183.405 Questions

1) **Did the rule have the intended effect?**

Yes

2) **Was the anticipated fiscal impact overestimated or underestimated?**

Neither underestimated nor overestimated.

3) **Have there been any subsequent changes in law that require the rule be amended or repealed?**

No

4) **Is there continued need for this rule?**

Yes. DSL staff spoke with Jeff Boechler at ODFW, who said they receive less calls about activities here than before the rule went into effect.

5) **What impacts has this rule had on small businesses, if any?**

There are no small businesses within the vicinity of Jones Beach. Recreational uses that may provide business traffic to nearby rental businesses were unaffected.

Additional Comments:

Jones Beach is a popular spot for wind surfing – the closure to overnight uses has been effective at reducing conflicts between recreators and adjacent landowners. ODFW reports receiving far less calls since this rule went into effect. DSL also reached out to Oregon State Police, but did not hear back. This rule has been successful in reducing conflicts and should remain in place.

OAR 141-088-0195 through 141-088-0205

Rule/Division Name: Rules Governing the Establishment of Restrictions on the Public Recreational Use of State-Owned Land

Rules Number(s): 141-088-0195, -0200, -0205

Program Area: Real Property

Adoption Date: May 6, 2015

Review Due Date:

November 1, 2020

Review Date:

September 10, 2020

Reviewer's Name:

Nancy Pustis

Rule Advisory Committee Used

Rule Advisory Committee Not Used

ORS 183.405 Questions

1) Did the rule have the intended effect?

Yes

2) Was the anticipated fiscal impact overestimated or underestimated?

Neither underestimated nor overestimated.

3) Have there been any subsequent changes in law that require the rule be amended or repealed?

No

4) Is there continued need for this rule?

Yes, there is a continued need for all three rules. Due to the close proximity of the properties to populated areas, and the public and private use on each parcel, these rules are still needed to protect the resource from damage and inappropriate uses.

5) What impacts has this rule had on small businesses, if any?

None.

OAR 141-093-0180 through 141-093-0215

Rule/Division Name: Administrative Rules Governing the Issuance and Enforcement of General Permits Within Waters of This State – State General Permit for Impacts to Vernal Pool Wetlands and Other Waters of this State in Jackson County, Oregon

Rules Number(s): 141-093-0180, -0185, -0187, -0190, -0195, -0200, -0205, -0215

Program Area: Aquatic Resource Management: Removal Fill

Adoption Date: March 14, 2012

Review Due Date:

November 1, 2020

Review Date:

September 28, 2020

Reviewer's Name:

Dana Field

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Joe Shearhan	Oregon Department of Fish and Wildlife
Dale Buck	Oregon Farm Bureau
Gus Meyer	Tillamook County Soil and Water Conservation District
Sue Marshall	Unknown
Katie Fast	Oregon Farm Bureau
Jim Welsh	Oregon Cattleman's Association
Rick Stonex	GreenWood Resources

ORS 183.405 Questions

1) Did the rule have the intended effect?

Yes

2) Was the anticipated fiscal impact overestimated or underestimated?

Neither underestimated nor overestimated.

3) Have there been any subsequent changes in law that require the rule be amended or repealed?

No

4) Is there continued need for this rule?

Yes. The Vernal Pool General Permit offers an expedited pathway to secure wetland permits and coordinated clearances under the federal Endangered Species Act for this unique wetland type located only in Jackson County, Oregon. The rule reduces the regulatory barriers for certain qualifying projects. In practice, few applicants have met those qualifications and/or elected to use the GP.

5) What impacts has this rule had on small businesses, if any?

As the GP rule has been used only twice, there has been no detectable effect.

OAR 141-093-0220 through 141-093-0245

Rule/Division Name: Administrative Rules Governing the Issuance and Enforcement of General Permits
Within Waters of This State

Rules Number(s): 141-093-0220, -0225, -0230, -0235, -0240, -0245

Program Area: Aquatic Resource Management: Removal Fill

Adoption Date: September 28, 2012

Review Due Date:

November 1, 2020

Review Date:

September 10, 2020

Reviewer's Name:

Eric Metz

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Joe Shearhan	Oregon Department of Fish and Wildlife
Dale Buck	Oregon Farm Bureau
Gus Meyer	Tillamook County Soil and Water Conservation District
Sue Marshall	Unknown
Katie Fast	Oregon Farm Bureau
Jim Welsh	Oregon Cattleman's Association
Rick Stonex	GreenWood Resources

ORS 183.405 Questions

1) Did the rule have the intended effect?

Yes. The rule provided a streamlined authorization to allow maintenance of agricultural drainage. However, the rule is not widely used because the impact threshold is low.

2) Was the anticipated fiscal impact overestimated or underestimated?

Neither underestimated nor overestimated.

3) Have there been any subsequent changes in law that require the rule be amended or repealed?

No

4) Is there continued need for this rule?

Yes. However, further examination of the rule is needed to ensure the rule functions as intended. House Bill 2437 (2019) directed DSL and ODA to create a new, streamlined process to allow maintenance of agricultural drainage. The Department will examine how that new process and this general permit interact and whether changes are needed.

5) What impacts has this rule had on small businesses, if any?

No known impacts.

OAR 141-142-0045 through 141-142-0095

Rule/Division Name: Rules Governing the Establishment and Management of Marine Reserves and Marine Protected Areas in the Territorial Sea

Rules Number(s): 141-142-0045, -0050, -0055, -0060, -0065, -0070, -0075, -0080, -0085, -0090, -0095

Program Area: Aquatic Resource Management: Proprietary Waterways

Adoption Date: October 16, 2012

Review Due Date:

November 1, 2020

Review Date:

September 25, 2020

Reviewer's Name:

Andrea Celentano

Rule Advisory Committee Used

See "Additional Comments" – the Oregon Department of Land Conservation and Development (DLCD) oversaw the RAC process on behalf of the Oregon Ocean Policy Advisory Council (OPAC).

To meet the reporting requirements in ORS 183.405(4)(c), DSL will send the completed report to OPAC.

Rule Advisory Committee Not Used

ORS 183.405 Questions

1) Did the rule have the intended effect?

Yes

2) Was the anticipated fiscal impact overestimated or underestimated?

Neither overestimated nor underestimated. Please see "Additional Comments."

3) Have there been any subsequent changes in law that require the rule be amended or repealed?

No

4) Is there continued need for this rule?

Yes

5) What impacts has this rule had on small businesses, if any?

These rules define boundaries for marine reserves, marine protected areas, and seabird protection areas, and therefore have no impact on small businesses.

Additional Comments:

DSL has a unique relationship with the Oregon Ocean Policy Advisory Council (OPAC) as a coordinating agency and adopts rules in order to be consistent with Oregon’s Territorial Sea Plan (TSP).

These rules were adopted by DSL as the land management agency for the territorial sea to reference the geographic boundaries of each designated Marine Reserve and Marine Protected Area as established in the TSP.

These sites were identified through a working group convened by OPAC that DSL participated in. The sites were then evaluated by OPAC before adoption. The public participation phase and working group process do qualify as a RAC process. The Oregon Department of Land Conservation and Development (DLCD) led the process on behalf of OPAC.

These sites have a number of goals and impacts on small businesses that are outside of the scope of DSL rules. Other coordinating agencies such as ODFW, DLCD, and OPRD have rules that guide the management activities of these sites. Those rules, not DSL rules, would be used to evaluate the sites’ successes and fiscal impacts.

The Marine Reserves and Marine Protected Areas are set to be formally evaluated with a report to the Legislature in 2023. This effort has not yet been funded. The Oregon Ocean Science Trust is currently working to fundraise to complete the required evaluation of the designated areas. Once reviewed, OPAC will convene and undertake an adaptive management process that may require changes to these rules or remove the need for the defined boundaries.

OAR 141-145-0000 through 141-145-0090

Rule/Division Name: Rules Governing the Management of State-Owned Submerged and Submersible Land Subject to Remediation and Habitat Restoration Activities

Rules Number(s): 141-145-0000, -0005, -0010, -0015, -0020, -0025, -0030, -0035, -0040, -0045, -0050, -0055, -0060, -0065, -0070, -0075, -0080, -0085, -0090

Program Area: Aquatic Resource Management: Proprietary Waterways

Adoption Date: January 13, 2014

Review Due Date:

November 1, 2020

Review Date:

September 22, 2020

Reviewer's Name:

Richard Fitzgerald

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Paula Miranda	Port of St. Helens
Sebastian Degens	Port of Portland
Dave Harvey	Northwest Industrial Neighborhood Association
Darise Weller	Linnton Neighborhood Association
Bob Wyatt	Northwest Natural
Debbie Deetz Silva	Evraz
Kathleen Thorpe	Peace Dragon Warriors Paddling Club
Bill Egan	Oregon Bass and Panfish Club
Andrew Meyer	Columbia River Yachting Association
Randi Wexler	Integral Consulting, Inc
Kris Howatt	Oregon School Boards Association
Kaitlin Lovell	City of Portland
Will Collin	Environmental Justice Oregon
Chris Hathaway	Lower Columbia River Estuary Partnership
Travis Williams	Willamette Riverkeeper
Mike Wilson	Confederated Tribes of Grand Ronde
Rodger Craddock	City of Coos Bay
Emily Ackland	Association of Oregon Counties

Name (RAC Alternates)	Affiliation
Kathy Wall	International Port of Coos Bay
Krista Koehl	Port of Portland
Andrew Jansky	Northwest Industrial Neighborhood Association

Jim Robinson	Linnton Neighborhood Association
Mike Hayward	Northwest Natural
Drew Gilpin	Evraz
Patrick Rowe	Peace Dragon Warriors Paddling Club
Tom Wolf	Trout Unlimited
Doug Walker	Columbia River Yachting Association
Steve Pfeiffer	Perkins Coie
David Krumbein	Oregon School Boards Association
Heidi Berg	City of Portland
Brent Merrill	Grand Ronde Tribal Council
Susan Allen	Our Ocean
Bob Sallinger	Audubon Society of Portland
Jim Voetberg	City of Newport

ORS 183.405 Questions

1) Did the rule have the intended effect?

Yes

2) Was the anticipated fiscal impact overestimated or underestimated?

Neither underestimated nor overestimated.

3) Have there been any subsequent changes in law that require the rule be amended or repealed?

No

4) Is there continued need for this rule?

Yes

5) What impacts has this rule had on small businesses, if any?

DSL does not have any information regarding the impacts on small businesses. As application and renewal fees (\$375 to \$1,250) are typically lower than the cost of other activities subject to this section, it is unlikely the application fee rules would have a significant adverse effect on small businesses. To date, DSL has not received an application under this division for an authorization requiring compensation from a small business. DSL has no information regarding effects of the compensation provisions on small businesses.

Additional Comments:

DSL has received informal input from applicants and prospective applicants about this section. The principal concerns relate to compensation, surety, and financial assurance provisions. However, DSL has not received a petition for rulemaking at this time.

Oregon Department of State Lands

775 Summer St. NE

Suite 100

Salem, OR 97301

502-986-5200

Agency Rule Review Report Under ORS 183.405

Rule Number: 150-285-3420

Rule Title: Criteria for Disqualification

Date adopted: 12/17/2015

Date of review: 11/17/2020

This report was prepared and approved by the Department of Revenue Property Tax Division.

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

To provide criteria for disqualification from long term enterprise zone exemption, as required by ORS 285.420(1), when the business does not begin operations or is not reasonably expected to begin operation.

b. How did the rule succeed or fail in achieving this effect?

The rule succeeded by providing helpful criteria to county assessors to use to determine when to disqualify a business from the long-term enterprise exemption.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

No impact

b. What was the actual fiscal impact?

No impact

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

3. Have subsequent changes in the law required the rule to be repealed or amended?

Yes

No

If 'yes' please explain:

4. Is the rule still needed?

Yes

No

Explain: ORS 285C.420(1) still requires that DOR establish disqualification criteria by rule.

5. What impacts does the rule have on small businesses?

A business that has fewer than 50 full-time employees could potentially qualify for property tax exemption under the Long-Term Rural EZ statutes, so the rule could potentially impact a small business.



OREGON LOTTERY®

ORS 183.405 Five Year Rule Review Report

Rule Number and Title:

[OAR 177-010-0094](#), Overpayments Recovery Validation Check

Original Adoption Date/History of Amendments:

OAR 177-010-0094 was adopted on January 1, 2016 and has never been amended.

Advisory Committee Used?

Yes No

If yes, identify members and provide members with a copy of this completed report.

1. Did the rule achieve its intended effect?

Yes No

a. What was the intended effect?

The Lottery adopted the rule to implement [HB 2393 \(2015\)](#), which required the Lottery to hold lottery prizes in excess of \$600 and determine if the prize winner owes the Department of Human Services (DHS) or the Oregon Health Authority (OHA) for overpayment of benefits. If the prize winner does owe an overpayment, the Lottery offsets the debt against the prize amount before paying the prize. The Lottery's rule, OAR 177-010-0094, was adopted to operationalize the requirement that is now codified in [ORS 461.719](#).

b. How did the rule succeed or fail in achieving this effect?

The rule has succeeded in implementing HB 2393. Since January 1, 2016, every Lottery prize in excess of \$600 is held to check if the prize winner owes DHS or OHA for an overpayment of benefits.

2. The fiscal impact statement was: (Check One)

Underestimated Overestimated
 Just about right Unknown

a. What was the estimated fiscal impact?

The Lottery reported no economic or fiscal impact of the rule "except for the possible collection of outstanding debts for DHS and OHA."

b. What was the actual fiscal impact?

Since adopting the rule in 2016, the Lottery has offset about \$600,000 from prizes to transfer to DHS/OHA to offset against outstanding overpayments. This means a positive fiscal impact to DHS and OHA (less administrative expenses, which those agencies must pay to the Lottery because the Lottery is constitutionally prohibited from spending Lottery funds on debt collection) and a corresponding negative fiscal impact to prize winners who lose some or all of their prize. (Although the prize is credited against their DHS/OHA debt, and so a prize winner is benefited in so far as their personal debt is reduced.) There has been no fiscal impact to the Lottery because DHS and OHA cover the Lottery's administrative expenses associated with conducting the prize offsets. Regardless, any fiscal impact stems from HB 2393, not from the rule, which simply implements the legislation. The Legislative Fiscal Office provided a detailed fiscal analysis with HB 2393 in 2015:

<https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureAnalysisDocument/31649>

c. If the answer to question two is unknown, briefly explain why:

N/A

3. Have subsequent changes in the law required the rule to be repealed or amended?

Yes No

4. Is the rule still needed?

Yes No

5. What impacts has the rule had on small businesses?

None. This rule affects prize winners who owe money to OHA or DHS because they received an overpayment of assistance. The rule has no impact on businesses, including small businesses. (Lottery retailers, many of whom are small businesses, are not allowed to pay prizes more than \$600 so they are not impacted by the Lottery prize offset processes required by ORS 461.715 and 461.719.)

Certification

I certify that the Lottery has reviewed this rule and answered all questions on this form truthfully and to the best of my knowledge in consultation with subject matter experts.

Kris Skaro

Kris Skaro, rules coordinator

December 7, 2020

Date



OREGON LOTTERY®

ORS 183.405 Five Year Rule Review Report

Rule Number and Title:

OAR 177-094-0100, *Annual Affidavit Required for Prize Winners of the Win for Life Scratch-it Ticket Game*

Original Adoption Date/History of Amendments:

This rule was adopted on April 16, 2016 and has never been amended.

Advisory Committee Used?

Yes No

1. Did the rule achieve its intended effect?

Yes No

a. What was the intended effect?

The intended effect of this rule was to provide the governing structure for the Win for Life Scratch-it ticket game which began April 4, 1995 and ended February 29, 1996. This game had a top prize of \$1,000 a month for the winner's life (paid at \$12,000 per year). Before this rule was adopted, there were no administrative rules or game rules on the ticket to address what happens after the 20-year guaranteed prize payment period expires to ensure the prize winner is still alive and eligible to be paid the annual prize payment. The rule was adopted with retroactive effect to require the prize winner to submit an annual affidavit to verify the prize winner is alive and entitled to be paid the annual prize payment of \$12,000. If a prize winner fails to provide the annual affidavit, that annual payment is forfeited and allocated to the benefit of the public purpose after six years if the prize winner fails to claim it within that time period. Unlike the rules that applied at the time to the Win for Life draw game, if the prize winner submits an affidavit at any time during those six years, the prize winner is entitled to be paid the prize payments that have accumulated. The rule also stated that prize payments are decreased for outstanding child support as required by law and that if a winner dies during a payment year, an annual prize that was prospectively paid to the winner is not subject to reimbursement. If a prize is paid the year after the winner dies, however, the prize is subject to reimbursement of the Lottery. This is consistent with the Win for Life draw game.

b. How did the rule succeed or fail in achieving this effect?

This rule has succeeded in providing the framework for paying prizes in the Win for Life Scratch-it ticket game. The Lottery currently pays five prize winners in that game pursuant to this rule.

2. The fiscal impact statement was: (Check One)

Underestimated Overestimated

Just about right Unknown

a. What was the estimated fiscal impact?

The Lottery estimated no fiscal impact.

b. What was the actual fiscal impact?

The Lottery currently pays five prize winners \$12,000 per year pursuant to this rule. The rule ensures the prize payments and structure for determining continued eligibility are clear, but does not necessarily save or cost any money to either the Lottery or the prize winners. (Even without the rule, the Lottery would have continued to make efforts to pay eligible winners; the rule just provides assurance and puts processes and requirements in place, such as the annual affidavit.)

c. If the answer to question two is unknown, briefly explain why:

3. Have subsequent changes in the law required the rule to be repealed or amended?

Yes No

When this rule was adopted in 2014, there was only one garnishment check against prize payments, which was for child support pursuant to [ORS 461.715](#). That garnishment is explicitly referenced in this rule. However, in 2015, the legislature passed a new law that required prize payments to be offset against debts the prize winner owes to the Department of Human Services or the Oregon Health Authority for overpayment of benefits. (See [ORS 461.719](#).) Both garnishment checks are governed by other Lottery administrative rules (see [OAR 177-010-0090](#), [177-010-0094](#), and [177-046-0110](#)) and therefore, it's not necessarily problematic that both checks are not referenced in this rule; however, it could lead to confusion and the misassumption that the DHS/OHA overpayment check does not apply to these prize payments. **Therefore, the Lottery will propose to amend the rule in 2021 to be more accurate.**

4. Is the rule still needed?

Yes No

Yes, there are still five prize winners who must comply with this rule to continue to receive prize payments.

5. What impacts has the rule had on small businesses?

None. This rule applies to the Lottery and the five prize winners in the obsolete Lottery game; no small businesses are subject to or impacted by this rule.

6. Certification

I certify that I have reviewed the rule and answered all the questions on this form truthfully and to the best of my knowledge in consultation with appropriate subject matter experts.

Kris Skaro

Kris Skaro, rules coordinator

12/16/2020

Date

Department of Public Safety Standards and Training

OAR 5-Year Review

(ORS 183.405)

Rule Number: **OAR 259-008-0078**

Adoption Date: **03/24/2015**

Original Advisory Committees Involved:

- Minimum Training Standards Workgroup (2014)
- Corrections, Police and Telecommunications Policy Committees (November 2014)
- Board on Public Safety Standards & Training (January 2015)

Rule Reviewed by:

- Corrections, Police and Telecommunications Policy Committees (February 2020)
 - Board on Public Safety Standards & Training (July 2020)
-

1. Did the rule achieve its intended effect? *Yes*

a. What was the intended effect?

The rule was adopted to identify an employment classification for temporary public safety agency leadership that would be exempt from certification requirements.

b. How did the rule succeed or fail in achieving this effect?

The adopted rule identified the criteria to be considered a limited duration administrative position, the exemption from certification and the requirements for certification should the person be found in violation of the requirements or exceeding employment timeline eligible for the certification.

2. Was the fiscal impact underestimated, overestimated, just about right or unknown? ***Just about right***

a. What was the estimated fiscal impact?

There were no fiscal impacts identified for small businesses. Fiscal discussions identified that there may be a positive (saving) fiscal impact for public safety agencies who chose to utilize the limited duration administrative position. The potential savings results from not being required to meet certification standards such as a medical evaluation if certification had lapsed, refresher training to reactivate a basic certification and certification maintenance training hours and requirements.

b. What was the actual fiscal impact?

There were no fiscal impacts measured.

c. If the answer to question 2 is unknown, briefly explain why. ***n/a***

3. Have subsequent changes in the law required the rule to be repealed or amended? ***No***

If yes, explain. ***n/a***

4. Is the rule still needed? ***Neutral***

Explain.

This rule has rarely if ever been used by a public safety agency. The infrequent use may be attributed to lack of knowledge that the rule exists, the restrictions of the eligibility criteria or the employment did not meet the definition of a limited duration, administrative position because the employment included performance of non-supervisory public safety duties such as patrol, investigations, enforcement actions, etc.

Further, statute requires certification for individuals who are employed as public safety professionals (ORS 181A.490 police; 181A.520 corrections; 181A.530 parole and probation; 181A.550 regulatory specialists; 181A.560 telecommunicators and emergency medical dispatchers). While this rule

was adopted with the intention of recognizing situations where a public safety professional with a lapsed certification is hired to fill a leadership/executive position within an agency for a temporary period, a person hired as a public safety professional is required by law to be certified within 18 months (12 months for corrections officers).

The Board and the Department do not have the authority to exempt a public safety professional from certification. This rule creates a path for the Department to recognize a public safety professional, their lapsed status, and the intent of the employing agency not to complete the certification requirements because the individual is a temporary employee. Under this recognition process, the Department can suspend notifications regarding certification requirements until the limited duration time period is exhausted and the individual reaches the statutory certification requirement.

The Department will continue to evaluate this rule for effectiveness and need as processes and standards are amended in the future.

OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION

Rule Review Schedule ORS 183.405

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-008-0025	Marijuana Grow Site Registration	1-1-06	1-1-11	10/6/10	Tawana Nichols	Y	N – see comments under 333-008-0110	N	Y	Y – Current ACMM 12/6/10	Amended Jan 2008	
333-008-0110	Advisory Committee on Medical Marijuana	1-1-06	1-1-11	10/6/10	Tawana Nichols	Y	Underestimated - Although the SNFI didn't produce dollar amounts, the description of tasks and the general statement that there is work and cost involved was quite accurate except it left out the costs/tasks of fielding an ACMM. Those tasks are relatively small, about \$10,000 a year.	N	Y	Y – Current ACMM 12/6/10	Amended Jan 2008	
333-008-0120	System to Allow Verification of Data at All Times	1-1-06	1-1-11	10/6/10	Tawana Nichols	Y	N – see comments under 333-008-0110	N	Y	Y – Current ACMM 12/6/10	Amended Jan 2008	

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333-011-0200	Commemorative Certificate of Stillbirth	12-1-06	12-1-11	11/22/11	Jennifer Woodward	Y – Parents are able to order and receive a Commemorative Certificate of Stillbirth for any fetal death for which a report was received since January 1, 1999. Hospitals have increased reporting of fetal deaths with a delivery weight below the mandatory reporting level of 350 grams in support of families who wish to order Commemorative Certificates of Stillbirth immediately or who may wish to order in the future.	N – The Center for Health Statistics was not required to develop additional reporting systems. Orders for the Commemorative Certificate were anticipated as having no significant fiscal impact. In 2010, 29 certificates were ordered for a maximum of \$580 revenue	N – There have been no changes in the law that would require the rule to be amended or repealed.	Y	11/22/11	None	The availability of the Commemorative Certificate of Stillbirth has been well-received.
333-025-0165	Provider Notification and Opt Out	1-1-06	1-1-11	10/18/10	Nanette Newell	Y	Unknown – original documents stated that it was “impossible to arrive at an aggregate estimate of the cost of implementing these rules”	N	Y	RAC not originally used	No action taken at this time.	

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333-052-0030	Program Overview	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – Since rule adoption in 2006 the federal government released the final rule requirements for the Senior Farm Direct Nutrition Program. In Oregon, the same farmers and farmers' markets operate with the Senior Farm Direct Nutrition Program as the WIC FDNP under the collective name of Farm Direct Nutrition Program. The rules were amended in 2008 to incorporate the Senior FDNP regulations in order to meet federal requirements	Yes	6/14/11	Amended April 2008	None
333-052-0040	Definitions	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0050	Eligible Foods	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0060	Farmer Participation	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0065	Farmer Agreements	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0070	Market Participation	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-052-0075	Farmers' Market Agreements	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0080	Farmer Participation Requirements, Violations and Sanctions	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0090	Market Participation Requirements, Violations and Sanctions	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0100	DHS Responsibilities	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0110	Monitoring	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0120	Complaints	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-052-0130	Appeals	6-5-06	6-5-11	6/3/2011	Tamara Olsen	Yes	No	Yes – see above	Yes	6/14/11	Amended April 2008	None
333-054-0025	Above 50% Vendors (A50) (formerly MT50s until amended in June 2009)	12-27-06	12-27-11	12-13-11	Tamara Olsen	Y – Upon rule adoption, the Oregon WIC Program discontinued authorizing new vendors who derive or are likely to derive more than 50% of their annual food revenue from WIC	N – Oregon WIC anticipated a financial penalty from the USDA should we fail to adopt these rules. As the rules were adopted, no penalty was	Y – In June 2009, OAR 333-054-0025 was amended to include specific language mandated by USDA regarding incentive items and the termination from the program should a currently authorized vendor found to be	Y – There is a continued need for this rule. USDA continues to mandate state WIC programs cannot authorize A50	12-14-11	Amended 6/1/09 and 9/30/11	None

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						transactions. Additionally, those stores operating under this business model who were authorized prior to rule adoption were allowed to continue as authorized vendors through their current contract.	issued. It was anticipated that stores with a business model deriving 50% or more of their annual food revenue from WIC transactions would be fiscally impacted and they were. USDA mandated discontinuing WIC authorization of stores using this model and therefore no new businesses were able to open using this model. Other WIC authorized vendors, participants and staff were not impacted as anticipated.	deriving 50% or more of their annual food revenue from WIC transaction. Additionally, the rule was amended to change the identifier used for stores with this type of business model from "MT50" or "More Than 50%" to "A50" or "Above 50%." This change was made to mirror the terminology used by USDA and other state WIC programs. In September 2011, OAR 333-054-0025 was again amended where one sentence was separated into two sentences for reading clarity in light of the change from DHS "Department" to OHA "Authority"	vendors and any currently authorized vendor subsequently found to be operating as an A50 must be terminated			
333-060-0500	Wading Pools	7-1-06	7-1-11	6/27/11	Stephen Keifer	Yes – The rules have established design standards for use by pool designers,	No – The financial impacts were fairly accurate,	No	Yes – It is well documented that these	7/5/11	None	These rules are still current and effective, although new technology has given

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						builders and others for wading, spray and interactive fountain pools. The rules have eliminated wading, spray and interactive fountain pools with no water treatment that maintained ponds of untreated water, which were a health hazard	although the number of pools that would be removed from use and rebuilt with more expensive facilities may have been underestimated.		pools are a high risk for waterborne disease outbreaks. This is especially important as a large percentage of users are young children.			us the ability to put effective ultraviolet (UV) light treatment on pools for disinfection. With proper placement, virtually all of the water in a spray pool is protected by the chlorine residual and UV light system. The other pools will also benefit greatly from the UV light addition.
333-060-0505	New Wading Pool Construction	7-1-06	7-1-11	6/27/11	Stephen Keifer	Yes – The rules have established design standards for use by pool designers, builders and others for wading, spray and interactive fountain pools. The rules have eliminated wading, spray and interactive fountain pools with no water treatment that maintained ponds of untreated water, which were a health hazard	No – The financial impacts were fairly accurate, although the number of pools that would be removed from use and rebuilt with more expensive facilities may have been underestimated.	Yes – amended in 2009 to change the entrapment requirements to provide parallel compliance with the Virginia Graeme Baker Pool and Spa Safety Act.	Yes – It is well documented that these pools are a high risk for waterborne disease outbreaks. This is especially important as a large percentage of users are young children.	7/5/11	Amended Dec 2009	These rules are still current and effective, although new technology has given us the ability to put effective ultraviolet (UV) light treatment on pools for disinfection. With proper placement, virtually all of the water in a spray pool is protected by the chlorine residual and UV light system. The other pools will also benefit greatly from the UV light addition.

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333-060-0510	Existing Wading Pools	7-1-06	7-1-11	6/27/11	Stephen Keifer	Yes – The rules have established design standards for use by pool designers, builders and others for wading, spray and interactive fountain pools. The rules have eliminated wading, spray and interactive fountain pools with no water treatment that maintained ponds of untreated water, which were a health hazard	No – The financial impacts were fairly accurate, although the number of pools that would be removed from use and rebuilt with more expensive facilities may have been underestimated.	Yes – amended in 2009 to change the entrapment requirements to provide parallel compliance with the Virginia Graeme Baker Pool and Spa Safety Act.	Yes – It is well documented that these pools are a high risk for waterborne disease outbreaks. This is especially important as a large percentage of users are young children.	7/5/11	Amended Dec 2009	These rules are still current and effective, although new technology has given us the ability to put effective ultraviolet (UV) light treatment on pools for disinfection. With proper placement, virtually all of the water in a spray pool is protected by the chlorine residual and UV light system. The other pools will also benefit greatly from the UV light addition.
333-060-0515	Wading Pool Operation	7-1-06	7-1-11	6/27/11	Stephen Keifer	Yes – The rules have established design standards for use by pool designers, builders and others for wading, spray and interactive fountain pools. The rules have eliminated wading, spray and interactive fountain pools with no water treatment that maintained ponds of untreated water, which were a health hazard	No – The financial impacts were fairly accurate, although the number of pools that would be removed from use and rebuilt with more expensive facilities may have been underestimated.	No	Yes – It is well documented that these pools are a high risk for waterborne disease outbreaks. This is especially important as a large percentage of users are	7/5/11	None	These rules are still current and effective, although new technology has given us the ability to put effective ultraviolet (UV) light treatment on pools for disinfection. With proper placement, virtually all of the water in a spray pool is protected by the chlorine residual and UV light system. The other pools will also

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									young children.			benefit greatly from the UV light addition.
333-109-0002	Registration Requirements	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	None
333-113-0007	Specific Licenses For Well Logging	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	Yes - Division 113 rules were amended in March 2007 to meet federal regulations in 10 CFR, Part 39	Yes	10/12/11	Amended Mar 2007	None
333-113-0325	Energy Compensation Source	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	Yes - Division 113 rules were amended in March 2007 to meet federal regulations in 10 CFR, Part 39	Yes	10/12/11	Amended Mar 2007	None
333-113-0335	Tritium Neutron Generator Target Source	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	Yes - Division 113 rules were amended in March 2007 to meet federal regulations in 10 CFR, Part 39	Yes	10/12/11	Amended Mar 2007	None
333-113-0403	Radioactive Contamination Control	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	Yes - Division 113 rules were amended in March 2007 to meet federal regulations in 10 CFR, Part 39	Yes	10/12/11	Amended Mar 2007	None
333-116-0027	Implementation	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Sept 2008	None

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333-116-0045	Provisions for Research Involving Human Subjects	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Mar 2007	None
333-116-0255	Surveys Of Patients And Human Research Subjects Treated With A Remote Afterloader Unit	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Sept 2008	None
333-116-0405	Training for Use of Sealed Sources for Diagnosis	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Sept 2008	None
333-116-0425	Surveys After Source Implant and Removal	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Sept 2008	None
333-116-0445	Calibration Measurements of Brachytherapy Sources	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to	Yes	10/12/11	Amended Sept 2008	None

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								provide clarity to several OARs within the division.				
333-116-0447	Decay of Strontium-90 Sources for Ophthalmic Treatments	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Sept 2008	None
333-116-0475	Therapy Related Computer Systems	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Sept 2008	None
333-116-0683	Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Less Than or Equal to 1.22 Gigabecquerels (33 millicuries)	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	Yes – 333-116-0683 was amended in Feb 2010 to meet federal regulations in 10 CFR, Parts 32 and 35.	Yes	10/12/11	Amended Feb 2010	None
333-116-0687	Qualifications for Authorized User for Oral Administration When a Written	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	Yes – 333-116-0687 was amended in Feb 2010 to meet federal regulations in 10 CFR, Parts 32 and 35.	Yes	10/12/11	Amended Feb 2010	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
	Directive is Required											
333-116-0715	Training for the Parenteral Administration of Unsealed Byproduct Material Requiring a Written Directive	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Sept 2008	None
333-116-1000	Report and Notification of a Medical Event	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Mar 2007	None
333-116-1010	Report and Notification of a Misadministrati on	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Mar 2007	None
333-116-1015	Report and Notification of a Dose to an Embryo/Fetus or a Nursing Child	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for grammatical and spelling corrections and to provide clarity to several OARs within the division.	Yes	10/12/11	Amended Sept 2008	None
333-116-1030	Report Of A Leaking Source	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 116 rules were amended in March 2007 and Sept 2008 for	Yes	10/12/11	Amended Sept 2008	None

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								grammatical and spelling corrections and to provide clarity to several OARs within the division.				
333-120-0740	Reports to Individuals Exceeding Dose Limits	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	Yes – 333-120-0740 was amended in Sept 2008 to recognize the Nuclear Regulatory Commission’s order regarding the National Source Tracking System and Increased Controls Licensees	Yes	10/12/11	Amended Sept 2008	None
333-122-0001	Purpose	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0003	Scope	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0005	Definitions	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-122-0050	Exemptions	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0075	Registration Requirements for Industrial Radiographic X-Ray Machine Operations	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0100	Radiation Survey Instruments	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0125	Inspection and Maintenance of Industrial X-ray Machines, Associated Equipment, and Survey Instruments	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0150	Permanent Radiographic Installations	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine	Yes	10/12/11	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								operations and administrative controls				
333-122-0175	Radiation Safety Officer	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0200	Training	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0225	Operating and Emergency Procedures	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0250	Personnel Monitoring	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0275	Radiation Surveys	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine	Yes	10/12/11	None	None

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								operations and administrative controls				
333-122-0300	Surveillance	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0325	Posting	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0350	Recordkeeping Requirements for Industrial X-Ray	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0375	Records of Radiation Survey Instruments	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0400	Utilization Logs	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine	Yes	10/12/11	None	None

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								operations and administrative controls				
333-122-0425	Records of Inspection and Maintenance of Radiation Machines, Associated Equipment, and Survey Instruments	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0450	Records of Alarm System and Entrance Control Checks at Permanent Radiographic Installations	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0475	Records of Training and Certification	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0500	Copies of Operating and Emergency Procedures	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0525	Records of Personnel Monitoring	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging	Yes	10/12/11	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								technologies regarding industrial X-ray machine operations and administrative controls				
333-122-0550	Form of Records	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0575	Location of Documents and Records	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-122-0600	Notifications	6-16-06	6-16-11	6/14/11	Todd Carpenter	Yes	No	No, but division 122 will be amended in the future to address emerging technologies regarding industrial X-ray machine operations and administrative controls	Yes	10/12/11	None	None
333-123-0001	Purpose and Scope	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	The Radiation Advisory Committee has requested that Radiation Protection Services complete inspection protocols and policies for division 123. This has been assigned to Catherine Hess.

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
												Upon completion, RPS, along with the RAC members, will revise division 123 using revised protocols and policies for guidance to meet the demand of emerging technologies by the end of the 2012 calendar year.
333-123-0005	Definitions	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above
333-123-0010	General Requirements, Operating Procedures, Surveys, Dosimetry, and Instrument Calibration for Facilities Using Therapeutic Radiation Machines	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above
333-123-0015	Training and Qualification Requirements for Individuals in the External Beam Radiation	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
	Beam Therapy Area											
333-123-0020	Reports and Notifications of Unplanned Medical Treatment	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above
333-123-0025	Requirements for Therapeutic Radiation Machines	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above
333-123-0030	Facility Design Requirements for Therapeutic Radiation Machines	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above
333-123-0035	Calibration, Acceptance Testing and Commissioning of Therapeutic Radiation Machines	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above
333-123-0040	Quality Assurance and Safety Checks	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above
333-123-0045	Quality Assurance Program	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above
333-123-0050	Qualified Medical Physicist Support in Facilities Having	10-19-06	10-19-11	10-12-11	Todd Carpenter	Yes	No	No	Yes	10/12/11	None	See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
	Therapeutic Radiation Machines with Energies of 1 Mv and Above											
333-510-0002	Definitions	10-6-06	10-6-11	10-25-11	Chris Campbell	Yes	<p>Underestimated – As indicated by the fiscal impact statement, “the extent of the fiscal and economic impact is unknown.”</p> <p>This calendar year HCRQI has performed 12 nurse staffing audits and complaint investigations. Civil penalties have not been pursued as the cost of leveling and defending the penalties exceeds any monetary gain. Reports are developed and posted on the web annually.</p>	<p>Yes - the OARs for hospitals were rewritten in 2009. The result was to incorporate the tenants of 0046 and 0047 into 333-510-0045 and therefore, 0046 and 0047 were repealed. OAR 333-510-0002 continues to contain the definitions used in the OARs, which included those germane to the nurse staffing rules. Nurse staffing and other definitions were amended.</p>	Yes	10/26/11	Amended 10/1/2009	

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							There are no sources of revenue to the HCRQI program to support these activities					
333-510-0046	Audit Procedure	10-6-06	10-6-11	10-25-11	Chris Campbell	Yes	<p>Underestimated – As indicated by the fiscal impact statement, “the extent of the fiscal and economic impact is unknown.”</p> <p>This calendar year HCRQI has performed 12 nurse staffing audits and complaint investigations. Civil penalties have not been pursued as the cost of leveling and defending the penalties exceeds any monetary gain. Reports are developed and posted on the</p>	Yes - the OARs for hospitals were rewritten in 2009. The result was to incorporate the tenants of 0046 and 0047 into 333-510-0045 and therefore, 0046 and 0047 were repealed. OAR 333-510-0002 continues to contain the definitions used in the OARs, which included those germane to the nurse staffing rules. Nurse staffing and other definitions were amended.	No – repealed in October 2009 after tenants of 0046 and 0047 were incorporated into OAR 333-510-0045	10/26/11	Repealed 10/1/2009	

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
							web annually. There are no sources of revenue to the HCRQI program to support these activities					
333-510-0047	Investigation Procedures for Investigation of Nurse Staffing Complaints	10-6-06	10-6-11	10-25-11	Chris Campbell	Yes	Underestimated – As indicated by the fiscal impact statement, “the extent of the fiscal and economic impact is unknown.” This calendar year HCRQI has performed 12 nurse staffing audits and complaint investigations. Civil penalties have not been pursued as the cost of leveling and defending the penalties exceeds any monetary gain. Reports are developed and	Yes - the OARs for hospitals were rewritten in 2009. The result was to incorporate the tenants of 0046 and 0047 into 333-510-0045 and therefore, 0046 and 0047 were repealed. OAR 333-510-0002 continues to contain the definitions used in the OARs, which included those germane to the nurse staffing rules. Nurse staffing and other definitions were amended.	No – repealed in October 2009 after tenants of 0046 and 0047 were incorporated into OAR 333-510-0045	10/26/11	Repealed 10/1/2009	

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
							posted on the web annually. There are no sources of revenue to the HCRQI program to support these activities					
333-670-0145	Applicability of OAR 333-670-0140	10-6-06	10-6-11	10-13-11	Jana Fussell	Yes	No	No	Yes	N/A – RAC not used	None	
333-010-0600	Definitions	4/13/07	4/13/12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	These rules pertain to the Childhood Diabetes Database. The CDD was defunded and is inactive so it is not possible to do an accurate review of the rules at this time (4/2012). The funding is occasionally restored for the CDD to be operable so these rules need to remain in place even though they are not currently being used.
333-010-0610	General Authority and Purpose	4/13/07	4/13/12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
33-010-0620	Reporting Requirements for Schools	4/13/07	4/13/12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	See above
333-010-0630	Reporting Requirements for Practitioners	4/13/07	4/13/12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	See above
333-010-0640	Confidentiality and Access to Data	4/13/07	4/13/12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	See above
333-010-0650	Research Studies	4/13/07	4/13/12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	See above
333-010-0660	Advisory Committee	4/13/07	4/13/12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	See above
333-030-0103	Camp Administration	7/13/07	7/13/12	7/10/12	Steve Keifer	Yes – Better tracking of campers and visitors is more common and has been effective. The discipline policy has not had a lot of impact on most camps as they already had something, even if	No – The changes have little fiscal impact on camps. We have attempted to work with camps in complying with the rules, even trying to phase	No – We have intentions of revising the entire division 030 on organizational camps. It is unknown at this time what changes will be determined to be needed for this section.	Yes – we feel these changes have improved the organizational camp operations of borderline camps. Many camps were affected very	7/16/12	None	We hope to begin a review of the entire chapter 333, division 030, Organizational Camps OARs this fall.

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						not in writing. We think having it in writing may have avoided some misunderstandings. Overall, we think we have seen better compliance with little negative feedback.	them in, to lessen any fiscal impact and allowing us to educate the operators. We are unaware of any camps that have had excessive fiscal impacts.		little, as they were already doing most of the required activities.			
333-060-0206	Supervision – Limited-Use Pools	7/13/07	7/13/12	7/13/12	Steve Keifer	Yes – It has clarified the requirements for supervision at all pools. It has provided training, supervision and staffing requirements for all types of pools and expanded the lifeguard requirement to include some larger, more complex, limited-use pools. There has been almost no negative feedback on the requirements. We have noticed an improvement of in-service training and lifeguard supervision	No – We anticipated that most pools would have little fiscal impact from the rules. We have had a number of mostly new, very high-tech, limited-use pools that have had a significant financial impact from having to provide lifeguards; however, it is likely the insurance carriers would have required them to provide	No - The rules have worked out well. Since they were adopted, there has been a lot of scientific documentation that pool operator training has a positive effect on the safe operation of pools. With the mounting evidence, it is likely time to expand the certification requirements to include pool operators at some of the limited-use pools. It is thought that trained operators should be required at all pools, except those at residential facilities (e.g. apartments, RV parks, condominiums). All pools should have a trained	Yes – We have seen an increase in pool operator competency at many pools, even those not needing certified operators. We have been ahead of national movements related to the provision of and the supervision of lifeguards.	7/17/12	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
							lifeguards anyway. It has slightly increased the time required for health department staff to inspect a pool, as there is more to look at. The costs were projected to be minor, and have proved to be accurate for most all operators and health departments	operator, but we think there are complications with enforcing the requirements at residential facilities at this time.				
333-060-0207	Supervision – General-Use Pools	7/13/07	7/13/12	7/13/12	Steve Keifer	Yes – see above	No – see above	No – see above	Yes – see above	7/17/12	None	None
333-060-0208	Lifeguard Supervision & Training	7/13/07	7/13/12	7/13/12	Steve Keifer	Yes – see above	No – see above	No – see above	Yes – see above	7/17/12	None	None
333-060-0209	Pool Staff Training & Safety	7/13/07	7/13/12	7/13/12	Steve Keifer	Yes – see above	No – see above	No – see above	Yes – see above	7/17/12	None	None
333-536-0105	Operating Without a License	1/1/08	1/1/13	7/30/12	Chris Campbell	Yes – OAR 333-536-0105 was written in response to passage of SB 958 during the 2007 legislative	No – there was a minimal impact for these two rules. The process of	No – OAR 333-536-0105 was amended in July 2012 to correctly identify a statutory reference and	Yes	8/21/12	Amended 7/1/12	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>session. Section 4 of this bill was intended to reduce the number of unlicensed in-home care agency (IHCA) providers and to hold all such providers to the standards set forth in the OARs for an IHCA. It also provided a means to require notification to clients when an IHCA was operating without a license.</p> <p>With regard to agencies operating without a license, the Division has developed procedures to determine whether an entity is operating as an IHCA, and if not licensed, the established language gives clear authority on the action that can be taken. Since 2011, less than five entities were identified as operating without a</p>	<p>notifying entities suspected of operating without a license that they must comply with OARs or risk legal action has required limited staff time. In addition, minimal staff time was required in reviewing the few informal dispute resolution requests received from IHCAs.</p>	<p>minor grammatical changes</p>				

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						license. A few other agencies either did not meet the definition of an IHCA or chose not to pursue licensing.						
333-536-0115	Dispute Resolution and Formal Hearings	1/1/08	1/1/13	7/30/12	Chris Campbell	<p>Yes – OAR 333-536-0115 was intended to allow an IHCA to dispute survey findings and be given an opportunity to demonstrate whether the findings were inaccurate before requiring a formal hearing.</p> <p>IHCAs are allowed to dispute survey findings. As of 2011, there have been approximately five IHCAs that have disputed survey findings.</p>	No – See above	No – OAR 333-536-0115 was repealed effective July 1, 2012 no due to any changes in state regulations, rather the program's desire to align the rule with other health facility licensing rules. While the rule number was repealed, the actual rule text was moved into two new rule numbers (333-536-0017 and 333-536-0020) to provide better rule alignment across facility types. IHCAs are still allowed to dispute findings prior to formal hearing.	Yes	8/21/12	Repealed 7/1/12	None
333-520-0073	Emergency Contraception	3/7/08	3/7/13	10/30/09	Brittany Sande/Ron Prinslow	Y	N	N	N	Y - 11/3/09	Rule repealed 10/1/09 but identical language adopted 10/1/09 in	

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											333-505-0120	
333-080-0040	Definitions	3/7/08	3/7/13	3/26/13	Chris Campbell	Y - OAR 333-080-0040 & 333-080-0050 were adopted in accordance with Senate Bill 341 (Chapter 334, 2007 Laws), effective July 1, 2008, to require licensed health care facilities as defined in ORS 442.015 that are performing organ or tissue transplants to be regulated and use only registered organ procurement organizations, require registration of organ procurement organizations, tissue banks and eye banks with the Oregon Health Authority (formerly Department of Human Services), and to create an enforcement system for non-compliance of these rules.	Underestimated – See comments for explanation	No	Yes	6/5/2013	N/A	It was anticipated that there would be only three organizations in Oregon that would be required to register. As of 03/26/2013, we have 74 registered suppliers or providers with corporate locations in 22 different states. No civil penalties have been levied during the five years that this registry program has been in existence. These organizations are required to renew registration at least every three years, including providing documentation of certification and inspection and report loss of certification within 60 days. The Statement of Need and Fiscal Impact, including

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												Statement of Cost of Compliance cited that "minimal recordkeeping will be required" and estimated a cost to the DHS Health Services Division (now Oregon Health Authority (OHA)) of "less than \$100 per year." Maintaining the registry does have a low cost. However, factoring in administrative staff time to maintain the registry and efforts to contact participants multiple times for renewals, we estimate that the cost would be perhaps up to ten-fold the anticipated \$100 per year.
333-080-0050	Registration and Civil Penalties	3/7/08	3/7/13	3/26/13	Chris Campbell	See above	See above	No	Yes	6/5/2013	N/A	See above
333-003-0065	Civil Penalties	5/5/08	5/5/13	5/5/13	Jere High	To reflect changes in the 2007 passed revisions to clarify roles and responsibilities of the Public Health	N - OAR 333-033-0065 (Civil Penalties): No financial resources have been expended	No	Yes - Given that minimal fiscal impacts were predicted for both OAR	6/5/2013	N/A	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>Division during Public Health Emergencies. HB 2185, passed in the 2007 session, amended the state's public health emergency laws in ORS 433.</p> <ul style="list-style-type: none"> The Civil Penalties outlined in OAR 333-033-0065, and the process for determining the amount of these penalties, appear to remain appropriate for potential Public Health emergencies. OAR 333-033-0200 reflects the fact that all local health departments, as part of their Federal preparedness grant requirements, must incorporate the Incident Command System (ICS) 	<p>in support of this rule to date. It is probable, given a Public Health emergency, that OPHD and DOJ staff will incur man hour costs associated with implementing this rule if and when required.</p>		<p>333-033-0065 and OAR 333-033-0200, and that these would only be indirect expenses in case of a large-scale public health emergency, this rule is still valid and should be maintained in case a large scale Public Health Emergency.</p>			

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						<p>into their emergency plans.</p> <ul style="list-style-type: none"> OAR 333-033-0065 (Civil Penalties) has not been implemented in a Public Health emergency, yet appears to be a reasonable contingency option if the Public Health Director determines it is in the public's good. 						
333-003-0200	Public Health Emergency Plans	5/5/08	5/5/13	5/5/13	Jere High	<p>To reflect changes in the 2007 passed revisions to clarify roles and responsibilities of the Public Health Division during Public Health Emergencies. HB 2185, passed in the 2007 session, amended the state's public health emergency laws in ORS 433.</p> <ul style="list-style-type: none"> The Civil Penalties 	N - OAR 333-033-0200 (Public Health Emergency Plans): The Local Health Department emergency planning process has benefitted from implementing this requirement through improved response	No	Yes - Given that minimal fiscal impacts were predicted for both OAR 333-033-0065 and OAR 333-033-0200, and that these would only be indirect expenses in case of a large-scale	6/5/2013	N/A	None

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						<p>outlined in OAR 333-033-0065, and the process for determining the amount of these penalties, appear to remain appropriate for potential Public Health emergencies.</p> <ul style="list-style-type: none"> • OAR 333-033-0200 reflects the fact that all local health departments, as part of their Federal preparedness grant requirements, must incorporate the Incident Command System (ICS) into their emergency plans. • OAR 333-033-0200 (Public Health Emergency Plans): The Incident Command 	<p>processes, coordination and cooperation with local, regional and state partners. The net fiscal effect is to provide emergency response planning more efficiently and effectively.</p>		<p>public health emergency, this rule is still valid and should be maintained in case a large scale Public Health Emergency.</p>			

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						System has been incorporated into all Local Health Department emergency plans, per Federal grant requirements. The use of ICS, a nationally recognized system, has facilitated improved response and communications between local and state partners.						
333-265-0012	Requirements for Conducting First Responder Courses	6/16/08	6/16/13	7/25/13	Kimberly Torris	Y - To streamline and clarify current rule. To add in training and certifying requirements for first responders. To clarify training requirements for EMTs. To add in certification requirements for first time certification of first responders and a certification fee for processing	N - The fiscal impact with this change met the estimation. The fees for this licensure level have since been raised.	333-265-0012: Amended 7/1/2010 & 1/1/2012 - Language was changed to be consistent with National Registry Standards	Y - Emergency Medical Responders is still a licensed provider level that continues to need regulated and oversight on educational standards and licensing requirements	8/8/2013	Amended 7/1/2010 and 1/1/2012	None.

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>applications and certifications.</p> <p>First Responders/Emergency Medical Responder courses now have structure and courses are available. First Responders now work as licensed responders with verified training and background checks to ensure trustworthy individuals.</p>						
333-265-0014	EMT and First Responder Course Requirements	6/16/08	6/16/13	7/25/13	Kimberly Torris	Y - See above.	N - See above.	333-265-0014: Amended 7/1/2010, 1/1/2012 & 1/25/2013 - Language was changed to be consistent with National Registry Standards. The intermediate course requirements changed to include a prerequisite AEMT level. An AEMT internship was added and the Intermediate level internship was removed due to curriculum changes.	Y – See above.	8/8/2013	Amended 7/1/2010, 1/1/2012 and 1/25/2013	None.

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-265-0016	Paramedic Field Internships	6/16/08	6/16/13	7/25/13	Kimberly Torris	Y - See above.	N - See above.	333-265-0016: Amended 7/1/2010 & 1/1/2012 - Language was changed to be consistent with National Registry Standards	Y – See above.	8/8/2013	Amended 7/1/2010 and 1/1/2012	None.
333-265-0018	Course Director Qualifications for First Responder Courses	6/16/08	6/16/13	7/25/13	Kimberly Torris	Y - See above.	N - See above.	333-265-0018: Amended 7/1/2010 & 1/1/2012 - Language was changed to be consistent with National Registry Standards	Y – See above.	8/8/2013	Amended 7/1/2010 and 1/1/2012	None.
333-265-0022	Program Administrator and Faculty Responsibilities	6/16/08	6/16/13	7/25/13	Kimberly Torris	Y - See above.	N - See above.	333-265-0022: Amended 7/1/2010 & 1/1/2012 - Language was changed to be consistent with National Registry Standards	Y – See above.	8/8/2013	Amended 7/1/2010 and 1/1/2012	None.
333-265-0023	First Responder and EMT Examinations	6/16/08	6/16/13	7/25/13	Kimberly Torris	Y - See above.	N - See above.	333-265-0023: Amended 7/1/2010, 1/1/2012 & 1/25/2013 - Removed Intermediate cognitive examination and all language around the examination topic because of new curriculum and AEMT prerequisite.	Y – See above.	8/8/2013	Amended 7/1/2010, 1/1/2012 and 1/25/2013	None.
333-265-0180	EMT-Intermediate Bridge Course	6/16/08	6/16/13	7/25/13	Kimberly Torris	Y - See above.	N - See above.	333-265-0180: Repealed 7/1/2010- This rule was repealed due to a EMT-	Y – See above.	8/8/2013	REPEALED 7/1/2010	None.

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								Intermediate course curriculum being established and all EMT-Intermediates who were in need of this bridge had completed or were no longer eligible.				
333-265-0190	Effective Date of Rules	6/16/08	6/16/13	7/25/13	Kimberly Torris	Y - See above.	N - See above.	333-265-0190: Repealed 1/25/2013 - Removed language about rule effective date from previous rule change	Y – See above.	8/8/2013	REPEALED 1/25/2013	None.
333-010-0100	Description of the Breast and Cervical Cancer Program	6/16/08	6/16/13	7/1/13	Darren Yesser	Y - The intended effect of the adoption of OAR 333-010-0100 through 333-010-0195 was to facilitate administration of the Breast and Cervical Cancer Program (BCCP) by establishing clear and consistent policies through a set of administrative rules. Specifically, the rules were intended to provide BCCP providers with a clear set of guidelines regarding BCCP program requirements and	N - There was no anticipated fiscal or economic impact created by these rules. There were no fees established because of these rules. **Please see note within Comments	Y - The following amendments and adoptions were made to the BCCP OARs in order to align with revisions to the Breast and Cervical Cancer Program (BCCP) eligibility and to comply with revised presumptive treatment enrollment rules under SB433 (2011). <ul style="list-style-type: none"> • 333-010-0100: Amended 1/17/2012 • 333-010-0105: Amended 1/17/2012 • 333-010-0110: Amended 1/17/2012 	Y - There is a continued need for rules 333-010-0100 through 333-010-0195. The BCCP continues to provide lifesaving breast and cervical screening services to approximately 5000 medically underserved women across Oregon. With a statewide	7/2/2013	Amended 1/17/2012	**Note: The program anticipates the potential need for future changes to rules 333-010-0115 (Client Enrollment) and 333-010-0150 (Timely Submission of Claims and Data). These rules establish client enrollment for a one-year period and state that all claims for services must be submitted within 12 months of the date of service. The program is solely grant funded and supporting the 12 month budget

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>expectations and to enable the program to create streamlined medical services agreements with its providers. With a BCCP statewide network of hundreds of medical providers, the adoption of the OARs has met its intended effect of providing the program and its medical providers with a clear set of guidelines regarding program requirements and expectations. In addition, the rules have also enabled the BCCP to successfully implement and maintain a streamlined system of medical services agreements with its providers.</p>		<ul style="list-style-type: none"> • 333-010-0115: Amended 1/17/2012 • 333-010-0130: Amended 1/17/2012 • 333-010-0197: Adopted 1/17/2012* <p>*Adopted in 2012 (Presumptive Eligibility for BCCTP), 333-010-0197 is not due for review until 2017, but is included to provide context for the listed amendments.</p> <p>Specific reasons for the above amendments/adoptions:</p> <ol style="list-style-type: none"> 1. Compliance with SB 433 (Oregon Laws 2011), effective January 1, 2012. To enable women who have received qualified breast and/or cervical cancer diagnoses, including certain pre-cancerous conditions, outside of BCCP but who meet BCCP eligibility criteria, to enroll in the Breast 	<p>network of approximately 300 enrolling and ancillary providers, there is a continued need for a clear set of guidelines regarding BCCP program requirements and expectations. In addition, the rules have enabled the BCCP to implement and maintain a system of streamlined medical services agreements with its providers.</p>			<p>differential has been a challenge, creating a barrier to accurate budget forecasting and putting the program at risk of over expenditures due to payments owed to providers for which there may be no funding available. An adjustment to these rules may be needed in the future to better enable the BCCP to project a budget in alignment with grant requirements, while covering claims within the grant funded cycle.</p> <p>In addition, if feasible as technical/housekeeping change, the term "Office of Family Health" or "OFH" in OAR 333-010-0100 through 333-010-0195 should be replaced with the term "Center for</p>

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								<p>and Cervical Cancer Treatment Program (BCCTP, formerly BCCM) regardless of whether the diagnosing provider is a participant in the BCCP network. Prior to the passage of SB433, the BCCTP was only accessible by women who were diagnosed while enrolled in the BCCP program, and cervical services were not available to symptomatic women age 39 and under.</p> <p>2. To enable women age 39 or under displaying symptoms indicating cervical cancer to access screening and diagnostic services through the BCCP program. Although women 39 and under are still technically eligible, the BCCP suspended under-40 cervical symptomatic screening enrollments this year</p>				Prevention and Health Promotion.”

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								due to funding restrictions. This is a program administration decision and does not require changing the OAR. In addition, this change is important because it enables women diagnosed with cervical cancer or specific precancerous conditions to be eligible for treatment through the Breast and Cervical Cancer Treatment Program (BCCTP), regardless of age.				
333-010-0105	Definitions	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013	Amended 1/17/2012	See above
333-010-0110	Client Eligibility	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013	Amended 1/17/2012	See above
333-010-0115	Client Enrollment	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013	Amended 1/17/2012	See above
333-010-0120	Covered Services	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0125	Excluded Services	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-010-0130	Standards of Care for Breast and Cervical Cancer Screening and Diagnostic Services	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013	Amended 1/17/2012	See above
333-010-0135	Provider Enrollment	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0140	Billing	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0145	Claims and Data Submission	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0150	Timely Submission of Claims and Data	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0155	Payment	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0160	Requirements for Financial, Clinical and Other Records	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0165	Compliance with Federal and State Statutes	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0170	Denial or Recovery of Reimbursement Resulting	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
	from Review or Audit											
333-010-0175	Recovery of Overpayments to Providers Resulting from Review or Audit	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0180	Provider Sanctions	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0185	Provider Appeals	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0190	Provider Appeals (Level 1) – Claims Reconsideration	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-010-0195	Provider Appeals (Level 2) – Contested Case Hearing	6/16/08	6/16/13	7/1/13	Darren Yesser	See above	See above	See above	See above	7/2/2013		See above
333-076-0190	Emergency Preparedness	8/15/08	8/15/13	9/19/13	Chris Campbell/ Liz Heckathorn	To implement HB 2371, passed in the 2007 legislative session, requiring health care facilities licensed by the State Public Health Division to develop and practice emergency plans for disasters. Requires licensed health	N - The statement “minimal fiscal impact” is used in the “Fiscal and Economic Impact.” The section has not sought provider input to determine actual costs of the	Y - OAR 333-076-0190 was amended in December 2010 to make minor housekeeping/ technical changes only.	Y	10/14/2013	Amended 12/15/10	None.

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>facilities licensed by the State Public Health Division to develop plans, be in compliance with State Fire regulations, and practice their disaster plans.</p> <p>Compliance rate among providers is excellent.</p>	development and implementation of the emergency preparedness.					
333-015-0062	Vehicles	8/15/08 (ef 1/1/09)	8/15/13	8/16/13	Kimberly LaCroix	<p>Y - Implementation of the Indoor Clean Air Act based on changes to the Act made by the 73rd legislative assembly (Senate Bill 571; Oregon 2007 Laws Chapter 602, effective January 1, 2009) aims to reduce exposure to harmful secondhand smoke and help smokers quit. The Oregon Indoor Clean Air Act was amended to expand the scope of the law to include bars and taverns, bar areas of restaurants, bingo</p>	<p>Underestimated - A cost assessment for the expenses accrued due to exemptions in the ICAA showed expenses included legal fees, staff time, and application processing. The total cost from enactment of the law in June 2007 through December 2010 was \$135,000 more than original estimate.</p>	<p>Y - The 2011 Oregon Legislative Assembly passed House Bill 2726 (Oregon Laws 2011, chapter 433), which went into effect on June 30, 2011, and amended the Oregon Indoor Clean Air Act (ICAA). HB 2726 changed the ventilation requirements for cigar bars, created three categories of smoke shop certification, established certification renewal requirements for two categories of smoke shops, increased the maximum fine amount for violations within a 30-day period from \$2,000 to \$4,000, and mandated</p>	<p>Y - 20% of Oregonians smoke and tobacco use continues to be the number one cause of death and disability in Oregon, particularly among people with fewer resources. This rule has greatly reduced Oregonians' exposure to secondhand smoke, but</p>	8/19/2013		<p>Concepts identified for next OAR revision:</p> <p>Certification application abandonment – to clear backlog of incomplete applications. Applicants must start over if they fail to bring application to completion within a certain period of time</p> <p>Less detailed complaint-response procedures in rules</p> <p>Add rule with general procedures for</p>

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						<p>halls and bowling centers. Cigar bars and smoke shops are exempted under a set of specific criteria. Rules are necessary to provide governments, businesses, and the public with the basic framework for implementing the Act.</p> <p>Oregon's comprehensive statewide smoke-free law bans smoking in workplaces, restaurants, and aims to reduce exposure to harmful secondhand smoke and help smokers quit. According to data from the Behavioral Risk Factor Surveillance System (BRFSS), exposure to secondhand smoke among employed Oregon adults has decreased by 13% from 2008 (before</p>		that the Oregon Health Authority (OHA) promulgate new rules to implement the law.	<p>not all workers receive this protection. An estimated 200,000 Oregon adults are still exposed to secondhand smoke while working in places where smoking may not be prohibited, such as food service (outdoor dining areas), hotels, casinos, home care and construction.</p>			<p>unannounced site visits</p> <p>Add revocation-specific penalty schedule to rules</p> <p>Clarify the complaint response procedure for certified smoke shops and cigar bars (IRLs do not apply to exempt businesses)</p>

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						<p>ICAA implementation) to 2011 (after implementation) from 15% in 2008 to 13% in 2011.</p> <p>The law has also been associated with significant declines in hospitalizations for acute myocardial infarction (AMI) and stroke. In the 2-years following implementation of the law, monthly AMI hospitalizations declined by 6.8% and monthly stroke hospitalizations declined by 2.8%. These results are consistent with findings previously reported in the literature, and demonstrate the tangible population health benefits of reducing exposure to secondhand smoke.</p>						
333-015-0064	Outdoor Smoking Areas	8/15/08 (ef 1/1/09)	8/15/13	8/16/13	Kimberly LaCroix	Y – See above	Underestimated – see above	Y – see above	Y – see above	8/19/2013	Amended 2/1/2012	See above

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								333-015-0064, Outdoor Smoking Areas: Amended 2/2012 This amendment was needed to bring this rule into line with the regulatory framework by adding accessibility ramps to the list of parts of public places or places of employment that must be separated from outdoor smoking areas by at least 10 feet.				
333-015-0066	Cigar Bars	8/15/08 (ef 1/1/09)	8/15/13	8/16/13	Kimberly LaCroix	Y – See above	Underestimated – see above	Y – see above 333-015-0066, Cigar Bars: Amended 2/2012 This rule was revised to implement the new statutory requirement concerning cigar bar ventilation systems, and to change how seating capacity is displayed on the site map that businesses are required to submit as part of the certification application. The revised rule also clarifies the ongoing obligations related to cigar bar certification.	Y – see above	8/19/2013	Amended 2/1/2012	See above

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333-015-0068	Smoke Shops	8/15/08 (ef 1/1/09)	8/15/13	8/16/13	Kimberly LaCroix	Y – See above	Underestimated – see above	Y – see above 333-015-0068, Smoke Shops: Amended 2/2012 As required by HB 2726, this rule was revised to establish procedures for: certifying three categories of smoke shops, renewing and transferring certification, and permitting a certified business to change its location	Y – see above	8/19/2013	Amended 2/1/2012	See above
333-015-0069	Revocation of Cigar Bar and Smoke Shop Certification	8/15/08 (ef 1/1/09)	8/15/13	8/16/13	Kimberly LaCroix	Y – See above	Underestimated – see above	Y – see above 333-015-0069, Revocation of Cigar Bar and Smoke Shop Certification: Amended 2/2012 As required by HB 2726, this rule was revised to allow the Oregon Health Authority to revoke the certification of a cigar bar or smoke shop and prohibit the business from reapplying for up to two years if the business violates the Act or these rules.	Y – see above	8/19/2013	Amended 2/1/2012	See above

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333-015-0082	Public Places Regulated by Other State Agencies or Local Governments	8/15/08 (ef 1/1/09)	8/15/13	8/16/13	Kimberly LaCroix	Y – See above	Underestimated – see above	Y – see above <u>333-015-0082</u> , Public Places Regulated by Other State Agencies or Local Governments: Amended 2/2012 This rule was amended to align the enforcement of laws by Local Public Health Authority relating to smoking and enforcement with HB 2726.	Y – see above	8/19/2013	Amended 2/1/2012	See above
333-120-0340	Application for Use of Higher Assigned Protection factors	9/15/08	9/15/13	9/20/13	Todd Carpenter	Y – To provide further guidance authorizing the use of higher protection factors when using respiratory protection while performing activities in a contaminated atmosphere. This rule was adopted to comply with implemented CFRs for compatibility with NRC regulations per state agreement.	N – No fiscal impacts were identified during the adoption of this rule. Presently, fiscal impacts have not been communicated to Radiation Protection Services from radioactive materials licensees that are affected by this rule	N – There have been no subsequent changes requiring the amendment or repeal of 333-120-0340	Y – This rule is required for federal compatibility	10/1/2013	None	None
333-120-0800	Reports of Transactions Involving	9/15/08	9/15/13	9/20/13	Todd Carpenter	Y – Requires licensees and regulators to track	N – See above	Y – 333-120-0800 was amended in February 2010 to adopt the initial	Y – This rule is required for	10/1/2013	Amended 2/16/10	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
	Nationally Tracked Sources					and secure radioactive materials that could be a threat to public health and safety by utilizing the Nuclear Regulatory Commission's centralized database. This rule was adopted to comply with implemented CFRs for compatibility with NRC regulations per state agreement.		inventory report requirements within the current rule in order to meet federal category "B" designation for compatibility purposes with the Nuclear Regulatory Commission's regulations.	federal compatibility			
333-053-0030	Description of the WIC Program	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y - To administer the federal requirements for authorization and oversight of those participating in and receiving benefits from the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The WIC Program has used these rules to effectively administer the federal requirements for authorization and oversight of program participants.	N - As anticipated, there was no fiscal impact of this rule.	Y - All rules in chapter 333, division 53 are being amended (with the exception of 0070 & 0090 described below) effective December 1, 2013. The Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296, mandated that all WIC State agencies implement Electronic Benefit Transfer (EBT) by October 1, 2020. The Oregon WIC Program will implement EBT in 2014. Clarifications and adjustments to processes and procedures used by the Oregon WIC Program	Y - There is a continued need for these rules to administer the federal requirements for authorization and oversight of WIC program participants.	10/21/2013	Amended effective 12/1/13	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								to administer participants are required to reflect EBT management practices. These clarifications and adjustments have been made to definitions, eligibility, participant information, violations, claims, and administrative review.				
333-053-0040	Definitions	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y – see above	N – see above	Y – see above	Y – see above	10/21/2013	Amended 10/2011; Amended effective 12/1/13	None
333-053-0050	Participant Eligibility	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y – see above	N – see above	Y – see above	Y – see above	10/21/2013	Amended effective 12/1/13	None
333-053-0060	Participant Information	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y – see above	N – see above	Y – see above	Y – see above	10/21/2013	Amended effective 12/1/13	None
333-053-0070	WIC Identification Cards	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y – see above	N – see above	Y - 333-053-0070 (WIC Identification Cards) is being REPEALED effective December 1, 2013. 333-053-0070 is being repealed and 333-053-0075 is being adopted to reflect the EBT changes from WIC Identification Cards to eWIC Cards.	N – see explanation of repeal	10/21/2013	REPEALED effective 12/1/13	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-053-0080	Participant Violations	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y – see above	N – see above	Y – see 333-053-0030 above	Y – see 333-053-0030 above	10/21/2013	Amended effective 12/1/13	None
333-053-0090	Participant Sanctions	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y – see above	N – see above	Y - 333-053-0090 (Participant Sanctions) is being REPEALED effective December 1, 2013. 333-053-0090 is being repealed as the relevant violations and sanctions for EBT have been merged into 333-053-0080.	N – see explanation of repeal	10/21/2013	REPEALED effective 12/1/13	None
333-053-0100	Participant Claims	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y – see above	N – see above	Y – see 333-053-0030 above	Y – see 333-053-0030 above	10/21/2013	Amended effective 12/1/13	None
333-053-0110	Administrative Review	11/5/08	11/5/13	10/18/13	Sue Woodbury	Y – see above	N – see above	Y – see 333-053-0030 above	Y – see 333-053-0030 above	10/21/2013	Amended effective 12/1/13	None
333-010-0200	Description of the WiseWoman Program	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y - Rule adoption has met the intended effect to facilitate administration of the WISEWOMAN Program by establishing a clear set of guidelines regarding WISEWOMAN program requirements and expectations. However, it has become apparent that our program	N - There was a small fiscal or economic impact anticipated from the adoption of these rules for participating partners in terms of compliance. However, there was no fiscal impact reported and fees were not established	N	Y	N/A – no RAC used	N/A	In the last 3 years, the CDC has modified a number of guidelines on an annual basis. It has become apparent that the WISEWOMAN Program Manual would achieve the intended effect of communicating guidelines regarding program requirements and expectations to

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						<p>manual would achieve this same effect with more flexibility for policy and program changes initiated by our funder, The Centers for Disease Control and Prevention (CDC). In the last 3 years, the CDC has modified a number of guidelines on an annual basis. It has become apparent that a Program Manual would achieve the intended effect of communicating guidelines regarding program requirements and expectations to WISEWOMAN providers with a medical service agreement. This could be done in a more timely manner and allow the program to remain in compliance with our funder.</p>	because of these rules.					<p>WISEWOMAN providers with a medical service agreement. This could be done in a more timely manner and allow the program to remain in compliance with our funder.</p>

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-010-0205	Definitions	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0210	Client Eligibility	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	Y – The WISEWOMAN eligibility guidance has changed from the previous funding cycle. There is also the possibility that guidance will change in the current funding cycle. Due to the Affordable Care Act implementation, Congress may amend the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Public Law 101-354 to include new eligibility guidelines for the NBCCEDP and WISEWOMAN programs.	Y	N/A – no RAC used	N/A	See above
333-010-0215	Client Enrollment	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0220	Provider Enrollment	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0225	Standards of Care for WISEWOMAN	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	Y – The values that determine the threshold for abnormal and/or	Y	N/A – no RAC used	Amended effective 4/18/14	See above

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	Program Screening and Services							disease diagnosis are determined by the CDC and will change with national guidelines as they become available. The WISEWOMAN Program Manual and website are modified to reflect change in guidance.				
333-010-0230	Submission of Information by Ancillary Providers	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	N/A	See above
333-010-0235	Covered Services	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	Y – The WISEWOMAN program’s funder has changed the covered services effective 7/1/13. The program is provided guidance with a tight turnaround time for implementation. On average the program must make changes to its covered services within 90 days of notification. The funder reserves the right to change the covered and excluded services on an annual basis.	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0240	Excluded Services	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	Y – The WISEWOMAN program’s funder has changed the covered	Y	N/A – no RAC used	N/A	See above

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								services effective 7/1/13. The program is provided guidance with a tight turnaround time for implementation. On average the program must make changes to its covered services within 90 days of notification. The funder reserves the right to change the covered and excluded services on an annual basis.				
333-010-0245	Claims & Billing	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	Y – The program anticipates a change to OAR 333-010-0245(2)(d). The timeline for claim submission will be changed from 12 months to 90 days. The program is solely grant funded and supporting the 12 month budget differential has created a barrier to accurate budget forecasting and placed the program at risk of over expenditure.	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0250	Payment	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-010-0255	Denial or Recovery of Reimbursement Resulting from Review or Audit	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	N/A	See above
333-010-0260	Recovery of Overpayments to Providers Resulting from Review or Audit	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0265	Client Data Submission	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	Y – The program anticipates a change to OAR 333-010-0265(2). The timeline for data submission will be changed from 90 days to 45 days to support program planning and evaluation efforts.	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0270	Requirements for Financial, Clinical & Other Records	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0275	Compliance with Federal and State Statutes	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-010-0280	Provider Sanctions	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0285	Provider Appeals (Level 1) Claims Reconsideration	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-010-0290	Provider Appeals (Level 2) Contested Case Hearing	02/13/09	02/13/14	2/11/14	Erica Sandoval	Y – see above	N – see above	N	Y	N/A – no RAC used	Amended effective 4/18/14	See above
333-565-0010	Civil Penalties	4/20/09	4/20/14	4/2/14	Jana Fussell	Y – This rule gives the Certificate of Need program a way, short of going to court, to ensure compliance with its statutes, administrative rules, and orders. It was intended to provide an additional tool that would be potentially less costly, more efficient, and more practical than looking to the courts to enforce compliance. We have not had to undertake any actions to enforce	N – Neither over nor under estimated	N	Y	4/2/2014	N/A	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						compliance since adoption of this rule.						
333-054-0027	How a Farmer Becomes WIC Authorized	6/1/2009	6/1/2014	5/15/14	Jazette Johnson	Y – The WIC Program has used these rules to effectively administer the requirements for authorization and oversight of WIC authorized farmers	N	Y – All rules in chapter 333, division 54 were amended in December 2013. The Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296, mandated that all WIC State Agencies implement Electronic Benefit Transfer (EBT) by October 1, 2020. The Oregon WIC program is currently working to implement EBT. Clarifications and adjustments to processes and procedures used by the Oregon WIC Program to administer farmers and vendors were required to reflect EBT management practices	Y – With the changes noted, there is a continued need for this rule to administer the federal requirements for authorization and oversight of WIC authorized farmers	5/19/2014	Amended 9/30/11	None
333-054-0035	Farmer Agreements	6/1/2009	6/1/2014	5/15/14	Jazette Johnson	Y – See above	N	Y – See above	Y – see above	5/19/2014	Amended 9/30/11	None
333-054-0055	Farmer Violations and Sanctions	6/1/2009	6/1/2014	5/15/14	Jazette Johnson	Y – See above	N	Y – See above	Y – see above	5/19/2014	Amended 9/30/11	None
333-054-0065	Farmer Disqualifications	6/1/2009	6/1/2014	5/15/14	Jazette Johnson	Y – See above	N	Y – see above	Y – See above	5/19/2014		None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-500-0005	Applicability	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	<p>The intended effect of this rule change was to provide better organization of the rules, clearer wording and processes, and align the rules with Centers for Medicare and Medicaid Services (CMS) regulations. These CMS regulations (42 CFR 482) contain the health and safety requirements that hospitals must meet to participate in Medicare and Medicaid programs.</p> <p>YES - Prior to the rule revision, hospital OARs did not address multiple elements and were disorganized.</p>	NO - It is believed that there was a fiscal impact to hospitals in order to update policies and procedures, however, given that hospitals were required to comply with CMS regulations prior to the rule adoption, the impact should have been minimal.	YES - Rules were amended in order to address provisions of SB 158 (2009), HB 2100-Section 195a (2011), changes to CMS regulations (2012), and minor housekeeping changes. These revisions also addressed stakeholder requests to reduce regulatory burden in order to create a more efficient hospital system. Rules addressed updating definitions, fees, policies and procedures, investigations, disclosure and consent provisions and quality assessment and performance improvement issues.	YES - Rules have been established in order to implement and comply with Oregon and federal laws.	12/23/2014	Amended 12/15/10 and 1/1/2013	None
333-500-0025	Indorsement of Satellite Operations	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None
333-500-0032	Classification	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 1/1/2013	None
333-500-0034	Application Review	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-500-0036	Approval of License Application	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-500-0038	Denial of License Application	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 1/1/2013	None
333-500-0045	Submission of Plans	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-500-0065	Waivers	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None
333-501-0005	Complaints	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-501-0010	Investigations	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None
333-501-0015	Surveys	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None
333-501-0020	Violations	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-501-0025	Informal Enforcement	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-501-0030	Formal Enforcement	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-501-0035	Nurse Staffing Audit Procedures	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-501-0040	Investigation Procedures for Investigation of Nurse Staffing Complaints	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None
333-501-0045	Civil Penalties for Violations of Nurse Staffing Laws	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None
333-501-0050	Civil Penalties for Violation of Smoking Prohibition	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-501-0055	Civil Penalties, Generally	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10	None
333-505-0033	Patient Rights	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 12/15/10 and 1/1/2013	None
333-505-0080	Tuberculosis Control	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 1/1/2013	None
333-505-0090	Request for Tissues and Organs	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-505-0100	Training for Requestors	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-505-0110	Hospital Compliance	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-505-0120	Emergency Contraception	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-520-0035	Pharmacy Services	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	Yes – See above	Yes – See above	12/23/2014	Amended 1/1/2013	None
333-520-0120	Psychiatric Services	10/1/2009	10/1/2014	11/23/2014	Mellony Bernal	Yes – see above	No – See above	No	Yes – See above	12/23/2014		None
333-535-0001	Referenced Codes and Standards (& Table 6, 333-535-0310)	10/1/2009	10/1/2014	9/30/14	Annabelle Henry	Y - OAR 333-535-0001 and Table 6 to OAR 333-535-0310 were adopted as part of a broader rulemaking package designed to streamline rules relating to new construction and alterations of existing hospitals. These revisions were necessary to incorporate technological advances and general health care practice changes. OAR 333-535-0001 identifies the specific edition of regulatory codes and standards referenced in division 535 of the agency's administrative rules. Its provisions were intended to clarify the regulatory	N	N	Y - The adopted rule and table continues to achieve its intended effect.	10/1/2014	N/A	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						requirements that applicants would be obligated to satisfy. Table 6 clarified minimum requirements for electrical receptacles, also known as convenience outlets, in various areas.						
333-270-0010	Purpose	12/3/09	12/3/2014	11/22/2014	Mellony Bernal	Establish a registry within the Oregon Health Authority for the collection and dissemination of physician orders for life-sustaining treatment (POLST) to help ensure that persons' end-of-life care preferences are recognized and provided at point of care. POLST forms detailing a person's preference for treatment options are provided to the registry and in turn, information is provided upon request to licensed health care providers who work for a	NO - Because completion of a POLST form is a standard business practice it is believed that there was no increase in costs to health care provider offices, clinics, agencies and facilities. The Division contracts with OHSU to operate the registry within its budget.	NO	YES - Rules were adopted pursuant to ORS 127.675	12/23/2014	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments	
						<p>hospital emergency department or acute care unit, licensed ambulance services or non-transporting emergency service agency.</p> <p>Require medical professionals (physicians, nurse practitioners and physician assistants) to submit completed POLST forms for patients who do not opt out and revise or revoke forms if necessary.</p> <p>Create a POLST Registry Advisory Committee (PRAC) to oversee, implement, operate and evaluate the registry including reviewing requests from researchers to access registry data.</p> <p>YES - The PRAC was established and held its first meeting in October 2009 and</p>							

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						meets quarterly. At the end of calendar year 2013, over 150,000 POLST forms were received and over 100 calls per month were made to the Registry Hotline. A steady increase in the number of requests for POLST forms continues. Outreach to health care institutions, providers, and organizations continues and has led to increased submission rates. The registry is a valuable resource for research staff interested in end-of-life-care. Five research projects have been considered by the PRAC and have been published.						
333-270-0020	Scope and Applicability	12/3/09	12/3/2014	11/22/2014	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	12/23/2014	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-270-0030	Definitions	12/3/09	12/3/2014	11/22/2014	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	12/23/2014	None	None
333-270-0040	Submission of POLST Forms	12/3/2009	12/3/2014	11/22/2014	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	12/23/2014	None	None
333-270-0050	Access to the Registry	12/3/2009	12/3/2014	11/22/2014	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	12/23/2014	None	None
333-270-0060	Confidentiality of Registry Information	12/3/2009	12/3/2014	11/22/2014	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	12/23/2014	None	None
333-270-0070	POLST Registry Advisory Committee	12/3/2009	12/3/2014	11/22/2014	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	12/23/2014	None	None
333-270-0080	Access to Registry Information by Researchers	12/3/2009	12/3/2014	11/22/2014	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	12/23/2014	None	None
333-060-0128	Submerged Suction Outlets and Drains	12/23/2009	12/23/2014	12/24/14	Steve Keifer	To bring us into compliance with the federal Virginia Graeme Baker Pool and Spa Safety Act (VGB) legislation YES - It has subsequently been changed to be more proactive.	NO - No significant costs on new pools. VGBPSSA required compliance for existing pools.	YES – Amended, effective 9/1/14. The changes were designed to eliminate the Virginia Graeme Baker (VGB) liability and require compliance with our rule requirements. It does not affect any pools already VGB compliant	YES - As revised in 2014	12/24/2014	Amended 9/1/2014	None
333-062-0103	Submerged Suction Fittings and Drains	12/23/2009	12/23/2014	12/24/14	Steve Keifer	Yes – See above	No – See above	Yes – See above	Yes - As revised in 2014	12/24/2014	Amended 9/1/2014	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-015-0100	Authority and Purpose	12/29/2009	12/29/2014	12/11/14	Jennifer Young	<p>To provide consumers, at the point of purchase, with basic nutrition and caloric information.</p> <p>NO - Oregon's menu labeling law has not been implemented; therefore the rule adoption has not had its intended effect. Prior to Oregon's menu labeling implementation date, menu labeling requirements were included in the Patient Protection and Affordable Care Act of 2010. Section 4205 requires restaurants and similar retail food establishments with 20 or more locations to list calorie content information for standard menu items on menu boards and menus. While we have waited for the federal rule, no action has been</p>	N/A - This question is not applicable as the Oregon Menu Labeling Law has not been implemented.	NO - There have been no changes in the Oregon law, however the federal law requires restaurants and similar food establishments with 20 or more locations to list calorie content information, and Oregon's law requires restaurants with 15 or more locations to provide calorie content and additional nutrition information. Therefore, Oregon restaurants with between 15-19 locations fall into a gap of possibly being covered by Oregon's law.	YES - Having this rule in place will be necessary as the Oregon Health Authority determines next steps for possible implementation of the state law for restaurants that fall within the Oregon menu labeling law and outside the federal menu labeling law (chain restaurants with between 15-19 locations).	12/23/2014	None	The Food and Drug Administration (FDA) issued final rules in November 2014. Implementation of these rules goes into effect December 1, 2015.

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						taken toward implementing Oregon's menu labeling law.						
333-015-0105	Definitions	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0110	General Provisions	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0115	Written Formats for Nutrition Information	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0120	Nutrition Labeling of Variable Menu Items	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0125	Nutrition Labeling of Combination Meal Menu Items	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0130	Nutrition Information for Shared Menu Items or Shared Combination Meal Menu Items	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0135	Acceptable Methods for Determining Typical	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
	Nutrient Values for Required Nutrition Information											
333-015-0140	Verifiable and Accurate Information	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0145	Nutrition Information for Self-Service Items	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0150	Trans Fat	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0155	Rounding Rules	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0160	Alcoholic Beverages	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-015-0165	Disclaimers and Additional Nutrition Information	12/29/2009	12/29/2014	12/11/2014	Jennifer Young	No – See above	N/A – See above	No – See above	Yes – See above	12/23/2014	None	See above
333-116-0485	Other Medical Uses of Byproduct Material or Radiation from Byproduct Material	2/16/2010	2/16/2015	2/2/2015	Todd Carpenter	Yes - To meet federal compatibility with the Nuclear Regulatory Commission and to commence a civil penalty program for licensees and registrant failing to become compliant with Oregon	No - Division 124 is transparent to the reader relating to non-compliance. Each category of violations within the rules provides the fiscal impact to	No	Yes - All rules listed are current and are used as guidance for regulatory oversight.	2/9/2015	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						Administrative Rules relating to radiation. Rules listed have been reviewed by the Nuclear Regulatory Commission for compatibility standards and agrees that these rules submitted by Oregon Health Authority meet federal regulatory requirements. Division 124 allows Radiation Protection Services to apply civil penalties for non-compliance purposes.	the licensee or registrant. All other rules do not have a fiscal impact. Radiation Protection Services has not received any comments relating to fiscal impacts upon adoption of these rules.					
333-118-0051	Deliberate Misconduct	2/16/2010	2/16/2015	2/2/2015	Todd Carpenter	Yes – See above	No – See above	No	Yes – See above	2/9/2015	None	None
333-118-0052	Exemption for Low Level Materials	2/16/2010	2/16/2015	2/2/2015	Todd Carpenter	Yes – See above	No – See above	No	Yes – See above	2/9/2015	None	None
333-118-0053	Exemption from Classification as Fissile Material	2/16/2010	2/16/2015	2/2/2015	Todd Carpenter	Yes – See above	No – See above	No	Yes – See above	2/9/2015	None	None
333-118-0125	External Radiation	2/16/2010	2/16/2015	2/2/2015	Todd Carpenter	Yes – See above	No – See above	No	Yes – See above	2/9/2015	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
	Standards for All Packages											
333-118-0162	Opening Instructions	2/16/2010	2/16/2015	2/2/2015	Todd Carpenter	Yes – See above	No – See above	No	Yes – See above	2/9/2015	None	None
333-124-0001	Purpose and Scope	2/16/2010	2/16/2015	2/2/2015	Todd Carpenter	Yes – See above	No – See above	No	Yes – See above	2/9/2015	None	None
333-124-0010	Civil Penalties	2/16/2010	2/16/2015	2/2/2015	Todd Carpenter	Yes – See above	No – See above	No	Yes – See above	2/9/2015	None	None
333-018-0013	Electronic Laboratory Reporting	3/11/2010	3/11/2015	3/12/2015	Stephen Ladd-Wilson	Yes To require high-volume Oregon labs (>30 reports/month) to send reportable laboratory results in standardized, electronic format (HL7) to increase disease-surveillance efficiencies. Electronic lab reporting for high-volume labs has been win-win	No	No	Yes, this rule is fundamental to communicable disease work	3/13/2015	Amended 8/19/11	None
333-018-0017	Reporting of Veterinary Diseases	3/11/2010	3/11/2015	3/12/2015	Stephen Ladd-Wilson	Yes To require laboratory reporting of specific veterinary diseases with potential public health impact on humans. We are	No	No	Yes, this rule is fundamental to communicable disease work	3/13/2015	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						receiving veterinary disease reports.						
333-026-0030	Civil Penalties for Violations of OAR Chapter 333, Divisions 18 and 19	3/11/2010	3/11/2015	3/12/2015	Stephen Ladd-Wilson	Yes To establish, as required by ORS 431.262, procedures for and amounts of civil penalties that the Oregon Health Authority is empowered to impose for violation of reporting rules. Although no civil penalties have been assessed, they have been threatened on at least one occasion, with subsequent compliance by the hospital.	No As expected, several hours of Assistant Attorney General time have been employed in notifying the hospital of potential civil penalties.	No	Yes, this rule is fundamental to communicable disease work	3/13/2015	None	None
333-061-0324	Area of Public Health Concern	4/19/2010	4/19/2015	4/3/2015	Dave Leland	Yes – To implement specific statutory authority for OHA to require domestic well testing for additional contaminants other than bacteria, nitrate, and arsenic if there is ground water contamination identified in a specific geographic area, and	No – The fiscal impact was estimated to be incidental for the OHA, and indeterminate for well owners since we had no way to estimate how much sampling would	No	Yes – Provides a tool for protecting domestic well users from ground water contamination, should it occur.	4/21/2015	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						OHA declares an area of public health concern. However, no such ground water contamination areas have come to light to date.	actually occur, if any.					
333-070-0075	Authority, Purpose, Applicability	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – The intended effect of this rule was for the Oregon Health Authority to: 1) Ensure a qualified and properly-trained workforce to perform renovation, repair and painting (RRP) of pre-1978 homes and child-occupied facilities; 2) Protect the health of building occupants from lead-based paint hazards and the hazards of improperly conducted RRP work practices; 3) Ensure compliance with RRP activities involving lead-based paint; and	Underestimated – The Statement of Need and Fiscal Impact states, “DHS estimates approximately 2,000 entities will be required to obtain certification from DHS to become certified renovation firms.” This estimate was based on the number of school districts, property management companies and child care facilities in	Yes - OAR 333-070 is based on the Environmental Protection Agency’s 2008 Lead-Based Paint Renovation, Repair and Painting (RRP) Rule (40 CFR Part 745), which was adopted in 2008 and became fully effective April 22, 2010. The federal RRP Rule was amended in 2010 and 2011, as outlined below: 1) 2010 Opt-Out Amendment: a. Eliminate d “opt-out” provision that exempted renovation firms from training and work practice requirements for residences without a child under age 6 or pregnant woman residing in the home.	Yes - Oregon received authorization from the Environmental Protection Agency on May 3, 2010 to administer the Renovation, Repair and Painting (RRP) Program. This rule allows OHA to implement the program in accordance with federal law.	4/1/2015	Temp 9/24/10-3/22/11; amended 6/16/11	Please note that the Oregon Lead-based Paint Program is jointly implemented by two agencies, the Oregon Health Authority and the Oregon Construction Contractors Board. This rule refers to OHA’s portion of the program.

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>Increase knowledge of lead hazards among key partners, stakeholders and the general public.</p> <p>This rule adoption resulted in the following effects:</p> <p>1) <i>Ensure a qualified and properly-trained workforce to perform renovation, repair and painting (RRP) of pre-1978 homes and child-occupied facilities:</i></p> <p>a. Established requirements for training to ensure proficiency of individuals conducting renovation, repair or painting in pre-1978 homes and child-occupied facilities. 1,238 training courses in the Renovator discipline have been held and 10,856 individuals have been trained</p>	<p>Oregon. However, it is difficult to accurately predict the percentage of these entities that may opt to hire licensed contractors and thus not require OHA certification. It is likely that the size of OHA's regulated community was overestimated, and that limited program capacity and funding to conduct outreach to the regulated community also limited the number of firms certified by the program. As a result, the amount of fee dollars coming into the program was</p>	<p>2) 2011 Clearance Amendment:</p> <p>a. Allowed a certified renovator to conduct paint chip sampling;</p> <p>b. Standards for e-learning in accredited training programs;</p> <p>c. Minimum enforcement provisions for authorized state and tribal renovation programs;</p> <p>d. Clarifications on requirements for vertical containment on exterior renovation projects, prohibited or restricted work practice provisions, and requirements for high-efficiency particulate air (HEPA) vacuums.</p> <p>As a result of these amendments to the federal rule, OHA amended OAR 333-070 in 2011 as follows:</p> <p>1) Housekeeping changes, including removal of unnecessary definitions, rewording of</p>				

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						<p>since the rule was adopted.</p> <p>b. Established requirements for accreditation of training programs to ensure quality instruction in effective work practices. 29 training programs have been accredited since the rule was adopted.</p> <p>c. Established requirements for certification of individuals and firms who perform renovation, repair and painting in target housing and child-occupied facilities. 127 firms have been certified by OHA since the rule was adopted.</p> <p>2) <i>Protect the health of building occupants from lead-based paint hazards and the hazards of improperly conducted RRP work practices:</i></p>	overestimated. As of March 2015, the number of firms certified by OHA is 127.	<p>other definitions, and standardization of terms;</p> <p>2) Creation of a mechanism for training programs, individuals and firms to become accredited/certified in Oregon if they are currently accredited/certified by EPA or another authorized state;</p> <p>3) Raise the maximum heat gun temperature in the Work Practice Standards sections of OAR 333-069 and OAR 333-070 to 1100°F; and</p> <p>4) Eliminate all references to the “opt out” provision in OAR 333-070.</p>				

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						<p>a. Established work practice standards for the performance of renovation, repair and painting activities for certified individuals and certified renovation firms.</p> <p>3) <i>Ensure compliance with RRP activities involving lead-based paint:</i></p> <p>a. Established policies and procedures for compliance and enforcement activities to ensure that firms and contractors adhere to the rule through investigation of worksite complaints, worksite inspections, developing enforcement policies and procedures, and conducting enforcement actions as appropriate. OHA has received and responded to</p>						

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						<p>approximately 250 tips and complaints since 2010. OHA began conducting inspections in 2014, and completed 17 as of December 2014.</p> <p>4) <i>Increase knowledge of lead hazards among key partners, stakeholders and the general public:</i></p> <p>a. Established requirements for disclosure of lead-based paint hazards to owners and occupants of target housing and child-occupied facilities before renovations begin.</p> <p>b. Increased awareness and knowledge of RRP by Oregon homeowners, landlords, renters, community members, renovators and firms through outreach and education activities. Since 2010, OHA</p>						

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						<p>has sent out over 15,000 brochures to targeted stakeholder groups and provided articles for various agency newsletters. The program also promotes RRP services of certified firms and professionals by posting a list of certified firms on the program website and distributing certification information and educational materials at outreach events.</p> <p>c. Provision of technical assistance on accreditation, training, certification and compliance by the program to the public and regulated community. The Program regularly answers questions from the public as well as its regulated community via phone and email. The Program answers technical questions</p>						

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						and provides compliance assistance to its regulated community. Per quarter, the program responds to an average of 150 lead-based paint phone calls and emails and receives over 15,000 website hits. The Program also supports a statewide toll-free phone and email service known as the Leadline.						
333-070-0080	Adoption by Reference	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015		See above
333-070-0085	Definitions	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0090	Work Practice Standards	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0095	Information Distribution Requirements for the Pre-Renovation Notification Rule (406[b])	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-070-0100	Renovator Certification and Dust Sampling Technician Certification and Responsibilities	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0105	Certified Renovation Firm Certification and Responsibilities	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0110	Certified Renovation Firm Recordkeeping and Reporting Requirements	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0115	Inspections and Enforcement	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0120	Certification Fees and Refunds	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0125	Training Program Accreditation Required	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015		See above
333-070-0130	Minimum Personnel Requirements	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above

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	for Training Program Accreditation											
333-070-0135	Minimum Curriculum Requirements for Training Program Accreditation	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0140	Re-Accreditation of Training Programs	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0145	Suspending, Revoking, or Denying a Training Program's Accreditation; Civil Penalties	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-070-0150	Training Program Record Keeping Requirements	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015		See above
333-070-0155	Training Program Reciprocity	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Training Program Reciprocity, was repealed on 6-16-11. This section established requirements for training programs to apply for reciprocity of accreditation from other jurisdictions. This option was retained in the rule by adding language to	Yes – see above	4/1/2015	REPEALE D 6/16/11	See above

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								333-070-0125 and 333-070-0160 as part of the amendments listed above.				
333-070-0160	Accreditation Fees	4/26/2010	4/26/2015	3/26/2015	Brett Sherry	Yes – see above	Underestimated – see above	Yes – see above	Yes – see above	4/1/2015	Amended 6/16/11	See above
333-540-0005	Purpose and Scope	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes - OARs 333-540-0005 through 0090 were adopted pursuant to legislation (SB 158) that passed during the 2009 Oregon legislative session in order to address gaps in oversight and address roles and responsibilities of a caregiver registry. At the time the measure passed, there was no state licensing or Medicare oversight of health care staffing agencies that provide care to vulnerable individuals in their homes and no requirements that a provider must furnish disclosure and consent information that would assist a consumer in their	No - A caregiver registry must pay a \$1,500 initial licensure fee and an annual fee of \$750 for re-licensure. OHA staff must conduct a survey in order to determine compliance with state regulations and the fee covers this work performed by staff. We have no information about current fiscal impact on licensed registries. Fees collected by the OHA for purposes of determining	No	Yes - Rules are required as a result of legislation.	6/26/2015	None	None

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						<p>decision making. The rules provide a process for licensing; address organizational standards and quality of client care; process for handling complaints; and investigation of complaints, conducting surveys, and discipline for caregiver registries by assessing a civil penalty.</p> <p>Five registries were licensed in 2011 and 1 registry was licensed in 2013 for a total of 6. There have been no complaint investigations and only a few minor deficiencies identified during re-licensure surveys which did not affect the quality of client care. It's worth noting that there are only a total of 8 clients being served by 4 agencies relicensed in</p>	<p>compliance with regulations cover the expenses of work. There is no cash surplus. As stated previously, we have no information about current fiscal impact on licensed registries. This small program currently covers costs of the regulatory work.</p>					

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						2014/15. Early estimations projected a larger program with more licensed entities serving more clients.						
333-540-0010	Definitions	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	Yes - In 2011, SB 104 (section 10) was passed changing the definition of Caregiver Registry at the request of stakeholders. This definition change represents minor technical fixes and does not change our regulatory work. As such, OAR 333-540-0010 needs to be amended to reflect the new definition at the next opportunity.	Yes – See above	6/26/2015	None	None
333-540-0015	Application for Caregiver Registry License; Renewal	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0020	Licensure Fees	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0025	Caregiver Registry Organization, Administration, and Personnel	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-540-0030	Requirements for Placement on Caregiver Registry; Continuing Education	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0035	Criminal Background Checks	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0040	Caregiver Registry Records	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0045	Caregiver Registry Disclosure Statements	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0050	Complaints	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0055	Investigations	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0060	Surveys	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0065	Violations	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0070	Informal Enforcement	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0075	Formal Enforcement	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None

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333-540-0080	Civil Penalties	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0085	Return of Agency License	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-540-0090	Applicability of Rules	7/1/2010	7/1/2015	6/4/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – See above	6/26/2015	None	None
333-265-0015	Advanced Emergency Medical Technician Field Internships	7/1/2010	7/1/2015	7/16/2015	Mellony Bernal	Yes - In 2009, the Oregon Legislature passed HB 2059 which created mandatory reporting requirements for prohibited and unprofessional conduct on licensed health care professionals, including EMS providers. The bill defined prohibited and unprofessional conduct which identified "recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client." The following rules were adopted in order to	No - The fiscal impact addressed licensing fees which were increased as part of this rulemaking filing. The money generated from fees is the only funding available to cover the cost of the EMS/TS program's responsibility to regulate EMS providers including receiving and reviewing prohibited or unprofessional conduct reports,	(2012) Passage of SB 234 (2011) changed certification to license (2013) Specified type of field experience required for internship	Yes - Rules are required as a result of legislation and aligning with the NREMT national standards.	8/7/2015	Amended 1/1/2012 and 1/25/2013	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						address the requirements of the bill: <ul style="list-style-type: none"> • 333-265-0083 – Identifies a minimum list of criteria that the OHA, Public Health Division considers to be contrary to “recognized standards of ethics” for EMS providers; • 333-265-0085 – Specifies the investigation process that the Division takes when receiving information about reportable events including a report of prohibited or unprofessional conduct; and • 333-265-0087 – Clarifies the possible disciplinary actions the Division will take as a result of 	any resulting investigations and enforcement actions.					

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>investigation findings.</p> <p>In response to EMS providers seeking to regain their licensed status after their license has expired, the Division adopted 333-265-0105 which establishes license reinstatement criteria.</p> <p>Lastly, OAR 333-265-0015 was adopted to align advanced EMT education (AEMT) requirements with national EMS educational standards in accordance with the National Highway Transportation Safety Administration-EMS Division.</p> <p>Since these rules have been adopted, the EMS/TS program has:</p> <ul style="list-style-type: none"> Reviewed approximately 1,682 reports of 						

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						prohibited or unprofessional conduct; 251 of which resulted in an investigation. <ul style="list-style-type: none"> • Current data is not available on the number of all EMS providers that sought to reinstate their license after expiration. The Division does receive numerous requests. • AEMTs are meeting the requirements adopted. 						
333-265-0083	Conduct or Practice Contrary to Recognized Standards of Ethics	7/1/2010	7/1/2015	7/16/2015	Mellony Bernal	Yes – See above	No – See above	Passage of SB 234 (2011) aligned EMS license naming standards with National Registry for EMTs (NREMT). In addition, EMS/TS program provided further clarification on the definition of sexual misconduct.	Yes – See above	8/7/2015	Amended 1/1/2012	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-265-0085	Investigations	7/1/2010	7/1/2015	7/16/2015	Mellony Bernal	Yes – See above	No – See above	(2012) Passage of SB 234 (2011) aligned EMS license naming standards with NREMT (2013) Grammatical corrections	Yes – See above	8/7/2015	Amended 1/1/2012 and 1/25/2013	None
333-265-0087	Discipline	7/1/2010	7/1/2015	7/16/2015	Mellony Bernal	Yes – See above	No – See above	Passage of SB 234 (2011) aligned EMS license naming standards with NREMT	Yes – See above	8/7/2015	Amended 1/1/2012	None
333-265-0105	Reinstatement of First Responder and EMT Certification	7/1/2010	7/1/2015	7/16/2015	Mellony Bernal	Yes – See above	No – See above	(2010 & 2011) Temporary and subsequent permanent rule filing was completed to correct errors made in the 7/1/2010 rule filing so that certificate holders could proceed with reinstatement of expired certification as intended and to create consistency between rules and statutes. (2012) Passage of SB 234 (2011) aligned EMS license naming standards with NREMT (2013) Clarifies when retaking and passing course and examinations	Yes – See above	8/7/2015	Amended 1/6/11; 1/1/12; 1/25/13	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								is necessary after a license has expired				
333-003-0116	Out-of-State Health Care Providers	8/12/2010	8/12/2015	4/5/2016	Eric Gebbie	Y - To allow and plan the deployment of in- and out-of-state healthcare providers during a major emergency. The rules have allowed the Public Health Division to plan, exercise and use in actual events the volunteer services of healthcare providers in regular exercises and after public health crises.	N – Fiscal impact has been within expectations.	Y - The rules were further amended after passage of SB 563 in 2011 allowing the volunteer registry to include previously licensed healthcare providers (such as retirees) and allowing for deployments to other states experiencing emergencies.	Y - There is clear, ongoing and increased need for this rule, as evidenced by increased demand for the volunteer registry by volunteers, partners and communities that have benefited from the volunteer services.	4/6/2016		The rules have been foundational to the State Emergency Registry of Volunteers in Oregon (SERV-OR) and the Medical Reserve Corps volunteer units, coordinated by the Public Health Division.
333-003-0118	Duties of Registrants	8/12/2010	8/12/2015	4/5/2016	Eric Gebbie	Y – See above	N – See above	Y – See above	Y – See above	4/6/2016	Amended 4/1/12	See above
333-003-0210	Liability Protection; Workers' Compensation	8/12/2010	8/12/2015	4/5/2016	Eric Gebbie	Y – See above	N – See above	Y – See above	Y – See above	4/6/2016	Amended 4/1/12	See above
333-035-0045	Purpose	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes - In order to address inadequate oversight of hospice programs and response to concerns raised by the Department of	No - An annual licensing fee of \$750 was established with passage of SB 161. The Statement of	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None

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						<p>Justice that regulatory authority over hospice facilities was inappropriately assigned to an agency outside of state government, SB 161 was passed requiring the OHA-Public Health Division to license and regulate hospice facilities. Prior to passage of SB 161, on-site surveys of hospice programs varied from six to ten years given funding under the Medicare Survey Grant.</p> <p>In order to be licensed, hospice facilities are required to complete an application; pay an annual fee; comply with federal CMS conditions of participation (42 CFR 418) and Oregon regulations; obtain criminal background checks on all its employees,</p>	<p>Need and Fiscal Impact anticipated a minimal fiscal impact to 50 hospice programs including the license fee and costs related to training staff, changes to existing policies, and criminal background check requirements.</p> <p>With the passage of the IMPACT in 2014, the federal survey interval changed from every 6.5 years to every 3 years beginning in April 2015. OHA is currently evaluating any effects on licensing and oversight costs for the hospice</p>					

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						<p>contractors, and volunteers; and submit to complaint investigations and surveys. On-site surveys are to be conducted once every three years; however, the legislation allows the Division to accept CMS certification or the federal certification of an accrediting organization in lieu of conducting its own on-site survey.</p> <p>There are currently 61 licensed hospice programs that provide hospices services to Oregon clients.</p> <ul style="list-style-type: none"> • 54 hospice programs have been surveyed by the Division • 49 hospice programs are Medicare certified, 8 of which have been certified by an 	providers in the future.					

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						accrediting organization. 40 complaint investigations have been conducted in 21 hospice programs						
333-035-0050	Definitions	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0055	Licensing and Fees	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0060	Criminal Background Checks	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0065	Complaints	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0070	Investigations	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0075	Surveys	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0080	Violations	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-035-0085	Informal Enforcement	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0090	Formal Enforcement	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0095	Civil Penalties	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0100	Approval of Accrediting Organizations	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-035-0105	Applicability of Rules	9/1/2010	9/1/2015	8/3/2015	Mellony Bernal	Yes – See above	No – See above	No	Yes – Rules are required as a result of legislation	8/20/2015	None	None
333-102-0032	Self Luminous Products and Sources Containing Radium-226	9/1/2010	9/1/2015	8/29/2015	Todd Carpenter	Yes – OAR 333-102-0032 allows a person with products possessing low levels of radium-226 to be issued a general license to become exempt from the regulatory requirements. Defines possession limits of radium 226	No – No fiscal impact was generated with these rules.	No	Yes	9/18/2015	None	Rules are in place to meet 10 CFR parts 1 – 50 to meet national regulatory standards.
333-120-0545	Disposal of Certain	9/1/2010	9/1/2015	8/29/2015	Todd Carpenter	Yes – OAR 333-120-0545 outlines the disposal	No – See above	No	Yes	9/18/2015	None	See above.

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	Byproduct Material					methods of certain byproduct materials other than source or radioactive materials. Defines waste pathways for certain low level by-product material (radium 226)						
333-076-0250	Violations	12/15/10	12/15/15	12/15/15	Mellony Bernal	Yes - 333-076-0250 – Violation Provides clarification on what is considered a violation.	No - The purpose of the statutory provision was to seek additional funding for the increase in complaint investigations. While the Division is collecting fees for these investigations, it is important to note the following: - Full compliance survey fees are high, however, the Centers for Medicare and Medicaid Services no longer	No	Yes - The rules continue to provide appropriate guidance and information to ASCs and hospitals. Fees need to continue to be collected for hospital complaint investigations.	1/14/2016	None	None

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							mandates a full compliance survey when a hospital may not be meeting a federal condition of participation. It is now optional and thus rare; - An average complaint investigation is more complex and labor intensive than was done in 2009; and - The administrative burden for tracking and billing is very labor intensive.					
333-076-0255	Informal Enforcement	12/15/10	12/15/15	12/15/15	Mellony Bernal	Yes - 333-076-0255 – Informal Enforcement Provides clarification on expectations relating to deficiencies found during an investigation or survey, and what is	No – see above	No	Yes – see above	1/14/2016	None	None

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						required of an ASC if deficiencies are found.						
333-076-0260	Formal Enforcement	12/15/10	12/15/15	12/15/15	Mellony Bernal	Yes - 333-076-0260 – Formal Enforcement Provides clarification on possible license suspension or revocation if substantial failure to comply with rules and regulation are noted during an investigation or survey.	No – see above	No	Yes – see above	1/14/2016	None	None
333-076-0265	Civil Penalties, Generally	12/15/10	12/15/15	12/15/15	Mellony Bernal	Yes - 333-076-0265 – Civil Penalties, Generally Clarifies the reason the Division may issue a civil penalty and the amount.	No – see above	No	Yes – see above	1/14/2016	None	None
333-076-0270	Approval of Accrediting Organizations	12/15/10	12/15/15	12/15/15	Mellony Bernal	Yes - 333-076-0270 – Approval of Accrediting Organizations Provides guidance on how an accrediting organization may seek approval from	No – see above	No	Yes – see above	1/14/2016	None	None

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						the Division to accredit ASCs in Oregon.						
333-500-0031	Fees for Complaint Investigations and Compliance Surveys	12/15/10	12/15/15	12/15/15	Mellony Bernal	Yes - 333-500-0031 – Fees for Complaint Investigations and Compliance Surveys The purpose of this statutory provision and subsequent rule was to seek additional funding in order to address a 370% increase in complaint investigations from 1994 (35 complaints) to 2007 (130 complaints). In that time frame, staff positions were reduced from 16 to 10. In 2011, HB 2100 was introduced and passed in order to revise the impractical and inequitable limitations caused by the initial language. The 2009 legislation limited the complaint fee based on one year of data which would result in some	No – see above	OAR 333-500-0031 was amended on 1/1/13. In 2011, HB 2100 was introduced and passed in order to revise impractical and inequitable limitations passed in 2009. The 2009 legislation limited the complaint fee based on one year of data which would result in some hospitals having to pay higher fee costs and others would never be required to pay for a complaint investigation. The revised language used a combination of past history and absolute caps to determine annual limitation for an individual hospital's complaint fees.	Yes – see above	1/14/2016	Amended 1/1/2013	None

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						hospitals having to pay higher fee costs and others would never be required to pay for a complaint investigation. The revised language used a combination of past history and absolute caps to determine annual limitation for an individual hospital's complaint fees.						
333-501-0060	Approval of Accrediting Organizations	12/15/10	12/15/15	12/15/15	Mellony Bernal	Yes - 333-501-0060 – Approval of Accrediting Organizations Provides guidance on how an accrediting organization may seek approval from the Division to accredit hospitals in Oregon.	No – see above	No	Yes – see above	1/14/2016	None	None
333-008-0045	Interim Changes	12/28/10	12/28/15	9/7/2016	Andre Ourso and Margaret Lut	Y - To distinguish Interim Changes from Annual Renewal for patient applications as these require	Underestimated - the original estimate did not include the increase of change requests that	OAR 333-008-0045 was amended on 10/1/2011, 1/13/2014, 1/15/2014 (temp), 7/11/2014, 3/1/2016, and 6/28/16	Y - The rule outlines the process of notifying the program of changes for medical	9/16/16	Amended 10/1/11; 1/13/14; 7/11/14; 3/1/2016; 6/28/16	N/A

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						different processes.	would be submitted or the amount of time it would take to process change requests.	<p>10/1/2011 – The 2011 Legislative Session adopted a Public Health budget that required an increase in fees charged to Oregon Medical Marijuana Program applicants to generate revenue to fund other public health programs. Part of the new fee package was to charge a replacement card fee. It was hoped that charging a fee would encourage people to not lose their cards and reduce workload to the program.</p> <p>1/13/2014 – The word “non-refundable” was added in regards to the fee to receive a replacement card.</p> <p>1/15/2014 (temp) – The rule was temporarily amended to add reference to</p>	marijuana cardholders.			

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								<p>new temporary medical marijuana dispensary rules.</p> <p>7/11/2014 - The temporary reference to dispensary rules was made permanent.</p> <p>3/1/2016 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules was entirely revised to comply with the new statutes.</p> <p>6/28/2016 - The 2016 Legislative Session adopted HB 4014 which removed residency requirements for growers. The OAR was modified to remove the requirement that a person responsible for a marijuana grow site notify the program if</p>				

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								they have a change in residency.				
410-121-4000	Purpose	5/5/11	5/5/16	4/11/17	Drew Simpson	Y - To provide the standards for operating the Prescription Drug Monitoring Program. To clarify requirements and purposes, establish definitions, and establish access process and requirements to access electronic records. This rule has provided the standards for operating the Prescription Drug Monitoring Program. The rule has clarified requirements and purpose, established definitions, and established access to electronic records.	N - There was no fiscal impact estimated to the agency or local government. All program cost were covered by the fees collected from those authorized to prescribe or dispense controlled substances and who are licensed by a required board.	No	Y - As long as the Prescription Drug Monitoring Program is operational these rules will be needed. They provide the standards for operating the Prescription Drug Monitoring Program. The rules clarify requirements and purpose, establish definitions, and establish processes to protect access to the data.	4/28/17	Renumbered to 333-023-0800 1/1/16	None
410-121-4005	Definitions	5/5/11	5/5/16	4/11/17	Drew Simpson	Y – See above	N – See above	Y - Amended effective 11/19/13 as a result of the passage of SB 470 (2013). Since the implementation of the PDMP in 2011, additional	Y – See above	4/28/17	Amended 11/19/13; Renumbered to 333-023-0805 1/1/16;	None

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								<p>needs were identified to help improve the use and effectiveness of the system including: the collection of additional data to help monitor prescribing, delegate access by practitioner and pharmacist staff, access by the State Medical Examiner, and access by practitioners in states bordering Oregon. In 2013 Senate Bill 470 was passed that amends PDMP statute to address these needs and subsequent amendments needed to be made to the administrative rules.</p> <p>Amended effective 1/10/17 – House Bill 4124 (2016) mandated that new functionality be added to the prescription drug monitoring program, the rule was amended to address the new functionality. This included adding new definitions, establishing processes for providing new functionality to users/entities, clarifying</p>			amended 1/10/17	

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								technical requirements and provisions.				
410-121-4010	Reporting Requirements	5/5/11	5/5/16	4/11/17	Drew Simpson	Y – See above	N – See above	Y - Amended effective 11/19/13 as a result of the passage of SB 470 (2013). Since the implementation of the PDMP in 2011, additional needs were identified to help improve the use and effectiveness of the system including: the collection of additional data to help monitor prescribing, delegate access by practitioner and pharmacist staff, access by the State Medical Examiner, and access by practitioners in states bordering Oregon. In 2013 Senate Bill 470 was passed that amends PDMP statute to address these needs and subsequent amendments needed to be made to the administrative rules. Amended effective 1/1/16 to revise reporting requirements for the Prescription Drug Monitoring Program, based on the passage of	Y – See above	4/28/17	Amended 11/19/13; Renumbered to 333-023-0810 and amended 1/1/16	None

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								SB 71 (2015). The reporting requirement was changed from one week to 72 hours after dispensing a controlled substance.				
410-121-4015	Notifications to Patients	5/5/11	5/5/16	4/11/17	Drew Simpson	Y – See above	N – See above	No	Y – See above	4/28/17	Renumbered to 333-023-0815 1/1/16	None
410-121-4020	Information Access	5/5/11	5/5/16	4/11/17	Drew Simpson	Y – See above	N – See above	Y - Amended effective 11/19/13 as a result of the passage of SB 470 (2013). Since the implementation of the PDMP in 2011, additional needs were identified to help improve the use and effectiveness of the system including: the collection of additional data to help monitor prescribing, delegate access by practitioner and pharmacist staff, access by the State Medical Examiner, and access by practitioners in states bordering Oregon. In 2013 Senate Bill 470 was passed that amends PDMP statute to address these needs and subsequent amendments	Y – See above	4/28/17	Amended 11/19/13; Renumbered to 333-023-0820 1/1/16; amended 1/10/17	None

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								needed to be made to the administrative rules. Amended effective 1/10/17 – House Bill 4124 (2016) mandated that new functionality be added to the prescription drug monitoring program, the rule was amended to address the new functionality. This included adding new definitions, establishing processes for providing new functionality to users/entities, clarifying technical requirements and provisions.				
333-019-0003	Providing Information to the Oregon Health Authority or Local Public Health Administrator	8/19/11	8/19/16	Paul Cieslak	9/16/16	Y - OAR 333-019-0003 was intended to effect the following: - Compliance with the requirement of ORS 433.001(1)(d) to "prescribe measures and methods for investigating the source and controlling	N - By clarifying these aspects of public health investigation and control of communicable diseases, the rule may actually be saving the state money — in time not spent	No	Y - The need for information on potential sources of infection and potentially exposed persons will persist until every tear is wiped away and death	9/16/16	None	N/A

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						<p>reportable disease." The new rule made clear that such measures may include not only interviews of persons with reportable diseases, but of controls (as might be employed in a case-control study), health care providers, and employees of a health care facility; querying health care personnel or records regarding potential sources of infection, routes of transmission, and potentially exposed persons; and obtaining samples for testing as necessary.</p> <p>-Compliance with the requirement of</p>	<p>responding to questions or getting attorneys involved.</p> <p>This rule was estimated to have negligible fiscal impact</p>		shall be no more.			

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						<p>ORS 433.004(4) to "establish by rule the manner in which information may be requested and obtained under subsection (3) of this section."</p> <p>Several situations have arisen in which OHA needed access to the kinds of information in this rule: to investigate potential transmission of hepatitis B or C during surgical procedures; investigation of "prolotherapy" administered by a physician whose clinic was implicated in hepatitis C transmission in California; follow up of patients and health care</p>						

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						workers potentially exposed to measles, to verify vaccination status and offer prophylaxis as needed; investigation of an outbreak of mycobacterial infections associated with joint prostheses. We have been able to assure health care workers and facilities of their obligations under this rule and of the confidentiality protections that attended their provision of information. The need to interview controls occurs regularly, especially in attempting to implicate statistically the vehicles of						

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						foodborne disease outbreaks.						
333-019-0042	Tuberculosis Screening in Correctional Facilities	12/14/11	12/14/16	12/22/16	Heidi Behm	Y - To ensure incarcerated persons with tuberculosis risk factors are screened for tuberculosis by correctional facilities. Correctional facilities, jails in particular, are now screening inmates for tuberculosis. Not all jails were doing so prior to this rule. Jails will be surveyed on screening practices in 2017.	N - Correctional facilities have not required to report on fiscal impact. The rule has no cost to OHA.	N - There have been no changes in law regarding tuberculosis screening of inmates.	Y - Yes. Tuberculosis is an airborne disease. Oregon data shows a high percentage of persons with TB disease report a history of incarceration.			
333-047-0010	Definitions Used in the Vaccine Accountability Rules	1/1/12	1/1/17	1/3/17	Amanda Timmons	Y - Oregon's vaccine distribution system supplies close to \$50,000,000 worth of taxpayer funded vaccine to hundreds of clinics across the state. The vaccine is given to clinics to administer to federally and state-	N	N - The rules have not been amended since certification in 2012.	Y - This rule has been effective in significantly reducing the amount of publicly-purchased vaccines wasted due to inappropriate	1/25/17	None	None

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						<p>defined eligible clients in need of such services. Poor clinical administration and vaccine storage procedures have in the past resulted in the need to revaccinate thousands of Oregonians, and the loss of millions of dollars in wasted vaccine and lost revenue at private clinics. Over \$500,000 in taxpayer funded vaccine was lost in 2009. The adoption of rules in division 47 and amendments of rules in division 49 resulting from the passage of HB 2371A during the 2011 legislative session has enhanced access to high-quality education and accountability tools to prevent such losses and set</p>			<p>storage and handling procedures. Since administrative staffs in medical clinics experience a high-rate of turnover, there is a continued need to compel training for staff handling and storing vaccines.</p> <p>OAR 333-047-0050 was related to implementation of these rules for providers already enrolled in the Vaccines for Children program. The need for this rule expired in 2012.</p>			

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						<p>accountability standards.</p> <p>The number of unexpired vaccines compromised by inappropriate storage and handling practices has been reduced; 76% VFC-participating clinics have fewer than 5% of all vaccine inventory lost due to spoiled, wasted or expired doses. At least two staff members at each clinic site meet annual vaccine storage, handling and administration training requirements.</p>						
333-047-0030	Training	1/1/12	1/1/17	1/3/17	Amanda Timmons	Y – See above	N	N – See above	Y – See above	1/25/17	None	None
333-047-0040	Accounting for Vaccine	1/1/12	1/1/17	1/3/17	Amanda Timmons	Y – See above	N	N – See above	Y – See above	1/25/17	None	None
333-047-0050	Timeline for Reporting	1/1/12	1/1/17	1/3/17	Amanda Timmons	Y – See above	N	N – See above	Y – See above	1/25/17	None	None

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333-010-0032	Reporting Requirements for Clinical Laboratories	1/1/12	1/1/17	12/13/16	Jeff Soule	<ol style="list-style-type: none"> 1. Added reference to reporting requirement in ORS to include benign tumors of the brain and central nervous system to the list of cases reportable to the Oregon State Cancer Registry (OSCaR); 2. Added requirement that clinical laboratories report cases of certain pre-malignant conditions including intraepithelial neoplasia of the cervix, anus, vagina and vulva; and <p>Modified OSCaR patient notification requirement to allow OSCaR to curtail patient notification activities based on budgetary considerations.</p>	N	N	Y - The regulatory revisions described above were intended as permanent improvements in State Cancer Registry operations, and as such, should continue indefinitely as part of the Registry regulations.	2/13/17	None	None

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						<p>Y - The rules amendment referenced in Item #1 above was strictly an administrative correction to bring the OSCaR OAR's into alignment with the corresponding sections of the ORS, which were amended in 2003 to provide for reporting of benign brain and CNS tumors to OSCaR. In comparison, Item #2 provided for an expansion of the Oregon cancer reporting regulations to require reporting of the pre-malignant conditions listed under Item #2 that in turn supported a CDC pilot project to conduct surveillance of certain HPV-related pre-cancerous lesions. The pilot project has been successful, and is expanding to include analysis of</p>						

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						path lab reporting from across Oregon. Item #3, which added flexibility to the OSCaR patient notification requirement has supported review of the patient notification process, including a cost-benefit analysis which is currently under review by OSCaR management.						
333-010-0197	Presumptive Eligibility for BCCTP	1/17/12	1/17/17	12/21/16	Darren Yesser	Y - This rule aligned the Oregon Breast and Cervical Cancer Program (BCCP), now ScreenWise, with SB 433 (2011 legislative session), enabling all ScreenWise-eligible women with a qualifying breast or cervical cancer diagnoses to be presumptively enrolled in the state Medicaid Breast and Cervical Cancer Treatment Program	Underestimated - As anticipated, there has been no fiscal impact for the Breast and Cervical Cancer screening program (BCCP), now ScreenWise, within the Public Health Division. It was initially anticipated that the Division of Medical	Y - This rule was temporarily amended 10-15-15 thru 4-8-16 and permanently amended on 4-1-16. This amendment aligned the rule with an updated ScreenWise program eligibility policy that pre-authorization was no longer required to enroll eligible women under 40.	Y - There is a continued need for this rule to enable eligible women diagnosed with breast or cervical cancer to be presumptively enrolled in the state Medicaid Breast and Cervical Cancer Treatment	1/25/17	Temp 10/15/15 thru 4/8/16; Perm 4/1/16	None

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						<p>(BCCTP), regardless of whether they were enrolled in ScreenWise and/or diagnosed by a participating ScreenWise provider. Prior to SB 433, BCCTP was only accessible to ScreenWise-enrolled women who were diagnosed by a ScreenWise provider. This rule clarified the fact that, per SB433, the ScreenWise screening program was no longer the sole access point for BCCTP, thereby expanding access to treatment.</p> <p>Any licensed health care provider who can diagnose breast or cervical cancer may now presumptively enroll a ScreenWise-eligible patient into BCCTP. This referral process does not require the provider</p>	<p>Assistance Programs (DMAP) would incur the costs of covering an additional 12 women per month for treatment through Medicaid. The average monthly increase was closer to 14 women per month until January 2014 when Medicaid expansion took effect. Since then, more women have been granted full Medicaid coverage, and the number of women on the BCCTP program has continued to decline at an average of about 23 per month.</p>		<p>Program (BCCTP), regardless of whether they were enrolled in ScreenWise and/or diagnosed by a participating ScreenWise provider. This rule supports the fact that the ScreenWise screening program is no longer the sole access point for the BCCTP.</p>			

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						or patient to be part of the ScreenWise program.						
333-157-0073	Temporary Restaurant Definitions	3/1/12	3/1/17	6/1/17	Dave Martin	<p>Y - These rules implemented statutory changes to the temporary restaurant program that reduced the licensing and inspection burden on the industry and local health departments but also provided for adequate public health protection to consumers.</p> <p>The temporary restaurant industry, in particular farmer's markets, has flourished since the adoption of these rules. These changes significantly reduced the licensing costs to industry. For example, prior to the rule change, a food booth at a farmer's market would be required to obtain a separate license for each month of</p>	N - The rule allows the issuance of seasonal temporary restaurant licenses that reduce the inspection burden for local health departments. To qualify for a seasonal license, an operator must complete a one-time operational review that is approved by the local health department. Local health departments can charge a fee to cover the time necessary to review the application and we are not aware of any complaints	N	Y - There are several thousand temporary restaurant licenses issued every year for food served at events throughout Oregon, such as fairs, carnivals and festivals and these rules will continue to be necessary as long as these events are held.	7/10/2017	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						operation. Under the new rules, seasonal licenses can be obtained that are good for three months at a time. This results in an annual cost reduction from 12 to 4 licenses. In addition, it has reduced the number of inspections required to be conducted by local health departments.	related to a fiscal impact. After our initial rule adoption process, there has been no significant impact on OHA because any consultation and technical assistance related to these rules is part of current staff duties.					
333-157-0077	Temporary Restaurant Licensing and Inspection	3/1/12	3/1/17	6/1/17	Dave Martin	Y – See above	N – See above	OAR 333-157-0077 was amended on 9/4/12 to reflect new terminology that resulted from the adoption of the 2009 FDA Food Code by reference. These changes were not substantive in nature.	Y – See above	7/10/17	Amended 9/4/2012	None
333-700-0004	Referenced Codes and Standards	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y - Referenced Codes and Standards was implemented in order to adopt by reference standards and applicable editions specified throughout the rules and in order to align standards with those required	N - No additional fees were assessed to facilities that chose to provide mobile dialysis services. It was noted that additional record keeping would be required and	OAR 333-700-0004 amended 2/1/15 This rule was amended to update prescribed standard editions to align with updated federal regulations.	Y - The rules continue to provide appropriate guidance and information to outpatient renal dialysis facilities. Although no facility has	4/26/17	Amended 2/1/15	N/A

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>by federal regulations.</p> <p>The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures. Although the Outpatient Mobile Dialysis rule was adopted at the request of a stakeholder, no facility has requested approval from the Health Care Regulation and Quality Improvement Program to implement these mobile services.</p>	that there may be increased staffing costs in rare cases since staffing ratios are already implemented in most facilities.		requested approval to provide outpatient mobile dialysis, the program believes it is feasible that some facilities may do so in the future.			
333-700-0017	Application Review	4/1/12	4/1/17	4/12/17	Mellony Bernal	<p>Y - Adopted in order to provide better clarification, guidance and direction, as well as align language with other regulated facility types</p> <p>The rules adopted have provided</p>	N- See above	OAR 333-700-0017 amended 2/1/15 This rule was amended to clarify that an on-site certification survey is conducted only if the facility has requested Medicare and Medicaid certification.	Y – See above	4/26/17	Amended 2/1/15	N/A

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						clearer guidance and direction with respect to standard licensing operating procedures. Although the Outpatient Mobile Dialysis rule was adopted at the request of a stakeholder, no facility has requested approval from the Health Care Regulation and Quality Improvement Program to implement these mobile services.						
333-700-0018	Approval of License Application	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A
333-700-0019	Denial of License Application	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A
333-700-0053	Complaints	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A
333-700-0057	Investigations	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A
333-700-0061	Violations	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-700-0062	Informal Enforcement	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A
333-700-0063	Formal Enforcement	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A
333-700-0064	Civil Penalties	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A
333-700-0072	Waivers	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y – See above	N- See above	N/A	Y – See above	4/26/17		N/A
333-700-0073	Outpatient Mobile Dialysis	4/1/12	4/1/17	4/12/17	Mellony Bernal	Y - Outpatient Mobile Dialysis was adopted at the request of a stakeholder and allows a dialysis facility to provide staff assisted dialysis at a patient's home or care facility versus the patient having to receive services at a dialysis facility. The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures. Although the Outpatient Mobile Dialysis rule was adopted at the	N- See above	N/A	Y – See above	4/26/17		N/A

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						request of a stakeholder, no facility has requested approval from the Health Care Regulation and Quality Improvement Program to implement these mobile services.						
333-076-0001	Referenced Codes and Standards	4/1/12	4/1/17	4/14/17	Mellony Bernal	<p>Y - Referenced Codes and Standards was implemented in order to adopt by reference applicable editions for standards specified in the Physical Environment rule (OAR 333-076-0185) and in order to align standards with those required by federal regulations.</p> <p>The rule provides specification on the standards necessary for new buildings or alterations to existing facilities.</p>	N - There was no fiscal impact for this rule. The Referenced Codes and Standards was adopted in order to specify specific editions for standards that apply to the Physician Environment rule (OAR 333-076-0185.)	Y - The Centers for Medicare and Medicaid Services recently published final rules for "Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers," (Federal Register, Vol. 81, No. 180, September 16, 2016). The final federal rule amends current fire safety standards by adopting the 2012 Life Safety Code and eliminates references to earlier editions. The rule also adopts the 2012 edition of the Health Care Facilities Code with some exceptions. Providers affected by this federal	Y - Provides specification on which editions apply for standards for purposes of new building construction or alterations to existing facilities.	5/18/17	None	None

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								rule change must comply and implement by November 16, 2017. In addition, stakeholders from the various licensed facility types have requested the Division explore adopting FGI guidelines which may alleviate the need for the long list of codes and standards currently referenced.				
333-003-0117	Registration of Formerly Licensed Health Care Providers; Renewal	4/1/12	4/1/17	6/2/17	Eric Gebbie	Y - Permit the registration of previously licensed health care providers in the State Emergency Registry of Volunteers in Oregon (SERV-OR), and address the registration, training, background check process, activation and extended liability protection and workers' compensation for those previously licensed health professionals. We have two previously	N - Very few previously licensed healthcare providers have taken advantage of the rule change and sought to become or maintain registration with SERV-OR after their health care provider license expires. As estimated, the Oregon Health	No	Y - The Division and stakeholders continue to need the ability to address the registration, training, background check process, activation and extended liability protection and workers' compensation for qualified	6/2/2017	None	None

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						<p>licensed volunteers who are registered and have met all of the requirements. We have an additional 40 volunteers who are working towards meeting all of the requirements for previously licensed SERV-OR volunteers.</p> <p>This rule has allowed OHA/PHD/HSPR Program to register and deploy previously licensed healthcare volunteers via the SERV-OR system for disaster training and response.</p>	Authority-Public Health Division dedicated a modest amount of staff time to initial implementation of the rules via the SERV-OR program, in partnership with local Medical Reserve Corps units within the Registry.		emergency service volunteers permitted by the rules, including the registration of previously licensed health care providers.			
333-003-0119	Criminal Background Checks	4/1/12	4/1/17	6/2/17	Eric Gebbie	Y – See above	N – See above	No	Y – See above	6/2/2017	None	None
333-027-0017	Approval of License Application	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well	N - At the time rules were filed, there were 74 licensed home health agencies. As of the January 20, 2017 there were	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard	5/18/17	None	None

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						as align language with other regulated facility types.	<p>75 licensed home health agencies.</p> <p>Based on data submitted from home health agencies in response to questions about the current number of employees and employee turn-over rate, the Division estimated that approximately 465 home health agency employees would be subject to the criminal records check requirement The cost of the records check was estimated to be \$30. Additionally, it was estimated that the cost of background re-checks every</p>		licensing operating procedures.			

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							<p>three years was estimated at \$93,000.</p> <p>The Division does not collect ongoing data from agencies on the number of employees or the number of background checks completed so it is unable to quantify whether the fiscal impact was over or underestimated. However, given that there is only one additional agency that has been licensed in the last five years, it is believed that the estimate is not underestimated.</p>					
333-027-0018	Denial of License Application	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect	N- See above	N	Y - The rules adopted have provided clearer guidance and	5/18/17	None	None

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						to standard licensing operating procedures, as well as align language with other regulated facility types.			direction with respect to standard licensing operating procedures.			
333-027-0029	Denial, Suspension, or Revocation of License	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well as align language with other regulated facility types.	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	5/18/17	None	None
333-027-0033	Return of Agency License	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well as align language with other regulated facility types.	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	5/18/17	None	None
333-027-0036	Surveys	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to	5/18/17	None	None

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						procedures, as well as align language with other regulated facility types.			standard licensing operating procedures.			
333-027-0037	Complaints	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well as align language with other regulated facility types.	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	5/18/17	None	None
333-027-0038	Investigations	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well as align language with other regulated facility types.	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	5/18/17	None	None
333-027-0064	Criminal Records Check	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted to address legislative requirements in HB 2650 requiring agencies to conduct criminal background checks prior to hiring or contracting with an individual and before	N- See above	N	Y - Required to comply with ORS 443.004	5/18/17	None	None

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						<p>allowing an individual to volunteer. The legislation prescribes that any person who has or will have direct contact with a patient receiving home health services may not be employed, contract with or volunteer with an agency in any capacity if the criminal background check revealed conviction of a specified list of crimes.</p> <p>Was adopted to comply with ORS 443.004. The intent of the statute is to ensure that vulnerable persons are protected from possible physical or financial harm. In the past five years, the Division has issued 43 citations to home health agencies relating to criminal background check requirements</p>							

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						including failure to perform criminal records check on employees prior to hire date; policies that did not meet specified requirements; and failure to conduct background checks every three years.						
333-027-0175	Violations	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well as align language with other regulated facility types.	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	5/18/17	None	None
333-027-0180	Informal Enforcement	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well as align language with other regulated facility types.	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	5/18/17	None	None

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333-027-0185	Formal Enforcement	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well as align language with other regulated facility types.	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	5/18/17	None	None
333-027-0190	Civil Penalties	4/1/12	4/1/17	4/14/17	Mellony Bernal	Y - Adopted in order to provide better clarification, guidance and direction with respect to standard licensing operating procedures, as well as align language with other regulated facility types.	N- See above	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	5/18/17	None	None
333-536-0007	Classification	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y - Adopted given the number of agencies providing medication and nursing services who were deficient in safe practices. An In-Home Care Medication Services Subcommittee was established with the goal of reaching an agreement on the	N - At the time rules were filed, there were 130 licensed in-home care agencies. As of January 1, 2017 there were 150 licensed in-home care agencies including subunits.	N	Y - The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures, as demonstrated	6/29/17	None	None

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						<p>safe delivery of medication to in-home care clients. The Subcommittee agreed that licensure classifications were needed to clearly identify the types of services being provided by an in-home care agency. Depending on the level of service provided, additional caregiving training and staffing support are required.</p> <p>The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.</p> <p>Given the adoption of 333-536-0007, the number of licensed in-home care agencies are classified as follows:</p> <ul style="list-style-type: none"> • 17 Limited • 02 Basic • 09 Intermediate 	<p>Based on data submitted from in-home care agencies in response to questions about the current number of employees and employee turnover rate, the Division estimated that approximately 1,450 individuals would be subject to the criminal records check requirement. The cost of the records check was estimated to be \$30. Additionally, it was estimated that the cost of background re-checks every three years was estimated at \$156,000.</p>		<p>by the continuing need for technical assistance and regulatory enforcement activities. The criminal background check rule is required to comply with ORS 443.004.</p>			

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						<ul style="list-style-type: none"> • 102 Comprehensive • An additional 20 subunits are licensed that provide services for a parent agency regardless of classification. <p>In the past five years, the Division has issued 81 citations to in-home care agencies for failure to follow increased training or staffing requirements based on their classification type.</p>	The Division does not collect ongoing data from agencies on the number of employees or the number of background checks completed so it is unable to quantify whether the fiscal impact was over or underestimated.					
333-536-0021	Approval of License Application	7/1/12	7/1/17	6/19/17	Mellony Bernal	<p>Y - Adopted in order provide better clarification, guidance and direction, as well as align language with other regulated facility types.</p> <p>The rules adopted have provided clearer guidance and direction with respect</p>	N – See above	N	Y – See above	6/29/17	None	None

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						to standard licensing operating procedures.						
333-536-0023	Denial of License Application	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None
333-536-0031	Fees	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None
333-536-0033	Denial, Suspension or Revocation of License	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None
333-536-0041	Surveys	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None
333-536-0042	Complaints	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None
333-536-0043	Investigations	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None
333-536-0093	Criminal Records Checks	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y - Adopted to address legislative requirements in HB 2650 requiring agencies to conduct criminal background checks prior to hiring or contracting with an individual and before allowing an individual to volunteer. The legislation prescribes	N – See above	N	Y – See above	6/29/17	None	None

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						<p>that any person who has or will have direct contact with a patient receiving in-home care services may not be employed, contract with or volunteer with an agency in any capacity if the criminal background check revealed conviction of specified crimes.</p> <p>OAR 333-536-0093 was adopted to comply with ORS 443.004. The intent of the statute is to ensure that vulnerable persons are protected from possible physical or financial harm. In the past five years, the Division has issued 117 citations to in-home care agencies relating to criminal background check requirements including failure to perform criminal records check on</p>						

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						employees prior to hire date; policies that did not meet specified requirements; and failure to conduct background checks every three years.						
333-536-0110	Violations	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y - Adopted in order provide better clarification, guidance and direction, as well as align language with other regulated facility types. The rules adopted have provided clearer guidance and direction with respect to standard licensing operating procedures.	N – See above	N	Y – See above	6/29/17	None	None
333-536-0117	Informal Enforcement	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None
333-536-0120	Formal Enforcement	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None
333-536-0125	Civil Penalties	7/1/12	7/1/17	6/19/17	Mellony Bernal	Y – See above	N – See above	N	Y – See above	6/29/17	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-055-0006	Definitions	9/19/12	9/19/17	8/28/17	Mellony Bernal	<p>Y – Adopted as a result of SB 104 (sections 8 and 9) passed during the 2011 legislative session which amended who could provide training on lifesaving treatments and decreased the minimum age requirement that persons may receive training on the treatment of allergic reactions and hypoglycemia.</p> <p>OAR 333-055-0006 was adopted to identify specific definitions applicable to the administrative rules.</p> <p>Definitions align with statute and provide clarification that Paramedics, under the direction of their supervising physician, are allowed to train individuals in the</p>	<p>N - The EMS and Trauma Systems Program is responsible for providing copies of the training protocol to individuals at their request. The protocol is available on the web as well as in hardcopy.</p> <p>As specified in the fiscal impact statement, the EMS and Trauma Systems program does not track the number of individuals trained or who conducts training so it is not feasible to determine whether there were increased or decreased costs to organizations or</p>	<p>Y - Passage of SB 875 during the 2015 legislative session added training on the treatment of adrenal crisis to affected statutes requiring rules to be amended. Definitions for adrenal crisis and adrenal insufficiency were added.</p>	Y – continues to provide clarity.	11/7/17	Amended 2/6/16	None

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						treatment of allergic response.		individuals that provide the training. A majority of the training is conducted by school nurses in order to train school staff.				
333-055-0021	Eligibility for Training	9/19/12	9/19/17	8/28/17	Mellony Bernal	Y – Adopted as a result of SB 104 (sections 8 and 9) passed during the 2011 legislative session which amended who could provide training on lifesaving treatments and decreased the minimum age requirement that persons may receive training on the treatment of allergic reactions and hypoglycemia. OAR 333-055-0021 was adopted to clearly identify who is eligible to receive training on the recognition of symptoms for allergic	N – See above.	Y - Passage of SB 875 during the 2015 legislative session added training on the treatment of adrenal crisis to affected statutes requiring rules to be amended. Eligibility for training was amended to cross reference additional rules.	Y – continues to provide clarity.	11/7/17	Amended 2/8/16	None

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						<p>response to allergens and for hypoglycemia, in addition to administering epinephrine or glucagon.</p> <p>Eligibility for training makes it clear that individuals 18 years of age or older may receive training.</p>						
333-052-0043	Senior Participant Eligibility and Benefits	12/20/12	12/20/17	12/18/17	Erin Macauley	<p>Y - During the 2012 fiscal year, the WIC program assumed responsibility for the administration of the Senior Farm Direct Nutrition Program. This program was previously administered by the Department of Human Services, Self-Sufficiency Programs, Aging and People with Disabilities (APD). The rule additions, amendments and alterations were a direct result of the</p>	<p>N - The anticipated costs associated with these rules changes was accurate and has not created an adverse impact on the program or administration.</p> <p>There were adequate funds allocated for the transition, implementation, and administration of the Senior</p>	<p>Amended 1/30/14 and 1/1/16.</p> <p>At this time, all previous revisions are still accurate and no other Division or federal changes require amendments to division 52.</p> <p>Previous changes in 2014 to rules 0043 and 0044 included amending current definitions, Senior and WIC participant eligibility requirements and complaint processing. Changes in 2016 to section 0043</p>	Yes - The Oregon WIC Program is still and will continue to be the designated administrator of the Senior and WIC participant Farm Direct Nutrition Programs. The rule(s) define eligibility and benefit utilization and disbursement	12/22/17	Amended 1/30/14 & 1/1/16	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>oversight shift and included eligibility and benefit parameters. The previous administering body subsequently repealed their rules. Additional rules were added to clearly identify WIC participants participating in the Oregon FDNP program and their eligibility and benefit parameters, which are separate and unique from the Senior Oregon FDNP.</p> <p>The adoption of these rules set a clear path for eligibility and benefits for both the Senior and WIC participant populations. It has also allowed for the successful administration of the Senior FDNP in addition to the WIC participant FDNP.</p>	FDNP. There were no unforeseen costs that created an adverse impact.	included revisions to the income eligibility requirements to come in line with the ACA coverage updates and the minimum age requirement was updated for fiscal purposes.	which are crucial variables for successful administration .			

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333-052-0044	WIC Participant Eligibility and Benefits	12/20/12	12/20/17	12/18/17	Erin Macauley	Y – See above	N – See above	Amended 1/30/14 At this time, all previous revisions are still accurate and no other Division or federal changes require amendments to division 52. Previous changes in 2014 to rules 0043 and 0044 included amending current definitions, Senior and WIC participant eligibility requirements and complaint processing.	Y – See above	12/22/17	Amended 1/30/14	None
333-004-0200	Agency Appeals	12/26/12	12/26/17	11/27/17	Emily Elman	Y - The intent of the rule adoption was to describe the agency appeals process, including administrative review and contested case hearings for the Oregon ContraceptiveCare (CCare) program. The rule adoption also outlined the claims re-determination process. All rules adopted had their	N - There were no unanticipated additional costs to state agencies, providers, units of local government or the public.	N	Y - The CCare Program continues to operate and requires the rule adoption made in 2012.	11/28/17	None	None

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						intended effect in describing the agency appeals and claims re-determination process.						
333-004-0210	Claim Re-Determination	12/26/12	12/26/17	11/27/17	Emily Elman	Y – See above	N – See above	N	Y – See above	11/28/17	None	None
333-004-0220	Agency Appeals – Administrative Review	12/26/12	12/26/17	11/27/17	Emily Elman	Y – See above	N – See above	N	Y – See above	11/28/17	None	None
333-004-0230	Agency Appeals – Contested Case Hearings	12/26/12	12/26/17	11/27/17	Emily Elman	Y – See above	N – See above	N	Y – See above	11/28/17	None	None
333-250-0031	Ambulance Service Requirements with Use of Qualified Drivers	1/25/13	1/25/18								Repealed 3/21/17	
333-265-0011	Applications for Approval of EMT-Intermediate Courses	1/25/13	1/25/18								Repealed 3/30/17	
333-265-0024	EMT-Intermediate Provider Examination	1/25/13	1/25/18	1/8/18	Mellony Bernal	Y - OAR 333-250-0024 was one of two rules adopted to address requirements for EMT-Intermediate provider exams. The	N - The EMS and Trauma Systems Program remains responsible for creating the	Y - OAR 333-265-0024 was amended on March 30, 2017 to clarify an EMS provider's eligibility to take the EMT Intermediate exam, updates terminology and	Y - The rule is still necessary to provide information about the EMT-Intermediate	3/14/18	Amended 3/30/17	None

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						rule clarifies who can host an EMT-Intermediate exam, retesting options for an EMS provider that fails an exam, time limitation to complete exam after completing required courses, and examination officer eligibility. In the fall of 2011, the NREMT announced the transition from EMS provider levels of certification designated in the 1990s to new titles with new responsibilities. Because of these changes, the Oregon Health Authority introduced legislation that passed in 2011 (SB 234) to align Oregon laws with national standards. However, while the National Registry transitioned EMT-Intermediates (Intermediate) to the new Advanced EMT	EMT-Intermediate curriculum and instructional guidelines to the trainers of these courses. This work is done using existing resources.	removes language that would be considered out of compliance with the Americans with Disabilities Act.	exam including who can host an exam and testing qualifications.			

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						<p>(AEMT) classification, rural agencies in Oregon requested that Oregon administrative rules retain the Intermediate classification. Due to recruitment and resource barriers for employing a Paramedic, retaining the Intermediate classification allows rural agencies to employ an Intermediate who is able to administer certain medications that an AEMT cannot.</p> <p>As of January 12, 2018, there are 750 licensed EMT-Intermediates in Oregon compared to 1,018 licensed at the end of 2012. These numbers suggest that agencies continue to rely on this classification and Oregon should retain</p>							

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						curricula necessary to train EMS providers at this level.						
333-119-0041	Cleaning and Sanitation	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - Requires the registrant to maintain minimal sanitation requirements for the tanning device customer. This rule is enforced.	N - No fiscal impact was observed with these adopted rules.	OAR 333-119-0041 was amended January 2015 to remove the requirement that the facility operator must use a sanitizer specifically manufactured for sanitizing ultraviolet light equipment. Rule now allows for the use of a EPA or FDA bactericide registered product.	Y – to protect public health	3/14/18	Amended 1/1/15	None
333-123-0055	Electronic Brachytherapy	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0060	Facility Design Requirements for Electronic Brachytherapy Devices	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None

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333-123-0065	Electrical Safety for Electronic Brachytherapy Devices	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0070	Control Panel Functions	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0075	Timer	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0080	Medical Physicist	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0085	Operating Procedures	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are	N - No fiscal impact was observed with	OAR 333-123-0055 through 0115 will need to	Y – to protect public health	3/14/18	None	None

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						enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	these adopted rules.	be amended as the technology evolves.				
333-123-0090	Safety Precautions for Electronic Brachytherapy Devices	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0095	Electronic Brachytherapy Source Calibration Measurements	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0100	Periodic and Day-of-Use Quality Assurance Checks for Electronic Brachytherapy Devices	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0105	Therapy Related Computer Systems	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None

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						brachytherapy devices used for cancer therapies.						
333-123-0110	Training	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-123-0115	Mobile Electronic Brachytherapy Service	1/29/13	1/29/18	2/5/18	Todd Carpenter	Y - OAR 333-123-0055 through 333-123-0115 are enforced relating to the use of electronic brachytherapy devices used for cancer therapies.	N - No fiscal impact was observed with these adopted rules.	OAR 333-123-0055 through 0115 will need to be amended as the technology evolves.	Y – to protect public health	3/14/18	None	None
333-010-0400	Description of Dental Pilot Projects	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y - OAR 333-010-0400 through 333-010-0470 allows the Oregon Health Authority's Dental Pilot Project Program to provide administrative oversight over dental pilot projects as defined in Senate Bill 738, which passed during the 2011 legislative session. The rules provide administrative	Underestimated - The Oregon Health Authority (OHA) estimated a fiscal impact of 1.5 FTE to implement the activities under the rules. The fiscal impact was to be addressed through a Dental Pilot Projects Fund	Y - On December 12, 2016, OAR 333-010-0405, 0415 & 0435 were amended to provide administrative guidance and clarification to the required content of dental pilot projects' evaluation and monitoring requirements. The amended rules add requirements for project evaluation and define the term "evaluator" for the purposes of the project evaluation. Additionally,	Y - Yes, Senate Bill 606 that passed during the 2015 legislative session extended the sunset date for the Dental Pilot Projects Program until January 2, 2025. The Oregon Health	3/14/18	None	None

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						<p>guidance to the required content of dental pilot project applications, process for review, approval and monitoring of dental pilot projects, and steps to terminate or conclude a dental pilot project. The intent of the rules is to provide guidance to dental pilot projects to ensure that resources are used efficiently, patient safety is ensured, and outcomes are reasonably evaluated.</p> <p>The Dental Pilot Project Program was developed; two pilot projects are currently operating in Oregon under the program. The goal of the Dental Pilot Project Program is to encourage the development of innovative practices</p>	<p>established in Senate Bill 738, passed during the 2011 legislative session. OHA could not begin accepting dental pilot project applications until there was enough money in the Fund to at least support a coordinator position. Unfortunately, no grants, gifts or contributions were provided to the Dental Pilot Projects Fund. During the 2013 legislative session, House Bill 5008 passed that provided OHA with \$100,000 GF special purpose appropriations for staffing related to dental pilot projects. OHA used the</p>	<p>the amended rules allow for coordinated care organizations to apply as a sponsor of a dental pilot project. This keeps current with health transformation in Oregon, as coordinated care organizations were formally enacted into law after the original administrative rules were written.</p>	<p>Authority will be accepting dental pilot project applications and providing oversight of approved applications until then.</p>			

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						<p>in oral health care delivery systems with a focus on providing care to populations that evidence-based studies have shown have the highest disease rates and the least access to dental care.</p>	<p>funds to hire a part-time, limited duration Dental Pilot Project Program Coordinator in 2014. OHA began accepting dental pilot project applications in 2015.</p> <p>During the 2015 legislative session, Senate Bill 606 passed that extended the sunset date on the Dental Pilot Project Program established in SB 738 by 5 years to January 2, 2025 instead of 2018. The bill also provided \$100,000 GF for OHA to hire a part-time research analyst (0.5 FTE) for the Dental Pilot Project</p>					

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							<p>Program. The part-time limited duration coordinator position was resolved with the passage of Senate Bill 660. The purpose of SB 660 was to establish a mandatory certification program for local school dental sealant programs and included \$200,000 GF for a 1.0 FTE coordinator position. The intent behind the funding was to have the coordinator position operate both the certification program and Dental Pilot Project Program.</p>					

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							The workload of the Dental Pilot Project Program requires a full-time 1.0 FTE, so coordination of the mandatory certification program has been distributed to the workload of two other staff people in the Oral Health Unit.					
333-010-0405	Definitions	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	Amended 12/12/16	None
333-010-0410	Minimum Standards	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0415	Application Procedure	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	Amended 12/12/16	None
333-010-0420	Trainees	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0425	Instructor and Supervisor Information	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0430	Curriculum	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-010-0435	Evaluation and Monitoring	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	Amended 12/12/16	None
333-010-0440	Informed Consent	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0445	Application Review Process	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0450	Project Approval	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0455	Program Responsibilities	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0460	Modifications	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0465	Completion of Project	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-010-0470	Suspension or Termination of Project	2/4/2013	2/4/2018	1/25/18	Cate Wilcox	Y – See above	See above	Y – See above	Y – See above	3/14/18	None	None
333-022-0200	Definitions	2/4/2013	2/4/2018	2/1/2018	Ruth Helsley	Y - This rule adoption was intended to make the relevant OARs consistent with the statutory changes for ORS 433.045, 433.055, 433.065, 433.075 and 433.085 resulting from the passage, in 2012, of Senate Bill 1507. SB	N - There was no anticipated fiscal nor economic impact and none have been reported.	N - There have been no further changes in the relevant Oregon Revised Statute since these rule changes.	Y - The rules continue to delineate clear requirements to meet the statutory intent.	3/14/18	None	Continued clarity around HIV testing and normalization of this health service promotes both routine screening and targeted testing for individuals most at risk. It lessens the barrier of separate processes specific

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						<p>1507 removed requirements for obtaining special informed consent prior to collecting a specimen for HIV testing. Instead of informed consent, these changes required that health care providers notify the individual receiving service that the test for HIV will be performed and the individual is allowed an opportunity to decline that testing service. The revised statute declares that the "notification and opportunity to decline testing required... may be verbal or in writing, and may be contained in a general medical consent."</p> <p>The Oregon Health Authority is charged under ORS 433.065 and 433.080, with the responsibility and authority to prescribe by rule procedures</p>						<p>for HIV testing. The normalization of such testing theoretically reduces inadvertent stigmatization for consumers. The occupational exposure rules more clearly delineate occupational applications and exceptions to confidentiality guidelines for individual safety and maximally effective health care. The occupational rules are more user friendly in format.</p>

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						<p>for the testing of source patients or workers after substantial exposures in occupational and health care settings. In addition to revisions necessitated by SB 1507, existing rules were unnecessarily complex, not grouped together and grouped with rules unrelated to HIV testing or bloodborne exposure. The rule revision also included language addressing permitted disclosure of HIV test results by health care providers and facilities in a manner consistent with the Health Insurance Portability and Accountability Act (HIPAA). The rule specified circumstances under which public health providers may disclose HIV test</p>						

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						<p>results. Permission is outlined for public health to disclose the identity of an individual with a positive HIV test result for purposes of notification of another person, for whom a substantial exposure to that individual occurred, in an effort to minimize risk to the exposed person. Similarly, HIV test results may be shared with, and by, a health care provider for purposes of facilitating or arranging treatment.</p> <p>It does appear that the rule adoption has had its intended effect, although we do not collect data that would relate to evaluating the impact of the rules changes. Programmatic subjective impressions are that the rules have lessened the</p>						

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						cumbersome aspects of requiring a separate informed consent for one specific laboratory test in health systems and/or provider offices and in community settings where HIV testing occurs.						
333-022-0205	HIV Testing, Notification, Right to Decline	2/4/2013	2/4/2018	2/1/2018	Ruth Helsley	Y – See above.	N – See above.	N- See above.	Y – See above.	3/14/18	None	See above
333-022-0210	Confidentiality	2/4/2013	2/4/2018	2/1/2018	Ruth Helsley	Y – See above.	N – See above.	N- See above.	Y – See above.	3/14/18	None	See above
333-022-0300	Procedures for Requesting a Source Person Consent to an HIV Test Following an Occupational Exposure	2/4/2013	2/4/2018	2/1/2018	Ruth Helsley	Y – See above.	N – See above.	N- See above.	Y – See above.	3/14/18	None	See above
333-022-0305	Petition for Mandatory Testing of Source Persons	2/4/2013	2/4/2018	2/1/2018	Ruth Helsley	Y – See above.	N – See above.	N- See above.	Y – See above.	3/14/18	None	See above
333-022-0310	Substantial Exposure While Being	2/4/2013	2/4/2018	2/1/2018	Ruth Helsley	Y – See above.	N – See above.	N- See above.	Y – See above.	3/14/18	None	See above

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	Administered Health Care											
333-022-0315	Employer Program for Prevention, Education and Testing	2/4/2013	2/4/2018	2/1/2018	Ruth Helsley	Y – See above.	N – See above.	N- See above.	Y – See above.	3/14/18	None	See above
333-053-0075	eWIC Cards	11/6/2013	11/6/2018	11/2/2018	Erin Macauley	<p>Yes - The purpose of this rule was to define issuance and distribution of the WIC Electronic Benefit Transfer (eWIC) cards to participants and secondary authorized shoppers. The rule also defines card activation and replacement. These rules were added in response to the federal rule for all state agencies to transition to Electronic Benefit Transfer (EBT) by 2020.</p> <p>This rule was required as part of the federal requirement for all state agencies to transition from paper</p>	No - There was no financial impact associated with this rule because the state was successful in complying with the federal rule to implement WIC EBT. This change did affect other state agencies, entities, or businesses.	No - The federal rule to implement and utilize WIC EBT is still in effect. No amendment to this rule is required at this time. Repealing the rule would put the state agency out of compliance with the potential of a financial penalty being issued by the federal program for non-compliance.	Yes - The transition and implementation of state agencies to utilize WIC EBT is a federal rule still in effect.	11/27/18	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						food instrument vouchers to Electronic Benefit Transfer (EBT). The state of Oregon has fully implemented EBT and eWIC cards are being issued, activated, and replaced according to this rule.						
333-054-0033	Provision of Incentive Items	11/6/2013	11/6/2018	11/2/2018	Erin Macauley	Yes - The purpose of these rules was to define that incentives could not be offered to only WIC participants and that any allowable and authorized incentive must be offered to all store patrons equally. The rules define what incentives are allowable and will be considered by the Authority for authorization and what incentives are not allowable and will not be considered by the Authority for authorization. State agencies must have a policy for incentive items offered by	No - There was no financial impact associated with this rule because the state was successful in complying with the federal rule to implement WIC EBT. This change did affect other state agencies, entities, or businesses.	No - The federal rule to implement and utilize WIC EBT is still in effect. No amendment to this rule is required at this time. Repealing the rule would put the state agency out of compliance with the potential of a financial penalty being issued by the federal program for non-compliance. The federal rule for state agencies to define their policy for vendor incentive items is still in effect.	Yes - The transition and implementation of state agencies to utilize WIC EBT is a federal rule still in effect.	11/27/18	None	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>authorized vendors/stores as part of the federal rule.</p> <p>This rule was added to address federal rule to implement WIC EBT and to address federal rule regarding vendor/store incentive items and the state agency policy. These rule changes continue to successfully address the state agency's transition to WIC EBT.</p>						
333-055-0100	Purpose	11/19/2013	11/19/2018	11/16/2018	Laura Chisholm	<p>Yes –</p> <ul style="list-style-type: none"> To define protocols and criteria for training on lifesaving treatments for opiate overdose. To promote an effective and consistent approach to overdose recognition and 	No - While cost of compliance to state and local government was accurately estimated, the cost to community organizations of providing naloxone kits may have been underestimated. This may be due to changes in	Y - An informal survey of stakeholders who previously served on the Rules Advisory Committee (RAC) (and their delegates) indicated that the rule should be either repealed or amended. The processes specified in the rule are likely to have been superseded by subsequent legislation (HB 3440, 2017), which would indicate repeal.	This is currently unclear, given that statutory changes related to the passage of HB 3440 (2017) (which removed bystander training and certification requirements for naloxone	11/27/18	None	An opinion on these rules and their conflict with current statute is pending from the Department of Justice. Pending the AAG's response, they will very likely need to be either updated or repealed.

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						<p>response training statewide.</p> <ul style="list-style-type: none"> To support civil liability protections for trained individuals who in good faith provide treatment for an apparent opiate overdose. <p>The rule had its intended effect on the first two objectives: to define protocols and criteria for training and to promote an effective and consistent approach. On the third objective, supporting civil liability protections, one respondent (1/7) disagreed.</p>	the price of naloxone and changes in the standard of practice around how many doses to include in a kit. Costs to small businesses were accurately estimated.	However, some stakeholders have noted that updating the rule could further reduce barriers to naloxone distribution.	administration from statute) may have removed the need for these rules. Former RAC members were evenly split on this question.			
333-055-0105	Definitions	11/19/2013	11/19/2018	11/16/2018	Laura Chisholm	Y – see above	N – see above	Y – see above		11/27/18	None	
333-055-0110	Educational Training	11/19/2013	11/19/2018	11/16/2018	Laura Chisholm	Y – see above	N – see above	Y – see above		11/27/18	None	
333-055-0115	Certificate of Completion of Training	11/19/2013	11/19/2018	11/16/2018	Laura Chisholm	Y – see above	N – see above	Y – see above		11/27/18	None	

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333-106-0735	Breast Density Notification	1/1/2014	1/1/2019	12/10/18	Todd Carpenter	Y - Establishing Oregon Administrative Rules addressing the successful passage of Senate Bill 420 (2013). The Senate Bill directed a health facility to inform the patient that dense breast tissue has been discovered through mammogram imaging. All patients with dense tissue must are now provided with written information in a form prescribed by Administrative Rule from a facility that has performed a mammogram if imaging shows the patient has dense breast tissue.	No	Written comments received after the adoption of the rule requested Oregon Health Authority to examine the need for the notification be given to the patient at the radiologist's discretion and should the statement <i>"Together, you can decide if additional breast imaging tests such as a breast ultrasound, Magnetic Resonance Imaging (MRI) or Breast-Specific-Gamma-Imaging (BSGI) would be beneficial based on your risk factors and physical examinations"</i> be amended by removing the term Breast Specific Gamma Imaging (BSGI) from the statement within the rule? – The rule was subsequently amended effective January 1, 2015 by rule advisory committee.	Y - Senate Bill 420 has been adopted into Oregon Revised Statute.	1/9/2019	Amended 1/1/2015	N/A
333-011-0205	County Vital Records Services	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y - The goal of these rules was to implement vital records and vital statistics laws that went into effect on	N - There has been no significant fiscal and economic impact because of these rules.	333-011-0205, amended 1/1/16 to clarify that county registrars can issue certified copies of death records from a paper record that is at the	Y - These rules are needed to ensure implementation of ORS 432	1/9/2019	Amended 1/1/2016	N/A

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						<p>January 1, 2014. House Bill 2093 passed by the Oregon legislature in June 2013. This bill reorganized and updated the Oregon vital records and statistics law. The subjects of the rules include reports of live births, reports of death, reports of fetal deaths, marriages, Oregon registered domestic partnerships, dissolution of marriage or domestic partnership, amendments of vital records, and county vital records offices.</p> <p>The rules allow the Center for Health Statistics to implement sections of the law that went into effect on January 1, 2014. Rules also needed to be updated to follow the new law.</p>	<p>Most of the rules clarified work processes or were updated to match current terminology in the new law. There was no cost to public or other state or local government agencies because of the rules. Small businesses did not have additional cost of compliance.</p>	<p>county and to clarify that fees collected by county registrars are in the amounts authorized in 333-011-0340.</p>	<p>which govern the operations of the Center for Health Statistics.</p>			

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333-011-0210	Prenatal Care Information	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0215	Registering Live Births that Occur Outside of a Facility with a Licensed Birth Attendant or Non-licensed Midwife within One Year of the Date of Birth	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0220	Registering Live Births that Occur Outside of a Facility and Without a Licensed Attendant within One Year of the Date of Birth	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0225	Registering Live Births that Occur in a Licensed Medical Facility More Than One Year after the Date of Birth	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A

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333-011-0230	Registering Live Births that Occur Outside a Facility More Than One Year after the Date of Birth	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0235	Documentation in Support of an Application to Register a Delayed Report of Live Birth	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0240	Review and Filing of Delayed Registration of Birth	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0245	Denial of Application for Delayed Registration of Live Birth after Two Years	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0250	Court Ordered Birth Records	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0255	Infants of Unknown Parentage	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0260	Amendment of the Same Item More than Once	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A

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333-011-0265	Amending Birth Records	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	333-011-0265, amended 1/1/18. This rule was revised to implement HB 2673 passed by the Oregon legislature in May 2017. The law creates an administrative process to change name and sex on a birth record when the change is requested to because the individual's sex on their birth certificate does not match their gender identity.	Y – See above	1/9/2019	Amended 1/1/2018	N/A
333-011-0270	Voluntary Acknowledgment of Paternity	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0280	Extension of Time for Submission of Report of Death or Fetal Death	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0285	Report of Fetal Death Which Occurred Outside a Licensed Medical Facility	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0300	Amendments to Death Records	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A

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333-011-0305	Marriage and Oregon Registered Domestic Partnership Records	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0310	Record of Dissolution	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0320	Preservation of Vital Records	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0325	Confidentiality and Disclosure of Information from Vital Records or Vital Reports	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-011-0330	Authentication of Applicant	1/1/2014	1/1/2019	12/24/18	Jennifer Woodward	Y – See above	N – See above	N/A	Y – See above	1/9/2019		N/A
333-019-0052	Communication during Patient Transfer of Multidrug-Resistant Organisms	1/1/2014	1/1/2019	12/13/18	Rebecca Pierce	Y - This rule was intended to set expectations for the communication between healthcare settings of essential information related to patients infected or colonized with infectious pathogens. The purpose of the rule is to ensure that when patients infected (or	N - The fiscal impact of noting infectious status on a form was estimated to be negligible; we have no evidence to date that unanticipated fiscal impacts have occurred.	N/A - The agency is not aware of any changes in law that would require amendment or repeal of this rule.	Y - The rule ensures that essential communication is occurring between healthcare facilities. Appropriate notification of infectious disease status of patients	2/25/2019		N/A

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						<p>colonized) with multi-drug resistant organisms or pathogens that require transmission-based precautions are transferred to another facility, that the transferring facility communicate with the receiving facility to make them aware of the diagnosis. This allows the receiving facility to implement the necessary infection control measures to prevent spread at their facility.</p> <p>Healthcare facilities are routinely notifying one another upon transfer of a patient infected or colonized with multidrug-resistant organisms or pathogens that require transmission-based precautions. Compliance with this requirement continues to increase</p>			<p>results in more rapid isolation and prevention efforts and therefore prevents outbreaks, patient morbidity and mortality, and associated high cost treatments.</p>			

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						with additional educational efforts- hospitals' self-reported compliance with the rule increased from 77% on a 2015 survey to 87% on the 2016 survey. We continue to assess current levels of compliance via our facility surveys.						
333-056-0045	Exemption for Placenta Removal from a Health Care Facility	1/1/2014	1/1/2019	1/18/2019	Stephen Ladd-Wilson	Y - The Oregon Health Authority is required to write rules implementing House Bill 2612 (Oregon Laws 2013, chapter 109), which became law during the 2013 legislative session; it entitles postpartum mothers, or their designees if they are incapacitated, to take their placentas with them after discharge from the health care facility wherein the mother had given birth if certain criteria are met. (HB 2612 (Oregon Laws 2013,	No	No	Y – ORS 459.400 requires this rule	2/27/2019		None

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						<p>chapter 109): https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2612/Enrolled</p> <p>The intended effect of allowing mothers or their designees to take their placentas with them after discharge from the health care facility, pending testing criteria, has been achieved.</p>						
333-028-0200	Purpose	1/1/2014	1/1/2019	12/27/18	Rosalyn Liu	<p>Y - To create a definition for school-based health centers (SBHCs) in Oregon whereby the state would create a set of standards that SBHCs would be required to meet in order to be considering "certified". Subsequent rules allow certified SBHCs to be eligible for state funding awards.</p>	No	No	Y - There are currently 76 certified SBHCs that follow requirements and processes outlined in the rules for certification. There are communities interested and actively planning for future SBHC certification.	1/9/2019		N/A

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						A set of standards for certification have been adopted for SBHCs. Certified sites are then eligible for state funding awards.			The rules outline the process for initial certification and re-certification that SBHCs are following.			
333-028-0210	Definitions	1/1/2014	1/1/2019	12/27/18	Rosalyn Liu	Y – See above	No	No	Y – See above	1/9/2019		N/A
333-028-0220	Certification Requirements	1/1/2014	1/1/2019	12/27/18	Rosalyn Liu	Y – See above	No	Y - Amendments were needed to update the SBHC Standards for Certification to align with best practice. Minor programmatic processes and timelines were adjusted associated with certification and verification activities.	Y – See above	1/9/2019	Amended 10/1/2015 ; 7/1/2017	N/A
333-028-0230	Application and Certification Process	1/1/2014	1/1/2019	12/27/18	Rosalyn Liu	Y – See above	No	Y - Amendments were needed to update the SBHC Standards for Certification to align with best practice. Minor programmatic processes and timelines were adjusted associated with certification and verification activities.	Y – See above	1/9/2019	Amended 7/1/2017	N/A
333-028-0240	Verification	1/1/2014	1/1/2019	12/27/18	Rosalyn Liu	Y – See above	No	Y - Amendments were needed to update the SBHC Standards for	Y – See above	1/9/2019	Amended 7/1/2017	N/A

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								Certification to align with best practice. Minor programmatic processes and timelines were adjusted associated with certification and verification activities.				
333-028-0250	Compliance	1/1/2014	1/1/2019	12/27/18	Rosalyn Liu	Y – See above	No	Y - Amendments were needed to update the SBHC Standards for Certification to align with best practice. Minor programmatic processes and timelines were adjusted associated with certification and verification activities.	Y – See above	1/9/2019	Amended 7/1/2017	N/A
333-053-0000	Suspension of WIC Program	1/30/2014	1/30/2019	1/25/2019	Erin Macauley	Y - The adoption of these rules address the temporary suspension of WIC program benefits for Participants, and temporary suspension of authorized WIC Vendor and CVB Farmer agreements in the event of a government or program closure, or the lack of government funding for the program. The previous rules only	N - The Authority has not had to suspend Participant benefits or Vendor and CVB Farmer Agreements since the adoption of these rules and is unable to address if the fiscal impact of this rule was underestimated. The fiscal	Y - OAR 333-053-0000 was amended and effective 10/1/2018. The rule was changed to address the revisions made to ORS 411.095 as part of SB 225 (2015). The statute revisions reduced the requirement of program notification to participants in the event of government changes to a benefit or standard. This amendment gives the Authority the latitude necessary to comply with the Federal Regulation requirements for	Y - As of this rule review date (01/25/2019), the program is currently depending on these rules to frame the communication timeline and all required steps to adequately notify Participants of benefit suspension	2/25/2019	Amended 10/1/2018	The addition of these rules to division 53 and division 54 and the subsequent revisions associated with ORS 411.095 was extremely timely. There have been a few cases of short government or program closures since the adoption of the rule that did not result in Participant benefit suspension or Vendor and CVB Farmer agreement suspension, but the

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						<p>address termination of Participant benefits and termination of Vendor and CVB Farmer agreements. The addition of suspensions gives the state an option to resume benefits and agreements once funding is restored or when a program is re-opened without requiring a lengthy Participant benefit re-certification and Vendor or CVB Farmer re-contracting process.</p> <p>While the Oregon WIC Program has not yet had to suspend Participant benefits or Vendor and CVB Farmer Agreements, it has given the Authority the latitude to prepare to take suspension actions and also not require Participant re-certification or Vendor and CVB</p>	<p>impact of this rule is still an estimate. The program has transitioned from paper food instruments to WIC Electronic Benefit Transfer (EBT) since the adoption of these rules which reduces the risk of Participants and/or Vendors and CVB Vendors redeeming benefits during the suspension period.</p>	<p>participant notification and accommodates for unknown changes in the status of the government changes and standards.</p>	<p>and Vendors and CVB Farmers of agreement suspension during the current federal government shutdown. These rules are needed indefinitely to address present and future changes in the event of government or program closure and funding deficits.</p>			<p>rules gave the Authority the prospective latitude to address the issues if suspension was imminent. As of the date of this rule review (01/25/2019) during a federal government shutdown that could impose the first Participant benefit suspension and Vendor and CVB Farmer agreement suspension, it is crucial that these rules be maintained indefinitely.</p>

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						Farmer contract renewal. Having these rules is crucial as of the date of this review (01/25/2019), to address the current shutdown state of the federal government which is the funding source of this program.						
333-054-0052	Suspension of Vendor Agreements	1/30/2014	1/30/2019	1/25/2019	Erin Macauley	Y – See above	N – See above	N/A	Y – See above	2/25/2019	None	See above
333-081-0000	Purpose	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y - Oregon Administrative Rules 333-081-0000 through 0090 adopted standards for the purpose of regulating organizations that engage in the collection and distribution of human bodies and body parts used for medical research and education. Prior to passage of HB 3345 (2013) and the resulting administrative rules, there were two non-transplant anatomical	Underestimated: The Authority stated in its fiscal impact that the licensure process would be minimal, and the fees collected would be less than the actual costs to operate the program. The Authority proposed that it would reprioritize its work to cover the workload.	N- There have been no changes to the current law at this time.	Y - NARROs are a growing industry and the agency anticipates more license applications in the future.	2/27/2019	None	ORS 438.720(1)(b) limits oversight and inspection to compliance with set scope of requirements in ORS 438.710 and 438.715. Thus, the legislature would need to act to expand oversight the additional notifications and disclosures, such as adverse event reporting, financial referral benefits and others.

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						<p>research recovery organizations conducting business in Oregon that were unregulated by the state.</p> <p>The purpose of the rules adopted is to address licensure, oversight and accountability of these organizations.</p> <p>At the time the legislation passed in 2013, there were two organizations operating in Oregon. As of January 1, 2019, there are four NARROs that have been licensed and inspected by the Authority (two in Multnomah County, one in Clackamas County and one in Marion County.)</p> <p>Oversight over these organizations is very limited and does not necessarily offer the accountability</p>	<p>Since passage of this bill and adoption of rules, the number of NARROs operating in Oregon has doubled. While there are only four organizations currently conducting business in Oregon, recent reports and additional legislation under consideration suggest that this is a growing industry which may result in increased workload.</p> <p>Additionally, recent investigations into this industry has required additional work including</p>						

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						<p>expected by the public for the full scope of activities conducted by these organizations. Public interest is evident through multiple (13 total requests to date) public records requests and media inquiries. The surveys conducted by the Authority are limited in scope and focus only on statutorily mandated documentation requirements. As such, many organizations are found in compliance with administrative rules and yet may not provide the whole story of compliance, such as information that may be found in accreditation and other legal records. The extensive allegations reported in the media and an FBI investigation of one facility bring into question what</p>	<p>responding to frequent public records requests.</p>					

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						additional safeguards or disclosures to the public may be needed.						
333-081-0005	Definitions	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0010	Application for Licensure	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0015	Review of License Application	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0020	Approval of License Application	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0025	Denial of License Application	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0030	Expiration and Renewal of License	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0035	Fees	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0040	Denial, Suspension or Revocation of License	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0045	Return of License	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.

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333-081-0050	Surveys	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0055	Approval of Accrediting Bodies	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0060	Complaints	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0065	Investigations	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0070	Records	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0075	Notice	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0080	NARRO Duties	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0085	Informal Enforcement	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-081-0090	Formal Enforcement	2/1/2014	2/1/2019	2/4/2019	Mellony Bernal	Y – See above	Underestimated: See above	N- See above.	Y – See above.	2/27/2019	None	See above.
333-028-0260	Funding Criteria for Certified SBHCs	4/1/2014	4/1/2019	3/7/2019	Rosalyn Liu	Y - To create rules pertaining to the criteria for continuation funding for certified school-based health centers (SBHCs), awarding grants for	No	No	Y - There are 76 certified SBHCs that are currently funded, in addition to sites requesting to	3/14/2019	None	None

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						<p>communities planning for certified SBHCs and incentive funding for support of health system transformation by: (1) increasing SBHCs as patient centered primary care homes; (2) improving care coordination between coordinated care organization and SBHCs; and (3) improving effectiveness of care delivery.</p> <p>Yes, there has been continued funding for certified SBHCs and planning grants. Incentive funds were also released for the three areas to support health system transformation efforts.</p>			be certified that will be funded in future years. There are currently SBHC planning grants in communities and the possibility of future funds to support planning communities.			
333-028-0270	Funding Criteria for SBHC Planning Communities	4/1/2014	4/1/2019	3/7/2019	Rosalyn Liu	Y – See above	No	No	Y – See above	3/14/2019	None	None

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333-028-0280	Funding Criteria for Incentive Funds	4/1/2014	4/1/2019	3/7/2019	Rosalyn Liu	Y – See above	No	No	Y – See above	3/14/2019	None	None
333-061-0232	General Requirements Applying to Water System Operators	5/8/2014	5/8/2019	5/31/19	Anthony Fields	Y – To address a then recent discovery of intentional falsification of official records. Prior to this rule change DWS had no ability to assess a violation for submitting inaccurate records relating to water treatment or distribution activities. This rule provides that capacity and thus has met its intended purpose.	N – We anticipated little to no fiscal impact to the program, and we have observed no fiscal impact since its adoption.	N - There have been no revisions to the rule since its adoption, nor do we anticipate needing to do so.	Y – While drinking water operators generally adhere to the highest professional standards voluntarily, we are a regulatory program and must occasionally take legal action to enforce safe drinking water rules. As the consequences of failing to monitor or meet safe drinking water standards often results in fines and legal sanctions, the potential for falsification of	6/13/2019	None	None

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									records will continue to exist. As a result, the ability to directly address these instances must also be maintained.			
333-072-0200	Purpose	6/2/2014	6/2/2019	5/28/19	Mellony Bernal	Y - Establish requirements for notice of patient choice and health care practitioner financial disclosures due to passage of SB 683 (2013 Oregon Laws, Chapter 552). Provides necessary information for practitioners to notify patients of financial interest and choice to receive services elsewhere.	N - Only minor costs were anticipated in order for practitioners to develop forms and create necessary posted notice. It was also anticipated that minor costs would result for health professional licensing boards to enforce provisions of the bill and rule. The Authority has no data on any practitioners who have violated provisions of the	No	Y – Provides further details and clarification for implementing ORS 441.098.	5/31/19	None	None

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							rules that may have led to an enforcement action from a licensing board.					
333-072-0205	Applicability	6/2/2014	6/2/2019	5/28/19	Mellony Bernal	Y – See above.	N – See above	No	Y – See above	5/31/19	None	None
333-072-0210	Definitions	6/2/2014	6/2/2019	5/28/19	Mellony Bernal	Y – See above	N – See above	Y - Rule was amended in order to add naturopathic physician to the definition of health practitioner given passage of SB 856 (2017 Oregon Laws, Chapter 356).	Y – See above	5/31/19	Amended 1/1/2018	None
333-072-0215	Requirements for Notification of Patient Choice	6/2/2014	6/2/2019	5/28/19	Mellony Bernal	Y – See above	N – See above	Y - Rule was amended to set forth the form, manner and information required for health practitioners to provide notice of patient choice.	Y – See above	5/31/19	Amended 1/16/2015	None
333-072-0220	Requirement for Notice of Financial Interest	6/2/2014	6/2/2019	5/28/19	Mellony Bernal	Y – See above	N – See above	No	Y – See above	5/31/19	None	None
333-072-0225	Violations and Enforcement	6/2/2014	6/2/2019	5/28/19	Mellony Bernal	Y – See above	N – See above	No	Y – See above	5/31/19	None	None
333-018-0127	Annual Influenza Summary	6/9/2014	6/9/2019	5/28/19	Dat Tran	Y - This rule was intended to create a standardized system to track rates of	N – The fiscal impact of this rule to the Public Health	OAR 333-018-0127 was amended effective 3/24/15 to add dialysis facilities, and effective	Y - As of the 2018-2019 influenza season,	6/7/19	Amended 3/24/2015 ; 8/16/2016	None

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						<p>healthcare worker (HCW) influenza vaccination over time across facility types, to enable benchmarking, and ultimately to improve rates of influenza vaccination among healthcare workers to meet the Department of Health and Human Services Healthy People 2020 goal.</p> <p>Since the adoption of this rule in 2009 for hospitals and its expansion to other facility types over the years, mean HCW influenza vaccination rates for all facility types have increased from 52% in the 2011-12 influenza season to 69% in the 2014-15 season and 76% in the 2017-18 season. 2017-2018 is the first season that met the 2015 Healthy People mean rate goal of 75% for all facility types</p>	<p>Division was estimated as minimal, and we have no evidence to date that unanticipated fiscal impacts have occurred. The economic impact of this rule to the Public Health Division was estimated to be minimal so is unlikely to have been overestimated.</p>	<p>8/16/16 to add licensed hospital satellite facilities to HCW influenza vaccination reporting. We are not aware of any changes in law that would require further amendment or repeal of this rules.</p>	<p>ambulatory surgery centers, inpatient psychiatric facilities, hospital outpatient departments, and outpatient dialysis facilities no longer need to report HCW influenza vaccination rates through NHSN for CMS reporting purposes. The maintenance of this rule will ensure that Oregon facilities report their HCW influenza vaccination rates to OHA, allowing for benchmarking</p>			

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						combined, with both hospitals and dialysis facilities also meeting this goal.			and promotion of strategies facilities can employ to increase rates of HCW influenza vaccination. While hospitals and dialysis facilities recently met the 2015 Healthy People target rate of 75%, neither ambulatory surgery centers nor skilled nursing facilities have met this target. Moreover, with the exception of dialysis facilities, all facility types in Oregon are quite a way away from the			

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									2020 target of 90%.			
333-008-1000	Applicability	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	<p>Y - The Medical Marijuana Dispensary Program was created by HB 3460, passed in 2013, to regulate and inspect facilities that transfer marijuana to Oregon Medical Marijuana Program cardholders. The program required facilities to meet standards for security, record keeping, location, testing, labeling, and other issues related to public and patient safety. The rulemaking established permanent rules for the program.</p> <p>The adoption of the rules allowed for the Agency to create a registration system for medical marijuana dispensaries. The rules also set standards for</p>	Underestimated: It was roughly estimated that 100 to 300 medical marijuana dispensaries would be subject to these rules. The amount of applications received and needing to be processed was more than double than was expected.	<p>3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>6/28/16 - The 2016 Legislative Session adopted HB 4014 and SB 1511 which made some amendments to the specified rules. Amendments made include removing residency requirements for a person responsible for a dispensary and allowing a city or county to adopt an ordinance allowing a medical marijuana dispensary to be located within 500 ft of a school if a physical or geographic barrier capable of preventing children from traversing to school separates the dispensary from the school. In addition, housekeeping changes</p>	Y - There are Medical Marijuana Dispensaries still registered with the program and a new dispensary has recently applied.	7/25/19	Amended 3/1/2016; 6/28/2016	None

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						dispensaries and allowed for dispensaries to be inspected.		were made to more accurately reflect the intent of the rules filed on 3/1/16.				
333-008-1010	Definitions	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	<p>1/28/15 – Amendments made during this rulemaking were intended to reduce confusion and streamline agency processes based on staff and participant feedback.</p> <p>3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>1/1/18 – The 2017 Legislative Session adopted SB 1057 and HB 2198 which made changes to dispensary rules. Rules implementing the use of OLCC's Cannabis Tracking System (CTS) were adopted along with clarification around a dispensary being able to be located between 500</p>	Y – See above	7/25/19	Amended 1/28/2015 ; 3/1/2016; 1/1/2018	None

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								to 1000 feet of a school. In addition, reference to statute numbers were updated and other minor housekeeping changes were made.				
333-008-1020	Application for Medical Marijuana Facility Registration	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	<p>1/28/15 – Amendments made during this rulemaking were intended to reduce confusion and streamline agency processes based on staff and participant feedback.</p> <p>3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>6/28/16 - The 2016 Legislative Session adopted HB 4014 and SB 1511 which made some amendments to the specified rules. Amendments made include removing residency requirements for a person responsible</p>	Y – See above	7/25/19	Amended 1/28/2015 ; 3/1/2016; 6/28/2016 ; 11/28/16; 5/31/2017 ; 1/1/2018	None

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								<p>for a dispensary and allowing a city or county to adopt an ordinance allowing a medical marijuana dispensary to be located within 500 ft of a school if a physical or geographic barrier capable of preventing children from traversing to school separates the dispensary from the school. In addition, housekeeping changes were made to more accurately reflect the intent of the rules filed on 3/1/16.</p> <p>11/28/16 – Housekeeping amendments were made during this rulemaking. They included clarifying parameters around dispensaries and sharing space with other businesses and compliance dates for dispensaries related to transfers in of tested marijuana items.</p> <p>5/31/17 – Housekeeping amendments regarding the application process</p>				

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								<p>for dispensaries were made during this rulemaking. They include changes to circumstances when a refund of application fees would be issued to a dispensary and clarifying requirements for new and renewal applications for dispensaries.</p> <p>1/1/18 – The 2017 Legislative Session adopted SB 1057 and HB 2198 which made changes to dispensary rules. Rules implementing the use of OLCC's Cannabis Tracking System (CTS) were adopted along with clarification around a dispensary being able to be located between 500 to 1000 feet of a school. In addition, reference to statute numbers were updated and other minor housekeeping changes were made.</p>				
333-008-1030	Fees	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	3/1/16 - The 2015 Legislative Session adopted HB3400 which	Y – See above	7/25/19	Amended 3/1/2016;	None

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								<p>made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>5/31/17 – Housekeeping amendments regarding the application process for dispensaries were made during this rulemaking. They include changes to circumstances when a refund of application fees would be issued to a dispensary and clarifying requirements for new and renewal applications for dispensaries.</p> <p>1/1/18 – The 2017 Legislative Session adopted SB 1057 and HB 2198 which made changes to dispensary rules. Rules implementing the use of OLCC's Cannabis Tracking System (CTS) were adopted along with clarification around a dispensary being able to be located between 500 to 1000 feet of a school.</p>			5/31/2017 ;1/1/2018	

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								In addition, reference to statute numbers were updated and other minor housekeeping changes were made.				
333-008-1040	Application Review	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	<p>1/28/15 – Amendments made during this rulemaking were intended to reduce confusion and streamline agency processes based on staff and participant feedback.</p> <p>3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>6/28/16 - The 2016 Legislative Session adopted HB 4014 and SB 1511 which made some amendments to the specified rules. Amendments made include removing residency requirements for a person responsible for a dispensary and allowing a city or county</p>	Y – See above	7/25/19	Amended 1/28/2015 ; 3/1/2016; 6/28/2016 ; 1/1/2018	None

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								<p>to adopt an ordinance allowing a medical marijuana dispensary to be located within 500 ft of a school if a physical or geographic barrier capable of preventing children from traversing to school separates the dispensary from the school. In addition, housekeeping changes were made to more accurately reflect the intent of the rules filed on 3/1/16.</p> <p>1/1/18 – The 2017 Legislative Session adopted SB 1057 and HB 2198 which made changes to dispensary rules. Rules implementing the use of OLCC’s Cannabis Tracking System (CTS) were adopted along with clarification around a dispensary being able to be located between 500 to 1000 feet of a school. In addition, reference to statute numbers were updated and other minor</p>				

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								housekeeping changes were made.				
333-008-1050	Approval of Application	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	1/28/15 – Amendments made during this rulemaking were intended to reduce confusion and streamline agency processes based on staff and participant feedback. 3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.	Y – See above	7/25/19	Amended 1/28/2015 ; 3/1/2016	None
333-008-1060	Denial of Application	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	1/28/15 – Amendments made during this rulemaking were intended to reduce confusion and streamline agency processes based on staff and participant feedback. 3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules	Y – See above	7/25/19	Amended 1/28/2015 ; 3/1/2016; 6/28/2016	None

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								<p>were revised to comply with the new statutes.</p> <p>6/28/16 - The 2016 Legislative Session adopted HB 4014 and SB 1511 which made some amendments to the specified rules. Amendments made include removing residency requirements for a person responsible for a dispensary and allowing a city or county to adopt an ordinance allowing a medical marijuana dispensary to be located within 500 ft of a school if a physical or geographic barrier capable of preventing children from traversing to school separates the dispensary from the school. In addition, housekeeping changes were made to more accurately reflect the intent of the rules filed on 3/1/16.</p>				
333-008-1070	Expiration and Renewal of Registration	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	1/28/15 – Amendments made during this rulemaking were intended	Y – See above	7/25/19	Amended 1/28/2015 ;	None

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								<p>to reduce confusion and streamline agency processes based on staff and participant feedback.</p> <p>3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>6/28/16 - The 2016 Legislative Session adopted HB 4014 and SB 1511 which made some amendments to the specified rules. Amendments made include removing residency requirements for a person responsible for a dispensary and allowing a city or county to adopt an ordinance allowing a medical marijuana dispensary to be located within 500 ft of a school if a physical or geographic barrier capable of preventing children from traversing to school separates the</p>			<p>3/1/2016; 6/28/2016 ; 5/31/2017 ; 1/1/2018; 8/17/2018</p>	

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								<p>dispensary from the school. In addition, housekeeping changes were made to more accurately reflect the intent of the rules filed on 3/1/16.</p> <p>5/31/17 – Housekeeping amendments regarding the application process for dispensaries were made during this rulemaking. They include changes to circumstances when a refund of application fees would be issued to a dispensary and clarifying requirements for new and renewal applications for dispensaries.</p> <p>1/1/18 – The 2017 Legislative Session adopted SB 1057 and HB 2198 which made changes to dispensary rules. Rules implementing the use of OLCC's Cannabis Tracking System (CTS) were adopted along with clarification around a dispensary being able to</p>				

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								be located between 500 to 1000 feet of a school. In addition, reference to statute numbers were updated and other minor housekeeping changes were made. 8/17/18 – Clarification to rule language was made around dispensaries using CTS.				
333-008-1080	Notification of Changes	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	
333-008-1090	Required Closures	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	
333-008-1100	Business Qualifications for Medical Marijuana Facility Registration	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	
333-008-1110	Locations of Medical Marijuana Facilities	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	1/28/15 – Amendments made during this rulemaking were intended to reduce confusion and streamline agency processes based on staff and participant feedback. 3/1/16 - The 2015 Legislative Session adopted HB3400 which	Y – See above	7/25/19	Amended 1/28/2015 ; 3/1/2016; 6/28/2016 ; 11/28/16; 1/1/2018	None

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								<p>made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>6/28/16 - The 2016 Legislative Session adopted HB 4014 and SB 1511 which made some amendments to the specified rules. Amendments made include removing residency requirements for a person responsible for a dispensary and allowing a city or county to adopt an ordinance allowing a medical marijuana dispensary to be located within 500 ft of a school if a physical or geographic barrier capable of preventing children from traversing to school separates the dispensary from the school. In addition, housekeeping changes were made to more accurately reflect the intent of the rules filed on 3/1/16.</p>				

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								<p>11/28/16 – Housekeeping amendments were made during this rulemaking. They included clarifying parameters around dispensaries and sharing space with other businesses and compliance dates for dispensaries related to transfers in of tested marijuana items.</p> <p>1/1/18 – The 2017 Legislative Session adopted SB 1057 and HB 2198 which made changes to dispensary rules. Rules implementing the use of OLCC's Cannabis Tracking System (CTS) were adopted along with clarification around a dispensary being able to be located between 500 to 1000 feet of a school. In addition, reference to statute numbers were updated and other minor housekeeping changes were made.</p>				

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333-008-1120	Person Responsible for a Medical Marijuana Facility (PRF)	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	
333-008-1130	Criminal Background Checks	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/2/2016	
333-008-1140	Security for Registered Facilities	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/2/2016	
333-008-1150	Alarm System for Registered Facilities	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/2/2016	
333-008-1160	Video Surveillance Equipment for Registered Facilities	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/2/2016	
333-008-1170	Required Camera Coverage and Camera Placement for Registered Facilities	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/2/2016	
333-008-1180	Video Recording Requirements for Registered Facilities	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/2/2016	
333-008-1190	Testing	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 11/28/16	

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333-008-1200	Operation of Registered Facilities	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	<p>1/28/15 – Amendments made during this rulemaking were intended to reduce confusion and streamline agency processes based on staff and participant feedback.</p> <p>3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>6/28/16 - The 2016 Legislative Session adopted HB 4014 and SB 1511 which made some amendments to the specified rules. Amendments made include removing residency requirements for a person responsible for a dispensary and allowing a city or county to adopt an ordinance allowing a medical marijuana dispensary to be located within 500 ft of a school if a physical or geographic barrier</p>	Y – See above	7/25/19	Amended 1/28/2015 ; 3/1/2016; 6/28/2016 ; 11/28/16; 5/31/2017 ; 1/1/2018; 8/17/2018	None

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								<p>capable of preventing children from traversing to school separates the dispensary from the school. In addition, housekeeping changes were made to more accurately reflect the intent of the rules filed on 3/1/16.</p> <p>11/28/16 – Housekeeping amendments were made during this rulemaking. They included clarifying parameters around dispensaries and sharing space with other businesses and compliance dates for dispensaries related to transfers in of tested marijuana items.</p> <p>5/31/17 – Housekeeping amendments regarding the application process for dispensaries were made during this rulemaking. They include changes to circumstances when a refund of application fees would be issued to a dispensary and clarifying</p>				

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								<p>requirements for new and renewal applications for dispensaries.</p> <p>1/1/18 – The 2017 Legislative Session adopted SB 1057 and HB 2198 which made changes to dispensary rules. Rules implementing the use of OLCC’s Cannabis Tracking System (CTS) were adopted along with clarification around a dispensary being able to be located between 500 to 1000 feet of a school. In addition, reference to statute numbers were updated and other minor housekeeping changes were made.</p> <p>8/17/18 – Clarification to rule language was made around dispensaries using CTS.</p>				
333-008-1210	Record Keeping	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	
333-008-1220	Labeling	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 5/31/2017	

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333-008-1230	Transfers to a Registered Facility	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger	Y – See above	Underestimated: See above	<p>1/28/15 – Amendments made during this rulemaking were intended to reduce confusion and streamline agency processes based on staff and participant feedback.</p> <p>3/1/16 - The 2015 Legislative Session adopted HB3400 which made significant changes to the Oregon Medical Marijuana Act. The rules were revised to comply with the new statutes.</p> <p>6/28/16 - The 2016 Legislative Session adopted HB 4014 and SB 1511 which made some amendments to the specified rules. Amendments made include removing residency requirements for a person responsible for a dispensary and allowing a city or county to adopt an ordinance allowing a medical marijuana dispensary to be located within 500 ft of a school if a physical or geographic barrier</p>	Y – See above	7/25/19	Amended 1/28/2015 ; 3/1/2016; 6/28/2016 ; 11/28/16; 5/31/201; 1/1/2018	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								<p>capable of preventing children from traversing to school separates the dispensary from the school. In addition, housekeeping changes were made to more accurately reflect the intent of the rules filed on 3/1/16.</p> <p>11/28/16 – Housekeeping amendments were made during this rulemaking. They included clarifying parameters around dispensaries and sharing space with other businesses and compliance dates for dispensaries related to transfers in of tested marijuana items.</p> <p>5/31/17 – Housekeeping amendments regarding the application process for dispensaries were made during this rulemaking. They include changes to circumstances when a refund of application fees would be issued to a dispensary and clarifying</p>				

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								<p>requirements for new and renewal applications for dispensaries.</p> <p>1/1/18 – The 2017 Legislative Session adopted SB 1057 and HB 2198 which made changes to dispensary rules. Rules implementing the use of OLCC’s Cannabis Tracking System (CTS) were adopted along with clarification around a dispensary being able to be located between 500 to 1000 feet of a school. In addition, reference to statute numbers were updated and other minor housekeeping changes were made.</p>				
333-008-1250	Inspections	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	
333-008-1260	Violations	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	
333-008-1280	Confidentiality	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-008-1290	Change of Location	7/11/2014	7/11/2019	7/8/19	Margaret Flerchinger						Repealed 3/1/2016	
333-060-0700	Enforcement	9/1/2014	9/1/2019	8/20/19	Brett Sherry	Y - Adopting these Oregon Administrative Rules addresses routine inspection, violations and correction action for public pool and spa operators. It offers operators the right to a hearing. Also added are pool enclosure criteria, identifying situations when the operator should close their pool for immediate health and safety concerns, until the situation is resolved. The rule identifies that the licensing agency has the authority to order the pool closed if the operator has not acted to close the pool and identifies the operator's right to a hearing if the closure is disputed. The rule additions do not change the	N - Rule Advisory Committee members (including pool operators and local inspectors) could not identify any fiscal impacts that resulted directly from this rule change.	N – No subsequent changes have been made. Rules do not need to be amended or repealed.	Y - Local Public Health Authorities that operate under these rules are appreciative that they are in place and support their continued use.	10/4/2019	None	These rules have had the intended effect and receive continued support from Rule Advisory Committee participants.

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						<p>responsibilities of the Oregon Health Authority or the local public health authority but establish the situations when a pool operator should act to close their public swimming pool or spa, or to modify their operations for health and safety concerns.</p> <p>The rule clarified the process for closing a pool or spa, which has had its intended effect. Local Public Health Authorities now have clear guidance to follow when making a determination that a pool or spa should be closed.</p>						
333-060-0705	Pool Closure Criteria	9/1/2014	9/1/2019	8/20/19	Brett Sherry	Y – See above	N – See above	N – See above	Y – See above	10/4/2019	None	See above
333-062-0250	Enforcement	9/1/2014	9/1/2019	8/20/19	Brett Sherry	Y – See above	N – See above	N – See above	Y – See above	10/4/2019	None	See above

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-062-0255	Spa Pool Closure Criteria	9/1/2014	9/1/2019	8/20/19	Brett Sherry	Y – See above	N – See above	N – See above	Y – See above	10/4/2019	None	See above
333-106-0345	Purpose and Scope	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y - To align past computed tomography rules with emerging technology. The rule adoption supports current technology.	N – No fiscal impact	No changes identified	Y – on-going operations	9/17/19	None	N/A
333-106-0361	Radiation Protection Surveys	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y – See above	N – See above	No changes identified	Y – See above	9/17/19	None	N/A
333-106-0362	Operating Procedures and Conditions of Operation	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y – See above	N – See above	No changes identified	Y – See above	9/17/19	None	N/A
333-106-0363	Quality Control Program	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y – See above	N – See above	No changes identified	Y – See above	9/17/19	None	N/A
333-106-0364	Initial and Annual Qualified CT Medical Physicist Scanner Performance Evaluations	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y – See above	N – See above	No changes identified	Y – See above	9/17/19	None	N/A
333-106-0366	Dose Limits	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y – See above	N – See above	No changes identified	Y – See above	9/17/19	None	N/A
333-106-0367	Records and Report Retention	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y – See above	N – See above	No changes identified	Y – See above	9/17/19	None	N/A

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-106-0368	Qualified CT Medical Physicist	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y – See above	N – See above	No changes identified	Y – See above	9/17/19	None	N/A
333-106-0369	Report and Notification of a CT Medical Event	8/15/2014	8/15/2019	9/11/19	Todd Carpenter	Y – See above	N – See above	No changes identified	Y – See above	9/17/19	None	N/A
333-008-1225	Packaging	9/24/2014	9/24/2019								Repealed 11/28/16	
333-008-1245	Transfers to a Patient or Designated Primary Caregiver	9/24/2014	9/24/2019	10/29/2019	Margaret Flerchingerr	Y - The adoption of this rule was intended to provide requirements around transfers to a patient or caregiver. The rule adopted provided parameters around transfers that had to be followed by dispensaries when making a transfer of marijuana.	N – This rule did not have a fiscal impact	Amended 3/1/16 – Due to the passage of HB3400, amendments made expanded and modified requirements related to transfers from a dispensary to a patient or caregiver. Amended 6/28/16 – Language was added requiring information related to a caregiver, and who the caregiver is purchasing marijuana for, to be captured by a dispensary prior to making the transfer to the caregiver. Amended 5/31/17 – The amendment eliminated a rule reference to align other changes being made.	Y – The OMMP still registers dispensaries. This rule is needed to set requirements around how a dispensary may transfer marijuana items to a patient or caregiver	11/18/2019	Amended 3/1/2016; 6/28/2016 ; 5/31/2017	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-008-1275	Enforcement	9/24/2014	9/24/2019								Repealed 3/1/2016	
333-008-1400	Moratoriums	9/24/2014	9/24/2019								Repealed 3/1/2016	
333-015-0078	Violations	10/8/2014	10/8/2019	10/1/2019	Ilana Kurtzig	Y - The rule is a list of common violations of the Indoor Clean Air Act (ICAA). The purpose of the rule is to lay out violations of the ICAA clearly and transparently. Violations of the ICAA initially were listed in the "complaint response" rule (333-015-0075), but were removed from that rule and made into a separate rule (in 2014), 333-015-0078, in order to make the content clearer and easier to understand. OHA has a clear list of common violations of the ICAA and those violations are clearly laid out for	N - There was no expected fiscal impact. The rule has not had any fiscal impact on OHA and OHA has not heard from small business about fiscal impact of the rule.	Y - In 2015, the Oregon Legislature passed HB 2546, adding a definition of Inhalant Delivery Systems to ORS 431A.175 and including them in the Indoor Clean Air Act (ICAA). This rule was revised to incorporate statute, adding "aerosolizing and vaporizing" to the relevant violations of the ICAA. In 2019, OHA is proposing to revise this rule again to clarify that the list of violations included in the rule is not exhaustive as that may be unclear with current rule language.	Y - Yes. Presently, there is a rule that contains common violations of the ICAA (-0078) and a rule that lays out a penalty schedule (-0085). It's possible that these rules could be restructured and combined in the future, but as written currently, both are needed.	10/2/2019	Amended 1/1/2016	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						other users of the rule.						
333-022-1010	Definitions	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y - The rule was intended to: 1. Codify operational requirements, enhancing the internal Policies and Procedures document 2. Provide clients and applicants hearing rights Program policy is now backed up by OAR. We haven't held a hearing but clients now have that right.	N – There has been no fiscal impact, as expected.	Y - A rulemaking effective 8/2/2016 amended the following rules: OAR 333-022-1010, 333-022-1020, 333-022-1030, 333-022-1050, 333-022-1080, 333-022-1090, 333-022-1120, 333-022-1140, 333-022-1145 The amendments addressed gaps in the original rule and reflected improvements to Program eligibility criteria and client benefits. This included an increase to income eligibility limits, the addition of dental benefits and discontinuation of the Cost Share Program.	Y – Clients should continue to have hearing rights and the Program relies on the rule to reinforce program policies and procedures	11/18/19	Amended 8/2/2016	None
333-022-1020	Eligibility	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	Y – See above	Y – See above	11/18/19	Amended 8/2/2016	None
333-022-1030	Application Process	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	Y – See above	Y – See above	11/18/19	Amended 8/2/2016	None
333-022-1040	Review of Applications	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	N	Y – See above	11/18/19		None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-022-1050	Approval or Denial of Application	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	Y - A rulemaking effective 8/2/2016 amended the following rules: OAR 333-022-1010, 333-022-1020, 333-022-1030, 333-022-1050, 333-022-1080, 333-022-1090, 333-022-1120, 333-022-1140, 333-022-1145 The amendments addressed gaps in the original rule and reflected improvements to Program eligibility criteria and client benefits. This included an increase to income eligibility limits, the addition of dental benefits and discontinuation of the Cost Share Program.	Y – See above	11/18/19	Amended 8/2/2016	None
333-022-1060	Group 1 and 2 Benefits	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	N	Y – See above	11/18/19		None
333-022-1070	Prescriptions	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	N	Y – See above	11/18/19		None
333-022-1080	Payments and Cost Coverage	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	Y - A rulemaking effective 8/2/2016 amended the following rules: OAR 333-022-1010, 333-022-1020, 333-022-1030, 333-022-1050, 333-022-1080, 333-022-1090, 333-022-	Y – See above	11/18/19	Amended 8/2/2016	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								1120, 333-022-1140, 333-022-1145 The amendments addressed gaps in the original rule and reflected improvements to Program eligibility criteria and client benefits. This included an increase to income eligibility limits, the addition of dental benefits and discontinuation of the Cost Share Program.				
333-022-1090	Client Eligibility Review	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	Y – See above	Y – See above	11/18/19	Amended 8/2/2016	None
333-022-1100	Client Reporting Requirements	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	N	Y – See above	11/18/19		None
333-022-1110	Cost Sharing Program	12/1/2014	12/1/2019								Repealed 8/2/2016	
333-022-1120	Restricted Status	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	Y - A rulemaking effective 8/2/2016 amended the following rules: OAR 333-022-1010, 333-022-1020, 333-022-1030, 333-022-1050, 333-022-1080, 333-022-1090, 333-022-1120, 333-022-1140, 333-022-1145	Y – See above	11/18/19	Amended 8/2/2016	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								The amendments addressed gaps in the original rule and reflected improvements to Program eligibility criteria and client benefits. This included an increase to income eligibility limits, the addition of dental benefits and discontinuation of the Cost Share Program.				
333-022-1130	Incarcerated Applicants or Clients	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	N	Y – See above	11/18/19		None
333-022-1140	Bridge Program	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	Y - A rulemaking effective 8/2/2016 amended the following rules: OAR 333-022-1010, 333-022-1020, 333-022-1030, 333-022-1050, 333-022-1080, 333-022-1090, 333-022-1120, 333-022-1140, 333-022-1145 The amendments addressed gaps in the original rule and reflected improvements to Program eligibility criteria and client benefits. This included an increase to income eligibility limits, the addition of dental benefits and	Y – See above	11/18/19	Amended 8/2/2016	None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
								discontinuation of the Cost Share Program.				
333-022-1145	Uninsured Persons Program	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	Y – See above	Y – See above	11/18/19	Amended 8/2/2016	None
333-022-1150	Client Rights	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	N	Y – See above	11/18/19		None
333-022-1160	Termination from CAREAssist	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	N	Y – See above	11/18/19		None
333-022-1170	Hearings	12/1/2014	12/1/2019	11/12/2019	Jonathan Livingston	Y – See above	N – See above	N	Y – See above	11/18/19		None
333-022-2000	Purpose	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y - This rule was intended to: 1. Formalize Oregon's Ryan White Part B, HIV Case Management Policies and Procedures, implemented prior to this rule taking effect. 2. Ensure access and adherence to HIV treatment, including medical and social supports through the HIV Case Management Program.	N - The rule did not anticipate any new fiscal impact. The Program is funded through a federal grant and OHA contracts with counties and community-based organizations to deliver services.	N	Y - People living with HIV in Oregon continue to need and benefit from HIV Case Management services.	11/27/19		None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
						The OAR currently reflects our program policies and procedures. People living with HIV across Oregon have access to our HIV Case Management Program, and over 1,300 individuals were enrolled in 2018.						
333-022-2010	Definitions	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2020	Eligibility	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2030	Enrollment Process	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2040	Approval or Denial of Enrollment	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2050	Determination of Service Needs	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2060	Client Rights	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2070	Client Responsibilities	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None

Rule #	Title	Adoption Date	Review Due Date	Date of Review	Reviewed By	Intended Effect	Fiscal Impact Over/under estimated	Changes in Law impact	Continued Need?	Advisory Committee Report	Action Taken: Amended Repealed Reviewed	Comments
333-022-2080	Supportive Services	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2090	Client Enrollment Review	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2100	Incarcerated Applicants or Clients	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2110	Termination	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-022-2120	Hearings	12/1/2014	12/1/2019	11/22/2019	Heather Hargraves	Y – See above	N – See above	N	Y – See above	11/27/19		None
333-014-0042	Definitions	12/17/14	12/17/2019								Repealed 1/1/2018	
333-014-0080	Relinquishment of Local Public Health Authority	12/17/14	12/17/2019								Repealed 1/1/2018	
333-014-0090	Public Health Division as Local Public Health Authority	12/17/14	12/17/2019								Repealed 1/1/2018	
333-014-0100	Applicability	12/17/14	12/17/2019								Repealed 1/1/2018	



State of Oregon Department of Environmental Quality

Five Year Rule Review ([ORS 183.405](#)) 2021 review of rules adopted in 2016

Contact: [Emil Hnidey](#), Agency Rules Coordinator

The purpose of the review

ORS 183.405 of the Administrative Procedures Act requires agencies to review all newly adopted rules within five years after adopting them. This document meets DEQ's responsibilities under that law.

Legal requirements

The statute requires agencies to review new rules to determine whether:

- The rule had the intended effect
- The agency over- or underestimated the rule's anticipated fiscal impact
- Subsequent changes in the law required the agency to amend or repeal the rule
- There is a continued need for the rule

Agencies are only required to use available information to conduct this review.

If the agency appointed an advisory committee in developing the rule, the agency must provide the committee members a copy of the review.

Exemptions

Rules are exempt from this review if they:

- Consist only of the repeal of or an amendment to an existing rule
- Are adopted to implement court orders or to settle civil proceedings
- Only adopt federal laws or rules by reference
- Implement legislatively approved fee changes
- Only correct omissions or errors

Distribution of the review

DEQ's Agency Rules Coordinator:

- Provides a copy of this review to DEQ's Leadership Team
- Provides a copy of this review to any advisory committee members

- Posts a copy of the review on DEQ’s rulemaking website
- Preserves a copy of the review in DEQ’s electronic rulemaking archives
- Sends a copy to the Oregon Secretary of State

EQC meetings in 2016

In 2016, the EQC adopted rules subject to review at these meetings:

- Feb. 3, 2016
- Oct. 4, 2016

Rules subject to this review

Title – Solid Waste Permit Fee

Adopted date: 2/3/16

Rule numbers: 340-083-0500, 340-083-0510, 340-083-0520, 340-083-0530

Reviewer: Peter Spendelow

Summary

This rulemaking:

- Increased the per-ton solid waste disposal permit and tipping fees to adequately fund implementation of [*Materials Management in Oregon: 2050 Vision and Framework for Action*](#), including oversight of permitted solid waste disposal facilities and reuse, waste prevention and recovery, toxic reduction, product stewardship and other work to reduce impacts of materials use;
- Applied tipping fees and orphan site fees to construction/demolition and tire landfills;
- Defined a mechanism for reimbursing a portion of the tipping fee increase to distressed counties;
- Updated solid waste planning and recycling (materials management) grant rules to expand allowed uses for grant funds; allow businesses, non-profits and other entities as well as local governments to receive grant awards; and to conform to other statutory changes.

Did the rule have the intended effect?

Yes. Much of the rulemaking amended existing rules to implement a legislatively-approved change to solid waste disposal fees. The new rules in Division 83 concerned legislatively-mandated rebates of solid waste disposal fees to the 9 most economically distressed counties each year. We have implemented those rules and issued those rebates ever since the rules were adopted.

Did the agency over- or underestimate the rule’s fiscal impact?

DEQ accurately anticipated the fiscal impact of the rules and has not had to make any adjustment, although the law gives us a mechanism to do an adjustment.

Do subsequent changes in the law require the agency to amend or repeal the rule?

No. We will need to change the fee rule if the fee later proves inadequate to fund the work we do, but the law outlines what changes are allowed.

Is there a continued need for the rule?

Yes. We need to continue to provide rebates each year to the nine most economically-distressed counties, and to collect fees from disposal sites to fund our work.

Title – Art Glass Permanent Rules

Adopted date: 10/4/16

Rule numbers: 340-244-9000, 340-244-9010, 340-244-9020, 340-244-9030, 340-244-9040, 340-244-9050, 340-244-9060, 340-244-9070, 340-244-9080, 340-244-9090

Reviewer: Jill Inahara

Summary

DEQ proposed and the Oregon Environmental Quality Commission approved permanent rules for colored art glass manufacturers. These rules were based on the temporary rules adopted by EQC in April 2016, with corrections in May 2016, with modifications based on new information and public comment.

Elevated levels of hazardous air pollutants were found in the air around two glass manufacturing facilities in Portland. In May 2015, DEQ received the initial results of a study the U.S. Forest Service conducted looking at moss samples as an indicator or screening tool for contaminants in the air. The study's results showed that moss samples in the areas near two CAGMs contained high levels of cadmium and arsenic in Southeast Portland and cadmium in North Portland.

This pilot study prompted DEQ to set up air monitoring systems near the glass company in Southeast Portland. The results of DEQ air monitoring in October 2015 confirmed that the glass company was the likely source. DEQ completed its quality assurance and quality control review of those samples in late January 2016 and then shared its analysis of the findings with the Oregon Health Authority and the Multnomah County Health Department. DEQ also identified a second area of concern near the glass company in North Portland.

The glass companies were operating in compliance with the current law. One company was operating within its permit and the other company was not required to have a permit.

Based on sampling results DEQ concluded that uncontrolled furnaces used at the two facilities were more likely than not to emit potentially unsafe levels of hazardous air pollutants, and that current federal regulations for this source category were not sufficient to protect public health

and the environment. The permanent rules that DEQ proposes for EQC adoption are intended to ensure that air emissions from colored art glass manufacturers do not cause unsafe levels of glassmaking hazardous air pollutants (arsenic, cadmium, chromium, lead, manganese, nickel and selenium) in the air nearby.

EQC adopted temporary rules April 21, 2016. The adopted rules replaced the temporary rules and made the requirements permanent, with modification.

Did the rule have the intended effect?

Yes. Adopting these rules allowed DEQ to require pollution control devices for colored art glass manufacturers, thus reducing emissions of hazardous air pollutants.

Did the agency over- or underestimate the rule's fiscal impact?

DEQ accurately anticipated the fiscal impact of the rules and has not had to make any adjustment.

Do subsequent changes in the law require the agency to amend or repeal the rule?

The colored art glass manufacturing rules were duplicated in division 245 when the EQC adopted rules for toxic air contaminants in 2018. Since the colored art glass manufacturing rules address toxic air contaminants, DEQ wanted all of those rules in one division. The EQC adopted a savings provision in division 244 for the colored art glass manufacturing rules in case division 245 was legally challenged and stayed. Since division 245 was not legally challenged, DEQ is proposing to repeal the colored art glass manufacturing rules in division 244 and keep the same rules in division 245 except for the deletion of a compliance method that no colored art glass manufacturers are using.

Is there a continued need for the rule?

Yes, the rules are critical for controlling toxic air contaminant emissions from colored art glass manufacturers.

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.



Health Systems Division, Medical Assistance Programs
Five Year Rule Review
ORS 183.405

Rule Caption: Medicaid Payment for Behavioral Health Services

Rule Numbers: 410-172-0600, 410-172-0610, 410-172-0620,
410-172-0630, 410-172-0640, 410-172-0650, 410-172-0660, 410-172-0670,
410-172-0680, 410-172-0690, 410-172-0710, 410-172-0720, 410-172-0730,
410-172-0760, 410-172-0770, 410-172-0780, 410-172-0790, 410-172-0800,
410-172-0810, 410-172-0820, 410-172-0830, 410-172-0840, 410-172-0850,
410-172-0860

Program Area: Medicaid Policy

Adoption Date: 6/26/2015



Review Due Date:
11/26/2020



Review Date:
11/17/2020

Reviewer's Name:
Tamara McNatt, Amy Gordin
and Dalila Morales



***Advisory Committee Used** Documentation of the advisory committee was not saved by previous analysts. This review will be sent to a list of internal and external stakeholders to review. Additionally, the rule set in its entirety will be reviewed over the course of the next year to address grammar, outdated language, and service provisions.

Advisory Committee Not Used

***Committee Members:**

Contact Information:

What was the intended effect of this rule adoption?

The responsibility for administration of behavioral health services payments was transferred from the Addictions and Mental Health Division to the Division of Medical Assistance Programs, which has since been renamed to the Medicaid Program Unit. The previous rule was outdated and did not include important rule requirements for behavioral health services programs. These rules incorporated changes to the requirements providers need to meet in order to receive reimbursement from Oregon Medicaid for behavioral health services.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Has this rule adoption had its intended effect?</p> <p>Yes, these rules have allowed payment to be managed by Medicaid Program Unit (formally known as DMAP) and have incorporated requirements of providers for reimbursement, for all rules except:</p> <p>410-172-0600 Acronyms and Definitions: Not all acronyms and definitions are included in this rule to ensure appropriate reimbursement for delivered services.</p> <p>410-172-0720 Prior Authorization and Re-Authorization for Residential Treatment: Rule amendment is required to include criteria that OHA may use to deny Secure Residential Treatment Facility (SRTF) prior authorization and re-authorizations.</p>
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Was the anticipated fiscal impact of this rule underestimated?</p> <p>No fiscal impacts were or have been identified or communicated to Medicaid Policy as an underestimation, for all rules except:</p> <ul style="list-style-type: none"> • 410-172-0650(4)(h) Prior Authorization (specific to ABA) • 410-172-0760 Applied Behavior Analysis • 410-172-0770 Individual Eligibility for Applied Behavioral Analysis Treatment <p>ABA’s fiscal impact was estimated at 7 to 14 million. Since January 2019, Medicaid funds paid over 30 million to providers for ABA services.</p>
--	--

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Was the anticipated fiscal impact of this rule overestimated?</p> <p>No fiscal impacts were or have been identified or communicated to Medicaid Policy as an overestimation for any rule.</p>
--	---

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Have subsequent changes in the law required this rule to be/can be amended or repealed?</p> <p>No subsequent changes in the law have required this rule to be/can be amended, for all rules except:</p> <p>410-172-0790 Eligibility for Behavioral Health Personal Care Attendant Services: New federal Independent Qualified Agency (IQA) contractor requirements will require a rule amendment to revise language regarding application processes.</p> <p>410-172-0670 Substance Use Disorder Treatment Services: New amendments to the 1115 waiver will require rule amendments.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Is there a continued need for this rule?</p> <p>These rules govern Medicaid payment for behavioral health services and include important state and federal requirements for providers to meet in order to receive reimbursement from Oregon Medicaid.</p>
	<p>What impact does the rule have on small businesses?</p> <p>These rules were a continuation of already existing rules with no anticipated or currently identified impacts on administrative burdens, equipment, supplies or labor.</p>

Additional Comments:

OARs 410-172-0700, 410-172-0740 and 410-172-0750 are no longer effective and are not part of this five-year rule review.

***Date report sent to advisory committee members:**

Report approved by:

Donny Jardine
Printed name



Signature

11/25/2020
Date



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Home and Community-Based Services and Settings and Person-Centered Service Planning

Rule Number(s): 411-004-0000; 411-004-0010; 411-004-0020; 411-004-0030; 411-004-0040

Program Area: Aging and People with Disabilities

Adoption Date: 12/15/2015 (effective 01/01/2016)



Review Due Date:

12/15/2020



Review Date:

08/17/2020

Reviewer's Name:

Chris Angel



***Advisory Committee Used**

Advisory Committee Not Used

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What was the intended effect of this rule adoption?
411-004-0000 Statement of Purpose
States purpose of the rule division

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
--	--

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
--	---

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? APD 15-2017 06-26-2017 Perm
--	---

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
--	---

What was the intended effect of this rule adoption?
411-004-0010 Definitions
Establishes definitions for the rule division

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
--	---

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? APD 15-2017 06-26-2017 Perm
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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What was the intended effect of this rule adoption?
411-004-0020 Home and Community-Based Services and Settings
States requirements for all Home and Community-Based Services and Settings

Yes **Has this rule adoption had its intended effect?**
 No

Yes **Was the anticipated fiscal impact of this rule underestimated?**
 No

Yes **Was the anticipated fiscal impact of this rule overestimated?**
 No

Yes **Have subsequent changes in the law required this rule to be/can be amended or repealed?**
 No
APD 15-2017 06-26-2017 Perm

Yes **Is there a continued need for this rule?**
 No

What was the intended effect of this rule adoption?
411-004-0030 Person-Centered Service Plans
States the process and requirements for development of Person-Centered Service Plans

Yes **Has this rule adoption had its intended effect?**
 No

Yes **Was the anticipated fiscal impact of this rule underestimated?**
 No

Yes **Was the anticipated fiscal impact of this rule overestimated?**
 No

Yes **Have subsequent changes in the law required this rule to be/can be amended or repealed?**
 No
APD 15-2017 06-26-2017 Perm

Yes **Is there a continued need for this rule?**
 No

What was the intended effect of this rule adoption?	
411-004-0040 Individually-Based Limitations States the process and requirements for implementing Individually-Based Limitations	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? APD 15-2017 06-26-2017 Perm; APD 28-2018 07-31-2018 Perm
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?

Additional Comments:

***Date report sent to advisory committee members: 12/15/2020**

Report approved by:

Jane-ellen Weidanz

Jane-ellen Weidanz (signed electronically)

12/15/2020

Printed name

Signature

Date

**DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 4**

**HOME AND COMMUNITY-BASED SERVICES AND SETTINGS AND PERSON-CENTERED
SERVICE PLANNING**

411-004-0000 Statement of Purpose (Adopted 1/1/2016)

The rules in OAR chapter 411, division 4 provide a foundation of standards to support the network of Medicaid-funded and private pay residential and non-residential Home and Community-Based Services (HCBS), Home and Community-Based (HCB) settings, and person-centered service planning for individuals receiving HCBS in Oregon. Additional standards are set forth in OAR chapters 309 and 411.

(1) These rules are consistent with the missions and goals of the Department of Human Services (DHS) and the Oregon Health Authority (OHA) to help people achieve optimum physical, mental, and social well-being and independence.

(2) These rules ensure that individuals receive HCBS in settings that are integrated in and support the same degree of access to the greater community as people not receiving HCBS, including opportunities for individuals enrolled in or utilizing HCBS to:

- (a) Seek employment and work in competitive integrated employment settings;
- (b) Engage in greater community life;
- (c) Control personal resources; and
- (d) Receive services in the greater community.

(3) These rules implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) in the following areas:

- (a) HCBS and HCB settings authorized under the following Medicaid authorities:
 - (A) 1915(c) - HCBS Waivers;
 - (B) 1915(i) - State Plan HCBS; or

(C) 1915(k) - Community First Choice (K State Plan Option).

(b) HCBS and HCB settings delivered through the following program areas:

(A) DHS, Aging and People with Disabilities;

(B) DHS, Office of Developmental Disabilities Services; and

(C) OHA.

(c) Programs, services, or settings designated as HCB and licensed, certified, or endorsed by, and receiving oversight from, the DHS, Office of Licensing and Regulatory Oversight or OHA;

(d) Alternative resources specifically authorized as HCB by DHS or OHA; and

(e) Person-centered service plans for individuals receiving HCBS. Person-centered service plans provide the written details of the supports, desired outcomes, activities, and resources required for individuals to achieve and maintain personal goals and health and safety.

Stat. Auth.: ORS 409.050, 413.042, 413.085

Stats. Implemented: ORS 409.050, 413.042, 413.085

411-004-0010 Definitions (Adopted 1/1/2016)

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 4:

(1) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

(2) "Competitive Integrated Employment" means work that is performed on a full-time or part-time basis (including self-employment):

(a) For which an individual:

(A) Is compensated at a rate that:

(i) Is not less than the higher of the rate specified in federal, state, or local minimum wage law, and also is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(ii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(B) Is eligible for the level of benefits provided to other employees.

(b) That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(3) "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 of the individual;

(B) Not a paid provider for the individual; and

(C) Authorized by the individual or, as applicable, the legal representative of the individual to serve as the representative of the individual or, as applicable, the legal representative in connection with the provision of funded supports.

(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.

(4) "DHS" means the Department of Human Services.

(5) "HCB" means "Home and Community-Based".

(6) "HCBS" means "Home and Community-Based Services". HCBS are services provided in the home or community of an individual.

(a) HCBS are authorized under the following Medicaid authorities:

(A) 1915(c) - HCBS Waivers;

(B) 1915(i) - State Plan HCBS; or

(C) 1915(k) - Community First Choice (K State Plan Option).

(b) HCBS are delivered through the following program areas:

(A) DHS, Aging and People with Disabilities;

(B) DHS, Office of Developmental Disabilities Services; and

(C) OHA.

(c) DHS or OHA may designate other services, delivered under (6)(b) above, as HCBS.

(7) "HCB Setting" means a physical location meeting the qualities of OAR 411-004-0020 where an individual receives HCBS.

(8) "Heightened Scrutiny" means the process set out in OAR 411-004-0020(7)(e) that DHS or OHA uses when determining if a setting meets the criteria to be considered a HCB setting.

(9) "Individual" means a person enrolled in or utilizing HCBS.

(10) "Individually-Based Limitation" means any limitation to the qualities outlined in OAR 411-004-0020(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 of the individual, as described in OAR 411-004-0040.

(11) "Informed Consent" means:

(a) 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; and

(b) The individual and, as applicable, the legal representative of the individual, consents to a person-centered service plan of action, including any individually-based limitations to the rules, prior to implementation of the initial or updated person-centered service plan or any individually-based limitation.

(12) "Legal Representative" means a person who has the legal authority to act for an individual. The legal representative only has authority to act within the scope and limits of his or her authority as designated by the court or other agreement. Legal representatives acting outside of his or her authority or scope must meet the definition of designated representative.

(a) For an individual under the age of 18, the parent, unless a court appoints another person or agency to act as the guardian; or

(b) For an individual 18 years of age or older, a guardian appointed by a court order or an agent legally designated as the health care representative, 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.

(13) "OHA" means the Oregon Health Authority.

(14) "Person-Centered Service Plan" means, for Medicaid eligible individuals, the written 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 as documented by the person-centered service plan coordinator.

(15) "Person-Centered Service Plan Coordinator" means case managers, service coordinators, personal agents, and other people designated by DHS or OHA to provide case management services or person-centered service planning for and with individuals.

(16) "Provider" means any person or entity providing HCBS.

(17) "Provider Owned, Controlled, or Operated Residential Setting" means:

(a) The residential provider is responsible for delivering HCBS to individuals in the setting and the provider:

(A) Owns the setting;

(B) Leases or co-leases the residential setting; or

(C) If the provider has a direct or indirect financial relationship with the property owner, the setting is presumed to be provider controlled or operated.

(b) A setting is not provider-owned, controlled, or operated if the individual leases directly from a third party that has no direct or indirect financial relationship with the provider.

(c) When an individual receives services in the home of a family member, the home is not considered provider-owned, controlled, or operated.

(18) "Residency Agreement" means the written, legally enforceable agreement between a residential provider and an individual or the legal or designated representative of the individual, when the individual is receiving HCBS in a provider owned, controlled, or operated residential setting. The Residency Agreement identifies the rights and responsibilities of the individual and

the residential provider. The Residency Agreement provides the individual protection from eviction substantially equivalent to landlord-tenant laws.

(19) "Room and Board" means compensation for the provision of meals and a place to sleep.

(20) "These Rules" mean the rules in OAR chapter 411, division 4.

(21) "Unit" means the personal space and bedroom of an individual receiving HCBS in a provider owned, controlled, or operated residential setting, as agreed to in the Residency Agreement.

Stat. Auth.: ORS 409.050, 413.042, 413.085

Stats. Implemented: ORS 409.050, 413.042, 413.085

411-004-0020 Home and Community-Based Services and Settings (Adopted 1/1/2016)

(1) Residential and non-residential HCB settings must have all of the following qualities:

(a) The setting is integrated in and supports the same degree of access to the greater community as people not receiving HCBS, including opportunities for individuals enrolled in or utilizing HCBS to:

- (A) Seek employment and work in competitive integrated employment settings;
- (B) Engage in greater community life;
- (C) Control personal resources; and
- (D) Receive services in the greater community.

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

- (A) Identified and documented in the person-centered service plan for the individual;
- (B) Based on the needs and preferences of the individual;
- (C) For residential settings, based on the available resources of the individual for room and board; and
- (D) For employment and non-residential day services, a non-disability specific setting option must be presented and documented in the person-centered service plan.

(c) The setting ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint.

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

(e) The setting facilitates individual choice regarding services and supports, and who provides the services and supports.

(2) Provider owned, controlled, or operated residential settings must have all of the following qualities:

(a) The setting meets all the qualities in section (1) of this rule.

(b) The setting is physically accessible to an individual.

(c) The unit is a specific physical place that may be owned, rented, or occupied by an individual under a legally enforceable Residency Agreement. The individual has, at a minimum, the same responsibilities and protections from an eviction that a tenant has under the landlord tenant law of the state, county, city, or other designated entity. For a setting in which landlord tenant laws do not apply, the Residency Agreement must provide protections for the individual and address eviction and appeal processes. The eviction and appeal processes must be substantially equivalent to the processes provided under landlord tenant laws.

(d) Each individual has privacy in his or her own unit.

(e) Units must have entrance doors lockable by the individual, with the individual and only appropriate staff having a key to access the unit.

(f) Individuals sharing units must have a choice of roommates.

(g) Individuals must have the freedom to decorate and furnish his or her own unit as agreed to within the Residency Agreement.

(h) Each individual may have visitors of his or her choosing at any time.

(i) Each individual has the freedom and support to control his or her own schedule and activities.

(j) Each individual has the freedom and support to have access to food at any time.

(3) The qualities of an HCB setting described in sections (2)(d) to (2)(j) of this rule apply to children under the age of 18, enrolled in or utilizing HCBS, and residing in provider owned,

controlled, or operated residential settings, in the context of addressing any limitations beyond what are typical health and safety precautions or discretions utilized for children of the same age without disabilities. Health and safety precautions or discretions utilized for children under the age of 18, enrolled in or utilizing HCBS, and residing in provider owned, controlled, or operated residential settings, shall be addressed through a person-centered service planning process and documented in the person-centered service plan for the child. Limitations which deviate from and are more restrictive than what is typical for children of the same age without disabilities, must comply with OAR 411-004-0040.

(4) When conditions under sections (2)(d) to (2)(j) of this rule may not be met due to threats to the health and safety of the individual or others, the person-centered service plan may apply an individually-based limitation with the consent of the individual or, as applicable, the legal representative of the individual, as described in OAR 411-004-0040.

(5) Providers initially licensed, certified, or endorsed by DHS or OHA on or after January 1, 2016 must meet the requirements in this rule prior to being licensed, certified, or endorsed.

(6) Providers licensed, certified, or endorsed prior to January 1, 2016 must make measurable progress toward compliance with these rules and be in full compliance with these rules by September 1, 2018. The Department will not issue sanctions and penalties on these OAR 411 Division 4 rules until September 1, 2018 if a provider is making measurable progress towards compliance.

(7) HCB settings do not include the following:

- (a) A nursing facility;
- (b) An institution as outlined in ORS 426.010;
- (c) An intermediate care facility for individuals with intellectual disabilities;
- (d) A hospital providing long-term care services; or
- (e) Any other setting that has the qualities of an institution.

(A) The following settings are presumed to have the qualities of an institution:

- (i) A setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
- (ii) A setting that is located in a building on the grounds of, or immediately adjacent to, a public institution; or
- (iii) A setting that has the effect of isolating individuals receiving HCBS from the greater community.

(B) In addition to the qualities under subsection (A) above, non-residential settings that isolate individuals receiving HCBS from the greater community and are presumed to have the qualities of an institution also include:

(i) Facility-based prevocational settings that do not, at minimum, provide interaction with the general public; or

(ii) Facility or site-based non-residential day service settings that do not, at minimum, facilitate going out into the greater community.

(C) A setting that is presumed to have the qualities of an institution, as described in this section, will be subject to a heightened scrutiny process. If a setting has indicators that lead the State to question their HCBS status, the setting will be given the opportunity to rebut that presumption by submitting evidence of their compliance with these regulations. Based on the evidence, the State may determine that a setting has not overcome the presumption and HCBS funding will not be utilized. If the State determines that a setting has provided adequate evidence to rebut the presumption that it has the qualities of an institution, the State will submit the evidence to CMS after a public comment period. CMS determines, based on information presented by DHS, OHA, or other parties, whether the setting is home and community-based or is institutional in nature. If CMS determines that a setting has not overcome the presumption and is institutional in nature, HCBS funding will not be utilized.

Stat. Auth.: ORS 409.050, 413.042, 413.085

Stats. Implemented: ORS 409.050, 413.042, 413.085

411-004-0030 Person-Centered Service Plans (Adopted 1/1/2016)

(1) PERSON-CENTERED SERVICE PLANNING PROCESS. A person-centered service plan must be developed through a person-centered service planning process. The person-centered service planning process:

(a) Is driven by the individual;

(b) Includes people chosen by the individual;

(c) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflects the cultural considerations of the individual;

(f) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and, as applicable, the legal or designated representative of the individual;

(g) Includes strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants, such as:

(A) Discussing the concerns of the individual and determining acceptable solutions;

(B) Supporting the individual in arranging and conducting a person-centered service planning meeting;

(C) Utilizing any available greater community conflict resolution resources;

(D) Referring concerns to the Office of the Long-Term Care Ombudsman; or

(E) For Medicaid recipients, following existing, program-specific grievance processes.

(h) Offers choices to the individual regarding the services and supports the individual receives, and from whom, and records the alternative HCB settings that were considered by the individual;

(i) Provides a method for the individual or, as applicable, the legal or designated representative of the individual, to request updates to the person-centered service plan for the individual, as needed;

(j) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

(l) Includes any services that are self-directed, if applicable;

(m) Includes, but is not limited to, individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;

(n) Includes risk factors and plans to minimize any identified risk factors; and

(o) Results in a person-centered service plan documented by the person-centered services plan coordinator, signed by the individual or, as applicable, the legal or designated representative of the individual, participants in the person-centered service

planning process, and all people and providers responsible for the implementation of the person-centered service plan as described below in section (2)(d) of this rule. The person-centered service plan is distributed to the individual, and, as applicable, the legal or designated representative of the individual, and other people involved in the person-centered service plan as described below in section (2)(d) of this rule.

(2) PERSON-CENTERED SERVICE PLANS.

(a) For individuals receiving Medicaid:

(A) The person-centered service plan coordinator documents the person-centered service plan on behalf of the individual and provides the necessary information and supports to ensure the individual directs the person-centered service planning process to the maximum extent possible.

(B) The person-centered service plan must be developed by the individual and, as applicable, the legal or designated representative of the individual, and the person-centered service plan coordinator. Others may be included only at the invitation of the individual and, as applicable, the legal or designated representative.

(C) To avoid conflict of interest, the person-centered service plan may not be developed by the provider of HCBS for individuals receiving Medicaid. Exceptions may be granted when DHS or OHA has determined that the only willing and qualified entity to provide case management and develop the person-centered service plan in a specific geographic area also provides HCBS.

(b) For private pay individuals, a person-centered service plan will be developed by the individual, or, as applicable, the legal or designated representative of the individual, and others chosen by the individual. Providers may assist private pay individuals in developing person-centered service plans when no alternative resources are available. Private pay individuals are not required to have a written person-centered service plan.

(c) For individuals receiving Medicaid services the written person-centered service plan reflects:

(A) HCBS and setting options based on the needs and preferences of the individual, and for residential settings, the available resources of the individual for room and board;

(B) The HCBS and settings are chosen by the individual and are integrated in, and support full access to, the greater community;

(C) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work. If the individual

wishes to pursue employment, a non-disability specific setting option must be presented and documented in the person-centered service plan;

(D) Opportunities to engage in greater community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving HCBS;

(E) The strengths and preferences of the individual;

(F) The service and support needs of the individual;

(G) The goals and desired outcomes of the individual;

(H) The providers of services and supports, including unpaid supports provided voluntarily;

(I) Risk factors and measures in place to minimize risk;

(J) Individualized backup plans and strategies, when needed;

(K) People who are important in supporting the individual;

(L) The person responsible for monitoring the person-centered service plan;

(M) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and, as applicable, the legal or designated representative of the individual;

(N) The written informed consent of the individual or, as applicable, the legal or designated representative of the individual;

(O) Signatures of the individual or, as applicable, the legal or designated representative of the individual, participants in the person-centered service planning process, and all people and providers responsible for the implementation of the person-centered service plan as described below in subsection (d) of this section;

(P) Self-directed supports; and

(Q) Provisions to prevent unnecessary or inappropriate services and supports.

(d) The individual or, as applicable, the legal or designated representative of the individual, decides on the level of information in the person-centered service plan that is shared with providers. To effectively provide services, providers must have access to

the portion of the person-centered service plan that the provider is responsible for implementing.

(e) The person-centered service plan is distributed to the individual and, as applicable, the legal or designated representative of the individual, and other people involved in the person-centered service plan as described above in subsection (d) of this section.

(f) The person-centered service plan must justify and document an individually-based limitation as described in OAR 411-004-0040 when conditions under OAR 411-004-0020(2)(d) to (2)(j) may not be met due to threats to the health and safety of the individual or others.

(g) The person-centered service plan must be reviewed and revised:

(A) At the request of the individual or, as applicable, the legal or designated representative of the individual;

(B) When the circumstances or needs of the individual change; or

(C) Upon reassessment of functional needs as required every 12 months.

Stat. Auth.: ORS 409.050, 413.042, 413.085

Stats. Implemented: ORS 409.050, 413.042, 413.085

411-004-0040 Individually-Based Limitations (Adopted 1/1/2016)

This rule becomes effective on July 1, 2016.

(1) When conditions under OAR 411-004-0020(2)(d) to (2)(j) may not be met due to threats to the health and safety of an individual or others, provider owned, controlled, or operated residential settings must apply individually-based limitations as described in this rule.

(2) 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 limitation. The form identifies and documents:

(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; and

(h) An assurance that the interventions and support do not cause harm to the individual.

(3) 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;

(b) Regular collection and review of data to measure the ongoing effectiveness of and the continued need for the individually-based limitation; and

(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

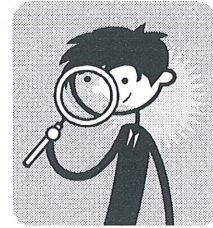
Stats. Implemented: ORS 409.050, 413.042, 413.085



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: PAYMENT LIMITATIONS IN HOME AND COMMUNITY-BASED SERVICES

Rule Number(s): 411-027-0170

Program Area: Aging and People with Disabilities

Adoption Date: 03-04-2016 (effective 03-18-2016)



Review Due Date:
03/05/2021



Review Date:
08/11/2020

Reviewer's Name:
Mat Rapoza



- *Advisory Committee Used**
- Advisory Committee Not Used**

***Committee Members:**

Contact Information:

The Administrative Rule Advisory Committee included representation from the Long Term Care (LTC) Ombudsman, American Association of Retired Persons (AARP), Oregon Law Center, Oregon Healthcare Association, Disability Rights Oregon, Service Employees International Union (SEIU), Independent Adult Care Provider Association, Leading Age Oregon, Aging Veteran Services, Medicaid LTC Quality Reimbursement Advisory Council, Alzheimer's Association, Oregon Home Care Commission, Oregon Association for Homecare, Oregon Association of Area Agencies on Aging & Disabilities, Oregon Disabilities Commission, Governor's Commission on Senior Services, Vocational Rehabilitation Services and State Independent living Council. A specific list of individuals was not available.

What was the intended effect of this rule adoption?

411-027-0170 Rate Schedule for Home and Community-Based Services

States rates for Residential Care Facilities, Adult Foster Homes, Assisted Living Facilities, Memory Care Communities, Contracted In-Home Care Agencies and Home Delivered Meals

Yes **Has this rule adoption had its intended effect?**
 No

Yes **Was the anticipated fiscal impact of this rule underestimated?**
 No

Yes **Was the anticipated fiscal impact of this rule overestimated?**
 No

Yes **Have subsequent changes in the law required this rule to be/can be amended or repealed?**
 No

APD 13-2016 (t) filed 06-27-2016; effective 07-01-2016 thru 12-27-2016
APD 41-2016 perm filed 12-2-2016; effective 12-28-2016
APD 20-2017 (t) filed 09-27-2017; effective 10-01-2017 thru 03-29-2018
APD 9-2018 perm filed 03-28-2018; effective 03-29-2018
APD 16-2020 (t) filed 05-04-2020; effective 05-04-2020 thru 10-30-2020
APD 18-2020 (t) filed 05-18-2020; effective 05-18-2020 thru 10-30-2020
APD 27-2020 (t) filed 06-25-2020; effective 07-01-2020 thru 10-30-2020

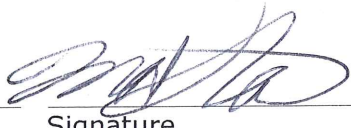
Yes **Is there a continued need for this rule?**
 No

Additional Comments:

***Date report sent to advisory committee members:** _____

Report approved by:

Mat Rapoza



12/17/20

Printed name

Signature

Date

**DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 27**

PAYMENT LIMITATIONS IN HOME AND COMMUNITY-BASED SERVICES

411-027-0170 Rate Schedule for Home and Community-Based Services
(Adopted 03/18/2016)

(1) Rates below are in effect starting July 1, 2015.

(2) Monthly Rates:

(a) Residential Care Facilities:

(A) Base - \$1371.00.

(B) Base plus 1 add-on - \$1636.00.

(C) Base plus 2 add-ons - \$1901.00.

(D) Base plus 3 add-ons - \$2166.00.

(E) Hourly Exception Rate - \$12.00 per hour.

(b) Adult Foster Homes:

Rates shall be paid in accordance with the terms of collective bargaining agreements negotiated between the Service Employees International Union and the State of Oregon.

(c) Assisted Living Facilities:

(A) Level 1 - \$1,100.00.

(B) Level 2 - \$1,363.00.

(C) Level 3 - \$1,711.00.

(D) Level 4 - \$2,148.00.

(E) Level 5 - \$2,586.00.

(d) Memory Care Facilities (Endorsed Units Only) - \$3,596.00 per month.

(e) Contracted In-Home Care Agencies Rate - \$21.80 per hour.

(f) Home Delivered Meals Rate - \$9.54 per meal.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES – INDIVIDUALLY-BASED LIMITATIONS

Rule Number(s): 411-054-0038

Program Area: Aging and People with Disabilities

Adoption Date: Filed 06-27-2016; Effective 06-28-2016



Review Due Date:
06-01-2021



Review Date:
12-14-2020

Reviewer's Name:
Rebecca Mapes



- *Advisory Committee Used**
 Advisory Committee Not Used

***Committee Members:**

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What was the intended effect of this rule adoption?

411-054-0038 Individually-Based Limitations

States requirements surrounding individually-based limitations for residential care and assisted living facilities.

Yes
 No

Has this rule adoption had its intended effect?

Yes
 No

Was the anticipated fiscal impact of this rule underestimated?

Yes
 No

Was the anticipated fiscal impact of this rule overestimated?

Yes
 No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

APD 17-2017 (t); filed and cert. effective 08-01-2017 thru 01-27-2018
APD 30-2017 perm filed 12-01-2017; effective 12-15-2017

Yes
 No

Is there a continued need for this rule?

Additional Comments:

I have spoken with APD & SOQ staff that have worked directly with this rule. No changes are needed at this time.

***Date report sent to advisory committee members: 12-21-2020**

Report approved by:

Jack Honey

Printed name



Signature

12/17/20

Date

411-054-0038 Individually-Based Limitations

(Adopted 06/28/2016)

This rule will begin being implemented January 1, 2017. The requirements in this rule must be in place no later than February 28, 2018.

(1) When threats to the health and safety of an individual or others arise, limitations may be applied in the following areas:

(a) To have unit entrance doors lockable by the individual, with only appropriate staff having a key to access the unit.

(b) For individuals sharing units, to have a choice of roommates.

(c) To have the freedom to decorate and furnish his or her own unit as agreed to within the Residency Agreement.

(d) To have visitors of his or her choosing at any time.

(e) To have the freedom and support to control his or her own schedule and activities.

(f) To have the freedom and support to have access to food at any time.

(2) 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 limitation. The form identifies and documents:

(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; and

(h) An assurance that the interventions and support do not cause harm to the individual.

(3) 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; and

(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

Stats. Implemented: ORS 409.050, 413.042, 413.085



**Office of Child Welfare Programs
Five Year Rule Review - OAR Chapter 413
ORS 183.405**

Rules under review:

- 413-040-0014– Replacing or Adding Impending Danger Safety Threats During Ongoing Case Management (adopted 10/01/15)

- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
 It does not appear that a Rule Advisory Committee was Used Prior to Initial Adoption of Permanent Rule

What was the intended effect of this rule adoption?

- OAR 413-040-0014 was adopted to improve the safety outcomes of children and young adults by allowing changes to the identified impending safety threat(s) in the ongoing safety plan as needed. This rule specifically authorized a caseworker to replace an incorrect or inexact identified impending danger safety threat or add a new impending danger safety threat to an ongoing safety plan during ongoing case management.

- Yes
 No
- Have these rule adoptions had the intended effect?**

- Yes
 No
- Was the anticipated fiscal impact of this rule underestimated?**
At the time of adoption, it appears the Department estimated that the changes would have no fiscal impact on the Department, other agencies, or business, including small business. No small businesses were subject to these rules. There was no cost of compliance for small business.
- The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.

- Yes
 No
- Was the anticipated fiscal impact of this rule overestimated?**
See above.

- Yes
 No
- Have there been any subsequent changes in the law that require this rule to be amended or repealed?**

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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule? OAR-413-040-0014 is still needed to ensure the safety of children and young adults by allowing the identified impending safety threat(s) in the ongoing safety plan to be altered as needed. The rule still authorizes a caseworker to replace an incorrect or inexact identified impending danger safety threat or add a new impending danger safety threat to an ongoing safety plan during ongoing case management.
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Has this rule had an impact on small businesses?
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Report prepared on: 12/28/20

Report approved by: Alex Trotter



Office of Child Welfare Programs
Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review:

- 413-070-0918 – Extension of Guardianship Assistance for a Young Adult (adopted 10/01/15)
- 413-070-0990– Purpose (adopted 10/1/15)
- 413-070-1000– Placement with a Fit and Willing Relative as a Permanency Plan (adopted 10/01/15, temporary amendment 1/1/18, amended 2/22/18, minor correction 8/9/19)
- 413-070-1010– Eligibility Requirements for a Fit and Willing Relative (adopted 10/01/15)
- 413-070-1020– Approval and Implementation of a Fit and Willing Relative Permanency Plan (adopted 10/01/15, amended 1/1/17)
- 413-070-1030– Contents of a Placement with a Fit and Willing Relative Case Plan (adopted 10/01/15)
- 413-070-1040– Ongoing Department Responsibilities When Placement with a Fit and Willing Relative is the Permanency Plan (adopted 10/01/15)
- 413-070-1050– Placement with a Fit and Willing Relative Permanency Plan Reviews (adopted 10/01/15, temporary amendment 2/7/17, amended 8/6/17, amended 12/12/18)
- 413-070-1060– Termination of Placement with a Fit and Willing Relative Permanency Plan (adopted 10/01/15)

-
- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
 Advisory Committee Not Used Prior to Initial Adoption of Permanent Rule

What was the intended effect of this rule adoption?

- OAR 413-070-0918 about eligibility for guardianship assistance was adopted to expand eligibility to include a child who is ineligible for Title IV-E funded guardianship assistance. That was required by section 16 of SB 501 (2015)
- OAR 413-070-0990 to 413-070-1060 were adopted to implement a new permanency plan option known as “placement with a fit and willing relative.” . The amendments:
- Created the option to consider and recommend to the court the permanency plan of placement with a fit and willing relative for a child or young adult in the care or custody of the Department.
- Stated that this permanent plan option may only be used when more preferred permanent plans are not safely possible or in the best interest of the child or young adult
- Required an individual to meet the following requirements before being considered as a fit and willing relative:

- Meet the definition of a relative of the child or young adult or the definition of a person with a caregiver relationship for the child or young adult that is placed in foster care through the Office of Developmental Disabilities Services
- Be approved by the Department as a long-term resource for the child or young adult
- Have a current certificate of approval
- Have a strong commitment to caring permanently for the child or young adult and any siblings under consideration
- Agree to the requirements of the Placement with a Fit and Willing Relative Agreement

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have these rule adoptions had the intended effect?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Was the anticipated fiscal impact of this rule underestimated?</p> <p>At the time of adoption, the Department estimated that the proposed changes to implement SB 741 (2015) were estimated to have a negative impact on the Department due to an increase in court hearings and judicial reviews which would increase the Department's legal expenses. In addition, the requirements could impact staff workload due to increased reports that need to be filed. Because of the unique and complex nature of each case, the Department was unable to estimate the negative fiscal impact. The Public Defense Services Commission estimated an additional 120 to 150 review hearings which are estimated to cost approximately between \$80,000 and \$101,000 per biennium. The Department estimated a minimal fiscal impact on the Oregon Judicial Department that was to be managed within existing resources. The Department estimated that the proposed changes to implement SB 501 (2015) would have had a positive fiscal impact of approximately \$1,894,462 on the Department. The proposed changes were estimated to have no impact on local government, or business, including small business. No small businesses were subject to these rules. There was no cost of compliance for small business.</p> <p>The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.</p>
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Was the anticipated fiscal impact of this rule overestimated?</p> <p>See above.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Have there been any subsequent changes in the law that require this rule to be amended or repealed?</p> <ul style="list-style-type: none"> • 413-070-1000– Placement with a Fit and Willing Relative as a Permanency Plan was amended 2/22/18 and 8/8/19. • 413-070-1020– Approval and Implementation of a Fit and Willing Relative Permanency Plan was amended on 1/1/17. 413-070-1050– Placement with a Fit and Willing Relative Permanency Plan Reviews was amended 8/6/17.
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Has this rule had an impact on small businesses?
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Report prepared on: 12/28/20

Report approved by: Alex Trotter

Report sent to Rule Advisory Committee participants on: 12/28/20



**Office of Child Welfare Programs
Five Year Rule Review - OAR Chapter 413
ORS 183.405**

Rules under review:

- 413-080-0053 When a Child or Young Adult in Substitute Care is Missing (Adopted 1/1/16, Amended 1/1/17)
- 413-090-0087 When a Child or Young Adult Placed with a BRS Program is Missing (Adopted 1/1/6, Amended 9/29/16, renumbered to 413-095-0070 effective 01/02/2019)

A Rule Advisory Committee was used prior to initial adoption of Permanent Rule

What was the intended effect of this rule adoption?

To establish requirements when a child or young adult in substitute care is missing. The rules implemented provisions of section 104 of the Preventing Sex Trafficking and Strengthening Families Act of 2014 relating to the Department's responsibilities when a child or young adult in substitute care is missing.

Yes
 No

Have these rule adoptions had the intended effect?

The rules were adopted to establish requirements when a child or young adult in substitute care is missing.

The rules implemented provisions of section 104 of the Preventing Sex Trafficking and Strengthening Families Act of 2014 relating to the Department's responsibilities when a child or young adult in substitute care is missing. Specifically, the rules:

- State that when a child or young adult in substitute care is missing, the caseworker must:
 - Make immediate efforts to locate the child or young adult; and
 - Notify the court and legal parties to the case that the child or young adult is missing.
- State that when a child or young adult in substitute care is located, the caseworker must:
 - Determine and address the primary factors that contributed to the missing status of the child or young adult;
 - Determine the child or young adult's experiences while missing;
 - Determine if the child or young adult is a victim of sex trafficking or is at risk of being a victim of sex trafficking; and
 - Notify the court and legal parties to the case that the child or young adult has been located.
- Require BRS (Behavior Rehabilitation Services) providers to immediately report to the Department information about a missing child or young adult placed with a BRS program.

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Was the anticipated fiscal impact of this rule underestimated?</p> <p>At the time of adoption, the Department estimated that the rules would have no fiscal impact on the Department, providers, or clients. The Department, substitute caregivers, and providers had an obligation to ensure the safety of a child or young adult in their care and therefore already had a duty to respond when a child or young adult goes missing. These rules simply codified the requirements with more specificity to comply with federal law. The Department estimated no fiscal impact to other state agencies, the public, or local government.</p> <p>BRS contractors, some of whom may be registered as small businesses, are subject to the new rule, OAR 413-090-0097. Data was not available to determine how many BRS contractors qualify as small businesses. To comply with OAR 413-090-0097, BRS contractors may have needed to provide additional training to providers. Data was not available to estimate the cost of providing additional training. No other small businesses were subject to these rules. There was no cost of compliance for other small business.</p> <p>The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.</p>
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Was the anticipated fiscal impact of this rule overestimated?</p> <p>See above.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Have there been any subsequent changes in the law that require this rule to be amended or repealed?</p> <p>413-080-0053 When a Child or Young Adult in Substitute Care is Missing was amended on 1/1/17.</p> <p>413-090-0087 When a Child or Young Adult Placed with a BRS Program is Missing was amended on 9/29/16.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Is there a continued need for this rule?</p>
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Has this rule had an impact on small businesses?</p>
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Report prepared on: 12/28/20

Report approved by: Leslie LaNier and Alex Trotter

Report sent to Rule Advisory Committee participants on: 12/28/20



Office of Child Welfare Programs
Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review:

- 413-200-0260 Definitions (Adopted 10/1/15, Amended 8/6/17, Amended 06/29/2018, Amended 01/01/2020)
- 413-200-0275 Assessment for Issuance of a Temporary Certificate of Approval (Adopted 10/1/15, Amended 06/29/2018, Amended 01/01/2020)
- 413-200-0298 Confidentiality of Applicant or Certified Family Information (Adopted 10/1/15, Amended 06/29/2018, Amended 01/01/2020)
- 413-200-0356 Requirements Regarding Extracurricular, Enrichment, Cultural, and Social Activities (Adopted 10/1/15, Amended 06/29/2018, Amended 01/01/2020)

Advisory Committee Used Prior to Initial Adoption of Permanent Rule

It does not appear that a Rule Advisory Committee was Used Prior to Initial Adoption of Permanent Rule

What was the intended effect of this rule adoption?

- OAR 413-200-0260 was adopted as an overarching definitions rule for division 200 which consolidates existing definitions and added the following terms:
 - o Age-appropriate or developmentally appropriate activities
 - o Babysitting (new)
 - o Child care (new)
 - o Criminal records check (expanded)
 - o Day care facility (new)
 - o Disqualifying condition (new)
 - o Impending danger safety threat (new)
 - o Listed DHS child care provider (new)
 - o Other person in the household (new)
 - o Present danger safety threat (new)
 - o Reasonable and prudent parent standard (new)
 - o Subject individual (new and incomplete)
 - o Temporary Certificate of Approval
- Replaced “expedited Child-Specific Certificate of Approval” with “Temporary Certificate of Approval”

- OAR 413-200-0275 added new rules to highlight the differences between the assessment processes and make the rule easier to read.
- OAR 413-200-0298 was adopted to address the confidentiality of applicant and certified family information, required certified families to immediately report when a child or young adult placed with the family is missing, and made additional updates throughout the rules consistent with current Department practice.
- OAR 413-200-0356 was adopted to require certified families to support the child or young adult in his or her interests to participate in age-appropriate or developmentally appropriate activities and apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have these rule adoptions had the intended effect?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated? At the time of adoption, it appears the Department estimated that the changes would have no fiscal impact on the Department, other agencies, or business, including small business. No small businesses were subject to these rules. There was no cost of compliance for small business. The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated? See above.
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have there been any subsequent changes in the law that require this rule to be amended or repealed? <ul style="list-style-type: none"> • 413-200-0260 Definitions (Amended 8/6/17, Amended 06/29/2018, Amended 01/01/2020) • 413-200-0275 Assessment for Issuance of a Temporary Certificate of Approval (Amended 06/29/2018, Amended 01/01/2020) • 413-200-0298 Confidentiality of Applicant or Certified Family Information (Amended 06/29/2018, Amended 01/01/2020) • 413-200-0356 Requirements Regarding Extracurricular, Enrichment, Cultural, and Social Activities (Amended 06/29/2018, Amended 01/01/2020)
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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<input type="checkbox"/> Yes	Has this rule had an impact on small businesses?
<input checked="" type="checkbox"/> No	

Report prepared on: 12/28/20

Report approved by: Donna Haney



**Office of Child Welfare Programs
Five Year Rule Review - OAR Chapter 413
ORS 183.405**

Rules under review:

- 413-215-0554 Extracurricular, Enrichment, Cultural, and Social Activities (Adopted 10/1/15, Amended 12/1/16, minor correction 01/13/2020)

-
- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
 It does not appear that a Rule Advisory Committee was Used Prior to Initial Adoption of Permanent Rule

What was the intended effect of this rule adoption?

The Rule in division 215 governing private child caring agencies was adopted to set forth requirements for residential care agencies regarding extracurricular, enrichment, cultural, and social activities consistent with Department practice.

- Yes
 No
- Have these rule adoptions had the intended effect?**

- Yes
 No
- Was the anticipated fiscal impact of this rule underestimated?**
At the time of adoption, it appears the Department estimated that the changes would have no fiscal impact on the Department, other agencies, or business, including small business. No small businesses were subject to these rules. There was no cost of compliance for small business.

The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.

- Yes
 No
- Was the anticipated fiscal impact of this rule overestimated?**
See above.

- Yes
 No
- Have there been any subsequent changes in the law that require this rule to be amended or repealed?**
The rule was amended 12/1/16, and had a minor correction 1/13/20.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Has this rule had an impact on small businesses?
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Report prepared on: 12/15/20

Report approved by: Jenifer McIntosh

Department of Consumer and Business Services
Workers' Compensation Division

Five-year Administrative Rule Review

Rule division name and rule numbers:

OAR 436-001, Procedural Rules, Attorney Fees, and General Provisions,

- Rule 0435, Attorney Fees Awarded under ORS 656.277(1)
- Rule 0500, Refund of Overpayments

Date adopted: Dec. 10, 2015

Date effective: Jan. 1, 2016

Date reviewed: Nov. 17, 2020

Advisory Committee Used: Yes

A rulemaking advisory committee meeting was held on Aug. 19, 2015.

1. Did the rule achieve its intended effect? Yes

a. What was the intended effect?

The intended effect of OAR 436-001-0435 was to implement House Bill 2764 (2015) by establishing criteria for determining a reasonable attorney fee under ORS 656.277(1)(b).

The intended effect of OAR 436-001-0500 was to provide that, when moneys payable to the director are received in excess of the amounts due, or when moneys have been received to which the director has no legal interest, the director will refund or credit the excess amount; but for amounts less than \$20, when moneys are received for an assessment or a civil penalty, the director will refund the excess amount only upon a written request for refund or credit within two years.

b. How did the rule succeed or fail in achieving this effect?

OAR 436-001-0435 provides the formula and criteria that the director uses to determine a reasonable attorney fee, including a high-low range for the hourly rate.

OAR 436-001-0500 establishes a reasonable procedure for addressing small overpayments, and the rule remains valuable for that reason. However, application of the rule is seldom required, in part because overpayments are generally credited to future transactions.

2. Was the fiscal impact statement:

- Underestimated
- Overestimated
- Just about right
- Unknown

a. What was the estimated fiscal impact?

OAR 436-001-0435: The agency’s “Statement of Need and Fiscal Impact,” of Oct. 15, 2015, stated:

“The agency estimates that adoption of OAR 436-001-0435 will increase insurers’ and self-insured employers’ costs for attorney fees and related professional services, and provide a corresponding benefit to workers’ attorneys. House Bill 2764 added a requirement to ORS 656.277 that if the worker is represented by an attorney and the attorney is instrumental in obtaining an order from the director that reclassifies the claim from nondisabling to disabling, the director may award the attorney a reasonable assessed attorney fee. The proposed rule establishes an hourly rate of no less than \$150 and no more than \$400 per hour for the attorney’s time. Historically, the agency has not kept track of attorneys’ hours devoted to classification reviews. Therefore, the agency cannot project overall costs. However, the agency does have data to show that approximately 97% of workers seeking claim reclassification are represented by attorneys, and that from 2010 through 2014, the agency issued an average of 55 orders per year changing the classification from nondisabling to disabling.”

OAR 436-001-0500: The agency’s “Statement of Need and Fiscal Impact,” of Oct. 15, 2015, stated:

“The agency estimates that the proposed rule changes will have a small positive effect on the Department of Consumer and Business Services, at a corresponding cost to individuals and businesses that overpay the agency. By not having to issue refunds for amounts less than \$20, except upon written request from the party entitled to the refund or credit, the agency will save the administrative cost of issuing the checks. The money that is not refunded or credited will be transferred to the Department of State Lands. [ORS 98.336] An existing rule, OAR 436-070-0020(7), includes a similar provision, and this proposed rule would extend application to all small overpayments under ORS chapter 656 and OAR chapter 436. The agency estimates that the additional volume of overpayments under \$20 will be fewer than five per year, and that the corresponding cost-of-compliance impact will be very small.”

b. What was the actual fiscal impact?

OAR 436-001-0435: Attorney fees were not awardable in reclassification reviews before the passage of HB 2764 in 2015. Data collected subsequent to adoption of the rule shows that a large majority of attorney fees awarded are for one or two hours of the attorney’s time. Most attorneys do not submit descriptions of hours devoted to reclassification reviews or justifications for higher fees, and nearly all of the awarded fees are based on the minimum hourly rate, originally \$150 per hour and subsequently increased to \$275 per hour.

OAR 436-001-0500: The agency does not have data on the number of refunds *not* issued due to adoption of this rule. However, accounts receivable staff members report that application of the rule is rarely required, in part because overpayments are generally credited to future transactions and therefore reduce the amounts owed.

c. If the answer to question 2 is unknown, briefly explain why.

OAR 436-001-0435: The agency did not know at the time the rule was adopted how much time attorneys devoted to reclassifications reviews.

OAR 436-001-0500: The agency has not tracked the number of refunds *not* issued due to adoption of this rule and therefore cannot measure associated costs and savings.

3. Have subsequent changes in the law required the rule be repealed or amended?

OAR 436-001-0435 was revised, but the change was not required by statute or administrative rule. On April 1, 2018, the minimum hourly rate was increased from \$150 to \$275, the latter being the hourly rate at that time for an attorney's time for an interview or deposition under OAR 438-015-0033(1).

OAR 436-001-0500 has not been revised.

4. Is the rule still needed? Yes

OAR 436-001-0435 is still needed for the reason it was adopted, to provide criteria for determining a reasonable attorney fee under ORS 656.277(1).

OAR 436-001-0500 is still needed for the reason it was adopted, to provide a process for handling very small overpayments.

5. What impacts has the rule had on small businesses?

OAR 436-001-0435: The agency does not have data on the effects of this rule on small businesses. The businesses most affected would be attorney firms, and the agency invites input from these firms about the fiscal and other impacts of the rule on their businesses.

OAR 436-001-0500: The agency does not have data on the effects of this rule on small businesses. However, based on the agency assessment that this rule is rarely applied, the effects are not expected to be significant. The agency invites input from small business representatives regarding any impacts of this rule.

The department must review each administrative rule not later than five years after its adoption. Under ORS 183.405, the agency must determine:

- (a) Whether the rule has had the intended effect;
- (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- (c) Whether subsequent changes in the law require that the rule be repealed or amended;
- (d) Whether there is continued need for the rule; and
- (e) What impacts the rule has on small businesses.

The department must report its findings to any advisory committee appointed under ORS 183.333, to the Secretary of State, and to the Small Business Advisory Committee.

Department of Consumer and Business Services
Workers' Compensation Division

Five-year Administrative Rule Review

Rule division name and rule numbers:

OAR 436-009, "Oregon Medical Fee and Payment"
Rule 0241, "Form 827, Worker's and Health Care Provider's
Report for Workers' Compensation Claims"

Date adopted: Aug. 20, 2015

Date reviewed: May 28, 2020

Advisory Committee Used: Yes

The committee discussed possible adoption of this rule on Nov. 19, 2014.

1. Did the rule achieve its intended effect? Yes

a. What was the intended effect?

OAR 436-010-0241 was created as part of a reorganization of division 010. In presenting the issue to the advisory committee, the agenda included:

"The division believes that revising this rule language and creating a new rule for Form 827 will be helpful and easier to find. | The division believes deleting certain language from 010-0240(3) because the division expects that Form 827 be filled out completely and there is no benefit referencing the worker's name and address. | The division believes deleting ICD language at the end of current 010-0240(3) because the insurer is not required to accept conditions using ICD language or codes. | The division also believes deleting the language in current 010-0240(15) requiring the insurer to process an aggravation form because it's already in statute (ORS 656.273(3))."

b. How did the rule succeed or fail in achieving this effect?

The adopted rule 0241 describes requirements relevant to the use of Form 827 for reporting initial claims, new or omitted medical conditions, aggravations of accepted conditions, and changes of attending physician. The rule also explains that Form 3283, "A Guide for Workers Recently Hurt on the Job," is included with Form 827, and medical service providers must give a copy of Form 3283 and Form 827 to the patient. The rule did not increase reporting requirements, and it has not been modified since it was adopted Aug. 20, 2015 (and effective Oct. 1,

2015). The division does not have record of any complaints about the rule, though it invites comment regarding application of the rule.

2. Was the fiscal impact statement:

- Underestimated
- Overestimated
- Just about right
- Unknown

a. What was the estimated fiscal impact?

In the “Statement of Need and Fiscal Impact” dated June 11, 2015, the division stated that:

“The agency estimates that proposed rule changes will produce no significant cost of compliance for state agencies, units of local government, or the public. | The agency projects that proposed rule changes would not significantly affect businesses’ costs for reporting, recordkeeping, administration, or professional services. | The agency projects that proposed rule changes would not significantly affect businesses’ costs for equipment, supplies, or labor/administration required for compliance.”

b. What was the actual fiscal impact?

Because adoption of rule 0241 did not change requirements for filing a claim or reporting information to the division, the original estimated impact appears to have been reasonable. However, the division invites comment about any costs or savings due to adoption of this rule.

c. If the answer to question 2 is unknown, briefly explain why.

NA

3. Have subsequent changes in the law required the rule be repealed or amended?

No.

4. Is the rule still needed? Yes.

The rule is still needed for the same reasons it was adopted – to explain the use of Form 827 for filing initial, new, omitted, and aggravation claims, and for changes of attending physician.

5. What impacts has the rule had on small businesses?

The division estimated that adoption of this rule would not have any significant impacts on small businesses, and has no information that is contrary to that estimate. However, the division welcomes input regarding actual impacts to date.

The department must review each administrative rule not later than five years after its adoption. Under ORS 183.405, the agency must determine:

- (a) Whether the rule has had the intended effect;
- (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- (c) Whether subsequent changes in the law require that the rule be repealed or amended;
- (d) Whether there is continued need for the rule; and
- (e) What impacts the rule has on small businesses.

The department must report its findings to any advisory committee appointed under ORS 183.333, to the Secretary of State, and to the Small Business Advisory Committee.



**OREGON HOUSING *and*
COMMUNITY SERVICES**

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Report to the Secretary of State: 5-Year Rule Review (January 2016 – December 2016)

January 31, 2021

[ORS 183.405](#) requires all state agencies to make a reporting of all rulemakings that adopted rules in the fifth calendar year prior to date. The purpose of the review is to determine the rules' alignment with original intent, applicability, and anticipated fiscal impact. OHCS strives to make necessary rule amendments as the need arises. The appendices of this report detail the status of those rules.

The following records account for all of OHCS' adopted rules for the 2016 Calendar Year. A copy of this report shall be made available by Nicole Stingh (Nicole.Stingh@oregon.gov).

January 1, 2016 – December 31, 2016

OHCS adopted a total of 8 rules.

These rulemakings impacted two (2) divisions and programs.

- General Rules (Division 5)
- Wildfire Damage Housing Relief Program (Division 330)

Table of Contents:

Division No. 5 (General Rules): 3
Division No. 330 (Wildfire Damage Housing Relief Program): 4

5-Year Rule Review Adopted Rules of Chapter 813

Division No. 5 (General Rules):

Rules Adopted: 813-005-0025

Date Adopted (Filing No.): 12-14-2016 (OHCS 15-2016)

Rule Advisory Committee Used: No

If not, please explain: There was no anticipated impact to agencies other than providing an opportunity and the process needed for submitting a protest and requesting administrative or judicial review of the solicitation process.

OAR 813-005-0025: Solicitation Protests; Administrative and Judicial Review	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	This rule has met the intended effect, based on the fact that it is still in play in its original state.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no expected fiscal impact, which has proven to true.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	There have been no activities to demand changes to this rule.
<i>Is the rule still necessary?</i>	Yes

**5-Year Rule Review
Adopted Rules of Chapter 813**

Division No. 330 (Wildfire Damage Housing Relief Program):

Rules Adopted: 813-330-0000; 813-330-0010; 813-330-0020; 813-330-0030; 813-330-0040;
813-330-0050; 813-330-0060

Date Adopted (Filing No.): 02-11-2016 (OHCS 1-2016)

Rule Advisory Committee Used: Yes

If not, please explain: N/A

OAR 813-330-0000: Purpose	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Rule met its intended effect
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	As the notice identified, fiscal impact remains in the administration of the program
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Title of rule amended to be consistent with other divisions 7/3/19. Rule amended to include statutory reference and to create consistency in language between divisions 12/6/19.
<i>Is the rule still necessary?</i>	Yes

OAR 813-330-0010: Definitions	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Did not meet intended effect regarding income eligibility, which was originally too low for those needing the assistance to qualify. This rule was amended to raise the income eligibility limit.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	As the notice identified, fiscal impact remains in the administration of the program
<i>What Legislative events or agency activities, if any, have</i>	Rule amended to increase income limit 12/26/17 from amendment to statute through 2017 HB 2742.

2020 5-Year Rule Review

<i>been identified that require the agency to amend or repeal the rule?</i>	Rule amended to create consistency in language between divisions 12/6/19. New process of coordinating with FEMA for a Governor declaration of major disaster required temporary amendment to rule 9/25/20, which will further be solidified in permanent rule in 2021.
<i>Is the rule still necessary?</i>	Yes

OAR 813-330-0020: Administration	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Rule met its intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	As the notice identified, fiscal impact remains in the administration of the program
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Rule amended to create consistency in language between divisions 12/6/19.
<i>Is the rule still necessary?</i>	Yes

OAR 813-330-0030: Eligible Applicants	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Rule met its intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	As the notice identified, fiscal impact remains in the administration of the program
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Temporary rule amended 2/9/18 to increase assistance amount and include date of loss from amendment to statute through 2017 HB 2742 was later made permanent 2/28/18. Rule title was amended 7/3/19. Clarified rule title and eligibility criteria for consistency with program delivery 12/6/19. New process of coordinating with FEMA for a Governor declaration of major disaster for sequency of delivery of program assistance required temporary amendment to rule 9/25/20,

2020 5-Year Rule Review

	which will further be solidified in permanent rule in 2021. Inclusion of households that rent housing, as allowed by statute, required temporary amendment to rule 11/13/20, which will further be solidified in permanent rule in 2021.
Is the rule still necessary?	Yes

OAR 813-330-0040: Use of Funds	
Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?	Rule met its intended effect.
How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?	As the notice identified, fiscal impact remains in the administration of the program
What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?	Temporary rule amended 2/9/18 to increase assistance amount from amendment to statute through 2017 HB 2742 was later made permanent 2/28/18. Amended rule to create consistency in language between divisions and relocate eligibility criteria to the correct rule 12/6/19. New process of coordinating with FEMA for a Governor declaration of major disaster for sequency of delivery of program assistance required temporary amendment to rule 9/25/20, which will further be solidified in permanent rule in 2021.
Is the rule still necessary?	Yes

OAR 813-330-0050: Reporting and Recordkeeping	
Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?	Rule met its intended effect
How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?	As the notice identified, fiscal impact remains in the administration of the program
What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?	Amended rule to create consistency in language between divisions 12/6/19.

2020 5-Year Rule Review

<i>Is the rule still necessary?</i>	Yes
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OAR 813-330-0060: Appeal Procedure	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Rule met its intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	As the notice identified, fiscal impact remains in the administration of the program
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Title of rule amended to be consistent with other divisions 7/3/19. Amended rule to create consistency in language between divisions 12/6/19. Temporary rule amends language to align with OHCS policy on contested actions 11/13/20, which will further be solidified in permanent rule in 2021.
<i>Is the rule still necessary?</i>	Yes



Oregon

Kate Brown, Governor

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December 30, 2020

Secretary of State
VIA-EMAIL

Re: Five Year Rule Review Report from the Oregon Board of Pharmacy

To Whom it May Concern:

We are pleased to submit our Annual Five-Year Rule Report for rules adopted in 2015 as required pursuant to ORS 183.405. Please see the following:

OAR 855-019-0400, 0405, 0415, 0425, 0430 and 0435 Contraceptive Prescribing Effective 11/2015

- Did the rule have the intended effect?
 - Yes.
- Anticipated fiscal impact under or overestimated?
 - Minimal fiscal impact was anticipated, and no actual costs have been tracked.
- Any changes in the law require the rule to be repealed or amended?
 - No. The Board did voice concerns about the lack of public awareness around these rules.
- Is there continued need for the rule?
 - Yes.
- What impact has this rule had on Small Businesses?
 - We believe this rule has allowed independent pharmacies to provide more services to small and sometimes underserved communities. If a small business chose to implement these optional services, they would be responsible for all costs associated with implementing this type of service.
- Was there a Rules Advisory Committee?
 - ORS 689.689 required the Board to adopt rules in consultation with the Oregon Medical Board, the Oregon State Board of Nursing, and the Oregon Health Authority, and in consideration of guidelines established by the American College of Obstetricians and Gynecologists or its successor organization, standard procedures for the prescribing of injectable hormonal contraceptives and self-administered hormonal contraceptives by pharmacists.

OAR 855-041-1036

Proper Storage of Drugs

Effective 1/2016

- Did the rule have the intended effect?
 - Yes.
- Anticipated fiscal impact under or overestimated?

The Oregon Board of Pharmacy serves to promote and protect public health, safety and welfare by ensuring high standards in the practice of pharmacy and through effective regulation of the manufacture and distribution of drugs.

- Fiscal impact varied based on the type of equipment pharmacies needed to procure such as new thermometers, upgrade software, new refrigerators/freezers, etc. to be in compliance.
- Any changes in the law require the rule to be repealed or amended?
 - No.
- Is there continued need for the rule?
 - Yes. The Board stated that this rule has positively impacted patient safety and will help with the distribution of COVID-19 vaccinations.
- What impact has this rule had on Small Businesses?
 - We believe Small Businesses in Oregon potentially had to invest in new equipment and other resources as needed to be in compliance.
- Was there a Rules Advisory Committee?
 - No.

OAR 855-060-0002

Pharmaceutical Manufacturers

Effective 7/2015

- Did the rule have the intended effect?
 - Yes.
- Anticipated fiscal impact under or overestimated?
 - No fiscal impact was anticipated.
- Any changes in the law require the rule to be repealed or amended?
 - No.
- Is there continued need for the rule?
 - Yes.
- What impact has this rule had on Small Businesses?
 - Data is unknown.
- Was there a Rules Advisory Committee?
 - Per the rulemaking filing notice a RAC was consulted on the development of these rules.

OAR 855-019-0264

State Drug Therapy Management Protocols

2015 HB 2028

- This rule was repealed October 2019 due to outdated language related to OHA protocols.

Five-Year Rule Review

ORS 183.405

Rule Name: Supervising Physician Organization

Rule Number(s): OAR 847-050-0036

Adoption Date:

July 8, 2016

Review Due Date:

July 8, 2021

Review Date:

November 1, 2020

Sent to SOS Date:

February 1, 2021

Advisory Committee Used: Administrative Affairs Committee

Advisory Committee Not Used

What was the intended effect of this rule adoption?

The rule was intended as a collective rule for all requirements to establish and maintain a supervising physician organization for the supervision of physician assistants.

Yes

No

Has this rule adoption had its intended effect?

Currently there are about 450 supervising physician organizations in Oregon.

Yes

No

Was the anticipated fiscal impact of this rule correct?

The Oregon Medical Board anticipated no fiscal impact by the rule. The board did anticipate that supervising physician organizations may be economically affected if they had not previously required their supervising physicians to apply as a board-approved supervising physician. The actual fiscal impact on supervising physician organizations cannot be counted.

Yes

No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

No changes in since adoption.

Yes

No

Is there a continued need for this rule?

Yes.

Yes

No

What impact has the rule had on small businesses?

None.

Additional Comments:

The Oregon Society of Physician Assistants has introduced legislation in recent sessions that would modify the practice of PAs in Oregon. If a bill is passed, this rule would need review.

Report provided by:

Rules Coordinator

847-050-0036**Supervising Physician Organization**

- (1) A supervising physician organization must designate one physician within the supervising physician organization to also serve as the primary supervising physician of the supervising physician organization.
- (2) Each supervising physician in a supervising physician organization, including the primary supervising physician, must be approved by the Board as a supervising physician.
- (3) The supervising physician organization must provide the Board with a letter containing:
 - (a) The name of the supervising physician organization;
 - (b) The address and phone number for the supervising physician organization;
 - (c) The name of the primary supervising physician; and
 - (d) The names of the supervising physicians in the supervising physician organization.
- (4) The supervising physician organization must notify the Board in writing within 10 days of any change in the name, address, phone number, or supervising physicians in the supervising physician organization.
- (5) A supervising physician organization may include any number of supervising physicians.
- (6) A supervising physician organization may supervise any number of physician assistants.
- (7) A physician assistant who is supervised by a supervising physician organization may be supervised by any of the supervising physicians in the supervising physician organization.
- (8) The Board may request a meeting with a supervising physician organization and a physician assistant to discuss a practice agreement.

Statutory/Other Authority: ORS 677.265 & 677.510

Statutes/Other Implemented: ORS 677.495, 677.510 & 677.515

OSBN Board Rule Activities Report

Administrative Rules Review – Jan. 2016 through Dec. 2016 (pursuant to ORS 183.405-review not later than five years after adoption of rule)

OAR NUMBER	ADOPTED DATE	REVIEW	DATE OF RULE REVIEW	DESCRIPTION – REASON/NEED FOR RULE
851-070-0025	8/1/2016	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	8/27/2020	Adoption of this section, <i>Public Discipline</i> , was to clarify the requirements and expectations for entering, complying, and successful completion of the Board’s alternative to discipline program and the public discipline Board orders.
851-070-0045	8/1/2016	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	8/27/2020	Adoption of this section, <i>Disqualification for self-referral to HPSP</i> , was to clarify the requirements and expectations for entering, complying, and successful completion of the Board’s alternative to discipline program and the public discipline Board orders.
851-070-0075	8/2/2016	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	8/27/2020	Adoption of this section, <i>Approval of Worksite Monitors for both HPSP and Public Discipline</i> , was to clarify the requirements and expectations for entering, complying, and successful completion of the Board’s alternative to discipline program and the public discipline Board orders.



Oregon

Kate Brown, Governor

Public Utility Commission

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August 11, 2020

VIA ELECTRONIC MAIL

Secretary of State – Administrative Rules Unit

Adminrules.archives@oregon.gov



RE: Public Utility Commission of Oregon Five Year Rule Review

Rule Review Due Date: 08/07/2020 Date Adopted: 08/11/15, Effective 8/11/2015

Docket No. AR 588

Rule(s) Reviewed: 860-027-0350

Based on the information on hand and general knowledge of Commission activities:

Did the rule(s) have the intended effect?

Yes, this rule was promulgated to codify the existing practice of each regulated utility filing a new depreciation study with the Commission no less frequently than every five years. The regulated energy utilities were generally meeting this requirement prior to the rule. Having the rule in place is achieving the goal of ensuring periodically updated depreciation rates prior to an energy utility's general rate case.

Was the anticipated fiscal impact of the rule underestimated or overestimated?

At the time of rulemaking, the PUC stated that because energy utilities generally follow the practice of filing periodic depreciation studies, there was no anticipated fiscal impact. This remains true.

Do subsequent changes in the law require the rule to be repealed or amended?

There are no changes in the law requiring this rule to be repealed or amended.

Are the rules still needed?

Yes. The rule is still necessary to ensure the Commission does not have conflicts regarding the timing of depreciation studies, which are used, in part, to establish just and reasonable rates for utilities.

Reviewed on 08/07/20 by:

/s/Diane Davis

Diane Davis, Rules Project Leader
Rules Project Leader

FIVE YEAR RULE REVIEW FORM

Policy Analyst: Tyler Glaze

Date Assigned: December 28, 2020

Rule Number: OAR 918-271-0105

Date Adopted: April 1, 2016

Date Review Due: April 1, 2021

Advisory committee used: No

Answer the following questions:

▶ **Did the rule have the intended effect?**

Yes, the rule gave inspectors and jurisdictions more authority to disconnect power in a hazardous situation. When needed for enforcement purposes, this rule has been effective.

▶ **Was the anticipated fiscal impact of the rule underestimated or overestimated?**

The anticipated fiscal impact was correctly estimated. There was little fiscal economic impact anticipated, and there has been little fiscal impact since the rule was adopted.

▶ **Do subsequent changes in the law require the rule to be repealed or amended?**

No.

▶ **Is the rule still needed?**

Yes, the rule is effective in providing additional needed authority to jurisdictions and inspectors, and has minimal fiscal impact.

▶ **What impacts has the rule had on small businesses?**

The rule has had little to no impact on small businesses.

FIVE YEAR RULE REVIEW FORM

Policy Analyst: Tyler Glaze

Date Assigned: December 28, 2020

Rule Number: OAR 918-309-0075

Date Adopted: April 1, 2016

Date Review Due: April 1, 2021

Advisory committee used: No

Answer the following questions:

▶ **Did the rule have the intended effect?**

This rule was created to clarify when jurisdictions may issue stop-work orders. The rule was also created to clarify that, for projects requiring plan review, once the initial permit and plan review fees have been paid, a jurisdiction is unable to stop work on-site or otherwise delay or refuse to provide inspection services in order to compel payment of outstanding fees. The rule further allows for sanctions when the rule is violated.

This rule has had its intended effect, as jurisdictions can now better understand their obligations under the law, and projects are not improperly delayed.

▶ **Was the anticipated fiscal impact of the rule underestimated or overestimated?**

The fiscal impact was correctly estimated. There was no anticipated fiscal impact, as the rule consisted of several clarifications of existing requirements. There has been no fiscal impact since the rule was adopted.

▶ **Do subsequent changes in the law require the rule to be repealed or amended?**

No.

▶ **Is the rule still needed?**

Yes, the rule is still needed, as the rule has helped stakeholders understand when stop-work orders can issue, it has prevented unnecessary and inappropriate delays after the payment of permit and plan review fees, and it has authorized potential sanctions when violations of this rule occur. Also, there have been no issues with the clarifications included in the rule, and there has been no fiscal impact.

▶ **What impacts has the rule had on small businesses?**

The rule has had little to no impact on small businesses, as it only clarified existing requirements.